

Policy and standard operating procedure for governing the inclusion, movement and maintenance of medical, dental and ophthalmic performers in the NHS England's national primary care performers lists.



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Policy and Corporate Procedures

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Introduction

From 1 April 2013, the NHS Commissioning Board adopted the name NHS England. A name that gives people a greater sense of our role, scope and ambitions - as the organisation responsible for allocating the NHS budget, working to improve outcomes for people in England and ensuring high quality care for all, now and for future generations.

Our legal name remains the NHS Commissioning Board as set out in our establishment orders. Whilst the NHS Commissioning Board will be known as NHS England in everything that we do, there are times when the statutory name is required for legal and contractual transactions. The following list provides some key examples of legal documentation which requires us to use our full legal name:

- HR contract of employment;
- Any documentation involving a court of law, ie litigation claims
- Contracts for directly commissioned services.

For ease of reference NHS England is the generic term used throughout this policy.

Policy statement

NHS England is responsible for direct commissioning of services beyond the remit of clinical commissioning groups, namely primary care, offender health, military health and specialised services.

This document forms part of a suite of policies and procedures to support commissioning of primary care. They have been produced by Primary Care Commissioning (PCC) on behalf of NHS England for use by area teams (ATs).

The policies and procedures underpin NHS England's commitment to a single operating model for primary care – a “do once” approach intended to ensure consistency and eliminate duplication of effort in the management of the four primary care contractor groups from 1 April 2013.

All policies and procedures have been designed to support the principle of proportionality. By applying these policies and procedures, area teams are responding to local issues within a national framework, and our way of working across NHS England is to be proportionate in our actions.

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The development process for the document reflects the principles set out in *Securing excellence in commissioning primary care*¹, including the intention to build on the established good practice of predecessor organisations.

Primary care professional bodies, representatives of patients and the public and other stakeholders were involved in the production of these documents. NHS England is grateful to all those who gave up their time to read and comment on the drafts.

The authors and reviewers of these documents were asked to keep the following principles in mind:

- Wherever possible to enable improvement of primary care
- To balance consistency and local flexibility
- Alignment with policy and compliance with legislation
- Compliance with the Equality Act 2010
- A realistic balance between attention to detail and practical application
- A reasonable, proportionate and consistent approach across the four primary care contractor groups.

This suite of documents will be refined in light of feedback from users.

Policy aims and objectives

This policy details the NHS England responsibility for holding and maintaining national performers list in respect of primary medical, dental and ophthalmic performers.

The procedure sets out the process to be followed by all of those to whom NHS England's Board has given delegated responsibility, currently NHS England's area teams (ATs), to assess applications from primary medical, dental and ophthalmic performers for inclusion in NHS England's national performers lists.

The aim is to enable NHS England to assure itself of the suitability of all general practice doctors, dentists, optometrists and ophthalmic medical practitioners who undertake NHS primary care services.

And for NHS England to provide protection for patients from any performer who is not suitable, or whose efficiency to perform those services may be impaired.

¹ *Securing excellence in commissioning primary care* <http://bit.ly/MJwrfA>

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The full range of checks that NHS England's ATs should carry out is detailed in The National Health Service (Performers Lists) (England) Regulations 2013 link to the regulations <http://www.legislation.gov.uk/uksi/2013/335/contents/made>

Background

The White Paper, Equity and Excellence: Liberating the NHS sets out the Government's vision for health services. It describes the new commissioning architecture for the NHS. The Health and Social Care Act 2012 implements this new structure.

NHS England's central role is to ensure that the NHS delivers better outcomes for patients within its available resources. The performers lists system supports NHS England in the delivery of this central role to ensure a consistency of primary care service delivery, to ensure that services are safe and effective and to ensure that continuous improvement of quality is sought.

The legislative framework in England is set out in the National Health Service (Performers Lists) (England) Regulations 2004, which initially came into effect on 1 April 2004 and provided a framework for managing, medical, dental and ophthalmic performers undertaking clinical services. The National Health Service (Performers Lists) (England) Regulations 2013 replace the 2004 Performers List Regulations.

The National Health Service (Performers Lists) (England) Regulations 2013 entrusts the responsibility for managing national performers lists (medical, dental and ophthalmic) to NHS England as the commissioner of primary care services. National performers lists replace the previous system of local performers lists.

The changes to a national list system have been informed by the Performers List Review, the GP Out-of-Hours Service Review, the NHS Performers List Regulations 2013 consultation and the Medical Profession (Responsible Officer) Regulations 2010 and the role of responsible officer consultation.

Medical, dental and ophthalmic performers may not perform NHS primary care services in England unless they are included in a national performers list held by NHS England. NHS England has powers to manage admission, suspension and removal from their lists.

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Scope of the policy

Medical, dental and ophthalmic performers are required to be named on the relevant NHS England's national performers lists, (medical, dental and ophthalmic). The performers lists framework provides NHS England with powers over admission, suspension and removal from its lists and responsibility for the movement of performers between ATs and the maintenance of the performers lists.

A web based generic application tool will be introduced during 2013/14 to support ATs in the management of medical, dental and ophthalmic applications to NHS England's national performers lists. In the interim, an application form has been developed to manage applications prior to the completion of the web based application process which is available to download at <http://www.performer.england.nhs.uk/Documents>

ATs are able to determine applications for inclusion in NHS England's national performers lists. Possible outcomes are:

- Inclusion in the relevant national list(s)
- Deferring a decision about an application
- Refusing to admit a performer to NHS England's national performers lists
- Placing a performer on NHS England's national performers list subject to conditions.

The scope of this policy is limited to NHS England's powers over the admissions of medical, dental and optical performers onto NHS England's national performers lists, and their responsibilities for the movement of performers between ATs. The powers enable NHS England to ensure that performers are suitable to undertake clinical services and protect patients from any performers who are not suitable, or whose efficiency to perform those services may be impaired.

The policy encompasses the process by which medical, dental and ophthalmic performers make an application for entry onto the list, the process for considering applications and decision making for inclusion, inclusion with conditions and refusals to be made by the AT. The role of the responsible officer/medical director as the senior clinical leader in the AT is highlighted.

The link between the medical performers list system and the role of the responsible officer is an important one. The responsible officer will be responsible for managing the admission to the national medical performers list on behalf of the AT. The responsible officer as a senior clinical leader in the AT is responsible for all performers in the area. The responsible officer should ensure procedures and processes are in place, which should include relevant professional advice, to ensure that the entry to the national dental and ophthalmic lists is appropriate and

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timely. The responsible officer has a similar responsibility for managing pharmaceutical lists and this is set out in NHS England's policy and procedures for admission to the pharmaceutical list on fitness grounds.

The policy and procedure should be read in conjunction with the policy and procedure for the identification, management and support of primary care performers and contractors whose performance gives rise for concern which sets out the NHS England's powers to manage suspension and removal from their lists.

Roles and responsibilities

Performers List Decision Panel

NHS England has established a sub-group to be known as the Performers List Decision Panel (PLDP).

Governing principles

All decisions made by ATs relating to the admissions to NHS England's performers lists shall be made in accordance with the National Health Service (Performers Lists) (England) Regulations 2013.

NHS England requires all applications to be processed in a timely manner.

For routine applications, where pre-admission checks reveal no adverse findings or where a mandatory refusal is indicated these will normally be determined and the applicant notified of the AT's decision within six to eight weeks of receipt of completed application form and appropriate documentation.

However, where an applicant provides insufficient information and/or where pre-admission checks reveal adverse findings, the processing of the application form and the determination could take longer. Adverse findings will require a decision by the Performers Lists Decision Panel (PLDP). The AT will ensure the applicant is kept informed throughout.

The terms of reference for the PLDP can be found in annex 2. When determining applications for inclusion onto NHS England's national performers lists ATs will need to carefully assess the information provided and the sources of the information provided.

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Ensuring equality and fairness of treatment and avoiding discrimination

NHS England is committed to valuing diversity and promoting equality throughout the organisation, ensuring that our processes and procedures are fair, objective, transparent and free from unlawful discrimination. Promoting equality is also a requirement under current equality legislation. Everyone who is acting for NHS England is expected to adhere to the spirit and the letter of this legislation.

This policy complies with the Equality Act 2010 which requires NHS England to ensure that they eliminate discrimination, victimisation and harassment, promote equality of opportunity and foster good relations between groups, based on nine protected characteristics: race, sex, disability, age, sexual orientation, religion or belief, gender re-assignment, marriage and civil partnership, pregnancy and maternity.

Unfair discrimination occurs as a result of prejudice, misconception and stereotyping which can hinder the proper consideration of an individual's skills and ability. NHS England has a statutory responsibility to ensure equality, fairness of treatment and avoid discrimination. Consequently, when implementing any of the policies within this document, NHS England will ensure that any process is fair and reasonable and complies with regulatory and/or statutory provisions. In particular this will mean ensuring that:

- There is no discrimination on the grounds of gender, faith, race, disability, age or sexual orientation in the operation of any of the procedures dealt with in this document and that no person is treated less favourably than anyone else would be treated in the same or similar circumstances
- Every case is dealt with according to individual circumstances and that the utmost care is taken to avoid any risk of imposing preferences or prejudices, or of targeting the performance or actions of individual performers or contractors because they appear to the NHS England to fit a stereotype
- Any substantive action such as a decision to remove a performer from the performers list or to terminate a contract or agreement is well founded and based on evidence that is credible, cogent and sufficient and reliable
- All decisions made by NHS England relating to the admission to, and removal or suspension from, a primary care performers list or to the imposition of sanctions under a contract will be made in accordance with the relevant statutory regulations
- Every effort is made to ensure that any decision taken by NHS England is procedurally robust, complies with all statutory regulatory requirements and is likely to be held to be lawful if it comes under judicial scrutiny, and

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- The appropriate Local Representative Committee (LRC) is involved in the process wherever possible. In some instances it may however be possible to have an LRC member from an area other than the area in which the performer is located.

The application of the policy will be monitored in line with NHS England's policy for monitoring, governance and reporting arrangements.

For the purposes of this policy AT's will carry out an annual audit. The audit will include an analysis of applications received for inclusion in the national performers list and highlighting the number of inclusions with conditions and the number of refused applications and the reasons for conditions/refusal. The purpose of the audit is to demonstrate fairness in accordance with the Equality Act.

The governance arrangements require medical performers included in NHS England's national medical performers lists to be connected to a responsible officer, as detailed in the *Prescribed Connections to NHS England* guidance - <http://www.england.nhs.uk/wp-content/uploads/2013/05/prescribed-connections.pdf> - gateway reference 00043. The governance arrangements for dental and ophthalmic performers require these performers to be connected to an appropriately qualified clinician, currently the AT medical director. The criteria for determining the connection to the responsible officer/medical director and attributing the majority of performers to the AT in a standardised way (including performers who will work only as locums) are as follows:

- The practice where the performer undertakes the majority of the work which requires the performer to be on a performers list;
- For medical, dental and ophthalmic performers who are not attached to a practice, the address held by the performer's regulatory body, General Medical Council (GMC), General Dental Council (GDC), or General Optical Council (GOC)

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Medical, dental and ophthalmic performers whose registered address is outside England, who will not be attached to any particular practice or practice area, but can demonstrate a significant plausible intention to practise in England and are eligible to be on NHS England's national performers list, will be linked to the AT as detailed in the table below:

GMC, GDC or GOC registered address is in:	Area team responsible officer
Scotland	Cumbria, Northumberland and Tyne and Wear
North Wales	Shropshire and Staffordshire
South Wales	Arden, Hereford and Worcester
Channel Islands	Wessex
Northern Ireland	Merseyside
Isle of Man	Merseyside
Elsewhere outside the UK	London North West

Once a performer has been included in the national performers lists and the performer changes the area or practice where he or she carries out the majority of his or her work, the performer is responsible for notifying the AT where they will be working, as soon as practical.

This is to ensure the 'movement and transfer' of governance arrangements. The assignment of the responsible officer/medical director is a key factor, for example, for appraisal, revalidation (medical only), performance concerns and accountability for that performer can be transferred between the old and new AT responsible officer/medical director.

It is not intended to restrict the movement of performers between ATs nor is the movement between ATs an opportunity for the new AT to consider and reassess the performers inclusion in the national performers lists.

Governance arrangements

An essential element of good governance arrangements for handling applications for inclusion in the national performers list is the establishment of a clear decision-making process for handling concerns when they arise.

Applications for inclusion in a national performers list shall will be received, checked and processed within the AT.

Applicants are required to submit their completed application form, which is available to download at <http://www.performer.england.nhs.uk/Documents>, together with supporting documentation to the AT. All documents must be originals, photocopies cannot be accepted. If

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the accompanying documents are in a language other than English, the applicant will need to provide a certified translation. During the processing of the application it will be necessary for the applicant to attend the AT offices for their identity to be confirmed.

All applicants are required to attend in person at least once during the application process.

If pre-admission checks reveal no adverse findings or where mandatory refusal is indicated the responsible officer/medical director, with appropriate clinical advice, will make decisions on whether a performer is suitable to be included in a national performers list. Where pre-admission checks reveal adverse findings which may require the performer's inclusion to be subject to conditions in the national performers list, or where a refusal to admit an applicant to the national performers list is being considered, the Performers Lists Decision Panel (PLDP) will be required to make the decision.

Decisions to refuse inclusion in the national performers lists, or to place conditions on continued inclusion in the national performers list, are appealable to the First-tier Tribunal, or could be challenged via the courts. Robust audit trails will therefore be maintained for each application and all determinations will be fully reasoned.

Information Governance

All employees working in the NHS are bound by a legal duty of confidence to protect personal information that they may come into contact with during the course of their work. This is not just a requirement of their contractual responsibilities but also a requirement within the common law duty of confidence and the Data Protection Act 1998. It is also a requirement within the NHS Care Record Guarantee, produced to assure patients about the use of their information.

It is important that NHS England protects and safeguards person-identifiable and confidential business information that it gathers, creates, processes and discloses, in order to comply with the law, relevant NHS mandatory requirements and to provide assurance to patients and the public. The requirement to comply with the law shall be devolved to employees and agents of NHS England, who may be held personally accountable for any breaches of information security for which they may be held responsible.

ATs must adhere to the legal and mandated frameworks and principles set out in NHS England's confidentiality and information governance policies when assessing applications for inclusion in the national performers lists and managing the movement of performers between ATs to ensure that personal information is handled in a consistent, confidential and secure manner to appropriate ethical and quality standards required of a modern health service. The confidentiality and information governance policies can be found at <http://www.england.nhs.uk/about/policies/>

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ATs shall endeavour to keep information up to date and not keep it for longer than necessary. ATs shall use discretion to ensure that records are not kept outside of NHS England's normal business requirements and shall not keep information which is unsubstantiated or untested.

Correspondence with applicants, including sending and receiving of original documents should be sent by the royal mail special delivery service and a clear audit trail maintained. The preferred method for the management of personal identifiable data is to scan and store documents on the organisation network or similar secure storage area ensuring that the information is kept securely. NHS.net should be used for the transfer of personal information between ATs.

NHS England's procedure governing inclusion in the national performers lists

This procedures must be read in conjunction with NHS England's standard operating procedure for primary care support services – processing applications for information to NHS England's national medical, dental and ophthalmic performers lists for AT and responsible officers and preparation of information for AT and responsible officer consideration.

NHS England requires a medical, dental and ophthalmic performer applying for inclusion in a performers list to complete a generic application form available at <http://www.performer.england.nhs.uk/Documents>. This application form is to be used by all applicants. The application form is provided in PDF format, which applicants need to complete, print and sign.

The applicant will need to confirm a significant plausible intention to work in England and they must apply to the AT in the area in which they will be undertaking the majority of their work within the NHS. The applicant should use the 'look up' function on NHS England national performers list website available at <http://www.performer.england.nhs.uk/AT/SearchByPostcode> for clarity of which AT to apply to.

An interactive electronic version of the application form will be developed and it is expected to be available during 2013/14.

Information that ATs will receive from their Primary Care Support (PCS) office includes:

- A full chronological professional career history, with explanations of any significant gaps
- Two clinical references (the references must be unbiased and relate to two recent posts, which may include a current post, which has lasted at least three months. Where this is not

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possible a full explanation and the names of addresses of alternate referees should be provided)

- Name and address of the practice in which the performer will be working
- Evidence of sufficient knowledge of the English language to demonstrate ability to perform the work which those on a national performers list could perform
- Evidence of compliance with the core continuing professional development (CPD) requirements of the relevant regulatory body
- Evidence of adequate and appropriate professional indemnity/insurance
- Evidence from an accredited occupational health department where this is available of health clearance commensurate with services that a performer could provide.
- Details of any criminal convictions – past or present
- Details of any involvement in NHS fraud investigations – past or present
- Details of past investigations by licensing, regulatory or other bodies resulting in an adverse finding, and
- National disqualification.

The list above is not inclusive of all the information to be provided by applicants. For a full list of information please refer to the application form and Regulation 4 of the National Health Service Performers Lists (England) Regulations 2013.

The responsible officer/medical director is responsible for ensuring that any medical, dental or ophthalmic performer that it admits to NHS England's national performers lists meets the following inclusion criteria:

- That he/she is suitably experienced
- That he/she is suitably qualified
- That he/she is an appropriate person to deliver health care and treatment to the ATs patients
- That he/she is free from regulatory body sanctions, suspensions or national disqualification.

The responsible officer/medical director, with appropriate clinical advice, will assess each application against the inclusion criteria set out in the paragraph above taking into account the information and declarations provided by the performer along with any other information it has in its possession that it considers relevant.

The assessment will include checking:

- That the information provided by the performer is correct
- Details of the performer's employment/partnership history is correct
- That the two references are provided by appropriate clinicians, that they refer to recent work history that the referee has known the applicant in a professional capacity for a period of

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three months or if references do not relate to recent posts or for periods of three months or more check the explanation of why this is not possible

- Evidence of compliance with the core CPD requirements of the relevant regulatory body
- Evidence of adequate and appropriate professional indemnity/insurance
- Evidence from an accredited occupational health department of health clearance commensurate with services that a performer could provide
- All mandatory required details with the following bodies
 - NHS Protect, NHS Business Services Authority (NHS BSA)
 - NHS Litigation Authority (NHS LA)
 - Disclosure and Barring Service (DBS) enhanced disclosure certificate and the access code number
 - General Medical Council/General Dental Council/General Optical Council (GMC, GDC, GOC)
 - Information from any equivalent body or Health Board that that has previously included the performer in their list
- Implications of any significant breaks in career history.

Where the AT has determined that a performer can be included, or continue to be included, in the performers list with conditions (efficiency of service or fraud) the performer will be responsible for any training costs required as part of the conditions. In extreme circumstances the AT may agree to cover part of or all costs of this training.

[Annex 3](#) details the application process.

Communication skills

The grounds on which the AT must refuse to include a performer in its Performers List include that the AT is not satisfied that the performer has sufficient knowledge of English, which in the interests of the performer and his/her patients, is necessary to perform primary medical, dental or ophthalmic services in its area.

The performer needs to be able to communicate effectively with patients and health care professionals. This requires understanding patients communication needs. In order to treat patients safely the performer will need to communicate effectively with all health care professionals and understand how NHS services are provided. Effective communication includes listening, sharing clear and appropriate information; and responding to questions and providing information about progress of care.

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This should be considered in the context of the four domains of good practice², which are:

- Knowledge skills and performance
- Safety and quality
- Communication, partnership and team work
- Maintaining trust.

European economic area /non-European economic area nationals

A European Union (EU) Directive³ facilitating the free movement of EU nationals gives primary care practitioners qualified within the EU automatic right of entry to their regulatory body's (General Medical Council, General Dental Council or General Optical Council)'s professional Register if they have either an appropriate certificate of specific training or an acquired right to practise from their own Member State. They do not need an evaluation by the professional body, nor do they need to have any familiarity with the NHS. Arrangements under the European Economic Area (EEA) Agreement extend these provisions to nationals of other EEA states which are not within the EU.

In contrast, non-EU practitioners must satisfactorily complete assessments of their language and clinical skills before being admitted to a regulatory body's register.

English language checking

Before deciding to include an EEA national in the national performers list, the responsible officers/medical directors must consider the sufficiency of the evidence provided with the application and whether or not it may need to require the applicant to provide further evidence of language competency so that it may assess their knowledge of English and ability to communicate effectively.

In respect of all applicants whose first language is not English, where there is doubt about their ability to communicate in English, the AT will ask for evidence of their knowledge of English. Responsible officers/medical directors need to act in a consistent way and not discriminate against any community or group when applying their decision criteria.

² This is taken from the General Medical Councils guide 'Good medical practice' 2013 link to document http://www.gmc-uk.org/guidance/good_medical_practice.asp

³ European Directive 2005/36/EC on the recognition of professional qualifications

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Evidence of knowledge of English

Responsible officers/medical directors must ensure that medical, dental and ophthalmic performers have sufficient knowledge and application of the English language necessary to perform their duties in a safe and competent manner.

Decisions by the responsible officers/medical directors about the evidence required to be satisfied about the applicant's English language knowledge will be made on a case by case basis and be proportionate in all the circumstances, particularly in relation to the work the performer is going to undertake and to other evidence the practitioner has been able to provide.

All applicants will be asked to provide one of the following:

- A certificate of graduation from a UK or Irish Republic medical or dental school or university optometry department
- A certificate of graduation from a recognised medical or dental school or university optometry department abroad which was taught in English
- Relevant certificate of postgraduate training for their profession (from a UK or Irish Republic medical or dental school or university optometry department or from a recognised medical or dental school or university optometry department abroad which was taught in English).

Where the applicant is unable to provide one of the above certificates they will need to provide a written explanation as to why they believe they have suitable English to be included in the performers list, i.e. competent use of the English language in a professional setting.

AND

Certificate of a recent pass of one of the current language tests (or equivalent), at the required level. Details of the standards required are found in the application form for inclusion in the national performers lists.

Occupational health checking

The responsible officer/medical director must be assured of the evidence from an accredited occupational health department of health clearance commensurate with services that a performer is to provide, for both screening and assessment.

As part of the application process medical, dental and ophthalmic performers must provide an occupational health screening 'fit to practise' declaration supplied by a Safe Effective Quality Occupational Health Service (SEQOHS) accredited occupational health provider to cover the

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services they shall provide or could be reasonably expected to provide as a performer. (ATs may also use an occupational health service that is working towards achieving SEQOHS.)

The occupational health service must provide occupational health clearance for each performer and the performer must confirm that they will comply with occupational health advice. Admission to the performers list requires a determination of whether an individual's inclusion would be prejudicial to the efficiency of services. Clinical experience is one element of this and it is a requirement for dentists and doctors that an assessment is made to ensure that they can undertake exposure prone procedures (EPP) and that they don't pose a risk to patients. If they are unable to undertake EPP or pose a risk to the health of others then this calls into question their efficiency, which needs to be considered along with all other aspects of their list application.

The cost of the occupational health screening will be borne either by the applicant or the employer. If following the screening an occupational health assessment is required the cost will be borne by NHS England.

Movement and maintenance of the national performers lists

NHS England has set up national medical, dental and ophthalmic performers lists in accordance with NHS (Performers Lists) (England) Regulations 2013. NHS England is required by the regulations to maintain and publish accurate national performers lists. There is a professional duty in accordance with Regulation 19(1) of the NHS (Performers Lists) (England) Regulations 2013 for performers included in the lists to inform NHS England, within 28 days, when their details change. Examples of these changes can include:

- Changes to the area where the performer works
- Changes to personal details
- Potential changes to the occupational health status, and
- Factors that could impact on inclusion to the performer list.

NHS England will take all opportunities to remind performers of their duty to inform ATs to their details or any factor that could impact on their continued inclusion to the performer list.

Where performers move between ATs, NHS England requires the performer to complete a performers list change notification form. NHS England must ensure that where a performer moves between ATs they follow the agreed process to assign the performer to a new responsible officer/medical director and transfer appropriate information in line with NHS England's information governance arrangements.

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This process is in place to enable ATs to identify and manage the movement of performers and ensure the safe transfer of RO responsibility. The process is not an opportunity for ATs to ratify decisions made by other ATs concerning inclusion to the performers lists.

Neither does the movement of a performer to another area team, present a new opportunity for the practitioner to request a review a previous PCT/AT decision.

ATs should review inherited cases, to ensure that review dates for conditions, action plans, suspensions/exclusions etc are not missed. ATs should then implement a process for on-going monitoring of review dates to reduce a potential risk to patient safety and a risk of legal challenge, especially if a review date "slips".

ATs should ensure an effective handover between ATs of performers who are managed under the policy for managing concerns (insert full name of policy) and to seek to act in a manner that is transparent, fair and reasonable at all times.

Responsible officers/medical directors should note the transfer of responsibility of performers and their information is particularly important when a performer is included with conditions and/or are under investigation as mentioned in the 'governing principles' section of this policy.

Responsible officers/medical directors cannot refuse the movement of the performer between ATs, but where there is a cause for concern or a performer is under investigation (fraud, performance or efficiency) the responsible officer/medical director may agree that it is appropriate to defer the transfer of responsibility of an individual performer, on a case by case basis. When these arrangements are put in place it is important that the responsible officer/medical director of the receiving AT is provided with sufficient information to ensure patient safety but any information provided must not prejudice the cause for concern or investigation.

In summary, information should be passed to the receiving AT which has been acted upon, tested and objective. Untested, hearsay or unsubstantiated personal opinions or comments should be avoided. With the exception of information that would prejudice a fraud or criminal investigation, information could be shared with the performer.

ATs should ensure effective and regular communication with any performer who is under investigation or being managed under the policy for managing performers whose practice gives rise to concern. Performers should be informed of names and contact details of case investigators and case managers in the new AT who will be responsible for the effective handover and ongoing management of performance issues.

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GP Registrars

To ensure that trainees can take up a GP post as soon as they have successfully completed training they will need to notify the AT in the area where they have completed their training, irrespective of where they are going to work, of their change in status for inclusion to the national performers list by completing and submitting, together with a copy of their Certificate of Completion of Training (CCT) and a letter of clinical reference from their trainer, a performers lists change notification form . The AT will then update the performers status on the relevant national performers list.

If the trainees moves to another AT to take up a new post, NHS England requires the performer to complete a second performers lists change notification form and submit to the AT in the area where they will be working, so that they can be aligned to the appropriate responsible officer.

GP Induction and Refresher / Returner Schemes (I+R Schemes)

These schemes provide the opportunity for qualified GPs to return to general practice after time away e.g. following a career break or time spent working outside of UK general practice.

There is no requirement in legislation for a GP to undergo a period of induction or refresher / returner training. However, the Department of Health, Committee of GP Education Directors (COGPED) and the Royal College of General Practitioners (RCGP) recommend a period of induction and adaptation for all EU and international medical graduate doctors.

Across the UK the Deaneries currently offer a range of I+R schemes to meet local workforce needs based on:

- An assessment of the GP's learning needs on entry to the scheme
- Up to 6 months whole time equivalent supervised clinical practice in a GP training practice with a GP trainer
- Maintaining an appropriate level of workplace based assessments and a learning log
- A further review at the end of the placement to assess on-going learning needs.

If a doctor has been out of clinical general practice for less than two years they would not normally be eligible for the scheme, although in cases where the scheme is being used for remedial retraining there is no requirement for a minimum period away from practice. The scheme should be mandatory for those doctors who have been out of clinical general practice for five years. For doctors who have been out of clinical general practice between two and five years the recommendation to join the scheme may depend on some or all of the entry assessments.

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The AT will not be responsible for the costs of facilitating a doctors return to general practice, except in exceptional circumstances. NHS England reserves the right to fund the I&R scheme, where for example there are regional inequalities in the workforce.

Appeals

For the purposes of this policy a performer may appeal to the First-tier Tribunal against an AT decision, where it:

- Refuses to include a performer in a performers list,
- Impose, maintain or vary any conditions
- Remove a performer from a performers list.

ATs should always refer to the NHS (Performer Lists) (England) Regulations 2013 when notifying a performer of their right of appeal.

Complaints Procedure

Performers are able to make a complaint about the AT's decision making process or the support provided by the PCS team through NHS England's complaints policy.

Equality impact assessment

This document forms part of NHS England's commitment to create a positive culture of respect for all staff and service users. The intention is to identify, remove or minimize discriminatory practice in relation to the protected characteristics (race, disability, gender, sexual orientation, age, religious or other belief, marriage and civil partnership, gender reassignment and pregnancy and maternity) as well as to promote positive practice and value the diversity of individuals and communities.

As part of its development this document and its impact on equality has been analysed and no detriment identified.

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Associated documents

The policy should be read in conjunction with:

- NHS England's policy and procedure for the identification, management and support of primary care performers and contractors whose performance gives rise for concern which sets out the NHS England's powers to manage suspension and removal from their lists
- The prescribed connections to NHS England
- NHS England's confidentiality and information governance policies.
- National Health Service (Performers Lists) (England) Regulations 2013

References

- National performers lists application form - <http://www.performer.england.nhs.uk/Documents>.
- Standard operating procedure for primary care support – medical, dental and ophthalmic
- Policy and procedure for the identification, management and support of primary care performers and contractors whose performance gives rise for concern
- NHS England performers lists change notification form

Summary

NHS England is committed to valuing diversity and promoting equality throughout NHS England, ensuring that our processes and procedures are fair, objective, transparent and free from unlawful discrimination. To ensure compliance with the Equality Act, AT's will carry out an annual audit. The audit will include timely assessment of applications to join national performers list and highlight the number of inclusions with conditions and the number of refused applications and the reasons for conditions/refusal.

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Annex 1: Abbreviations and Acronyms

A&E	accident and emergency
APHO	Association of Public Health Observatories (now known as the Network of Public Health Observatories)
APMS	Alternative Provider Medical Services
AT	area team (of the NHS England)
AUR	appliance use reviews
BDA	British Dental Association
BMA	British Medical Association
CCG	clinical commissioning group
CD	controlled drug
CDAO	controlled drug accountable officer
CGST	NHS Clinical Governance Support Team
CIC	community interest company
CMO	chief medical officer
Contractor	The term contractor means pharmacy contractors and dispensing appliance contractors (DACs) included in the pharmaceutical list as currently there are no equivalent lists for individual pharmacists or DAC performers.
COT	course of treatment
CPAF	community pharmacy assurance framework
CQC	Care Quality Commission
CQRS	Calculating Quality Reporting Service (replacement for QMAS)
DAC	dispensing appliance contractor
Days	calendar days unless working days is specifically stated
DBS	Disclosure and Barring Service
DDA	Disability Discrimination Act
DES	directed enhanced service

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DH	Department of Health
EEA	European Economic Area
ePACT	electronic prescribing analysis and costs
ESPLPS	essential small pharmacy local pharmaceutical services
EU	European Union
FHS	family health services
FHS AU	family health services appeals unit
FHSS	family health shared services
FPC	family practitioner committee
FTA	failed to attend
FTT	first-tier tribunal
GDP	general dental practitioner
GDC	General Dental Committee
GDS	General Dental Services
GMC	General Medical Council
GMS	General Medical Services
GOC	General Optical Committee
GP	general practitioner
GPES	GP Extraction Service
GPhC	General Pharmaceutical Council
GSMP	global sum monthly payment
HR	human resources
HSE	Health and Safety Executive
HWB	health and wellbeing board
IC	NHS Information Centre

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IELTS	International English Language Testing System
KPIs	key performance indicators
LA	local authority
LDC	local dental committee
LETB	local education and training board
LIN	local intelligence network
LLP	limited liability partnership
LMC	local medical committee
LOC	local optical committee
LPC	local pharmaceutical committee
LPN	local professional network
LPS	local pharmaceutical services
LRC	local representative committee
MDO	medical defence organization
MHRA	Medicines and Healthcare Products Regulatory Agency
MIS	management information system
MPIG	minimum practice income guarantee
MUR	medicines use review and prescription intervention services
NACV	negotiated annual contract value
NCAS	National Clinical Assessment Service
NDRI	National Duplicate Registration Initiative
NHAIS	National Health Authority Information System (also known as Exeter)
NHS Act	National Health Service Act 2006
NHS BSA	NHS Business Services Authority
NHS CB	NHS Commissioning Board

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NHS CfH	NHS Connecting for Health
NHS DS	NHS Dental Services
NHS LA	NHS Litigation Authority
NMS	new medicine service
NPE	net pensionable earnings
NPSA	National Patient Safety Agency
OJEU	Official Journal of the European Union
OMP	ophthalmic medical practitioner
ONS	Office of National Statistics
OOH	out of hours
PAF	postcode address file
PALS	patient advice and liaison service
PAM	professions allied to medicine
PCC	Primary Care Commissioning
PCS	Primary Care Support - the term refers to organisations providing administrative support for primary care to ATs, primary care performers and the patients they serve.
PCT	primary care trust
PDS	personal dental services
PDS NBO	Personal Demographic Service National Back Office
Performer	The term primary care performer means medical, dental or ophthalmic performers registered on a performers list for the provision of primary care services to include military health and offender health services.
PGD	patient group direction
PHE	Public Health England
PLDP	performers' list decision panel

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PMC	primary medical contract
PMS	Personal Medical Services
PNA	pharmaceutical needs assessment
POL	payments online
PPD	prescription pricing division (part of NHS BSA)
PSG	performance screening group
PSNC	Pharmaceutical Services Negotiating Committee
QOF	quality and outcomes framework
RCGP	Royal College of General Practitioners
RO	responsible officer
SEO	social enterprise organization
SFE	statement of financial entitlements
SI	statutory instrument
SMART	specific, measurable, achievable, realistic, timely
SOA	super output area
SOP	standard operating procedure
SPMS	Specialist Personal Medical Services
SUI	serious untoward incident
UDA	unit of dental activity
UOA	unit of orthodontic activity

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Annex 2: Performers List Decision Panel – Terms of Reference

Constitution and authority

The NHS England has established a sub-group to be known as the Performers List Decision Panel (PLDP). The group is authorised by the NHS England to undertake any activity within this terms of reference. The decision makers are the independent lay chair, the medical director or their nominated deputy, the nurse director of the local area team or their nominated deputy and the local representative committee nominee. The senior manager with responsibility for quality and performance, as they are the link between the PSG and the PLDP, is not a decision maker.

Membership

Membership of the group shall be as follows:

Core Members:

- An independent lay chair
- The Medical Director or their nominated deputy
- The Nurse Director of the Area Team or their nominated deputy
- An LRC nominee – discipline specific
- Senior manager with responsibility for quality and performance.

The LRC official as a core member of this group is responsible for providing advice as the clinical expert to the NHS England in this decision making process. Within that role they are not representing the profession or the individual performer/contractor. In some instances it may be possible to have an LRC nominee from an LRC other than the one in which the contractor is located.

The AT must consider how the PLDP is best able to receive legal advice, either through a legally qualified chair or a legal clerk.

Frequency

The PLDP will meet monthly. It may also be convened urgently when required to consider a referral from the PSG or in serious cases a referral may bypass the PSG and be presented directly to the PLDP.

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In cases when immediate suspension is required a decision may be taken outside of the PLDP meetings by two of the core members. As soon as practical, an appropriately convened oral hearing, in line with the Performers Lists Regulations or the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 as appropriate, will be held.

Purpose

To take overall responsibility for the management of primary care performer's or contractor's performance. The group will consider and take appropriate action on all referrals of a serious nature in relation to the underperformance or misconduct of primary care performers or contractors (GPs, dentists, pharmacy contractors, dispensing appliance contractors, optometrists and optometric medical practitioners.)

Objectives

- a) To consider information presented to the PLDP in response to referrals about serious underperformance or misconduct of primary care performers or contractors from the PSG or urgent referrals from the Responsible Officer or the Medical Director which have bypassed the PSG
- b) Agree relevant and appropriate action in the interest of patient safety, and staff safety
- c) To ensure that action is taken in line with NHS England policy and procedure, and in line with NHS regulations
- d) In addition, to provide a formal route for the consideration of applications to join the medical, dental and ophthalmic performers lists when deferral, conditional inclusion or refusal of an application applies.

Duties

- a) To consider the information received, and make one or more of the following decisions:
 - i. Take no further action and refer back to the PSG
 - ii. Request a formal investigation
 - iii. Make recommendations for improvement through remedial action
 - iv. Take disciplinary action in compliance with current and relevant National Health Service regulations which result in conditional inclusion, contingent removal, suspension, exclusion and removal
 - v. Consider action under the contractual arrangements
 - vi. Refer to the relevant professional regulatory body
 - vii. Refer to the National Clinical Assessment Service for advice and consideration of an assessment and/or remedial action
 - viii. Refer to the police

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- ix. Refer to NHS Protect
 - x. To request the issue of an alert through the agreed NHS England mechanism according to the Healthcare Professionals Alert Notice Direction (2006)
 - xi. Referral to occupational health.
- b) To reach a majority decision for appropriate action and/or recommendations. The independent lay chair, the medical director or their nominated deputy, the nurse director or their nominated deputy and the LRC official will have voting rights, to:
- i. Agree an action plan for remediation of the primary care performer or contractor when appropriate
 - ii. Agree a reporting process for monitoring of the implementation of any action plans
 - iii. Keep cases under review while primary care performers or contractors pursue remedial measures short of disciplinary action
 - iv. Review actions taken under the performers list regulations or the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 as relevant ie conditions, suspension and removal.

In terms of decision making the panel will discuss the case presented to it and where they are unable to reach a majority decision then the chair will have the casting vote.

The senior manager with responsibility for quality and performance does not have voting rights.

Quorum

No business shall be transacted at the meeting unless 4 attendees are present.

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Annex 3: Process for considering performers lists applications

1. The PCS office will process the application for inclusion to the medical, dental and ophthalmic performers lists, as set out in NHS England's standard operating procedure for primary care support services – processing applications for information to NHS England's national medical, dental and ophthalmic performers lists for AT and responsible officers and preparation of information for AT and responsible officer consideration link to be added
2. The PCS office will send an electronic version of the application pack to the relevant ATs responsible officer/medical director.
3. The responsible officer/medical director, with appropriate clinical advice, will assess each application against the inclusion criteria taking into account the information and declarations provided by the performer, along with any other information he/she has in his/her possession that it considers relevant. The responsible officer/medical director or delegated individual(s) will meet all applicants as this provides an identity check and the ability to consider any induction programme required. The responsible officer/medical director must be assured that the individual(s) who meet the applicant have a thorough knowledge of the performers list application process, the ability to identify any potential gaps in the performer's education and experience and an understanding of the processes available locally for the induction and support of new performers.
4. The responsible officer/medical director must, and will in all cases, refuse to admit a medical, dental or ophthalmic performer to NHS England's national performers lists in the following circumstances:
 - Where a performer is not suitably qualified or registered, as prescribed in the relevant Part of the Regulations
 - Where a performer has not provided satisfactory evidence that he or she intends to perform the services, which those included in the relevant list perform
 - Where the AT is not satisfied the performer has the knowledge of English which, in his or her own interests or those of his or her patients, is necessary in performing the services, which those included in the relevant list perform, in its area
 - Where the performer has been convicted in the United Kingdom of murder
 - Where the performer has been convicted in the United Kingdom of a criminal offence, committed on or after the day prescribed in the relevant Part of the Regulations, and has sentenced to a term of imprisonment of over six months
 - Where the performer is subject to a national disqualification;
 - Where the performer has not updated his or her application in accordance with the appropriate Regulation, or

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- Where, the performer is subject to conditions imposed by the FHSAA, he/she does not notify the AT as required by the appropriate Regulation that the performer wishes to be included in its list subject to the specified conditions.
5. Where pre-admission checks reveal no adverse findings, applications for inclusion on NHS England's national performers lists will be approved and authorised by the responsible officer/medical director. All such decisions to include performers will be reported to the PLDP. The responsible officer/medical director or delegated staff member will notify the performer, in writing, of the decision to include.
 6. Where pre-admission checks reveal an adverse finding or where conditions may need to be imposed the responsible officer/medical director should refer the matter for consideration to the PLDP.
 7. The responsible officer/medical director will produce a report with a recommendation taking into account the information and declarations provided by the performer with his/her application and any other relevant factors of which the responsible officer/medical director has identified to the PLDP to enable them to reach a decision.
 8. The PLDP will notify the responsible officer/medical director of their decision.
 9. The responsible officer/medical director will inform the performer, in writing, of the PLDP's decision, along with any rights of appeal.

It should be noted that a performer has no right of appeal in relation to a mandatory refusal or in relation to a decision to defer an application.

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