

Ad Hoc Appointments Policy

Effective: June 2010

Review: May 2013

1. Purpose

- 1.1 To clarify what managers should consider when appointing an individual to undertake ad hoc work for the Trust.
- 1.2 This policy excludes those people who provide a contract for services that is obtained through the Supplies Department.

2. Introduction

- 2.1 When appointing an individual to carry out some ad hoc work for the Trust, which is not classed as 'employment' in the normal sense, difficulties can arise when assessing whether the individual should be treated as 'employed' or 'self employed' for HM Revenue & Customs purposes.
- 2.2 It is important that the individual is treated correctly as the Trust may be required by HM Revenue & Customs to pay assessed employee's PAYE and NI contributions and Employer's NI contributions on a retrospective basis that might extend over several years.
- 2.3 The manager wishing to make an appointment must follow the appropriate procedure outlined in Appendix 1 or Appendix 2 dependent upon the individual's status.

3. General Principles

- 3.1 The following information should be used when considering whether the ad hoc work arrangement is carried out under an employed or self employed basis:
 - 3.1.1 An individual can be self-employed and have VAT registration but still be deemed an 'employee' of the Trust for the service being performed.
 - 3.1.2 It is the nature of the service being performed which determines the employment status, and not the status of the individual.
 - 3.1.3 The basic distinction to be made is to determine whether the individual is engaged under a contract of service (indicative of employment) or a contract for services (indicative of self-employment).
 - 3.1.4 If the terms of the contract are written it should make clear whether the contract is 'of service' or 'for service'. If the contract refers to an individual 'performing duties' this is a strong indicator of employment.
 - 3.1.5 If the hours of work are set then this is a strong indication of employment.
 - 3.1.6 If the individual provides their services exclusively for one organisation it is highly likely the HM Revenue & Customs would regard them to be an employee, whereas if they can demonstrate that they are available to

whoever is prepared to pay for their services they are more likely to be regarded as self-employed.

3.1.7 A self-employed individual usually agrees a fee for the job before the job starts. An employee is more likely to be paid a salary or may be paid an hourly, daily or weekly rate.

3.1.8 If the individual provides major pieces of equipment to perform the job this can be indicative of self-employment.

3.1.9 If an individual is obliged to perform the service personally this is an indication of employment, but if they may send a substitute or they employ staff this is more indicative of self-employment.

3.1.10 If it can be established that the individual takes genuine financial risk and can increase profits or suffer losses this is a strong indication of self-employment. This may result from the agreement of a fixed price before work commences.

3.1.11 If a contracted individual can exercise some control over how and when the work is done, and is required to correct unsatisfactory work, the person is likely to be self-employed.

3.2 In all cases, the appointing manager should be able to demonstrate that due consideration has been given to the issue of employment status.

4. Common Circumstances

4.1 Common circumstances which currently occur are:

- a) Lecturers being paid fees.
- b) Consultancy charges.
- c) Ad hoc sessions for miscellaneous reasons.
- d) Project management

4.2 Guidance received from HM Revenue & Customs regarding visiting lecturers indicates that if an individual is engaged for a 'one off' or irregular lecture(s), then the engagement can be treated as self-employed. However, should the lecturer be engaged to perform several lectures on a regular basis over a period of a few weeks or months then this would be classed as employment.

4.3 Many of the individuals who perform these duties feel that they should be treated as self-employed and that they will be responsible for their own tax and NIC. Managers must refer to these guidance notes appended to this policy and notify the Recruitment Control Group of the views of the individual.

5. Monitoring

5.1 Compliance with this policy will be monitored by the Director of Human Resources. The figures will be presented to the Heads of Human Resources Meeting on an annual basis who will identify appropriate action plans to address any concerns regarding ad hoc appointments and will continue to monitor the plan until its completion.

5.2 Monitoring will include reporting of information from Payroll to ascertain those appointed on an ad hoc basis are paid and taxed etc in accordance with their

status.

- 5.3 A summary of the number and type of contracts for service issued by the Human Resources Department will go to the Executive Team on annual basis.

Policy Author: Director of Human Resources

Ad Hoc Appointments Procedure 'Employed'

1. Managers must generate a Job Description for the anticipated role, please refer to the HR & Training Section of the Trust's Intranet site and use the Trust's standard Job Description Template to generate.
2. Once the Job Description has been produced, managers must ensure the role is evaluated by an Agenda for Change/Evaluation Panel. Managers should refer to the Procedure for Banding of Posts under Agenda for Change.
3. Once the role is banded under Agenda for Change, managers must seek approval to recruit to the role through the Recruitment Control Group. For further information in regard to the Recruitment Control Group Process please see the information and forms on the HR & Training Section of the Trust's Intranet site.
4. When approval is gained from the Recruitment Control Group, managers have a responsibility to follow the process detailed in the applicable Recruitment & Selection Policy.
5. Managers must ensure the individual is correctly inducted to the organisation, and should refer to and follow the process in the Trust's Induction Policy. Managers must notify the Staff Development Team via the electronic form on the HR & Training Section of the Trust's Intranet site that the induction has taken place.

**Ad Hoc Appointments Procedure
'Self-Employed'**

1. Where an individual is 'self employed', managers must ensure they have the appropriate authorisation to bring the individual into the Trust. Managers must seek approval to recruit to the role through the Recruitment Control Group. For further information in regard to the Recruitment Control Group Process please see the information and forms on the HR & Training Section of the Trust's Intranet site.
2. Managers must ensure the individual is appropriately registered as self employed with HM Revenue Customs.
3. The Manager must ensure that all appropriate pre-employment checks are conducted in accordance with the NHS Employment Check Standards. Managers should use and refer to the guidance and forms held on the HR & Training Section of the website, named Managers information guide to pre-employment check standards.
4. If an individual is self-employed, then when the individual submits their invoice the manager responsible for the engagement must note on the invoice whether the individual was engaged on a 'self-employed' basis, and if self-employed must write on the invoice 'engagement under contract for services'. The invoice will then be paid by Accounts Payable Section accordingly.
5. Managers must ensure the person is properly inducted to the organisation, and should refer to and follow the process in the Trust's Induction Policy. Managers must notify the Staff Development Team electronically that the induction has taken place.

**THE NEWCASTLE UPON TYNE HOSPITALS NHS FOUNDATION TRUST
IMPACT ASSESSMENT – SCREENING FORM A**

This form must be completed and attached to any procedural document when submitted to the appropriate committee for consideration and approval.

Policy Title:	AD HOC APPOINTMENTS POLICY	Policy Author:	Miss Ceri Liddell – HR Officer (Projects)
		Yes/No?	You must provide evidence to support your response:
1.	Does the policy/guidance affect one group less or more favourably than another on the basis of:		Policy applies to all employees of the Trust. It is underpinned by Trust's overriding policy on Equal Opportunities and employment legislation
	• Race	No	}
	• Ethnic origins (including gypsies and travellers)	No	}
	• Nationality	No	}
	• Gender	No	} As above
	• Culture	No	}
	• Religion or belief	No	}
	• Sexual orientation including lesbian, gay and bisexual people	No	}
	• Age	No	}
	• Disability – learning difficulties, physical disability, sensory impairment and mental health problems.	No	}
2.	Is there any evidence that some groups are affected differently?	No	
3.	If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?	No	
4(a).	Is the impact of the policy/guidance likely to be negative? <i>(If "yes", please answer sections 4(b) to 4(d)).</i>	No	
4(b).	If so can the impact be avoided?	No	
4(c).	What alternatives are there to achieving the policy/guidance without the impact?	No	
4(d).	Can we reduce the impact by taking different action?	No	

Comments:	Action Plan due (or Not Applicable):

Name and Designation of Person responsible for completion of this form: Miss Ceri Liddell – HR Officer (Projects)

Date: 5 May 2010

Names & Designations of those involved in the impact assessment screening process: The Employment Policies and Procedures Consultative Group

(If any reader of this procedural document identifies a potential discriminatory impact that has not been identified on this form, please refer to the Policy Author identified above, together with any suggestions for the actions required to avoid/reduce this impact.)