



**Published: 26.6.2023, version 1.0**

### Background

The National Health Service (Performers Lists) (England) Regulations (PLR) came into force on 1 April 2013 and require GPs who provide NHS primary care to be on the Medical Performers List (MPL).

The PLR set out (among other points):

- The grounds for inclusion on the MPL.
- The application process to join (or re-join) the MPL.
- The grounds upon which inclusion on the MPL can be declined or deferred.
- The obligations with which GPs on the MPL must comply.
- What actions can be taken in circumstances when there are concerns about a GP's performance (which covers performance and/or conduct and/or health issues).
- The process in relation to withdrawing from the MPL.

### Scope of this guidance

The scope of this guidance will solely relate to how performance concerns are managed in accordance with the PLR in London.

A key reference document in for this is the [Framework for managing performer concerns](#).

Performance concerns are managed by NHS England (London) performance team and each case will be allocated to one of the medical directorate team together with a case manager (who may not have a clinical background).

### How do concerns come to the attention of NHS England (London)?

Concerns can be brought to the attention of NHS England (London) via a number of sources, which include (but would not be limited to):

- Patients.
- Colleagues (either clinical or non-clinical).
- Other bodies (for example – the GMC, the CQC, the CCG, the police etc).
- Miscellaneous others (for example – pharmacists, care homes, anonymous complaints etc).

### How do NHS England (London) decide which concerns to investigate?

NHS England (London) operate a triage process in order to decide whether the concerns meet the threshold for investigation.

- Do the concerns relate to an identifiable individual practitioner (the PLR are not applicable to systemic issues)?



## A Londonwide LMCs guide

- Do the concerns suggest that the individual practitioner poses a risk to patient safety as a consequence of their conduct, performance or health (for example – it would not be appropriate to investigate a patient's concern that they cannot get an appointment with a specific doctor)?
- Can the concerns be investigated (for example – it may not be possible to investigate a vague concern raised by an anonymous person)?
- Should the concerns be investigated (at least in the first instance) by another body (for example – the police, the GMC etc)?
- Could the matter be referred back to the GP and/or practice in the first instance in order that they can respond (for example – a complaint that has not been seen by the GP and/or the practice)?

### **How will I know if NHS England (London) are investigating me?**

If NHS England (London) decide to investigate a concern, then you will be contacted by the associate/deputy medical director and/or the case manager that have been allocated to your case.

The associate/deputy medical directors and case managers are mindful of the fact that it is distressing for a GP to become aware they are the subject of an investigation and try wherever possible to make the initial contact by telephone before following this up in correspondence.

The purpose of the initial contact can be summarised as follows:

- To explain that an investigation has been opened.
- To explain and share with you the nature of the concerns that have been raised.
- To explain the procedure.
- To indicate what the next steps will be and the associated timeframe.
- To indicate whether any immediate action is required on your behalf.
- To explain what support is available to you (for example – Londonwide LMCs, your medical defence organisation, the BMA etc).
- To explain what support is available in relation to your health and wellbeing.

**Please note - The PLR do have provisions that allow NHS England to suspend a GP from the MPL. This guidance is aimed at describing the process that is followed when a suspension has not been imposed (which applies to the vast majority of cases). If you are suspended from the MPL under the PLR, then you will be given tailored advice as to your options based on the circumstances of your case.**

#### **Top tips:**

- **Try not to let any frustrations you may have about the concerns or the process to be reflected in any discussions you have with the associate/deputy medical director and/or the case manager.**
- **Do not be tempted to provide any response to the allegations in the context of the initial call – you will have a chance to provide a considered response in the context of the investigation.**



## A Londonwide LMCs guide

### **What should do upon learning being informed that NHS England (London) are investigating you**

It is not pleasant to become the subject of an investigation and you may have feelings of anxiety, self-doubt, reduced confidence, distress, frustration or even anger. It is therefore important that you seek professional advice at the earliest possible opportunity – the Londonwide LMCs GP Support Team has a vast range of experience in assisting GPs and can support and guide you through the process.

Your case will be allocated to a member of the team that is best-placed to assist you. One of the first considerations will be whether you need to enlist the support of any organisations at the outset (for example, your medical defence organisation) and if so, who would be best-placed to take the lead. If another organisation does become involved, then (with your permission), your Londonwide LMCs case manager will liaise with them as appropriate.

### **The investigation meeting (preparation)**

You may be invited to provide some clarification in writing, which may suffice, however in most cases you will be invited to an investigation meeting with the associate/deputy medical director and the case manager (which may take place virtually).

On the assumption that Londonwide LMCs are taking the lead, your case manager will open correspondence with the associate/deputy medical director and the case manager in order to ensure that...

- ...they are aware that Londonwide LMCs are representing you.
- ...you are provided with all the relevant documentation and an agenda in advance of the meeting.
- ...the meeting is arranged at a mutually convenient time (allowing time for preparation).

In advance of the meeting, your case manager will liaise with you to make sure that you are adequately prepared, which may include:

- Explaining the procedure.
- Going through the agenda and all the relevant documents.
- Anticipating what questions may be asked, allowing you to carefully consider in advance your responses and advising you how to approach answering questions (please note your case manager cannot answer the questions on your behalf, or suggest what your answer may be, but can give advice on how you might structure your answers).
- Sometimes it may be helpful to prepare a reflective statement in advance of the meeting and whilst the reflective statement would not (usually) be submitted in advance of or at the meeting, it can be a useful exercise for the following reasons:
  - It can act as a useful aide memoire during the meeting.
  - You will usually be invited to submit a reflective statement after the meeting.



### The investigation meeting

The meeting usually follows the following format:

- The meeting will open with a round of introductions.
- The case manager will then explain the procedure (including what will happen after the meeting with reference to approximate timeframes).

**Important note - The associate/deputy medical director and the case manager are not decision makers in your case – their role is to undertake the investigation and present their findings to either the Performance Advisory Group (PAG) (Appendix 1) or the Performers Lists Decision Panel (PLDP) (Appendix 2) who will make a decision as to what action (if any) is to be taken).**

- You will be invited to provide an overview as to your career, your experience and your current role, which will set the concerns in context.
- The associate/deputy medical director and the case manager will then invite you to provide an explanation of the concerns from your perspective and/or take you through a series of questions that they will have pre-prepared.
- **Top tips**
  - **Be honest.**
  - **Be insightful.**
  - **Be empathic.**
  - **Be conciliatory.**
  - **Be measured and reasonable.**
  - **Demonstrate any remediation that you have undertaken (or intend to undertake).**
  - **Avoid letting any frustrations you may have be reflected in your answers.**
- The associate/deputy medical director and the case manager will advise you what other sources of support are available to you.
- There will be an opportunity for any further questions or comments.
- The associate/deputy medical director and the case manager will then explain the next steps, which are likely to include:
  - Providing you with a copy of the draft meeting notes in order that we can comment on their factual accuracy before they are finalised.
  - Indicating what actions you and/or they will need to take and within what timeframe.
  - Indicating whether the PAG or PLDP will consider your case together with a timescale.



### Appendix 1 - The Performance Advisory Group (PAG)

The London PAG meets routinely every 6 weeks and on an ad hoc basis if the need arises.

#### What can the PAG do?

The PAG cannot take any action in relation to a GP's inclusion on the MPL under the provisions of the PLR, however the PAG can:

- Conclude that there is no case to answer or that the matters have been resolved and close the case.
- Agree on any further interventions or support that would assist in resolving the concerns.
- Review progress against any interventions or support that have been put in place.
- Request further investigation (for example - a records audit).
- Invite you to agree to voluntary undertakings to mitigate any concerns (for example; if the concerns related solely to minor surgery, the PAG could invite you to voluntarily undertake not to perform minor surgery until the matter has been investigated).
- Request an occupational health assessment.
- Refer to an appropriate external agency (for example - Practitioner Performance Advice [formerly NCAS]).
- Refer the matter to the PLDP.

#### Who sits on the PAG?

The PAG consists of the following voting members:

1. The chair – who will be a senior NHS manager in the performance team.
2. A member of the medical directorate (who will be a GP).
3. A senior manager with primary care contracting and/or patient safety experience.
4. A lay member.

A Londonwide LMCs representative sits on PAG (as a non-voting member) to ensure due process – they would need to declare a conflict of interest if they have been assisting you and are not able to notify you of the outcome in advance of the formal notification (see below).

**Important note – PAG considers cases on the papers, which means that you will not be invited or required to attend (either in person or virtually).**

#### What happens at PAG?

The associate/deputy medical director and/or the case manager that have been dealing with your case will prepare and submit the papers (in anonymised form) in advance of the PAG meeting.

The associate/deputy medical director and/or the case manager will present the case after which there will be a discussion leading to an agreement on the next steps by the voting members.



### When will I be notified of the PAG decision?

The PAG decision will usually be relayed to you by the associate/deputy medical director and/or the case manager that is allocated to your case – they are mindful of the importance of the decision to you and endeavour to provide you with the decision as soon as they are able to do so.

### Appendix 2 - The Performers List Decision Panel (PLDP)

The London PLDP meets routinely every 6 weeks and on an ad hoc basis if the need arises.

#### What can the PLDP do?

The PLDP can take action in relation to a GP's inclusion on the MPL under the provisions of the PLR and it is open to them to:

- Close the case.
- Take any of the actions that are open to PAG (see above).
- Refer the matter to one or more of the following bodies:
  - The Primary Care Contracts Team.
  - The GMC.
  - The police.
  - The NHS Counter Fraud Authority (NHSCFA).
- Refer the matter to another body for remediation or intervention (for example - Practitioner Performance Advice [formerly NCAS]).
- Invite you to appear before an oral hearing if one of the following actions under the PLR is being contemplated:
  - **Suspension** - the PLR do allow for a GP to be suspended immediately, but there is an obligation for the PLDP to review any decision to suspend within 2 days and to offer the GP the opportunity to have an oral hearing before the PLDP.
  - **Conditions** - the PLDP can impose conditions on a GP's inclusion on the MPL. The conditions will be tailored to the concerns and will usually involve educational and/or clinical supervision, together with appropriate support and/or supervision in relation to health matters (if relevant).
  - **Removal from the MPL** – the PLDP can remove a GP from the MPL on the following grounds:
    - A mandatory basis (for example – if a GP was convicted of murder, there is a mandatory requirement for them to be removed from the MPL) or
    - If a GP's inclusion on the MPL would prejudice the efficiency of services (this would include GPs with significant performance concerns [or more rarely health concerns] that are beyond remediation) and/or
    - If a GP is deemed to be unsuitable (this would usually relate to a conduct matter) to be included on the MPL.

**Important note – if the PLDP is contemplating taking action under the PLR, they must put the GP on notice of what action is being contemplated and provide them (the GP) with an opportunity to make representations and/or to put their case before an oral hearing.**

- Issue a [Healthcare Professional Alert Notice](#).



## A Londonwide LMCs guide

### Who sits on the PLDP?

The PLDP consists of the following voting members:

1. A lay chair.
2. A GP.
3. A senior manager with primary care contracting and/or patient safety experience.
4. A member of the medical directorate (who will be a GP).

A Londonwide LMCs representative sits on PLDP (as a non-voting member) to ensure due process -they would need to declare a conflict of interest if they have been assisting you and are not able to notify you of the outcome in advance of the formal notification (see below).

### What happens at PLDP?

The associate/deputy medical director and/or the case manager will present the case after which there will be a discussion leading to an agreement on the next steps by the voting members.

The outcome of the PLDP will be relayed to you by the associate/deputy medical director and/or the case manager.

### PLDP oral hearings

**If action is being contemplated under the PLR**, then your case will be heard at an oral hearing before a specially convened PLDP, in which case:

- You will be provided with the allegations and a case pack in advance of the oral hearing.
- You will be informed of what action is being considered in advance of the oral hearing.
- You will be provided with an opportunity to make written representations in advance of the oral hearing.
- You will be provided with an opportunity to attend (with representation) and make oral submissions before the PLDP.

Important note – the GP Support Team do not provide representation at a PLDP oral hearings (it is expected that a medical defence organisation would provide assistance or that the GP would privately instruct their own legal representative in such circumstances) – your case manager will provide you with tailored advice in the event that your case is referred to an oral hearing.

### When will I be notified of the PLDP decision?

The PLDP decision will be relayed to you in writing (if your case is considered at an oral hearing, then the decision may be provided to you on the day verbally and followed-up in writing).

### Can I appeal a PLDP decision?

A PLDP decision can be appealed to the First Tier Tribunal (Primary Health Lists) – your case manager will provide you with bespoke advice in relation to pursuing an appeal should the need arise.

