

CLINICAL GOVERNANCE BOARD & REVIEW PANEL ACPGBI

Governing Board & Panel of Persons Approved to Act as Coloproctological Specialist Advisors and Assistants on Governance, Disciplinary and Conduct Panels

Terms of Reference

Background

Increasingly frequently over recent years officers of ACPGBI have been approached by a variety of external people (Royal College officers, Trust officials, university personnel, etc.) and asked to nominate senior consultants “in good standing with the Association” to act as advisors or assistants in governance, investigatory or disciplinary processes in the workplace involving clinicians involved in colorectal practice.

Such nominations may be made in an *ad hoc* and piecemeal fashion which can be unsatisfactory for all parties, particularly if the ultimate conclusions of the judgmental process prove to be controversial.

The ACPGBI was asked to explore mechanisms for producing a representative Panel, under the management of a Board, of suitably “approved” senior personnel, geographically spread throughout the country, who would be willing and able to act in this capacity, and its terms of reference are set out in this document, which was approved by the Executive and Council of ACPGBI and the President of the RCSEng in 2009.

This Clinical Governance Board and Review Panel is an active body within the ACPGBI and is becoming increasingly involved with governance matters to do with the Consultant Outcome Publication as well as other matters of investigation. It also acts in a mentoring capacity for surgeons in difficulty. It works with the Invited Review Mechanism of the RCSEngland and is available to work with the Review Mechanisms of other Colleges.

The Board and the Panel is appointed and functions in an open and transparent manner within the bounds of confidentiality towards the parties concerned.

The Board

1. The composition of the Board shall be never less than three nor greater than five fully paid up Consultant members of ACPGBI. All must hold a GMC Licence to Practice.
2. It is permissible for the Board to contain two ACPGBI members who have retired from active clinical practice but for less than 3 years.
3. Places and vacancies on the Board shall be advertised openly among the membership of ACPGBI.

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4. The ACPGBI Executive shall select the members of the Board and designate its chairman.
5. The Chairman of the Board would be appointed for 3 years, renewable annually by election for a maximum term of 6 years.
6. Board membership shall be for 3 years, renewable for a further 3 years
7. Doctors may not be members of both the Board and the Panel.
8. The Board shall make the selection of the Panel members.
9. The names of the Board shall be published on the website.
10. The Board will oversee the activities of the Panel as set out below.
11. The Chairman of the Board should prepare a short Annual Report on the activities of its members, which should be presented to the Executive. A balance needs to be struck between maintaining confidentiality (especially where the disciplinary outcome is exoneration) and transparency.
12. The Board will be answerable to Executive and Council but will normally report through the External Affairs Committee via its Chairman.
13. The Chairman of the Board will sit on the External Affairs Committee.

The Panel

1. The Panel shall be made up of Consultants in active clinical NHS, university, or equivalent practice either full time, or substantially part time for a minimum of 10 years.
2. All must hold a GMC Licence to practice.
3. They must be less than 66 years old.
4. Retired consultants shall be excluded.
5. Applicants must declare a stated willingness to act in this capacity in a timely and impartial fashion.
6. Applicants must be nominated by a consultant colleague from the same discipline in the same geographical area who has known them personally for at least 5 years.
7. Applicants must be seconded by a consultant colleague in the same discipline in a different geographical area who has known them personally for at least 5 years.

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8. The selection for and maintenance of the Panel will be the under the supervision of the Board.
9. Places and vacancies on the panel shall be advertised openly among the membership of ACPGBI.
10. Doctors may not be members of both the Board and the Panel.
11. The Board shall make the selection of the Panel members.
12. It shall be open to unsuccessful applicants to use the *Appeals Mechanism* outlined below.
13. In order to match “like with like,” the Panel members should display a diversity of their own workplaces, including, large and small hospitals, university and NHS, etc.
14. Ideally, the Panel should include practitioners from different geographical areas so that consultants are not required to adjudicate on colleagues who are based in nearby hospitals and institutions. A distance of 50 miles is (arbitrarily) suggested.
15. The concept of good faith should apply both to applicants for the Panel and to extant Panel members with regard to declaration of any matters which might render themselves unsuitable to sit in judgment upon their peers (see below).
16. Applicants for inclusion in the Panel shall be required to sign a declaration confirming their eligibility and to undertake to inform the Board if these eligibility criteria are subsequently breached.
17. An ordinary member shall be expected to sit on the Panel for a minimum period of 5 years, renewable every 3 years or until the member retires from substantial active clinical practice.
18. Although ACPGBI fully subscribes to the concept of “innocent until proved guilty,” it believes that it is unreasonable to expect practitioners who are standing in peril in the disciplinary process to accept adjudication from a senior colleague who is himself the subject of similar proceedings. Thus should Panel members find themselves involved as the subject of a *formal* disciplinary enquiry, they should notify the Board, and their names should be temporarily withdrawn from the Panel until the outcome of the proceedings has become known.
19. Whereas for surgeons (who make up the vast majority of medical members of ACPGBI) these arrangements should be straightforward, for other disciplines within medicine (e.g. pathologists, radiologists, physicians) any such listing should be held in conjunction with their own parent craft organisations.
20. Nurse practitioner members of ACPGBI shall not be included in these arrangements.

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21. The names of the Panel shall be published on the website.
22. On receipt of a request from an outside body or person for ACPGBI to nominate a consultant for duty in this area, there shall be an open process of selection of the nominee from the Panel, carried out by the Chairman of the Board in liaison with its other members (see attached algorithm).
23. If members of the Panel are themselves requested by outside persons or bodies to become involved in this area, before agreeing, they should seek ratification by the Chairman of the Board, as above.
24. At the conclusion of a Panel member's involvement in a case, he/she should inform the Chairman of the Board of its outcome in a short report, which should usually be anonymous.
25. Panel members should not normally be requested to undertake more than one such duty in any one year.

Applicants must be of good professional standing

- No conviction in a civil or criminal court on a serious professional matter during the last five years which might compromise the practitioner's perceived independence in disciplinary matters.
- No conviction by the GMC on a serious professional matter during the last five years which might compromise the practitioner's perceived independence in disciplinary matters.
- No *formal* conviction of a serious disciplinary offence by their employer in the last five years which might compromise the practitioner's perceived independence in disciplinary matters.
- Not involved as the accused in a *formal* investigation or actual disciplinary process.

Removal from the Panel

Automatic: Upon retirement from active clinical NHS, university or equivalent practice or the practitioner's 66th birthday, whichever occurs sooner.

If a practitioner's membership of ACPGBI should cease, for whatever reason.

Voluntary: on application by a listed member.

Enforced: upon conviction in a civil or criminal court on a serious professional matter which might compromise the practitioner's perceived independence in medico-legal matters.

upon conviction by the GMC on a serious professional matter which might compromise the practitioner's perceived standing in disciplinary

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matters.

upon conviction of a serious disciplinary offence by their employer which might compromise the practitioner's perceived standing in disciplinary matters.

(All enforced erasures from the Panel are subject to the Panel's appeals mechanism.)

Suspension from the Panel

For the duration of any proceedings which might lead to enforced removal from the Panel.

Reinstatement to the Panel

After voluntary erasure: immediate reinstatement on application, provided the entry requirements are fulfilled.

After suspension: immediate reinstatement on application, provided the entry requirements are fulfilled.

After enforced erasure: practitioners may apply for reinstatement on the List once 5 years have passed from the event that occasioned erasure. At this time the Board shall have discretion over the timing of such relisting. This discretion shall be subject to the Board's appeal mechanism.

Selection of a Panel member for a particular case

On receipt of a request for a Coloproctological expert in this (disciplinary) area, the ACPGBI Secretariat shall pass it to the Chairman of the Board (or named deputy) in order for him/her to make the selection (see attached algorithm).

The selection shall be based on the concept of matching "like with like" (insofar as this is practicable), and avoiding conflicts of interest.

Thus, ideally, the chosen expert should

- Be in a practice matching that of the involved person i.e. large / small hospital
NHS / university
full-time / part-time
- Have no close personal or professional ties with the person under investigation*.
- Be able to participate in the required process within a reasonable period of time.
- Be able to secure leave of absence from his/her own workplace to take on this duty.

Once the name of the proposed Panel member has been chosen, the accused practitioner should be asked whether he/she has any valid objection to this person becoming involved. Any objection should be considered by the Board, whose decision shall be final.

*It is recognised that the "world of coloproctology" is relatively small, comprising some 700

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consultants in active clinical practice, of whom the vast majority are surgeons. It is inevitable that senior colleagues will have an extensive circle of acquaintance within the membership. Common sense and professional judgment should usually inform such matters. Where genuine difficulty or uncertainty pertains, the President of ACPGBI should be consulted, and his / her decision shall be final.

*Where a high profile senior member or officer of ACPGBI is involved as the accused in the disciplinary matter, then the President shall consult with the President of the appropriate Royal College regarding the nomination of a Coloproctological expert for the case.

Appeals Mechanism

It shall be open to any member of ACPGBI to appeal against any of the decisions of the Board. Such appeals shall be decided by an Appeal's Group comprising the President ACPGBI, an ordinary member of the Association, and a nominated Council Member of the appropriate Royal College.

How to use the scheme to gain the name for a Disciplinary Panel

User's Guide

Medical Director → RCS → Professional Standards & Regulation Dept

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Direct referral from Trust → → → ACPGBI (Anne O'Mara)

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Chairman of Board

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Check names against list

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Choose two names

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Telephones names for agreement

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Asks names formally to accept

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Supplies names to Trust

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Name goes to Trust and performs

↓

Outcome result

↓

Notifies Chairman

↓

Anonymised result

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Included in the Annual Report

NB All details to be recorded and kept in ACPGBI office for future reference under the responsibility of Anne O'Mara