

APPOINTMENT OF CONSULTANTS IN THE NHS IN WALES:

GOOD PRACTICE GUIDANCE

May 2022

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Introduction and overview

1. It is in everyone's interests, particularly those of patients in Wales, to ensure that high quality and skilled individuals are appointed to consultant job roles. Those roles should be interesting and varied enough to attract high calibre candidates who will want to make their career in Wales. It is therefore crucial that careful workforce planning is undertaken by NHS organisations in Wales to foresee their staffing needs.
2. Local Health Boards, NHS trusts and Special Health Authorities in Wales ("NHS Organisations") have overall responsibility, as employers, for the recruitment of consultants. In doing so, it is good practice, to involve other parties, in particular Royal Colleges, in the development of job descriptions and it is a requirement of the regulations to involve relevant colleges, universities and lay people in the appointment process. This collaborative approach, bringing different perspectives, will ensure the very best candidates are attracted to roles in Wales. Clarity on roles and responsibilities and timely participation are vital in ensuring that the recruitment process is successful.
3. The procedure to be followed for the appointment of medical and dental consultants NHS Organisations, except for appointments which are exempt appointments, is set out in the National Health Service (Appointment of Consultants) (Wales) Regulations 1996, as amended by the National Health Service (Appointment of Consultants) (Wales) (Amendment) Regulations 2005, together referred to as "the Regulations". NHS Organisations in Wales must, unless otherwise authorised, advertise a proposed appointment to which the Regulations apply, and must set up an Advisory Appointments Committee ("AAC"), constituted in accordance with the Regulations, to carry out the selection process. Within these specific requirements, there is considerable scope to work flexibly and ensure a smooth and responsive process.
4. This Guidance ("the 2022 Guidance") aims to assist NHS Organisations with the planning of consultant job roles and the process of appointing individuals to these roles with a specific focus on the roles of Royal Colleges and expert advisers in the process. It has been prepared by the Welsh Government, in consultation with representatives of the Medical Royal Colleges, the Welsh Consultant's Committee of the British Medical Association and employment specialist colleagues from the NHS in Wales. Welsh Government would like to thank all those involved for their advice and expertise.
5. The previous Good Practice Guidance issued in 2012 is superseded and replaced by the 2022 Guidance.

Section 1: Planning for consultant roles

6. Planning for an appointment should begin as early as possible in partnership between all parties.
7. **Annex A** summarises the stages in the process and a model timeline.
8. It is advisable for NHS Organisations to plan the timetable for the whole process at the outset, so that all involved know the timescales for appointment. It is particularly important to involve any professional advisers at these early stages, and indeed in wider workforce planning discussions more generally, so that consideration can be given to the balance of roles and how they fit both at a strategic and local level.
9. NHS Organisations should begin by considering the service needs to be supported by the post. They should also consider the following areas, although not all will necessarily apply to every post.
 - Continuing educational requirements;
 - Teaching;
 - Training;
 - Supervision of junior staff;
 - Research; and
 - Special interests.
10. It is also important to consider the post in relation to other posts within the clinical team and to take into account the views of other staff within that team. Obtaining appropriate, professional advice at this early stage is important to achieving the correct balance in relation to the post being advertised.

Section 2: Roles and responsibilities

11. **Annex B** of this document details the roles and responsibilities of those involved in the process and paragraph 24 sets out the membership of the AAC.
12. It is important that everyone is clear regarding what they are being asked to do from the outset, and by when they are being asked to do it. All parties are expected to take appropriate measures to streamline their parts of the process, and commit to working together to deliver a responsive process with good outcomes.

Section 3: Preparing and finalising the documentation and advertising the post

13. The preparation of the job description, person specification and advertisement is the responsibility of the NHS Organisation which will be employing the person. It is important these documents include all information relevant to the post and are as informative as possible for potential applicants.

14. All potential applicants will need to be given the following information, so this must be prepared early in the process:

- Job description;
- Person specification;
- Background information on NHS organisation with details of units, clinics, etc; details of the staffing and relevant services;
- Where appropriate, information about associated undergraduate or medical/dental teaching or research work; and
- The relevant terms and conditions of service, including pay and any local terms of service.

Job description

15. It is the responsibility of NHS Organisations to draw up the job description for the role to be advertised, in line with the Consultants' Terms and Conditions of Service. The Regulations place no additional requirement on the organisation to obtain advice, approval or clearances for the job description. However, it is good practice to obtain advice from the relevant Royal Colleges, as they can provide helpful input on professional aspects of the job description based on their knowledge of other consultant posts in the specialty concerned. NHS Organisations are free to accept or not accept the advice of the Royal College adviser; however, the Welsh Government encourages them to do so as the advisers' suggestions are aimed at attracting more candidates, and ensuring the longevity of appointees in roles. It is suggested good practice that Royal Colleges are provided with a two-week timeframe to comment on the job description in accordance with Annex A, unless otherwise agreed between the parties. So that the process is not unnecessarily delayed, NHS Organisations may proceed to the next stage if comments are not received within the agreed timeframes.

16. For roles with a significant teaching commitment, and where individual consultants will undertake teaching of undergraduate medical or dental students, the job description (and person specification) it is suggested good practice that it should be sent to the Head or Dean of the relevant Medical or Dental school.

17. Where the post involves a research commitment, again it is suggested good practice that the job description (and person specification) should be forwarded to the relevant officer in the relevant university.

18. Where the role involves duties connected to the termination of pregnancy NHS Organisations are advised to ensure this is made clear to potential applicants.

Person specification

19. The person specification should be drawn from the job description and outline the minimum qualifications, skills and experience required to perform the job. It should distinguish between what is essential and what is desirable. All candidates should be expected to meet the requirements of the GMC's "Good Medical Practice".

20. It is a legal requirement for all doctors to be on the GMC's Specialist Register before being able to take up a consultant appointment¹. However, trainees may explore the possibility of post-Certificate of Completion of Specialist Training (CCST) careers as soon as it is apparent that a CCST will be awarded in the near future. Consequently, specialist registrars will be able to apply for a consultant appointment so long as 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. Take up of the appointment requires the person to be on the Specialist Register.
21. There will be some other instances (for example, when considering applicants trained outside the UK) where an AAC may choose to interview a candidate prior to Specialist Register entry although, in these circumstances, it will wish to be satisfied that subsequent Specialist Register entry is likely.

Advertising the post

22. All posts must be advertised in accordance with the Regulations, unless it is one which is covered by one of the exemptions provided for in the Regulations and as set out in **Annex C**, or if the Welsh Government has given permission for it not to be advertised. NHS Organisations should arrange for advertisement of the role in at least two relevant places in the UK where the advertisement is likely to attract the attention of suitable candidates and which are commonly used for similar advertisements relating to the profession concerned. The NHS Organisation can choose the advertising method in line with the best practice undertaken by the NHS in Wales. However, only one of the advertisements may be solely in electronic form. If the NHS Organisations are of the opinion that compliance with this is not reasonably practicable, they shall arrange for advertisements as it thinks appropriate.
23. Where an NHS Organisation considers it has grounds for making an appointment without advertising the post, it may apply to the Welsh Government for authorisation to do this. The application should include a detailed statement of the circumstances giving rise to it and details of local professional support of the application. In all cases where an exemption from advertising is approved, NHS Organisations must still ensure that an AAC is convened to consider any applicant's suitability for appointment. Applications should be sent to:

Workforce and OD Directorate,
Health and Social Services Group
Welsh Government
Crown Buildings
Cathays Park

¹ There is one exception to this - regulation 4(2) says that this requirement does not apply to any person who held a post as a consultant in oral and maxillo-facial surgery on the staff of a health authority, NHS trust, LHB or SHA in Wales immediately before 1 January 1997.

Section 4: Setting up an Advisory Appointments Committee (AAC)

24. The Regulations set out that it is the responsibility of the NHS Organisation, as the employer, to set up an AAC and to appoint the following core members to it:

- A lay member (refer to Annex B);
- An external professional member who practices in the relevant speciality* and who is appointed after consultation with the relevant Royal College;
- The Chief Executive of the NHS Organisation²;
- The Medical/Dental Director or Director of Public Health or similar depending on the role; and
- An internal professional member, normally a consultant employed by the organisation and ideally from the relevant specialty* and
- A professional member representative from the relevant university where teaching or research commitments are included in the post, after consultation with the relevant university.

*NHS Organisations and Royal Colleges should bear in mind that for roles which have a large sub-speciality element to them, it may not always be possible to find an AAC professional member with the exact same skills. Judgement should be used to find a person with similar relevant skills who can assess the candidates fairly based on their own experience.

25. NHS organisations are free to add additional members as they consider appropriate, but the balance of the AAC must continue to have both a local and a medical/dental majority. They should seek to ensure that the size of AACs is, in all cases, kept to a minimum.

26. In selecting the external professional member, NHS Organisations must consult the relevant Royal College or Faculty to gain their views on the suitability of the person being suggested. Whilst an NHS Organisation can choose its own external professional member, it is necessary and good practice to involve and consult the Royal College on this matter as they have specific experience and may have lists of suitable external professional members from which to draw. Where the NHS Organisation has identified a suitable person itself, they should discuss suitability with the Royal College in order to satisfy the requirements of the Regulations to consult the relevant college. Royal Colleges will endeavour to assist the NHS Organisation to find a suitable member and the most important consideration is to ensure discussions take place to identify and agree that person. The external professional member must not be employed by the recruiting organisation and should, where possible, be employed by an NHS organisation geographically distant from the recruiting organisation to minimise conflicts of interest.

² Or another officer member of the NHS Organisation appointed to act in his or her place should the Chief Executive be unable to attend

27. NHS Organisations may also wish to draw up lists of appropriate lay people who can receive training in the process.
28. If a joint appointment is planned between two NHS Organisations in Wales, then one organisation should agree to be the lead for the process and for ensuring that the requirements in the Regulations for joint appointments are met. This includes ensuring that relevant members representing all of the interested parties have been appointed to the AAC.
29. The NHS Organisation is responsible for ensuring that all members of the AAC receive appropriate training in carrying out the various stages of the process.

Section 5: Pre-interview process

30. It is for the NHS Organisation, as employer, to ensure a fair and open recruitment and selection process takes place in line with local policies and legislation.
31. All members of the AAC should have the opportunity to be involved in the shortlisting process and should make contemporaneous notes which should be collected afterwards for the NHS Organisation's records.
32. Pre and post-appointment checks should be undertaken in accordance with best practice.

Section 6: Interview process

33. The procedure to be followed at interview and ordering of the questioning is at the discretion of the Chair, subject to prior collective discussion. AACs may wish to refer to the roles and responsibilities at **Annex B** and build the questioning around those roles. It is good practice to consider individual candidates only after all interviews have taken place. If any core member of the panel cannot attend on the day then the Chair must stand down the AAC and rearrange the panel, unless a deputy for the absent core member can be found who has been nominated by the absent core member in question to act as his deputy.
34. No candidate can be recommended for appointment (unless the appointment is an exempt appointment and therefore the Regulations are not applicable) without having been before an AAC. On occasions, a candidate may, for good reason, be unable to attend the interview on the set date. In these circumstances, the committee may consider the absent candidate. If he or she is considered potentially stronger than those candidates interviewed on the day, the AAC will have to reconvene and interview at a later date. Nonetheless, every attempt should be made to interview all candidates on the same day to minimise any undesirable variations that might otherwise occur.
35. Candidates may be interviewed in person or by suitable available technology as determined as appropriate by the AAC and each must be treated equally as an interview method. It is important that the AAC satisfies itself as to the candidate's identity in every case.

36. When considering which candidate(s) to recommend for appointment, the overriding consideration of the AAC must be to recommend the most suitable candidate for the post. AACs should always make a clear recommendation of the most suitable candidate, together with such comments as it considers appropriate. This recommendation does not need to be unanimous and no member of the AAC has a right to veto an appointment, however no applicant shall be considered suitable for the appointment unless a majority of the AAC considers them to be suitable. The NHS Organisation will have the final say on the matter but it should be able to show that it has taken into account the views of the various AAC members.
37. It is important to focus discussion on information obtained throughout the appointment process (application form, interview and references). Members should not refer to third party comment or hearsay about the candidates.
38. Members should be made aware that a candidate who feels he or she has been unfairly treated under anti-discrimination legislation is entitled to ask an Employment Tribunal or, in appropriate cases, a court to examine the proceedings of the appointment process. They should also be aware that the proceedings of the AAC, any notes of discussions and any references or documents put before it are confidential. Members of the AAC and members or officers of NHS Organisations must strictly observe this confidentiality.
39. The payment of expenses to candidates and AAC members is the responsibility of the NHS organisation to determine, in accordance with their normal arrangements.

Section 7: Post interview process

40. The AAC should compile a report with its recommendations. It should decide at the outset how feedback will be provided to candidates, for example whether this is to be done orally on the day. If feedback is not to be given on the day, candidates should be advised of this towards the end of the interview. In these circumstances, and those where a candidate prefers not to wait for immediate feedback, the NHS Organisation should write to unsuccessful candidates to confirm the outcome of the AAC and should offer feedback to them. The letter should make clear who should be contacted for this.
41. The NHS Organisation will offer the appointment to the successful candidate in accordance with best practice and subject to the appropriate checks and references. The NHS Organisation is not obliged to make an appointment of any candidate who has been recommended by the AAC and may decide to re-advertise the post if it feels this would be the appropriate course of action. In this instance, the Chair of the AAC should be informed of the reasons.
42. All records and documents in connection with the short-listing and interviewing, including formal records of the decision and informal notes taken by members of

the AAC, should be retained by the NHS Organisation in line with its established policies.

Annex A – Model timeline

Strategic: Overarching workforce and OD strategy defines the organisation's direction of travel and key priorities in recruitment; engagement with Royal Colleges at strategic level

Ongoing: Horizon scanning for vacancies and succession planning; relationship-building and frequent meetings with Royal College advisors

Process: **The whole process should take around 10 weeks**

First 4 weeks:

- Draw up a timetable for whole process
- Identify and appoint an external professional member in consultation with the relevant Royal College or faculty
- Appoint other members of the AAC
- Prepare draft job description and obtain views from the relevant Royal College within agreed timeframes as outlined
- Place adverts
- Confirm date of AAC

Next 3 weeks:

- Host any visits from prospective candidates
- Finalise composition of AAC
- Closing date for applications

Next 2 weeks:

- Applications processed by the NHS Organisation
- AAC to sift and agree shortlist
- Notify candidates not shortlisted
- Invite shortlisted candidate for interview

Final week:

- Hold AAC and AAC recommend suitable candidate for appointment
- NHS Organisation decision to appoint/not appoint

Annex B – Description of roles and responsibilities

NHS Organisation and their AAC members

The NHS Organisation is the employing body and therefore responsible for the overall process. Its overarching responsibility is to ensure that high quality health services are provided to its local population by appropriately qualified and skilled staff. The NHS Organisation's role is to:

- Identify vacancies within its service through effective workforce planning
- Draw up job descriptions to fit the requirements of the service, consulting experts as necessary
- Advertise the role
- Receive and administer the applications
- Convene, chair and participate in the AAC*
- Receive the recommendation of the AAC
- Appoint the recommended candidate or recommend not to appoint anyone

*In terms of the AAC itself, the members selected by the NHS Organisation should:

- Pay particular attention to the candidates' overall competencies
- Assess their 'fit' for the role in question and
- How they will contribute to the development of the NHS Organisation's service overall.

Royal Colleges

The Royal Colleges are responsible for providing advice to the NHS Organisation on the appointment process. They provide valuable input on the professional aspects of the role based on their knowledge of other consultant posts in the speciality. The Royal Colleges' role is to:

- Comment on job descriptions and offer advice to the NHS Organisation which it is free to accept or not
- Be consulted by the employing NHS Organisation on the external professional member of the AAC

Lay people

Each AAC must have a lay person member and that person will chair the AAC. The wording of the Regulations leaves some scope for selecting a lay person and NHS Organisations should recognise that there is a wealth of people, for example, from patient groups, Community Health Councils (or from April 2023 the Citizen Voice Body for Wales), etc., who may have suitable skills and who could be invited to undertake this role. The lay member cannot be an employee of the NHS Organisation; nor can they be a medical or dental practitioner. However, the Regulations do allow a medical or dental practitioner, if they are also the Chair of the NHS Organisation, to take on the role of lay member. The role of the lay person is to:

- Be the Chair of the AAC

- Provide a patient-focussed view of the applicant
- Focus on how well they feel the person can communicate clearly to patients

University representatives

University representatives are responsible for assessing the candidate's suitability in consultation with the NHS Organisation for a post in which there is teaching or research commitments.

Annex C – Exemptions from the AAC process

The following types of appointments to consultant posts are exempt from the application of the Regulations and therefore from the need for the NHS Organisation to advertise the post and the person to be appointed to be selected by an Advisory Appointments Committee.

Honorary Contracts

Unpaid appointments are exempt where the person to be appointed is to receive no remuneration in respect of the tenure of the post and is:

- (i) a member of the academic staff of a University;
- (ii) a consultant who is over the age of 65;
- (iii) a mental health officer, as defined in the National Health Service Pension Scheme Regulations 1995, who is over the age of 60;
- (iv) a person who is wholly or mainly engaged in research which requires his appointment to the staff of an NHS Organisation;
- (v) a medical practitioner who has been appointed to a post in a hospice which is equivalent to a consultant post in the health service.

It is important that an NHS Organisation proposing to grant an honorary contract satisfies itself as to the practitioner's competence to carry out the clinical duties required; the NHS Organisation carries the same liability in law for the actions of its honorary staff as it does for its paid staff. An honorary appointee must also be on the Specialist Register.

Locum Appointments

Locum appointments are exempt, provided the employment is for an initial period not exceeding six months and that any extension, for a maximum period of a further six months, is subject to a satisfactory review by the NHS Organisation and prior consultation with the relevant college.

It is important that NHS Organisations have satisfactory procedures in place to ensure that locum consultants are of adequate standard. There should always be assessment of the candidates by an 'appointments' committee, including at least two professional members, one in the specialty concerned. Where a locum is to be appointed at short notice and is not already known to the NHS Organisation, he or she should be seen by at least one of the hospital consultants before he or she is engaged. It is important that references are obtained for all locum appointments, irrespective of the short-term nature of the post.

Wherever possible, NHS Organisations should try to appoint as locums, doctors or dentists who hold, or have held, posts of consultant status, or else who have completed specialist training.

Appointments Following Redundancy

Where a consultant has been, or is about to be, made redundant from his or her post by the NHS Organisation, the latter has a moral obligation to render him or her the greatest possible assistance with a view to obtaining comparable work elsewhere. Where this is not possible, the NHS Organisation should apply to the Welsh Government for a certificate recognising that this person has been made redundant from a paid appointment, which has been the subject of an AAC recommendation; a copy should be given to the consultant concerned. On presentation of the certificate of redundancy, he or she may be exempted from the AAC procedures, provided an appointment is made within one year of the date of the redundancy.

Other Exemptions from the AAC process

Other exemptions occur where the person to be appointed:

- Is transferred from one Welsh NHS Organisation to another as part of a local NHS Wales reorganisation of the health service, without any significant alteration in the duties of the post; or
- Is a consultant transferred within a Welsh NHS Organisation to another consultant post with the same organisation; or
- Is a consultant transferred to a consultant post with a different Welsh NHS Organisation where the employment of the consultant would otherwise be terminated by reason of redundancy; or
- Is an officer of a Teaching Authority, meaning a Health Authority specified in Schedule 1 to the Health Authorities (Membership and Procedure) Regulations 1996, and their appointment is to be made principally to enable them to give clinical instructions to students; or
- Is a consultant, working for the Health Protection Agency, Public Health England, the Defence Medical Services or a University, transferred to an NHS post in which the duties are substantially the same as those performed for the Agency, PHE, the Defence Medical Services or the University; or
- Was a consultant who retired as a consultant and then returns to work in the same Welsh NHS Organisation and specialty as the one they filled prior to retirement, without any significant alterations in the duties of the post.