



Outcomes of the MedCo Review

Introduction

1. The new MedCo portal for sourcing initial medical reports used in support of whiplash claims was introduced on 6 April 2015. Prior to this a commitment was made by MoJ to review the system. Following implementation, a number of practices emerged which had the potential to undermine both the government's policy objectives and public confidence in the system. Such behaviour was not envisaged when the system was developed. These issues were considered as part of the review.

Call for Evidence

2. On 16 July the government issued a public Call for Evidence to enable all stakeholders to make submissions in relation to what we refer to as the 'offer' (i.e. the number and mix of MROs presented to the user following a search on MedCo), the qualifying criteria for MROs and the declaration of financial links. It was made clear that the principle of random allocation was out of scope of the review.
3. The Call for Evidence closed on 4 September 2015 with a total of 93 responses received from insurers, claimant and defendant solicitors, medical experts, MROs, physiotherapists, trade unions and alternative business structures. A number of open stakeholder workshops were also held in Manchester, Birmingham and London to hear directly from stakeholders operating in the sector. Finally, an analysis of the relevant MedCo management information was also undertaken. The key outcomes of the review are outlined below and a detailed summary of changes can be found at **Annex A**.

The Offer:

4. We asked stakeholders to consider if the current offer of 7 MROs was set at the right level and the factors that should be considered when setting the number of MROs/experts presented in the offer. Stakeholder responses indicated support for a proposal to make sure that more than one tier 1 MRO should be included in the revised offer and that there is fair competition both within and outside each tier. We considered the issues raised in the Call for Evidence, alongside analysis of management information provided by MedCo. Following this, we have concluded that the revised offer for MROs upon completion of a search on MedCo will be:
 - **two tier 1 MROs and ten tier 2 MROs.**
5. No changes will be made to the number of direct medical experts presented.

MRO Qualifying Criteria:

6. A number of changes will be made to the criteria in respect of all MROs to remove potential ambiguity and ensure that the criteria are robust. In addition, as we stated in June 2015, the MoJ believes that practices such as registering multiple 'shell' MROs on the system must stop. Therefore, measures will be implemented through changes to the qualifying criteria to address these. The key changes are:
 - the introduction of a new criterion covering the definition of an MRO – with the aim of establishing, for the purposes of MedCo, the core roles and functions of an MRO supplying medical reports via the MedCo portal.
 - to launch an online stakeholder survey to seek additional stakeholder feedback on the proposed definition before implementation – the survey will run for three weeks (closing at 5pm on Friday 15 April 2016) and can be accessed at: <http://survey.euro.confirmit.com/wix/p1849988410.aspx>

- to widen the criterion on minimum service level standards (as defined by MedCo) to apply to all MROs so that users are reassured that all MedCo registered MROs operate to the same minimum standards of service.
 - in relation to the two criteria covering a tier 1 MRO's operational capacity, the 250 medical experts must be active MedCo accredited experts qualified to prepare initial whiplash reports. However, the 40,000 report requirement may be fulfilled by counting all medico-legal reports and is not restricted to MedCo reports.
7. There are additional minor amendments to the qualifying criteria. A detailed summary of these changes can be found in the relevant section of **Annex A**.

Declaration of Financial Links

8. The main changes to the declaration of financial links are based around providing clarity along with the addition of extra guidance on areas of concern identified by stakeholders through the Call for Evidence. Changes to the declaration include:
- amending the phrase 'now or at any time in the last 12 months' to 'now or at any time in the last 3 years' to protect against the transfer of ownership to other family members but the declaration will remain as drafted in terms of scope;
 - providing further guidance on the payment of commissions/referral fees as part of the process of obtaining/offering instructions in the revised declaration.
 - providing further guidance in the declaration on how the issue of 'employees' links should be dealt with; and
 - a recommendation that the declaration is re-signed annually.
9. In addition, the MoJ will:
- Keep under review whether a declaration should be added to cover links between MROs for implementation if required at a later date; and
 - Work with MedCo to develop a filter to ensure that the search return provides the requisite number of unique results.

Implementation of changes:

10. We plan to implement these changes in late summer 2016 and we are working with MedCo to achieve this. We will provide further detail on the implementation date in due course.

Operational Feedback:

11. As part of the Call for evidence, the MoJ asked stakeholders to submit evidence and views on operational aspects of MedCo. This feedback has been compiled and will be communicated directly to the MedCo Board for consideration.

Future Changes:

12. A final point of note to arise from the Call for Evidence was a strong show of support for formal regulation of MROs, with stakeholders from across the sector agreeing on the need for regulation. This is a complex area, and the MoJ will consider whether further action is required.

Summary of Outcomes from MedCo review - March 2016

The offer

- Offer for MROs changed to two tier 1 MROs and ten tier 2 MROs.
- No changes to the offer for Direct Medical Experts which remains at seven.

Qualifying criteria

- Creation of a new MRO definition (final wording to be subject to a three week stakeholder survey).
- Wording on data protection and information handling criteria clarified and further guidance to be provided by MedCo.
- Keep the issue of whether all MROs should have a Caldicott Guardian under review.
- Include an additional criterion to be applied to all MROs on the need to meet minimum service levels as defined by MedCo (previously this only applied to tier 1 MROs).
- Amend the criteria on national coverage to clarify that national coverage for MedCo means at least 80% coverage of postcodes in England and Wales.
- Criterion clarified so that it is clear that the 40,000 tier 1 reports can be any related medico-legal reports.
- Criterion clarified so that it is clear that the 250 experts required by tier 1 MROs should be active MedCo accredited experts.
- Amend the two criteria on the need for a financial instrument to remove the word bond, as this has led to some confusion.
- Amend the criterion for tier 1s requiring a two-year trading history to state specifically that their trading history must be as an MRO.
- Amend the criteria requiring tier 1 MROs to have a minimum of five distinct clients and that no one client provide for than 40% of its work to an ongoing requirement. Currently it is only required at registration.
- Criterion related to the declaration of financial links to be clarified to reflect the recommendation (below) for the declaration to be re-signed annually.

Declaration of Direct Financial links

- No extension to the declaration to include familial links (issue to be kept under review by MoJ).
- Strengthened wording on the time limits for past relationships by changing the timeframe from at any time in the last '12 months' to 'the last three years'.
- Retain the word 'employee' in the declaration but further guidance on the proportionate application now included.
- No introduction of a new MRO to MRO declaration (issue to be kept under review by MoJ).
- Recommendation for the financial links declaration to be re-signed by both authorised users and data suppliers every 12 months.
- Further guidance on the application of the LASPO referral fee ban added to the declaration.
- MoJ and MedCo to work together to develop a filter (and any other necessary changes) to make sure any search result shows the requisite number of unique results.

Other

- MoJ officials will consider options for whether/how MROs could be regulated in the future and will inform MedCo of any additional Call for Evidence feedback received on operational issues.