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## General Practitioners Committee

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### ***Medical performers list for GPs applying as individuals***

This guidance note is for those applying as an individual medical practitioner to join a performers list, and for those intending to withdraw from a list. It also sets out the circumstances in which a Primary Care Organisation (PCO) must, or may, remove a doctor from its performers list and the responsibilities that a doctor accepts when joining a list. The note is not intended to be a substitute for the Regulations<sup>1</sup> nor does it comment on Suspension, which will be the subject of future guidance. Those doctors who are directors of a body Corporate have additional responsibilities not covered here.

Any doctor facing difficulty in joining a list, or when a PCO imposes condition, suspension or removal should seek advice from their Local Medical Committee (LMC) and Medical Defence Organisation (MDO).

A GP who is also in contract with a PCO to provide medical services is not removed from a PCOs performers list if he or she resigns from that contract.

### ***Who needs to be on a medical performers list?***

With two minor exceptions medical practitioners may not perform any primary medical services, unless they are general medical practitioners and their name is included in a medical performers list

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<sup>1</sup> The National Health Service (Primary Medical Services Performers Lists) (Scotland) Amendment Regulations 2004 Scottish Statutory Instrument 2004 No. 216

The National Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004. Scottish Statutory Instrument 2004 No. 114

The National Health Service (Performers Lists) Regulations 2004. Statutory Instrument 2004 No. 585

The National Health Service (Performers Lists) (Wales) Regulations 2004. Welsh Statutory Instrument 2004 No. 1020 (W.117)

The Health and Personal Social Services (Primary Medical Services Performers Lists) Regulations (Northern Ireland) 2004. Statutory Rule 2004 No. 149

in the same country as they are performing those services. A GP may be a provider, i.e. hold a contract with a PCO, without being on the performers list, but in such a case may not provide any medical services to the practice's patients.

The first exception is for provisionally registered doctors whilst acting in the course of employment in a resident medical capacity in an approved medical practice in the pre-registration year.

GP Registrars may also provide services whilst not on the list if an application has been made to have their name included in a medical performers list, but only for two months after starting the vocational training scheme, or if sooner, a decision on the application has been notified to the doctor

### ***Application for inclusion in a performers list***

Applications must be made in writing to the PCO and should include the following:

- Full name; sex; date of birth; private address and telephone number;
- A declaration that they are fully registered medical practitioners;
- A declaration that they are accredited as GPs, including the date of inclusion;
- Medical qualifications, professional registration number; date of first registration; where they were obtained (with evidence);
- Professional experience separated into experience in general practice, hospital appointments and "other". This must include full supporting particulars including chronological details of professional experience (including the starting and finishing dates of each appointment together with an explanation of any gaps between appointments), and an explanation of why they were dismissed from any post;
- If a GP Registrar, the name and practice address of their GP Trainer and, if not a fully registered medical practitioner included in the register of medical practitioners, a declaration that they are registered in that register with limited registration, with details of the limits of that registration, as defined in the direction by virtue of which they are registered;
- Whether they are a contractor;
- Whether they are armed forces GPs;
- Names and addresses of two referees, who are willing to provide clinical references relating to two recent posts (which may include any current post) as a performer which lasted at least three months without a significant break, and, where this is not possible, a full explanation and the names and addresses of alternative referees;

- Whether they have any outstanding application, including a deferred application, to be included in a list or an equivalent list, and if so, particulars of that application; (including any application relating to a body corporate);
- Details of any list or equivalent list from which they have been removed or contingently removed, or to which they have been refused admission or in which they have been conditionally included, with an explanation as to why; (including any application relating to a body corporate);
- Information about criminal convictions; current or pending criminal investigations;
- Details of past adverse findings, or current investigations, by regulatory, NHS bodies or employers (including partnerships);
- Consent to a request being made by the PCO to any current or former employer (including partnerships), licensing, regulatory or other body in the United Kingdom or elsewhere, for information relating to a current investigation, or an investigation where the outcome was adverse, to them or a body corporate;
- If the PCO finds that the information, references or documentation supplied are not sufficient for it to decide the application such further information, references or documentation as may reasonably be required in order to make a decision;
- Details of similar information relating to involvement with a body corporate.

### ***Undertakings required by doctors on a performers list***

Doctors are required to give a series of undertakings to a PCO when applying to join a list. Failure to adhere to these undertakings may lead to a doctor's removal from the list. The main undertakings are:

- To notify the PCO within 7 days of any material changes to the information provided (i.e. that above) in the application until the application is finally determined and, if included in the performers list, at any time when their name is included in that list;
- To notify the PCO if they are included, or apply to be included, in any other list held by a PCO or equivalent body;
- To comply with the requirements of the General Medical Services Contracts Regulations about gifts (applies to all doctors irrespective of contractual arrangements);
- To participate in the appraisal system provided by a PCO and if the appraisal is not conducted by the Trust in whose list they are included, sends that Trust a copy of the statement summarising that appraisal. (special provisions apply to armed forces GPs);

- To co-operate with an assessment by the National Clinical Assessment Authority (NCAA), when requested to do so by the PCO;
- Not to perform any primary medical services in the area of another PCO or equivalent body from whose medical performers list, medical list, services list, supplementary list or equivalent list they have been removed, except where that removal was at their request or because no services had been performed within the specified time, without the consent, in writing, of that Trust or equivalent body;
- If a GP Registrar, unless they have an acquired right under the Vocational Training Regulations, an undertaking not to perform any primary medical services, except when acting for and under the supervision of, their GP Trainer; to withdraw from the medical performers list if leaving before satisfactorily completing vocational training; to apply for a certificate of experience under the Vocational Training Regulations, as soon as they are eligible to do so, and to provide the PCO with a copy of any such certificate;
- To supply an enhanced criminal record certificate in relation to themselves, if it at any time, for reasonable cause, the PCO requests them to provide such a certificate;
- To comply with any specific undertaking they gave on admission to that list or to any Medical Services or Supplementary list from which they have been transferred.

### ***The PCO's decision***

There are certain circumstances in which PCOs must refuse an application. In other circumstances a PCO may refuse admission, defer a decision or accept the applicant onto the list with conditions.

Applications must be refused if:

- There is no satisfactory evidence of an intention to perform primary medical services in the PCO area (does not apply in the case of an armed forces GP);
- The PCO is not satisfied they have the necessary knowledge of English;
- The applicant has been convicted in the United Kingdom of murder;
- The applicant has been convicted in the United Kingdom of a criminal offence, committed on or after 3 November 2003 (or, if the applicant had previously been included in a medical or a supplementary list, 14th December 2001), and has been sentenced to a term of imprisonment of over six months. The Rehabilitation of Offenders Act 1974 does not apply to GPs and therefore spent convictions must also be disclosed to the PCO although disclosure will not automatically lead to a refusal;
- The applicant has subject to a national disqualification;

- There is inadequate information;
- The applicant is unwilling to accept conditions imposed after an appeal against their imposition.

A PCO has discretion to refuse applications if:

- Having considered the application and any other information or documents in its possession relating to them, it considers that they are unsuitable to be included in its performers list;
- It is not is not satisfied with the references;
- Having considered information from the NHS Counter Fraud and Security Management Service, and any other facts in its possession relating to fraud involving or relating to them, it considers these justify refusal;
- Having considers information from the Secretary of State, relating to past or current investigations or proceedings involving or related to the performer, and, having considered these and any other facts in its possession involving or relating to the performer, it considers these justify refusal;
- There are any grounds for considering that admitting them to its performers list would be prejudicial to the efficiency of primary medical services;
- Their registration in the register of medical practitioners is subject to conditions or an order by the GMC or its committees;
- In the case of a contractor more of the practice patients reside in the area of another PCO or the practice is not in the area of that PCO;
- The applicant is included in the medical performers list of another PCO, unless notice has been given to that PCO that they wish to withdraw from that list.

A PCO may defer an application when information is not available or investigations or criminal proceedings are in progress. When reconsidering a deferred application a PCO will require the doctor to provide updated information. There is no right of appeal against a decision to defer an application.

A PCO may include a doctor on its list with conditions, a “conditional inclusion”. Doctors faced with a deferred decision or conditional inclusion should seek advice from their LMC or MDO.

## ***Appeals***

In England and Wales, a doctor has the right to appeal to the Family Health Services Appeal Authority (FHSAA) on a decision to:

- Refuse admission to a performers list;
- Impose or vary a condition;
- Review a conditional inclusion or a contingent removal;
- Remove a doctor from the list.

In Northern Ireland, a doctor may appeal to the Department when a doctor's application is refused or where a doctor is removed from the performers lists. In Scotland, a doctor may appeal to the Scottish Ministers following a removal from the performers list. In Scotland, a doctor may also appeal if his/her application is refused **but only on a point of law.**

## ***Amendment of details or withdrawal from performers lists***

Performer shall, unless it is impracticable for them to do so, give notice to the PCO within 28 days (30 days in Scotland) of any occurrence requiring a change in the information recorded about them in its performers list and of any change of their private address.

Where performers intend to withdraw from a performers list, unless it is impracticable to do so, they shall so notify the PCO at least three months in advance of that date.

Performers shall notify the PCO that they intend to withdraw from its relevant performers list if they are accepted on to any relevant performers list of another PCO in the same country

Performers may withdraw a notice given at any time before the PCO removes their name from its performers list so long as the doctor has not been accepted on to another performers list in the same country.

## ***Removal from performers list***

A PCO must remove the performer from its performers list where it becomes aware that they -

- Have been convicted in the United Kingdom of murder;
- Have been convicted in the United Kingdom of a criminal offence and has been sentenced to a term of imprisonment of over six months;
- Are subject to a national disqualification;

- Have died; or
- Are no longer members of the relevant health care profession.

The PCO may use its discretion to remove performers from its performers list where:

- Their continued inclusion in its performers list would be prejudicial to the efficiency of primary medical services ("an efficiency case"). (England and Wales only). 'Efficiency' is not defined in the regulations however, Department of Health guidance<sup>1</sup> defines this as 'issues of competence and quality of performance. They may relate to everyday work, inadequate capability, poor clinical performance, bad practice, repeated wasteful use of resources that local mechanisms have been unable to address, or actions or activities that have added significantly to the burdens of others in the NHS (including other doctors);
- They are involved in a fraud case in relation to any health scheme; or
- They are unsuitable to be included in the performers list ("an unsuitability case"). (England and Wales only). 'Unsuitable' is not defined in the regulations however Department of Health guidance<sup>1</sup> states that 'suitability as a ground for action could be relied on where it is a consequence of a decision taken by others (for example, by a court, by a professional body, or the contents of a reference) or where 'there is a lack of tangible evidence of a doctor's ability to undertake the performer role (for example, satisfactory qualifications and experience, essential qualities)';
- Where performers cannot demonstrate that they have performed primary medical services within the area of the PCO during the preceding twelve months. (Excludes a period of suspension from the list or certain armed forces, or equivalent, service.)

If the PCO is considering removing performers from its performers list it must give

- Notice of any allegation against them;
- Notice of what action it is considering and on what grounds;
- The opportunity to make written representations to it within 28 days (30 days in Scotland);
- The opportunity to put their case at an oral hearing before it, if they so request, within the 28 day period (30 days in Scotland);

As an alternative to a removal the PCO may impose conditions on the doctor's continued inclusion in the list; this is known as Contingent Removal. Breach of the conditions may lead to actual removal

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<sup>1</sup> Primary Medical Performers Lists – Delivering Quality in Primary Care – Department of Health

When a PCO uses its discretion to remove a doctor from its list it may apply to the Family Health Services Appeal Authority<sup>1</sup> for the doctor to be disqualified from joining any performers list (A National Disqualification).

Doctors facing removal or contingent removal should seek advice from their LMC and MDO.

### ***Restrictions on withdrawal from performers lists***

A doctor may not withdraw from a list while suspended, being removed but appealing or subject to possible removal by the PCO, without the Secretary of State's consent, until the matter has been finally determined by the PCO.

### ***Further information***

Further information can be found at:

#### ***England***

- The National Health Service (Performers Lists) Regulations 2004 (Statutory Instrument 2004 No.585): <http://www.legislation.hmso.gov.uk/si/si2004/20040585.htm>
- Department of Health Guidance: Primary Medical Performers Lists 'Delivering Quality in Primary Care': <http://www.dh.gov.uk/assetRoot/04/08/76/23/04087623.doc>
- Primary Medical Performers Lists FAQs: <http://www.dh.gov.uk/assetRoot/04/07/68/12/04076812.pdf>

#### ***Scotland***

- The National Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004 (Scottish Statutory Instrument 2004 No. 114): <http://www.scotland-legislation.hmso.gov.uk/legislation/scotland/ssi2004/20040114.htm>

#### ***Wales***

- The National Health Service (Performers Lists) (Wales) Regulations 2004 (Welsh Statutory Instrument 2004 No. 1020 W.117): <http://www.wales-legislation.hmso.gov.uk/legislation/wales/wsi2004/20041020e.htm>
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## **Northern Ireland**

- The Health and Personal Social Services (Primary Medical Services Performers Lists) Regulations (Northern Ireland) 2004 (Statutory Rule 2004 No. 149):  
<http://www.northernireland-legislation.hmso.gov.uk/sr/sr2004/20040149.htm>
- Circular No. HSS(PCD) 7/2004 from Dr Jim Livingstone:  
<http://www.dhsspsni.gov.uk/publications/2004/hsspcd7-2004.pdf>

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