

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
------------------------------------	--

<p>FRAMEWORK FOR THE MANAGEMENT OF PERFORMANCE CONCERNS IN GENERAL MEDICAL PRACTITIONERS (GPs) ON THE MEDICAL PERFORMERS LIST WALES</p>	
<p>Author: Primary Medical Care Advisory Team (PMCAT)</p>	
<p>Date: 2nd July 2018</p>	<p>Version: Final v1</p>
<p>Status: Final</p>	
<p>Intended Audience: DPCMH, MDs, AMDs, HoPC, GPC Wales, LMCs, Wales Deanery</p>	

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 1 of 24		

FRAMEWORK FOR THE MANAGEMENT OF PERFORMANCE CONCERNS IN GENERAL MEDICAL PRACTITIONERS ON THE MEDICAL PERFORMERS LIST WALES

1. Introduction

1.1. This Framework for The Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales (“The Framework”) has been developed to guide the management of the operational aspects of Health Board (HB) Performance Procedures for General Medical Practitioners (GMPs, also termed GPs) who are on a Medical Performers List in Wales. The Framework outlines the process by which teams identify, manage and support GP Performers when performance concerns arise.

1.2. The Framework applies to all doctors on a Medical Performers Lists (MPL) in Wales and provides guidance on a uniform and consistent approach and interpretation in dealing with GP performance concerns.

1.3. The Framework is underpinned by the National Health Service (Performers Lists) (Wales) Regulations 2004 (as amended), the NHS Wales Act 2006 and the Medical Profession (Responsible Officer) Regulations 2010. At all times, decisions must be made in accordance with existing legislation.

1.4. The Framework is complementary to Welsh Government guidance WHC (2005) 059, guidance issued by Health Departments for dealing with disciplinary matters and guidance on the management of Medical Performers lists.

1.5. For those GPs who are directly employed by Health Boards, the Upholding Professional Standards in Wales (UPSW) disciplinary procedure guidance should also be considered.

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
------------------------------------	--

1.6. Performance concerns regarding GPs in training should be managed in consultation with the Wales Deanery, Health Education and Improvement Wales (HEIW).

1.7. The professional regulator, the General Medical Council, is required to investigate and/or take action when serious concerns are raised regarding Fitness to Practice. Action taken by the professional regulator may have implications for the status of the Performer on the Medical Performers List.

2. Roles and Responsibilities

2.1. Health Boards (HBs) are responsible for assessing and arranging appropriate and proportionate action in response to concerns expressed to them about any GMP or GP Specialty Trainee (GPST) included on their Medical Performers List (MPL) or providing NHS General Medical Services in their catchment area.

2.2. The responsibility for action in respect of a Performer rests with the Health Board (HB) on whose MPL in Wales the Performer is included. The Responsible Officer (RO) of the Health Board on whose Performers List the Performer is included has responsibility for deciding the most appropriate course of action. For GP Specialty Trainees the Responsible Officer is the Postgraduate Dean.

2.3. Regulation 16 of the NHS (Performers Lists) (Wales) Regulations 2004, as amended, details the notification requirements where probity action is taken against a Performer, regardless of whether or not that individual is also on the Performers List of another Primary Care Organisation in England, Scotland or Northern Ireland.

2.4. Any contractual issues that may arise should be dealt with separately under the NHS (General Medical Services Contracts) (Wales) Regulations 2004, as amended.

2.5. GP Performers have a statutory and professional duty to comply with any assessment, review or investigation.

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 3 of 24		

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
------------------------------------	--

3. The Medical Performers List

3.1. All GPs working in Wales must be either provisionally, conditionally or fully included on an MPL in Wales. Where a GP has been granted provisional inclusion in a List, the GP Performer may work in Wales for up to 3 months from the date of receipt of their application or until a final determination has been made on the application by the relevant HB.

3.2. GP Registrars who have submitted an application to work in Wales will be granted a grace period of 3 months from the date of their GP placement during which they can work in Wales without being on the MPL.

4. Governing Principles

4.1. At every stage in the performance process, the following governing principles should be followed:

- Patient safety must be paramount
- The process should be fair, transparent and proportionate
- The welfare of the practitioner should be taken into consideration throughout the process

4.2. Local procedures aim to provide a structured framework to:

- Protect the safety and wellbeing of patients and the public when a performance concern has been raised
- Respond appropriately to expressions of concern about practitioner performance (at an early stage whenever possible)
- Outline circumstances when further action (such as an external investigation and/or performers list action process) is required
- Provide a structured framework for the assessment and/or investigation of a performance concern
- Ensure the process for any assessment, investigation or review is open, transparent and fair to all parties
- Provide an accurate report upon which to base decisions and actions
- Take a formative approach if appropriate
- Support those involved

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 4 of 24		

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
---------------------------------------	--

- Encourage learning and reflection regarding performance risk factors, case process and outcomes

4.3. It is important that potential problems are identified as early as possible, both to protect patients and to support practices and practitioners in managing clinical risks appropriately. A formative approach should be encouraged throughout the process.

4.4. Whilst the information itself is confidential, the process must be fair and well-defined for practitioners involved in the process. The process should be carried out in a robust but timely manner with regular communication with the practitioner as appropriate. A well-documented audit trail of activity should be recorded, including the rationale behind any decisions made.

4.5. The concept of performance is based not only on an individual's competence but also on the systems and processes supporting the clinician within the working environment. Therefore the environment within which a GP Performer works should be taken into consideration for any performance concern raised. Organisational responsibility for assuring a safe working environment should be considered as part of any performance review.

4.6. Consistent terminology should be applied across organisations to ensure those involved are clear about stage, roles and responsibilities. Recommended terminology is outlined in Annex 1.

4.7. It is important that all parties have confidence in the process. Individuals and teams involved in the delivery of the Framework should have appropriate training, support and performance review relevant to their respective roles.

4.8. Advice and support for the practitioner should be encouraged at every stage of the process. Advice and support can be provided by the Local Medical Committee (LMC), the British Medical Association (BMA) and/or the GP Performers Medical Defence Organisation (MDO).

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 5 of 24		

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
------------------------------------	--

4.9. It should be acknowledged that the performance process may be stressful for a Performer. Health and wellbeing support for the Performer can be accessed through support services, which can include:

- The GP occupational health service linked to each Health Board
- The Health for Health Professionals Wales Service (or equivalent)
- BMA counselling service
- The practitioners GP

5. Identifying and addressing concerns

5.1. A performance concern relates to any aspect of a performer's conduct or performance, which may, or may appear to:

- Present a risk to patient safety
- Undermine the efficiency of primary care services
- Undermine patient and public confidence in the NHS
- Represent a financial risk to the organisation or service
- Represent a significant departure from accepted guidelines and/or professional standards

5.2. Concerns about a practitioner's performance can come from a wide range of sources including (but not exclusively):

- Patient complaints
- Colleague concerns
- Prescribing data
- Practice inspections
- Incident reporting systems
- Information from the police or coroner
- Information from regulatory bodies
- Public Service Ombudsman for Wales (PSOW)
- Court actions
- Media reports
- Counter fraud services
- Safeguarding services

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 6 of 24		

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
------------------------------------	--

5.3 NHS organisations should aim to develop and maintain a culture that provides an environment where people feel able to raise concerns. However, if an individual wants to raise a concern confidentially this should be respected. “Protected disclosure” is the legal term for whistleblowing and is referenced in the context of describing the protection afforded to the person raising the concern in the interest of the public. There are statutory provisions for individuals who make what are termed “protected disclosures” (see Annex 2).

6. Health Board Stages

6.1. Health Boards have an obligation to take account of all information provided to them. Where this information gives rise to concerns about a practitioner’s conduct, performance or health, the Health Board is required to take appropriate action to safeguard patients and the Performer involved.

6.2. When an expression of concern regarding performance is received by the Health Board, the process for managing the performance concern can be considered using a four-stage process (Annex 3):

1. Stage 0 – Receipt of Concern and Consideration
2. Stage 1 – Initial Assessment
3. Stage 2 – Investigation
4. Stage 3 – Reference Panel

6.3. The performance process does not require that each stage in the process be applied sequentially. Under certain circumstances, it may be necessary for a HB to act rapidly, especially if there are serious concerns over patient safety. In these circumstances, NCAS (Practitioner Performance Advice, NHS Resolution) has agreed to provide a rapid response advisory service for Health Boards. Similarly, a screening process can take place at any stage. Any decision made should be appropriately justified and the Performer informed of the reasons for the decision.

6.4. Further assessment and/or investigation may **not** be required following consideration of the following:

- There is no dispute of relevant facts

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 7 of 24		

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
------------------------------------	--

- Sufficient evidence exists to take action
- Where the reported performance concerns:
 - Do not have a substantial basis
 - Are refuted by other available evidence
 - Are frivolous, malicious or vexatious.
 - The case needs to be referred to the Police or NHS Counter Fraud Service Wales (CFS)
 - The doctor agrees with the relevant facts
 - Confirmed or suspected ill health would make an investigation inappropriate at that time.
 - Concerns are being investigated by another agency

6.5. At any stage, the Medical Director (or nominated deputy) may request the advice of a Health Board decision-making group, the Primary Medical Care Advisory Team (PMCAT), Health Education and Improvement Wales, the National Clinical Assessment Service (Practitioner Performance Advice) and/ or the General Medical Council (GMC).

6.6. If “protected disclosure” status is declared then the HB should ensure due process is followed to protect the complainant as appropriate (Annex 2)

6.7. The process should be transparent to all parties and follow standard guidelines to minimise legal and organisational risk.

6.8. Anonymous complaints and concerns based on ‘soft’ information should be considered within the same decision-making process and a record kept of the concern and the justification for whether further action was required.

6.9. The welfare of the Performer should be taken into consideration at each stage in any performance process.

6.10. It is recommended that a GP Performer involved in a performance concern, inform his or her practice partners and/or working colleagues as early in the process as possible.

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 8 of 24		

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
---------------------------------------	--

6.11. An occupational health assessment should be considered and/or offered to any Performer involved in a performance concern.

6.12. If at any time an attitudinal and/or behavioural component to the concern is raised, advice from NCAS (Practitioner Performance Advice), should be considered.

7. Receipt of potential concern and consideration (Stage 0)

7.1. Every expression of concern received by a Health Board should be recorded and initially considered within a consistent decision-making process in relation to context, source, severity, risk and overall degree of concern. All concerns and decisions (with justification) should be recorded.

7.2. Depending on the degree of concern and potential risk to patient safety, a decision should be made as to the most appropriate further management of the concern.

7.3. If “protected disclosure” status is declared then the HB should ensure that due process is followed to protect the complainant as appropriate (Annex 2). It is recommended that whistle –blowing status is considered and clarified for any performance concern so raised.

7.4. The HB should ensure that any allegation of a malicious or potentially malicious nature is adequately corroborated by evidence from another source or verified by an initial assessment before action is considered.

7.5. Where concerns are considered to be minor (so called “soft concerns”) and do not pose any significant or immediate risk, a decision can be made to deal with the matter by addressing concerns as areas of development via discussion with the Performer, or through the GP appraisal process. These “soft” concerns may not require to be escalated but would require to be logged and monitored by the Health Board. It is recommended that “soft” concerns are shared with the Performer.

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 9 of 24		

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
---------------------------------------	--

7.6. The key component of the consideration stage is that there is a written record describing the concern, who it was from, how it was handled and the rationale behind any decision made.

7.7. In general, the system and process for early-stage consideration and/or Initial Assessment where there are soft concerns must be responsive, flexible, proportionate and sensitive to individual circumstances but be robust enough to produce effective and timely action.

8. Initial Assessment (Stage 1)

8.1. A Health Board may receive a performance concern about a GP Performer that requires further information regarding what the concern means, the context within which it was raised and whether there is a reasonable and valid explanation from the Performer.

8.2. The purpose of a **Stage 1 Initial Assessment** is to look at the validity, nature and severity of the performance concern based on available information, and to determine whether the received concern can be resolved by local approaches with the practitioner (such as mentoring, action plans, and mediation) or whether the concern requires further investigation or review (Stage 2) and/or a more formal process (such as a Reference Panel and/or referral to an external or regulatory body).

8.3. The **Stage 1 Initial Assessment** would also determine whether action is indicated for the whole practice in terms of team or organisational processes.

8.4. Information gathered for the **Initial Assessment** may include the following:

Performance Information:

- Prescribing data
- Referral data
- QOF Performance

Quality Information:

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 10 of 24		

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
------------------------------------	--

- Complaints and Concerns including “soft concerns”
- Significant events/incidents
- Regulatory Issues
- Clinical Governance Practice Self-Assessment Toolkit (CGPSAT)
- Healthcare Inspectorate Wales (HIW) Reports
- Practice Development Plans
- Cluster Development Plans
- Sustainability Framework Returns
- Health Board Information
- Appraisal/revalidation information

Contract Information:

- Contract Visit Information
- Contract Performance Data
- Details of any breach notices

Practice/practitioner response Information:

- Correspondence/communication from the practice/practitioner

8.5. Guidance is available on how to undertake an initial assessment within the resources section.

8.6. A **Stage 1 Initial Assessment** is managed by the Health Board **Case Manager** who is appointed by the (A)MD. Anyone undertaking this role should be appropriately trained.

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 11 of 24		

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
------------------------------------	--

9. Investigation (Stage 2)

9.1. Where concerns are of a more serious nature and/or there is a need for more information following a Stage 1 Initial Assessment, the Case Manager may require a more detailed investigation (Stage 2).

9.2 The aim of a Stage 2 Investigation is to gather facts, information and evidence relating to the circumstances of a performance concern

9.3. It may be necessary to undertake a Stage 2 Investigation prior to the screening process to establish more facts to support decision-making. Evidence presented at this stage should be adequately corroborated and verified.

9.4. A **Stage 2 Investigation** will usually be appropriate where case information suggests that the performer may:

- Pose a threat or potential threat to patient safety
- Work outside acceptable practice guidelines and standards
- Undermine the reputation or efficiency of services in some significant way
- Expose services to financial or other substantial risk.

9.5. The (A)MD may appoint a **Case Manager** to lead or coordinate the investigation but shall retain responsibility and oversight for the conduct of the investigation.

9.6. The Case Manager should check the Medical Performers List (MPL) as to which HB the GP Performer is included. Where this differs from the HB with whom the concern was initially raised, the responsibility for the Investigation and/or screening process reverts to the HB on whose MPL the GP Performer is included. This is particularly important where GP Performers are freelance/locum and work across several HBs.

9.7. The **Case Manager** should appoint a **Case Investigator** to undertake the investigation.

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 12 of 24		

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
------------------------------------	--

9.8. An appropriately trained member of the HB, an independent medical practitioner specially contracted to the HB for this purpose or a Primary Medical Care Advisor from PMCAT, may carry out the Investigation as the Case Investigator.

9.9. A Primary Medical Care Advisor from PMCAT may undertake an investigation or external review (as a **Case Investigator**) on behalf of the Health Board particularly if the case involves complex clinical issues or if independent medical advice is required.

9.10. NCAS (Practitioner Performance Advice, NHS Resolution) can offer guidance as to the most appropriate process for the Health Board to pursue, including whether a PMCAT investigation or review is appropriate.

9.11. Guidance is available on how to conduct an investigation or external review. It is recommended that Case Investigators are appropriately trained and kept up to date for this role.

9.12. Case Investigators should consider whether any conflict of interest exists before agreeing to undertake the investigation.

9.13. The role of the **Case Investigator** is to ascertain facts around what has happened, the context and reasons behind a concern and to compile a factual report for the Health Board **Case Manager**.

9.14. Any Investigation will be subject to clear and specific Terms of Reference provided by the **Case Manager** and agreed by the **Case Investigator**. Terms of Reference may require amending during an investigation.

9.15. The GP Performer must be informed in writing by the HB as soon as it has been decided that an investigation is to be undertaken. The Health Board should ensure that the GP Performer receives the agreed Terms of Reference for the investigation, including the specific performance concerns raised. The GP Performer should also be informed of the names and functions of any individuals

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 13 of 24		

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
------------------------------------	--

involved in the investigation. Any subsequent agreed changes to the Terms of Reference should be shared with the Performer.

9.16. GP Performers who are on a HB Medical Performers List and practices contracted with the HB are required to cooperate with any such investigation under Paragraphs 76 and 77 of the NHS (GMS Contracts) (Wales) Regulations, 2004 (as amended).

9.17. The **Case Investigator** should be given a signed Letter of Authority from the HB before visiting the practice. Case records should not be viewed without this authorisation.

9.18. The HB should not notify the Local Medical Committee (LMC) at this stage without the consent of the Performer. However, the Performer should be encouraged to discuss any performance concerns raised with the LMC and the practice.

9.19. Once the **Case Investigator** has completed the investigation, the **Case Manager** will decide whether further action should be undertaken through local means or whether a performer's list regulations process (such as a Reference Panel) should be requested.

9.20. The Health Board may request suggestions for improvement or support from the **Case Investigator** but it should be recognised that conclusions and suggestions made will be based solely on the findings from the specific Terms of Reference for the investigation and not on information gathered by the **Case Manager** from other sources.

10. Screening Process

10.1. The function of the HB screening process is to consider corroborated allegations and other available evidence regarding concerns about the professional performance of a GP Performer. The process should take into account (as appropriate) the circumstances of the GP and the environment in which he or she works. The **Case Manager** should make recommendations on

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 14 of 24		

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
------------------------------------	--

actions to address any issues. The screening process is not a statutory requirement. It advises the HB and the GP Performer on appropriate actions to be taken to resolve concerns but does not have the authority to make demands or request sanctions. The screening process can take place at any stage in a performance concern.

10.2. The screening process should provide a repository of expert advice from individuals with appropriate training, experience and knowledge of performance procedures and professional standards and be able to provide objective advice.

10.3. Membership of the screening process group should comprise the following individuals:

- An independent member of the HB Board who will chair the group
- An appropriately trained and experienced senior NHS manager
- A doctor nominated by the LMC

10.4. Individuals on the screening process group should not also be members of the Reference Panel for the same case.

10.5. The **Case Manager** (with appropriate support) should attend to present the Case Manager report, which will include results of any assessment, reviews and/or investigations. The **Case Manager** can be questioned by the screening process group or by the practitioner. If PMCAT or any other external organisation has been involved in the investigation, the **Case Investigator** from that organisation may also be asked to attend and answer questions and/or submit a statement for the panel.

10.6. A Community Health Council representative may be invited to attend as an observer.

10.7. The GP must be involved in the screening process and may be accompanied by a companion. Without prejudice to the procedure set out in Schedule 2 to the Employment Act 2002, the companion may be an official or lay representative of the British Medical Association or Medical Defence

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 15 of 24		

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
---------------------------------------	--

Organisation; a representative of the LMC, a friend, partner or spouse. The companion may be legally qualified but should not be acting in a legal capacity. (WHC (2005)059)

10.8. The Terms of Reference for the screening process group should outline the following:

- The screening process group must act in a fair and transparent manner
- The screening process should consider the performance concerns and any related submissions presented to it by the HB and the GP
- The process should consider whether claims have been substantiated and not take action with regard to unsubstantiated claims other than to request more information
- The process may also consider any submissions made by the practice in which the GP works
- The information being considered by the screening process group should normally be made available to the GP at least one week or five working days prior to the screening process group meeting
- If the GP declines to attend it will not be possible to produce an agreed Action Plan and the HB will need to consider whether to use other informal arrangements or to convene a Reference Panel. If there are extenuating circumstances such that the GP is unable to attend, the Chair may agree to delay the screening process meeting.
- The group will make recommendations to the HB and/or practitioner. If referral to a statutory body is not indicated, the screening process group should make recommendations that are supportive and formative for the practitioner.
- The screening process should agree an Action Plan including timescales for the resolution of the performance concerns which have been raised
- The screening process may determine that there are no grounds for continuing concern and that no further action is needed
- The screening process may recommend further more formal action which may include referral for a NCAS assessment or referral to a Reference Panel if they feel that patient safety has been, or is likely to be, significantly compromised

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 16 of 24		

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
------------------------------------	--

- The screening process should ensure that minutes of the meeting are shared with the practitioner

11. Action Plan

11.1. Where appropriate, the Stage 1 Initial Assessment and/or Stage 2 Investigation report will support the (A)MD and/or screening process in making recommendations to the practitioner and/or HB. This may lead to an Action Plan agreed between the HB and the GP Performer.

11.2. The GP Performer should be fully engaged in this process and a level of understanding established between the HB and GP.

11.3. The Action Plan should state:

- Clear objectives
- Who is responsible in providing support and assistance to the performer in making changes
- Whether and what further training needs are required
- A reasonable agreed timescale
- A clear monitoring and evaluation system
- Who is providing financial support and for which activity within the action plan

11.4. Where applicable, the practice team may also require to be involved, especially if performance concerns relate to the practice as a whole.

11.5. The Health Board **Case Manager** is responsible for monitoring the Action Plan.

11.6. There will be a timescale with a stated period of review agreed in the Action Plan. A Case Manager should have the authority to amend an Action Plan in conjunction with the GP Performer if circumstances change and it is appropriate to do so.

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 17 of 24		

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
------------------------------------	--

11.7. The GP Performer should be made aware the timescales around a process of review by the Health Board within the Action Plan. If the agreed objectives are not met within the time set, then the HB should make it clear to the Performer that the Action Plan is in danger of failing. The reasons behind any delay should be explored urgently with the GP Performer or Practice and a decision made as to whether additional support or actions are required.

12. Reference Panel (Stage 3)

12.1. The function of the HB Reference Panel is to consider evidence regarding the professional performance of a GP. Evidence presented at a Reference Panel may come from a number of sources (for example a report from the GMC, an independent investigation commissioned by the HB etc).

12.2. The Reference Panel makes recommendations to the HB Chief Executive Officer regarding the practitioner's status on the Medical Performers' list and/or restriction of practice.

12.3. A Reference Panel is a formal process, which must conform to the statutory requirements of the National Health Service (Performers Lists) (Wales) Regulations 2004 (as amended).

12.4. The membership of the Reference Panel will include:

- HB Officer with the power of suspension (bestowed by the Chief Executive Officer). This member will normally chair the panel
- Independent Member of the Health Board
- Medical Director, Assistant Medical Director or their deputy (usually from another HB)
- Local Medical Committee Nominee (which can be from another LMC area)

12.5. The Local Medical Committee member of the Reference Panel is in addition to any LMC representative present at the panel meeting who is acting in the capacity of a "friend" of the GP.

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 18 of 24		

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
------------------------------------	--

12.6. Reference Panel members should be independent of the process up to this stage. HB or LMC nominees should not be involved in both the Screening Process and be members of the Reference Panel. However, membership of a previous Reference Panel relating to the GP Performer should not preclude further involvement in the process.

12.7. All Reference Panel members should have had appropriate and recent training and experience in performance procedures to fulfil these roles effectively

12.8. In addition, those “in attendance” at the Reference Panel may include:

- The Health Board Case Manager, or their deputy, who will prepare and deliver a statement of case and can be supported by other professionals as appropriate
- A “friend” of the GP
- A senior member of NHS Wales Shared Services Partnership Primary Care Services (NWSSP-PCS) or any successor organisation to advise on process.
- A recorder to ensure that accurate records of the proceedings are kept
- Any individual who has undertaken an independent investigation at the request of the Health Board may be invited to present findings of their investigation

12.9. Further detail on Reference Panel Terms of Reference is provided within the Regulations and in the model procedures guidance published by NWSSP – Contractor Services as outlined in Annex 4.

12.10. The Reference Panel will have the power to make a range of decisions that can include recommending the following restriction of practice sanctions on the Performer:

- Suspension
- Removal
- Contingent Removal

12.11. The HB must consult with NCAS (Practitioner Performance Advice, NHS Resolution) if it is considering suspension, contingent removal or removal of the

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 19 of 24		

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
---------------------------------------	--

Performer from its Performers List unless it is necessary to effect immediate action to protect patients before such advice is available.

12.12. The standard of proof required for decisions to be made at Reference Panel is on the balance of probability.

12.13. The final decision/outcome of a Reference Panel is taken by the HB through the Chief Executive Officer or their authorised nominee.

12.14. The Chair of the Reference Panel should ensure that the GP Performer is notified both verbally and in writing within seven days of the outcome of the hearing. The practitioner must be advised fully of any right of review and appeal, as appropriate.

12.15. The HB must issue a letter to other statutory organisations notifying such organisations of any decision to remove, contingently remove or suspend. The Performer must also receive a copy of this letter.

12.16. The Reference Panel should ensure that minutes of the meeting and the outcome of any decision is shared with the GP Performer

12.17. Under Regulation 16 of the National Health Service (Performers Lists) (Wales) Regulations 2004 (as amended), Health Boards are required to notify probity decisions to the following bodies:

- The Assembly
- any other Health Board or equivalent body that to the knowledge of the notifying Health Board
 - has the performer on any list or equivalent list, or
 - is considering an application for inclusion in any list or equivalent list by the performer,
 - in whose area the performer provides services;
- the Scottish Executive
- the Secretary of State;
- the Northern Ireland Executive;

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 20 of 24		

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
------------------------------------	--

- the relevant regulatory body (GMC) or any other appropriate regulatory body;
- where it is a fraud case, the NHS Counter Fraud Service Wales

July 2018

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 21 of 24		

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
------------------------------------	--

Abbreviations

(A)MD	(Assistant) Medical Director
BMA	British Medical Association
CFS	Counter Fraud Services
CGPSAT	Clinical Governance Practice Self-Assessment Toolkit
CHC	Community Health Council
GMC	General Medical Council
GMP	General Medical Practitioner
GP	General Practitioner
GPST	General Practice Specialty Trainee
HB	Health Board
HB	Health Board
HIW	Healthcare Inspectorate Wales
LMC	Local Medical Committee
LoA	Letter of Authority
MDO	Medical Defence Organisation
MPL	Medical Performers List
NCAS	National Clinical Assessment Service
NHS	National Health Service
NWSSP	NHS Wales Shared Services Partnership
PCS	Primary Care Services
PMCAT	Primary Medical Care Advisory Team
PSOW	Public Service Ombudsman for Wales
RO	Responsible Officer
ToR	Terms of Reference
UPSW	Upholding Professional Standards in Wales
WG	Welsh Government
WHC	Welsh Health Circular

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 22 of 24		

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
------------------------------------	--

Further Resources

1. PMCAT Investigation Templates <http://www.primarycareservices.wales.nhs.uk/pmcat>
2. Upholding Professional Standards in Wales (NHS Wales 2015)
<http://www.wales.nhs.uk/documents/Upholding%20Professional%20Standards%20in%20Wales%20October%202015%20FINAL.pdf>
3. WHC 059 (Welsh Assembly Government 2005)
http://www.wales.nhs.uk/documents/WHC_2005_059.pdf
4. A Framework of Operating Principles for Managing Invited Reviews within Healthcare (Academy of Medical Royal Colleges 2016)
http://www.aomrc.org.uk/wp-content/uploads/2016/05/Invited_reviews_210116.pdf
5. A Risk Matrix for Risk Managers (National Patient Safety Agency 2008)
<http://www.npsa.nhs.uk/nrls/improvingpatientsafety/patient-safety-tools-and-guidance/risk-assessment-guides/risk-matrix-for-risk-managers/>
6. Toolkit for Managing Performance Concerns in Primary Care (NHS England 2016)
<https://www.england.nhs.uk/wp-content/uploads/2016/02/toolkit-managing-performance-concerns-pc-feb16.pdf>
7. NCAS Resources
<http://www.ncas.nhs.uk/resources/must-knows-wales/>
8. The National Health Service (Performers Lists) (Wales) Regulations 2004 (as amended)
<http://www.legislation.gov.uk/wsi/2004/1020/contents/made>
9. National Health Service (Wales) Act 2006
<http://www.legislation.gov.uk/ukpga/2006/42/contents>
10. The Medical Profession (Responsible Officers) Regulations 2010
<http://www.legislation.gov.uk/uksi/2010/2841/contents/made>
11. The National Health Service (General Medical Services Contracts) (Wales) Regulations 2004 (as amended)
<http://www.legislation.gov.uk/wsi/2004/478/contents/made>

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 23 of 24		

Primary Medical Care Advisory Team	Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales
------------------------------------	--





12. GMS Contract

<http://www.wales.nhs.uk/sites3/home.cfm?orgid=480>

13. Just Culture guidance (NHS Improvement March 2018)

<https://improvement.nhs.uk/resources/just-culture-guide/>

Annexes

Annex 1	Terminology Guidance	 Annex 1 - Performance Terminology
Annex 2	Raising Concerns	 Annex 2 - Whistleblowing Terminology
Annex 3	Decision Making Tree	 Annex 3 - Decision Making Tree.doc
Annex 4	Model Procedures	 Annex 4 - Model Procedures .doc

Version: Final v1	Date: 2 nd July 2018	Author: PMCAT
Page: 24 of 24		