

Recruitment to Scotland Locally Recruited specialties

Arrangements for Stage 1 Complaints & Stage 2 Appeals

Introduction

The following document outlines the Stage 1 Complaints and Stage 2 Appeals procedure for NHS Scotland Specialty Recruitment. Please note NHS Education for Scotland (NES) will provide a central co-ordinating role in the formal complaints and appeals process for the recruitment and selection process, and does so, on behalf of the recruiting NHS Health Boards in Scotland.

The recruitment and selection process to specialty training under the umbrella of Scottish Medical Training (SMT) is compatible with GMC mandatory standards of selection.

<http://www.gmc-uk.org/education/index.asp>

The complaints and appeals procedures aim to be legal, fair, transparent and free from discrimination. Final decisions relating to both the complaint and the appeals procedures will be made in accordance with best practice, employment legislation and statutory procedures.

Your privacy and confidentiality will be respected, balanced with the need for an open and fair investigation and for the outcome of the investigation to be reported appropriately. Your complaint will need to be shared with others who have been involved with the recruitment and selection process, e.g. NHS Scotland staff and interview panel members. The intention is both to protect your privacy, and protect those involved with the complaints.

Ultimate responsibility for employment rests with employing bodies, usually NHS Boards or other health organisations. A range of NHS employers across Scotland are involved in the selection process and have agreed to a national recruitment process for appointing trainees who will become employees in their health organisations. This range of employers participates in the selection process and successful candidates will be appointed by an employing body, i.e. an NHS Board or training practice within Scotland. Consequently, if an applicant is selected and offered a placement on a training programme, the employing body ultimately has the right not to offer employment but must be able to offer robust reasons for failing to do so. Please note that this would only occur in exceptional circumstances and your right of recourse would be directly to that employing Board or training practice. This is separate to the complaints process outlined in this document.

Stage 1 Complaints: Procedure Information for Applicants – Raising a Complaint

1. It is inevitable that some applicants will be disappointed by the outcome of the recruitment and selection process which is highly competitive. NES recognises that during such a process, with tight deadlines and high volume, that occasionally errors or failings can occur in process or procedure, or in the way decisions are made. The complaints procedure provides a mechanism, through which complaints can be investigated, responded to and, where necessary, provided with a remedy.
2. We recognise that an effective complaints procedure needs to encompass provision for a timely remedy, where errors or failings have occurred. For this reason we need you to:
 - a) Provide full details and appropriate evidence when making your complaint;
 - b) Make your complaint in a timely manner.

What can I complain about?

3. There are two grounds for complaint:
 - a) You have evidence that you complied with the requirements of the recruitment and selection process in submitting or attempting to submit your application or other documents and you consequently dispute the Recruitment Teams view that you failed to meet the deadlines or comply with other published requirements;

OR

 - b) You have evidence that processes or procedures have not been followed fairly, or the objectivity of decisions is called into question resulting in a major adverse effect.

Your responsibilities:

You must follow the NES rules about recruitment set out in the Applicant Guide for your specialty. We cannot register and investigate a complaint if you have not followed the rules set out in the relevant Applicant's Guide.

4. Specialty recruitment is highly competitive and operates within tight time constraints and national legislation. Therefore you cannot register a complaint because you:
 - a) Have not followed the rules contained in the relevant Applicant Guide
<http://www.scotmt.scot.nhs.uk/recruitment/specialty-recruitment/applicant-guides.aspx>
 - b) Disagree with the principle of the process, judgements or outcomes that have been made by the short listing or interview panels/selection centre;

- c) Allege unfairness of practice and process but do not supply evidence to substantiate your allegation;
- d) Were judged insufficiently strong to merit competitive appointment to a training post: making a direct inference of bias on the basis of your ranking in shortlisting or interview;
- e) Wish to appeal against any decisions the NHS Scotland is obliged to take to remain within appropriate employment law and procedures.

Stage 1 Complaints: The Complaints Procedure in Practice

- 5. NES aims to co-ordinate and seek resolution as quickly as possible on your behalf.
- 6. In all circumstances you should submit your complaint within 30 days of the incident to SMT.issues@nes.scot.nhs.uk

You need to state your specialty and level, together with the heading 'COMPLAINT' in the subject line and provide full evidence to substantiate your complaint either within your email or as an attachment.

If your complaint is about a late application or submission of documentation, you need to provide evidence about electronic or postal failure. If you do not provide this information, your complaint cannot be investigated.

- 7. On receipt, NES will acknowledge your complaint **within 10 working days** and remit your complaint to the appropriate recruitment team for consideration and reply.
- 8. Two senior personnel who have had no prior involvement in the recruitment process for the specialty, on which your complaint is based, will investigate and determine whether your complaint is upheld or not. The appropriate source will aim to investigate your complaint **within 20 working days** of our acknowledgement and will write and explain the reasons to you if the timeline requires to be extended.
- 9. Within each regional recruitment team who dealt with the process of either GP or Specialty selection, a named senior manager (or nominee) will be identified to prepare a management report which will respond to your complaint, and this will be considered by the two senior personnel from the NHSS who have been designated to consider your complaint.
- 10. Where your complaint is upheld or rejected a detailed letter will be sent by the source. If your complaint is upheld the letter will include a proposed remedy.

Stage 2 Appeals: Procedure Information for Applicants – Progressing to Appeal

11. The Stage 2 Appeals mechanism can only be activated following the exhaustion of the Stage 1 Complaints Procedure. Once again NES will act as the conduit into the NHSS and refer your Appeal to be heard by appropriate personnel.

If your Stage 1 complaint is not upheld, you may submit an Appeal **within 20 working days** of being sent the response to your complaint, to:

NHS Education for Scotland,
Complaints & Appeals,
Vocational Training & Recruitment,
HR Department,
Westport 102
West Port
Edinburgh
EH3 9DN

You cannot appeal simply because:

- a) you disagree with the earlier decision
 - b) you have re-stated your complaint in a similar way
 - c) You can provide evidence which was previously available but not disclosed.
13. The only grounds on which you can appeal are:
- a) **New evidence**** has come to light, which was previously unavailable;
 - b) There is evidence that your complaint has been misunderstood, or that you do not consider your complaint has been dealt with fairly and fully.
 - c) You must provide evidence to substantiate the basis for your Appeal.

**** New evidence** is information which would have affected the decision reached by the Panel, had it been available at the time of the Stage 1 Complaint.

14. NES will acknowledge your Appeal **within 10 working days** and outline to you a contact name to where your appeal has been remitted.
15. The named contact will then identify a panel of two senior personnel from the NHSS, who have been designated to consider your Appeal. This Panel will have had no previous involvement with the recruitment process to the specialty, or the Stage 1 Complaint, which forms the basis of your Appeal and will review the evidence provided and respond to you **within 20 working days** of the acknowledgement.
16. Where your Appeal is upheld a letter will be issued which proposes a remedy.

17. You can **withdraw** at any stage in the process, by writing to:

NHS Education for Scotland,
Complaints & Appeals,
Vocational Training & Recruitment,
HR Department,
Westport 102
West Port
Edinburgh
EH3 9DN

You should also state the reference number you have been given, the relevant specialty and the level of training to which you originally applied. Your complaint/appeal will then be closed permanently and therefore will not be re-opened.

18. At the exhaustion of the Stage 1 Complaints and Stage 2 Appeals processes, there is no further internal process for complaints and appeal.
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