Health Workforce Directorate
Workforce Employment and Retention Division

The Scottish Government

Dear Colleague

THE NATIONAL HEALTH SERVICE (APPOINTMENT OF CONSULTANTS) (SCOTLAND) REGULATIONS 2009

This CEL confirms the status of the revised regulations for the recruitment of consultants to NHSScotland, which will take effect for all consultant posts advertised on or after 1 July 2009. This CEL includes a copy of these revised regulations and supporting guidance.

Background

At the 1 May meeting of the HR Executives' Forum, HRDs were updated on the work of the short life working group which developed this revised consultant recruitment process for NHSScotland. This selection process has been based on the best supported elements within the consultation on options to improve the consultant recruitment process.

Previously subject to extensive regulation, the consultant recruitment process for NHS in Scotland has been revised, providing the recruiting Board with ownership of the consultant appointment process. The working group recommended retaining an External Advisor from a listing held by the Academy of Medical Royal Colleges and Faculties in Scotland within the process, whilst reducing the extent and depth of the regulations governing the current consultant recruitment process.

The Recruitment Process

The revised process is set out in the guidance attached at Annex B, and will entail significantly reduced levels of regulation.

The process will be owned and determined by the recruiting Board and will enable Boards to draw on a range of assessment methods to tailor the recruitment process to the specific requirements of the post, enabling a more robust assessment of the candidates.

CEL 25 (2009)

29 June 2009

Addresses

For action
HR Directors
Medical Directors
Medical Recruitment Leads

For information
National Panellists
External Advisers
Employee Directors
NHS Board Chief Executives
NHS Board Chairs
Academy of Royal Colleges and Faculties
BMA
Regional Workforce Directors
Deans

Enquires to:
Point of contact in Division
St Andrew's House
Regent Road
Edinburgh EH1 3DG

Tel: 0131-244 3482
Fax: 0131-244 2837

Point of contact
Jenny.Simons@scotland.gsi.gov.uk

http://www.scotland.gov.uk

A single External Advisor will be included on the assessment panel, taken from a listing of specialists developed and managed by the Academy, and will work in partnership with the appointing Board, providing an external presence within the recruitment process.

Aside from the External Advisor, the remaining membership of the assessment panel will be determined by the appointing Board. Allowing the appointing Board to determine the membership of the panel will enable and support the inclusion of assessment methods to better assess both clinical and non-clinical skills.

Elements of the Recruitment Process still subject to Regulation

The majority of the actions within the consultant recruitment process, which were previously subject to regulation, now lie with the Boards who hold responsibility for the process. However elements of the process are still subject to regulation and remain under statutory control, these are:

i. the inclusion of an External Adviser within the consultant recruitment process.

ii. the requirement for and composition of an Assessment Panel to conduct the candidate selection and make a decision by vote; and

iii. the delegation of authority to the Chair to make consultant appointments on behalf of the Board.

A copy of these regulations, The National Health Service (Appointment of Consultants) (Scotland) Regulations 2009, are attached at Annex A.

Process for Requesting an External Adviser

A new list of consultants who will participate as External Advisers on the assessment panel has been compiled by the Academy of Royal Colleges and Faculties. This listing will replace the National Panel.

Requests for an External Advisers should be submitted directly to Kate Lyons, Scottish Academy External Adviser Coordinator at k.lyons@rcpe.ac.uk .

Effective Date

Revised regulations were laid in the Parliament in April and, having cleared Parliamentary process, will come into effect for all consultant posts advertised on or after 1 July 2009.

As a consequence the National Panel of Specialists General Guidance on Medical and Dental Appointments (January 2007) is revoked in relation to consultant posts advertised on or after 1 July 2009.

Honorary, Locum, Specialty Doctor and Dental SPR Appointments

Under the previous regulations Honorary and locum appointments were exempt from regulation. It remains the case that these appointments remain exempt under the new regulations and an External Adviser is not required to attend the assessment panel for these appointments.

The regulations provide for a single External Adviser for consultant posts and External Advisers are not required to join assessment panels for junior medical staff or specialty doctor appointments which have never been subject to regulation. However for the purposes of dentistry, External Advisors will also act as the National Panellists on SpR interview panels as required in the orange book.

Transitional Arrangements

To support the transition to this recruitment process Boards are requested to indicate to the Academy of Medical Royal Colleges and Faculties in Scotland the consultant posts they are planning to recruit to over the coming months by email to: scottish.academy@rcpe.ac.uk . This will to help inform the Academy regarding requirements from across NHSScotland for External Advisors in the coming months.

It is envisaged that over the summer months there will be a transitional phase where a remaining number of posts advertised before 1 July will continue to be appointed to via the Advisory Appointment Committee process. These appointments will still need to made in compliance with The National Health Service (Appointment of Consultants) (Scotland) Regulations 1993, including the requirement for two National Panellists on the interview panel.

Further Information

Should you have any queries regarding the revised consultant recruitment process please contact Jenny Simons at Jenny.Simons@scotland.gsi.gov.uk .

In addition any queries regarding the listing of External Advisers, including requests for an External Adviser, should be directed to Kate Lyons, Scottish Academy External Adviser Coordinator at k.lyons@rcpe.ac.uk .

Dr Ingrid Clayden

Scottish Government
Health Workforce Directorate

ANNEX A

THE NATIONAL HEALTH SERVICE (APPOINTMENT OF CONSULTANTS) (SCOTLAND) REGULATIONS 2009

The Regulations

A copy of the regulations are attached in PDF format below:

CONSULTANT RECRUITMENT REGUI

Alternatively a copy can also be accessed online at the Office for Public Sector Information website via the following link:

http://www.opsi.gov.uk/legislation/scotland/ssi2009/ssi_20090166_en_1

ANNEX B

THE NATIONAL HEALTH SERVICE (APPOINTMENT OF CONSULTANTS) (SCOTLAND) REGULATIONS 2009

GUIDANCE ON THE APPOINTMENT OF CONSULTANTS TO NHS in SCOTLAND

Overarching Principles for Consultant Recruitment within NHS in Scotland

- The consultant recruitment process is owned and determined by the Health Board as the employer.
- The management of and decisions taken regarding the consultant recruitment process are the responsibility of the Health Board.
- It is recognised that externality provides a valuable contribution to the objective assessment of applicants and the role of an External Adviser is included within this consultant recruitment process.

1 INTRODUCTION

Previously subject to extensive regulation, the consultant recruitment process for NHS in Scotland has been revised, providing the recruiting Board with more control of the consultant appointment process.

Externality is required within this process, and The National Health Service (Appointment of Consultants) (Scotland) Regulations 2009 require Boards to include an External Adviser in the appointment of doctors to the consultant grade.

The inclusion of a trained External Adviser from a different Board is intended to ensure the clinical quality of appointed candidates is maintained. The External Adviser will have been trained in selection process and, with experience of other appointments, can provide advice on the appointment from a different perspective than the local clinical team.

In this guidance:

i. “Board” means the Health Board, Special Health Board or part of the Common Services Agency which is recruiting to fill a consultant post;

ii. “the Academy” means the Academy of Medical Royal Colleges and Faculties in Scotland, administration is carried out on behalf of the Academy by the Royal College of Physicians of Edinburgh.

2 KEY ROLES WITHIN THE RECRUITMENT PROCESS

Within the revised process it is for the recruiting Board to determine the staff and their roles within the process, however each recruitment process should include the following key roles:

The Board Lead Officer

The Board should identify a Lead Officer to manage an individual recruitment process with support from the HR department. Within the recruitment process it is anticipated that this Lead Officer will often be a medical manager or dental manager, who may, depending on the size of the Board, or the specialty involved, choose to either directly lead the recruitment process or identify who will. Other possibilities for this role include a lead clinician from within the service or the clinical service manager.

Chair

The Chair of the panel has delegated authority from the recruiting Board to make an offer of employment. This authority is contained within the regulations. Boards may choose to appoint the Lead Officer as Chair, or may alternatively choose a senior manager or non-executive director to chair the assessment panel.

External Adviser

The regulations require a single External Adviser is included on the assessment panel for consultant appointments within NHS in Scotland. The role of the External Adviser will be to advise the recruiting Board on each stage in the process, including commenting and advising on the job description, person specification, the selection methodology and participating in the selection process. This External Adviser is identified from the list of External Advisers maintained by the Academy, and must be external, i.e. not employed by the recruiting Board, and must be in the same specialty as the post being appointed to. In rare instances of small specialties it may be necessary to seek an External Adviser from outwith Scotland.

The Assessment Panel

The assessment panel is convened by the Board to conduct the candidate assessment. Within this recruitment process, as the Boards determine the selection methodology for appointing to consultant posts, the Assessment Panel is also to be determined by the recruiting Board to best support and facilitate the methodology chosen to assess the suitability of candidates. This assessment may include profiling, aptitude tests or multi-station interviews. The panel must

include at least one consultant from the specialty. Where possible that consultant should be from the employing Board.

Depending on the nature of the post and the extent of any undergraduate teaching or training duties the Board may include University representation on the assessment panel and requests for University representatives should be submitted to the Dean.

While there is no set limit on the size of the panel, under the regulations it remains that the panel must include a Chair, with delegated authority from the Board, an External Adviser as outlined above and one other consultant from the specialty.

3 BEST PRACTICE FOR EMPLOYING BOARDS

Under the regulations Boards will appoint a Chair for the assessment panel. The Chair will hold delegated authority to offer the post on behalf of the Board once the panel has considered the candidates.

Boards should draw up a policy on the use of visits as part of the employment process and communicate this policy to all applicants and across the Board to ensure the policy is applied fairly and consistently.

Visits are intended to inform the applicant regarding the department and the requirements of the post. Depending on the nature of the post the policy on visits should look to offer applicants an opportunity to visit the department and meet with key staff. The option of a visit, and the timing of such a visit, should be determined by the Board, and should be made available to all applicants at the same point in the recruitment process.

Boards should look to advertise details of vacant posts widely, and should normally include a professional journal. The use of the SHoW (Scotland's Health on the Web) vacancy database is strongly encouraged. Advertising vacancies on SHoW is free to NHS Boards and ensures details of vacant consultant posts are widely accessible. The SHoW vacancy database is available online at: http://www.show.scot.nhs.uk/ .

Although honorary consultant posts are exempt from regulation, Boards should satisfy themselves that any consultants who have clinical commitments are appropriately trained.

4 CONDUCT OF THE APPOINTMENT PROCESS

At the beginning of appointment process, as soon as the vacancy is identified and a draft job description and person specification drawn up, the appointing Board should request an External Adviser.

This request for an External Adviser should be submitted by the Board to the Academy. Once an adviser is identified by the Academy their name and contact details will be passed to appointing Board. Every effort will be made to ensure the work of advisers is allocated across Scotland in proportion to numbers of consultant posts.

The Lead Officer from the Board, or the Chair of the Assessment Panel should then contact the External Adviser and send them copies of the job description and person specification for their advice and comment. The recruiting Board should indicate the proposed selection methodology to be used by the Assessment Panel and dates should be agreed with the Lead Officer for each stage of process.

Boards should note that External Advisers may require to give a minimum of six weeks notice to their own Board to allow arrangements to be made for cover of their clinical duties. The date for the assessment panel should allow a minimum of six weeks notice to be given. Dates should therefore be agreed with the Lead Officer in advance of this six week notice point to enable sufficient notice to be given to the External Adviser's employing Board.

A flowchart summarising the appointments process is attached at Annex A.

5 THE LIST OF EXTERNAL ADVISERS

The number of advisers for each specialty is determined taking account of the number of consultant posts there are in that specialty and the frequency of appointments. Information on the numbers of External Advisers, frequency of appointments and on the geographic spread of External Advisers and their activity should be reported regularly to the Health Workforce Directorate within the Scottish Government.

The number of External Advisers will be reviewed and agreed annually between the Academy and Scottish Government Health Workforce Directorate.

An External Adviser will normally be appointed for a four year period.

It is recommended that an External Adviser should accept a minimum of one in three of the requests submitted to them by the Academy over the course of a year or they may be deemed not to have fulfilled duties adequately, and their position on the list may be reviewed by the relevant College. Every effort will be made to ensure the work of advisers is allocated across Scotland in proportion to the number of consultant posts.

6 TRAINING OF EXTERNAL ADVISERS

All newly appointed External Advisers should undergo training before they are included on the adviser list, and if reappointed to the list again should undergo refresher training.

As a transitional arrangement, any External Advisers transferred from the listing of National Panellists should undertake refresher training if reappointed following the end of their term. In addition, over the course of the first term, if any training needs are identified, these External Advisers should agree to undertake the necessary training.

This training will be co-ordinated by NHS Education for Scotland and is to include:

i. detailed training on equality and diversity issues;
ii. refreshers on specialty training curricula and assessment methods used;
iii. updates on selection methodology and tools that have been used successfully;
iv. the option to shadow an External Adviser and observe the process, although it should be emphasised that observers will play no role in the recruitment process.

7 THE EXTERNAL ADVISERS

The requirements to be listed as an External Adviser are set out in the regulations. This role is to provide advice to Boards throughout appointments, and must include the following:

i. comment and advise on job description and person specification;
ii. participate in shortlisting;
iii. participate in the Assessment Panel - providing an emphasis on the clinical standards required for consultant appointment in the specialty;
iv. voting in decision process if a vote is required. If a vote is taken by the panel, the External Adviser's vote carries equal weight to that of the other panel members - however the External Adviser does not hold a veto;
v. raising concerns about process with chair of panel at any time.

It should be emphasised at this point that the External Adviser is not solely responsible for raising concerns with the Chair at any stage during the process, each member of the assessment panel is considered equally responsible for raising any concerns regarding the process with the Chair.

8 APPOINTMENTS AND APPEALS

Once the Assessment Panel has made decision on which candidate(s), if any, should be offered the post, the Chair and the HR Department will then take responsibility for offering and contracting with successful candidates. Board policies on offering feedback to unsuccessful candidates should also be followed.

Feedback should also be provided to the External Adviser regarding the final outcome of the panel.

Any candidate wishing to appeal a decision made by the panel should do so through the appointing Board.

All members of the Assessment Panel hold equal responsibility for raising concerns at any stage within the recruitment process with the Chair. In these instances, it is for the Chair to assess these concerns and to determine whether or not to proceed with the recruitment process. If the decision is taken to proceed to appointment the Chair should note the concerns raised and indicate the basis on which the decision to proceed was taken. If the Chair decides not to proceed this decision is to be reported back to the Board, outlining the basis on which this decision was taken. It is for the Board to decide on next steps and whether to re-run the process.

If any member of the appointments panel, including the External Adviser, has concerns about the appointment made or the conduct of the appointment, they should make their concerns known in writing to the Chairman of the recruiting Board, and also if the External Adviser has concerns, these should be made known in writing to the Academy.

9 REGULATION OF THE CONSULTANT RECRUITMENT PROCESS

Whilst the majority of the actions within the consultant recruitment process, which were previously subject to regulation, now lie with the Boards who hold responsibility for the process, elements of the process are still subject to regulation and remain under statutory control.

The regulations are set out within the National Health Service (Appointment of Consultants) (Scotland) Regulations 2009, and in summary apply to the following aspects of the consultant recruitment process:

iv. the inclusion of an External Adviser within the consultant recruitment process.

v. the requirement for and composition of an Assessment Panel to conduct the candidate selection and make a decision by vote; and

vi. the delegation of authority to the Chair to make consultant appointments on behalf of the Board.

To ensure clarification during the transition to this revised recruitment process the regulations also confirm the effective date for the application of this revised consultant recruitment process and details of the transition arrangements.

Health Workforce Directorate
June 2009

Annex A - Step Guide to the Three Phases of the Recruitment Process for Consultants

Phase 1 - Preparation for recruitment

Board decide to appoint a consultant:
- a draft job description and person specification is produced;
- a lead for the recruitment is identified.

Board submit a request for an External Advisor to the Academy with draft job description and indicative interview date.

The External Advisor is identified.

The External Advisor:
- receives, advises and agrees the job description and person specification;
- agrees closing, shortlisting and panel dates for the process with Board Lead.

Board advertise post with the interview date agreed

Board appoint any other members they require for the Assessment Panel

Phase 2 - Shortlisting

All members of the panel receive applications after closing date and confirm scores to Board

Board feeds back outcome to the panel

Board invites successful applicants to the assessment panel

Phase 3 - Assessment Panel

Panel convenes to assess applicants, scoring candidates against the person specification.

Panel discuss and agree appointment.

Chair offers post to successful applicant on behalf of the Board.

If there are no suitable applicants the Board reviews and determines their next steps.

Timing Considerations - Phase 1	Phase 2	Phase 3
Academy to indicate External Adviser within 10 working days of receipt of request.	None	None
Agreed panel date will allow External Adviser to provide at least 6 weeks notice to their Board.		

INVESTOR IN PEOPLE
POSITIVE ABOUT DISABLED PEOPLE