

Head of Board Administration

Independent Contractors - Establishing Powers to Create Panels Hearings

RECOMMENDATION

- (a) It is recommended that the NHS Board under the relevant Regulations governing independent contractors establish Panels to act on its behalf in terms of the powers to consider any cases for the suspension of independent practitioners on the NHS Board Lists (General Medical Practitioners, General Dental Practitioners and Opticians).
- (b) To delegate to the Chair of the NHS Board authority to appoint three Non-Executive Members of the NHS Board who have had experience in Disciplinary and Grievance Appeal Hearings to form a Panel to consider any case to suspend a independent practitioner under the relevant regulations.

Background

1. The Regulations governing independent practitioners determine the arrangements for the provision of general medical, dental services and optometric services and the management of their respective NHS GG&C Lists.
2. The Regulations provide provisions for the protection of members of the public or in the public interest by considering the suspension of a independent practitioner or body corporate if the NHS Board considers this necessary. For GPs this is Regulation 8A of the NHS Primary Medical Services Performers List (Scotland) Regulations 2004, as amended; for dentists - Regulation 11 of the NHS (GDS) (Scotland) Regulations 2010 and for opticians - Regulation 11 of the General Ophthalmic Services (Scotland) Regulations 2006, as amended. The arrangements for the provision of Pharmaceutical Services are quite different and generally would require a submission to an NHS Tribunal.
3. In such circumstances the Regulations state that the person subject to the consideration should have an opportunity to put their case at an oral hearing before the Health Board. The NHS Board therefore requires to formally delegate powers to a Panel to act on its behalf to carry out the functions defined in the relevant Regulations.

Delegation to a Panel

4. The membership of a Panel should be independent of those who had been involved in any part of the management process considering such action.
5. The Panel Hearing would include the presentation of the Management Case; the representations of the independent practitioner involved and then a consideration of the facts and then decision. The relevant Regulations set out the process to be followed in setting up a Panel Hearing; the sharing of information relating to any allegations; actions being considered by Board officers and on what grounds; representations and options available to the Panel.
6. The NHS Board is therefore required to agree an appointment process for the Panel's membership and formally delegate powers to a Panel to act on its behalf to carry out the functions defined in the relevant Regulations.

Conclusions

7. It is recommended that the NHS Board under the relevant Regulations governing independent contactors establish Panels to act on its behalf in terms of the powers to consider any cases for the suspension of independent practitioners on the NHS Board Lists (GP, General Dental Practitioner and Optician).
8. To delegate to the Chair of the NHS Board authority to appoint three Non-Executive Members of the NHS Board who have had experience in Disciplinary and Grievance Appeal Hearings to form a Panel to consider any case to suspend a independent practitioner under the relevant regulations.

J C Hamilton
Head of Board Administration
12 Feb 2013