

## Mediation & Appeals Framework

1. This document sets out a nationally agreed Framework<sup>\*1</sup> for Mediation and Appeals in the case of disputes arising from the integrated job planning process or decisions about pay progression, in the case of University employed clinical academics who are employed in the NHS consultant grade via an honorary contract. The Framework embodies the principle of joint working recommended in the Follett report.

### National Framework

2. Where it has not been possible to agree an integrated Job Plan or a clinical academic disputes a decision that he/she has not met the required criteria for a pay threshold in respect of a given year, a mediation procedure and an appeal procedure are available.

### Mediation

3. The clinical academic, or (in the case of a disputed Job Plan) the University manager or the clinical manager, may refer the matter to the Dean (or his/her nominee) who will consult with the NHS Medical Director. If the Dean (or his/her nominee) or Medical Director is one of the parties to the initial decision, the referral will be to an appropriate, designated other person. Where a clinical academic holds an honorary contract with more than one NHS organisation, a designated honorary employer will take the lead. The purpose of the referral will be to reach agreement if at all possible.
4. The process will be that:
  - the clinical academic or either manager makes the referral in writing within two weeks of the disagreement arising;
  - the party making the referral will set out the nature of the disagreement and his/her position or view on the matter;
  - where the referral is made by the clinical academic, the managers responsible for the integrated Job Plan review, or for making the recommendation as to whether the criteria for a pay threshold have been met, will set out the employing organisations' agreed position or view on the matter;
  - where the referral is made by either the University manager or the clinical manager, the clinical academic will be invited to set out his/her position or view on the matter;
  - the Dean (or his/her nominee), working with the Medical Director, or appropriate other person will convene a meeting, normally within four weeks of receipt of the referral, with the clinical academic and the responsible managers to discuss the disagreement and to hear their views;

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<sup>\*1</sup> Local guidelines may be agreed to supplement this framework

- if agreement is not reached at this meeting, the Dean (or his/her nominee), in consultation with the Medical Director will decide the matter (in the case of a decision on the integrated Job Plan) or make a recommendation (in the case of a decision on whether the criteria for a pay threshold have been met) to the Vice Chancellor, copied to the NHS Chief Executive<sup>2</sup>, and inform the clinical academic and the responsible managers of that decision or recommendation in writing;
- in the case of a decision on whether the criteria for a pay threshold have been met, the Vice Chancellor will inform the clinical academic, the Dean (or his/her nominee) and Medical Director and the responsible managers of his/her decision in writing;
- if the clinical academic is not satisfied with the outcome, he or she may lodge a formal appeal under this procedure.

## **Formal appeal**

5. A formal appeal panel will be convened only where it has not been possible to resolve the disagreement using the mediation process. A formal appeal will be heard by a panel under the procedure set out below.
6. An appeal shall be lodged in writing with the Vice Chancellor, copied to the NHS Chief Executive, as soon as possible, and in any event within two weeks of the outcome of the mediation process. The appeal should set out the points in dispute and the reasons for the appeal. The Vice Chancellor, in consultation with the NHS Chief Executive, will, on receipt of a written appeal, convene an appeal panel to meet within four weeks of receipt of a written appeal. The Vice Chancellor may delegate operational procedures as appropriate, but he or she retains overall responsibility for the appeal.
7. The membership of the panel will be:
  - i) a chair nominated by the University;
  - ii) a representative nominated by the honorary employer;
  - iii) a representative nominated by the clinical academic;
  - iv) a member chosen by the University from the list of individuals approved by the NHS England and the BMA and BDA, which will also be used for job planning appeals for NHS consultants. The list will also include a number of clinical academics and other University employees nominated by the University. The NHS England will monitor the way in which individuals are allocated to appeal panels to avoid particular individuals being routinely called upon. If there is an objection raised to the first representative from the list, one alternative representative will be chosen. The list of individuals will be regularly reviewed.
  - v) a member chosen by the clinical academic from the list described at sub-paragraph iv) above of individuals approved by the NHS England and the BMA and BDA. The process will be identical to that described at sub-paragraph iv) above and if an objection is raised one alternative representative will be chosen.
8. No member of the panel should have previously been involved in the dispute.
9. The parties to the dispute will submit their written statements of case to the appeal panel and to the other party one week before the appeal hearing. The appeal panel will hear oral submissions on the day of the hearing. The employers will jointly present their case first explaining the agreed position on the integrated Job Plan, or the reasons for deciding that the criteria for a pay threshold have not been met.

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<sup>2</sup> The Chief Executive of the NHS Trust or NHS England holding the clinical academic's honorary contract

10. The clinical academic may present his/her own case, or be assisted by a work colleague or trade union or professional organisation representative who is not a member of the appeals panel. Legal representatives acting in a professional capacity are not permitted.
11. Where any party or the panel requires it, the appeals panel may hear expert advice on matters specific to a speciality.
12. It is expected that the appeal hearing will last no more than one day.
13. The appeal panel will make a recommendation on the matter in dispute in writing to the Vice Chancellor, copied to the Board of the honorary employing organisation, normally within two weeks of the appeal having been heard and this will normally be accepted. The clinical academic should see a copy of the recommendation when it is sent to the Vice Chancellor. The Vice Chancellor will make the final decision and inform all the parties in writing.
14. No disputed element of the integrated Job Plan will be implemented until confirmed by the outcome of the appeals process. Any decision that affects the salary or pay of the clinical academic will have effect from the date on which the clinical academic referred the matter to mediation or from the time he or she would otherwise have received a change in salary, if earlier, or as determined by the appeals process.
15. The appeals process set out in this document applies only to job planning and pay progression. No further right of appeal through the University's procedures exists.