

## ESTABLISHMENT/ENGAGEMENT CONTROL POLICY

### NHS Leeds Clinical Commissioning Group

The leadership team have updated the current establishment control processes to ensure that workforce capacity and capability requirements are made using an equitable approach and with full consideration of management costs. It also ensures that the CCG complies with the reformed HMRC legislation (often known as IR35 or off-payroll rules).

The Establishment/Engagement Control Process (Appendix 1) must be followed when submitting any request for change in workforce establishment as follows

- Recruitment to Vacancies (replacement and new)
- Extension of Fixed Term Contract
- Increase in hours
- Decrease in hours
- Acting up arrangements
- Release of employee on external secondment
- Internal Secondment
- Request for review of banding (manager request)
- Change of contractual arrangement (e.g. temporary to permanent )
- Any change in staffing structures including removal or addition of roles
- Use of an Agency Worker
- Use of an Independent Contractor (on a consultancy basis)
- A worker personally providing a service for example their own company, an intermediary company, a partnership (including GP practice) or as a sole trader, freelancer or consultant.
- Changes to cost centre/code

The Establishment Control form (ECF) will be reviewed by the Executive Director and only by exception and on the decision of the Director will the request be submitted to the Executive Management Team and the Chief Executive Officer for approval.

**Examples that may require EMT Approval:** Requests for any grade changes, requests to recruit where post is not with an allocated budget, increases in hours where no budget exists, team restructures (*this is an indicative list and subject to Director judgment*).

Directors will receive requests to change establishment and/or recruit to posts and will review the request against a set criteria and across the CCG.

All requests should be considered on the following criteria in addition to the information provided on the ECF.

- Is the post/change in hours/change in banding etc critical and if so why?
- How could the post be covered if not recruited to at this time?
- Are agency costs greater than the employment costs where relevant?
- Could the post be delayed for this financial year?
- Should this be raised on the risk register if not approved?
- Are there any 'at risk' employees suitable for the post?
- For removal of roles, what is the rationale?

Directors should assess the request and allocate one of the following Critical Levels to the request:

<b>Level of Criticality</b>	<b>Level of Potential Risk on Service delivery of Absence of Role</b>	<b>Level of Potential Risk on Finance of Absence of Role</b>	<b>Level of Potential Risk on Reputation of Absence of Role</b>
1 – Business Critical <i>(Should fulfil at least one of these categories to be classed as Level 1 Critical)</i>	Unable to function, inability to fulfil statutory obligations	Severe financial loss	Highly damaging, severe loss of public confidence; sustained media criticism
2 – Moderate Criticality	Significant impact on service provision	Major financial loss	Major adverse publicity, major loss of confidence
3 – Marginal Criticality	Service objectives partially achievable	Significant financial loss	Some adverse publicity & embarrassment, legal implications
4 – Negligible Criticality	Little or no impact on service objectives	Moderate financial loss	Confined internally, no damage to reputation

Requests assessed as 1 or 2 Criticality by the Director will be approved or alternative recommendations may be made by the committee.

The decision to approve the Establishment Control request will be recorded on the ECF and the requesting manager should forward a final version to the central HR team. Audit of approval will be required before the central HR team can take any action e.g. advertising the vacancy/ processing payroll forms.

Should a manager wish to appeal the decision, the manager can re-submit their request back to the Director or EMT giving further detail including the reasons for their appeal. The manager can resubmit once, the decision of the Director/EMT after appeal is final.

## **FORM COMPLETION**

Requesting managers should ensure PART 1 and 2 (a & b) of the form are completed. **Only by exception** will an ECF be submitted by the Director to the Executive Management Team (EMT) for approval (Part 3). Where Director availability/access is limited e-mail approval accompanying the form will be accepted.

**Examples that may require EMT Approval:** Requests for any banding changes, requests to recruit where post is not with an allocated budget, increases in hours where no budget exists, team restructures (*this is an indicative list and subject to Director judgment*).

### **Important to note:**

If a change in banding or a change in staffing structure is being requested, it is essential that the Director of that particular service has approved the request before full completion of the ECF.

If a new post is requested, it is essential that Agenda for Change (AfC) matching/banding has been finalised prior to advertising the post. Where this has not been undertaken, sufficient planning time should be allowed for this process and the HR Team will be able to provide advice on this process.

### **HMRC Compliance**

Off payroll appointments must be treated with caution due to the rules on HMRC compliance. Please seek immediate guidance from the Finance or HR Team for any appointments off payroll.

Please note if you are considering recruiting an individual who will personally provide a service you must ensure you are compliant with the IR35 legislation and complete the HMRC's Employment Status tool should your engagement be approved. This is regardless of the length or cost of the engagement. The Finance Team will support you through this process.

### **Clinical Appointments**

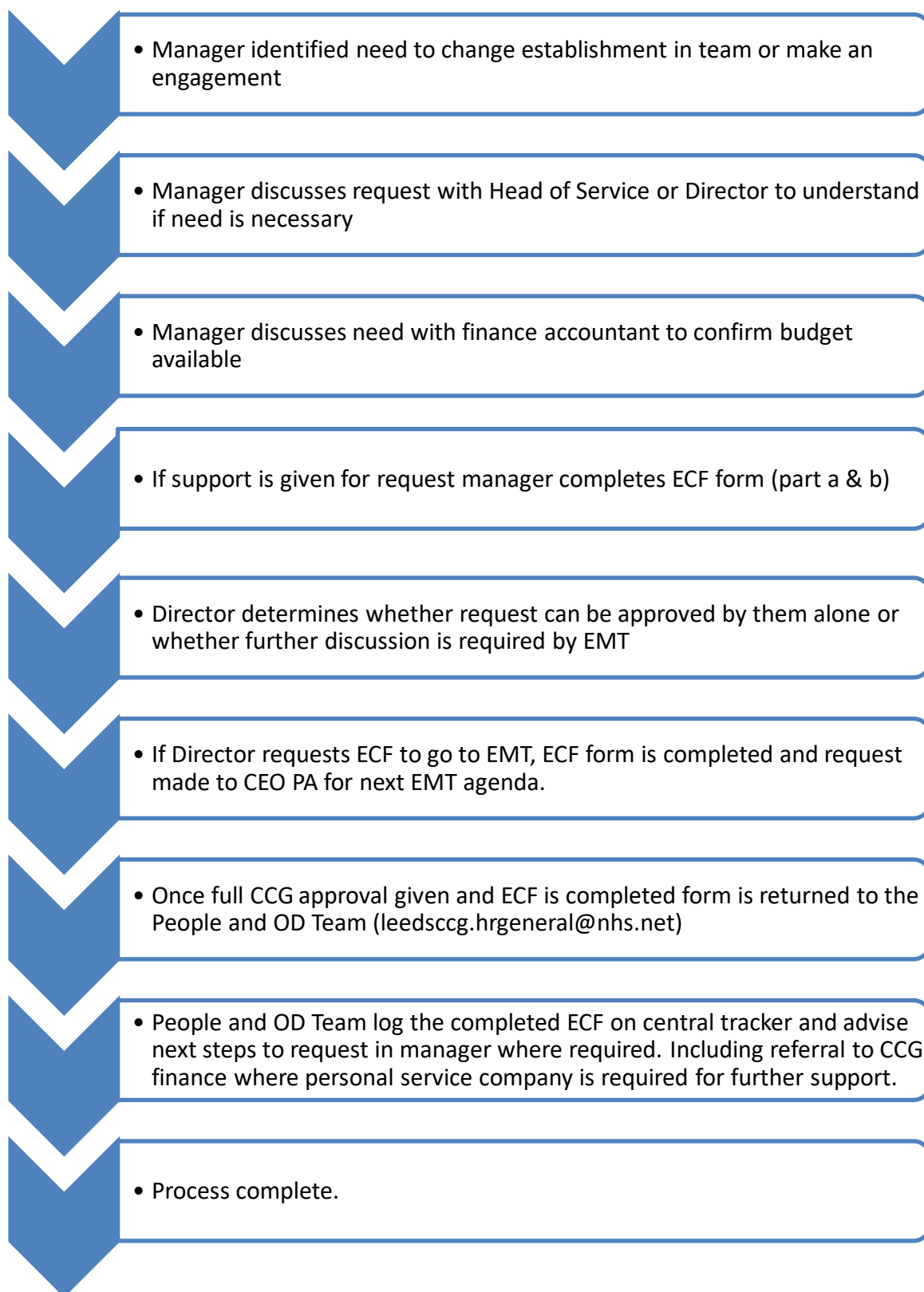
For the engagement of Clinical roles i.e. GP Leads, please seek support from the HR Team.

Managers must scan a copy of the fully completed ECF along with the job advert (where applicable) and job description/person specification to the central HR Team at [leedscg.hrgeneral@nhs.net](mailto:leedscg.hrgeneral@nhs.net). This must include authorisation of relevant Director.

If the request is approved for an **increase to hours, extension to contract, secondment, re-grade or acting up arrangement**, you will then be expected to complete the relevant payroll change form/or amendment via Manager Self Service (MSS) in order for the Electronic Staff Record (ESR) to be updated.

## Appendix 1

### Process Flow Chart – Establishment/Engagement Control Process



**Appendix 2**

**ESTABLISHMENT/ENGAGEMENT CONTROL FORM (ECF) TO MANAGE ALL CHANGES TO WORKFORCE EXPENDITURE INCLUDING REQUESTS TO EMPLOY AGENCY AND INDEPENDENT CONTRACTORS**

<b>PART 1- TO BE COMPLETED BY THE ORIGINATING MANAGER</b>			
<b>Title of Post/Engagement</b>			
<b>Team</b>		<b>Band</b>	
<b>Originating Manager Name</b>			
<b>Originating Manager Tel No</b>			
<b>Please select change in establishment:</b>			
<b>NEW RECRUITMENT (select box)</b>		<b>CHANGE TO EXISTING STAFF (select box)</b>	
Direct replacement		Increase/decrease in hours	
Revised post		Extension of fixed term contract	
New post (existing funding)		Fixed term contract made permanent	
New post (new funding)		Acting up	
Agency		Re-band	
Independent contractor (inc. personal provision of a service)		Secondment request (internal/external)	
A worker personally providing a service		Change to cost centre/code	
Maternity cover		Any change in staffing structures including removal or addition of roles	
Sickness Absence cover			
Other....			
<b>What is the method of Engagement?</b>			
On Payroll		Off payroll	
<p><b>Give full details of the reason for the request</b></p> <p>To include;</p> <ul style="list-style-type: none"> <li>• <i>Purpose of Post</i></li> <li>• <i>Justification for Post</i></li> <li>• <i>Is the post/change in hours/change in banding etc. critical and if so why (including suggested Level of Criticality 1-4 as described within policy)?</i></li> <li>• <i>How could the post be covered if not recruited to at this time?</i></li> <li>• <i>Are agency costs greater than the employment costs?</i></li> <li>• <i>Could the post be delayed for this financial year?</i></li> <li>• <i>Should this be raised on the risk register if not approved?</i></li> <li>• <i>Are there any 'at risk' employees suitable for the post (seek advice from HR)?</i></li> <li>• <i>For removal of roles, what is the rationale</i></li> </ul>			
<b>TERMS AND CONDITIONS OF THE POST / FUNDING</b>			
Permanent		State no. of hours per week	
Fixed term		State fixed term duration	
Justification for post			
Existing budget covers costs		External funding available	
Team Budget Holder Name			
Team Budget Holder Signature and Date			

Please send to Finance for completion.

<b>PART 2 (a) – TO BE COMPLETED BY FINANCE</b>			
Budget exists		Supporting Comments	
Budget does not exist			
State Cost Code		State Subjective Code	
NHSE Approval Received	Yes/ No/ Not Applicable		
Authorising Finance Name			
Authorising Finance Signature and Date			
<b>PART 2 (b) – TO BE COMPLETED BY EXECUTIVE DIRECTOR</b>			
Authorising Director Name			
Authorising Director Signature and Date			
Supporting Comments			
ECF to be approved at EMT (send to CEO PA for EMT agenda)		Yes/No (please circle)	
<b>PART 3 – TO BE COMPLETED BY THE ACCOUNTABLE OFFICER (EMT MEETING WHERE REQUIRED)</b>			
Approved		Alternative Recommendation	
Not Approved			
Supporting Comments			
Authorising AO Name			
Authorising AO Signature and Date			

**Process Complete – Please return to [leedscg.hrgeneral@nhs.net](mailto:leedscg.hrgeneral@nhs.net)  
Originating Manager where approved please contact the People and OD Team for  
advice**

**For Office Use**

<b>New Recruitment</b>	<b>Tick</b>
ECF Authorised	
No at risk staff confirmed	
JD Received	
Advert Received	

<b>Change to Existing Staff</b>	<b>Tick</b>
ECF Authorised	
Change Form Received	