

# NHS Resolution

## Factsheet 6: Primary Care Appeals

### Annual Statistics 2022-23

#### Introduction

The role of NHS Resolution includes discharging the Secretary of State for Health and Social Care appellate function. This work is carried out by Primary Care Appeals. Its purpose is to improve the provision of healthcare by ensuring the prompt and fair resolution of appeals and disputes between primary care contractors and commissioners such as NHS England and integrated care boards. Primary care contractors include GPs, dentists, opticians and pharmacists. Its work includes:

- Determining appeals against decisions concerning the provision of NHS pharmaceutical services. Such appeals generally relate to the proposed opening of a new pharmacy, relocation of an existing pharmacy, or the provision of dispensing services by GPs;
- Determining disputes between primary care contractors and the commissioner;
- Determining disputes over the assessment of GP Registrars' allowances under relevant Directions;
- Determining other occasional appeals and applications under various regulations governing primary care

NHS Resolution also has certain obligations under the [Performers Lists Regulations](#), which are also handled by Primary Care Appeals. These are:

- Maintaining a database of primary care contractors who have had Regulation 18 notifications regarding their inclusion on any Performers List; and
- Providing information to NHS England against the database

#### Purpose

This Factsheet, which should be read in conjunction with NHS Resolution's [Annual report and accounts 2022-23](#), provides statistical information on our activity levels and case outcomes, showing the type and volume across a range of subject matter.

#### Intended audience

- Department of Health and Social Care;
- NHS England policy and regional teams and integrated care boards;
- Contractors and their agents; and
- Representative bodies

## Content

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For individual decisions on the cases listed in this Factsheet please refer to our web page at [PCA Decisions Archive - NHS Resolution](#)

## Annex 1:

Received and completed cases - all work streams: 01/04/22 to 31/03/23

	Cases received		Cases completed	
	22/23	21/22	22/23	21/22
Pharmacy: 'market entry'	97	79	93	86
Pharmacy: 'performance sanctions' and 'payments'	24	3	23	5
Pharmacy: Covid-19 payments	26	0	9	0
GP disputes: APMS	0	1	1	0
GP disputes: GMS 2015	11	19	14	18
GP disputes: PMS 2015	5	16	1	13
Performers Lists Regulations: Consent to withdraw and appeals regarding suspension payments	3	4	5	4
Dental disputes: GDS 2005	5	4	5	13
Dental disputes: PDS 2005	1	2	2	2
Ophthalmic disputes: GOS	0	0	0	0

**Annex 2:**
**Pharmacy market entry and associated appeals ([2013 Regulations](#)) and appeals under [2022 Directions](#): 01/04/22 to 31/03/23**

		Cases completed						
Case type	Cases received	Application granted		Application refused		Remit Back	Non-Valid Withdrawn	Total
		Decision quashed and redetermined	Decision confirmed	Decision quashed and redetermined	Decision confirmed			
Routine App (current need)	2	1	0	1	0	0	1 <sup>1</sup>	3
Routine App (future need)	1	0	0	1	0	0	0	1
Routine App (improvements/better access)	1	0	0	0	0	0	1	1
Routine App (unforeseen benefits)	24	5	2	10	3	0	0	20
Routine App (future improvements/better access)	0	0	0	0	0	0	0	0
Routine App (neither PNA/unforeseen benefits)	0	0	0	0	0	0	0	0
Excepted App (relocations)-inc joint change of ownership	5	2	1	3	1	0	1	8
Excepted App (distance selling)	12	4	0	4	0	0	1	9
Excepted App (change of ownership)	2	0	1	0	0	0	1	2
Consolidation	0	0	0	0	0	0	0	0
Substantial change	0	N/A	N/A	N/A	N/A	N/A	N/A	0

<sup>1</sup> Appellant withdrew appeal when NHS England accepted that it had erred in refusing premises notification following an earlier grant of its application by Primary Care Appeals

Rurality, gradualisation	<b>2</b>	N/A	N/A	N/A	N/A	N/A	N/A	<b>2<sup>2</sup></b>
Outline Consent/ Premises Approval	<b>1</b>	0	1	0	0	0	0	<b>1</b>
Doctors provision – serious difficulty	<b>0</b>	0	0	0	0	0	0	<b>0</b>
Terms of service (hours)	<b>47</b>	N/A	N/A	N/A	N/A	N/A	14	<b>46<sup>3</sup></b>
3 <sup>rd</sup> Party appeal rights	<b>0</b>	N/A	N/A	N/A	N/A	N/A	N/A	<b>0</b>
<b>TOTAL 2022/23</b>	<b>97</b>	<b>12</b>	<b>5</b>	<b>19</b>	<b>4</b>	<b>0</b>	<b>19</b>	<b>93</b>
		5 hearings						
<i>2021/22</i>	<b>79</b>	<b>30</b>	<b>5</b>	<b>19</b>	<b>22</b>	<b>0</b>	<b>9</b>	<b>86</b>
		8 hearings						

N/A = Not Applicable

Case type	Cases completed				Total
	Confirm NHS England decision	Substitute NHS England decision	Non-Valid Withdrawn	Remit back	
Breach Notice re CPAF Pre-visit Questionnaire	5	1	0	0	<b>6</b>
Breach Notice re CPAF findings	0	2	0	0	<b>2</b>
Breach Notice re Toolkit submission	0	0	1	0	<b>1</b>
Covid-19 overpayments	0	0	1	0	<b>1</b>
Covid-19 underpayments	5	1	1	1	<b>8</b>
Medicines Delivery Service payment recovery	12	0	1	0	<b>13</b>
New Medicines Services payment recovery	1	0	0	0	<b>1</b>

<sup>2</sup> 1 determination confirming NHS England's decision that an area was controlled and 1 determination substituting NHS England's decision that the discontinuation of GP dispensing should be 1 month, not 6 months.

<sup>3</sup> 15 of 32 'hours' appeals allowed in favour of contractor

## Annex 3

### Outcomes of other appeals and disputes by type and geographic area

For 2022-23, cases were logged against the NHS England region, not integrated care boards.

Category	Matter in dispute	Area team	Outcome
<b>Dental</b>	Back payments to 1998-99	Non-specified	Application out of time
	Force Majeure and clawback	East of England	Application dismissed
	Redistribution of UOAs	Midlands	Application withdrawn
	Clawback	North East and Yorkshire	Application withdrawn
	Orthodontic contract and payments	North East and Yorkshire	Application dismissed
	Orthodontic contract and payments	North East and Yorkshire	Application dismissed
	Remedial Notice	South East	Application withdrawn
<b>Medical</b>	Dissolution of partnership	East of England	Referred back
	Overpayments	Greater Manchester	Application (by NHS England) out of time
	End of Life Contract Service	London	Application withdrawn
	Service charge reimbursement	London	Referred back
	Covid-19 vaccine payment	Midlands	Application dismissed
	Influenza vaccination payments	Midlands	Application dismissed
	Rent valuation	Midlands	Application withdrawn
	Rent valuation	Midlands	Referred back
	Childhood immunisation payments	North East and Yorkshire	Application dismissed
	Childhood immunisation payments	North East and Yorkshire	Application dismissed
	Childhood immunisation payments	North East and Yorkshire	Application allowed (in part)
	Childhood immunisation payments	North East and Yorkshire	Application dismissed
	Childhood immunisation payments	North East and Yorkshire	Referred back

	GP Quality Contract	North East and Yorkshire	Application dismissed
	List closure	North East and Yorkshire	Application withdrawn
	Proactive Co-ordinated primary care services; GP Quality Contract (APMS)	North East and Yorkshire	Application allowed; Application dismissed
	Proactive Co-ordinated primary care services; GP Quality Contract	North East and Yorkshire	Application dismissed
	Rent valuation	North East and Yorkshire	Application withdrawn
	Rent valuation	South East	Application allowed (in part)
	Rent valuation	South East	Application allowed (in part)
<b>Performer List Regulations</b>	Consent to withdraw from Dental Performers List	North East and Yorkshire	Application allowed
	Consent to withdraw from Medical Performers List	East of England	Application allowed
	GP suspension payments	London	Appeal dismissed
	GP suspension payments	Midlands	Appeal withdrawn
	GP suspension payments	Midlands	Appeal dismissed

## Annex 4:

### Performance against casework indicators 2022-23

Brackets indicate data for 2021-22

Indicator	Actual	Target
% of "first step" letters sent out within 7 days of receiving the appeal or dispute	100% [100%]	90%
% of appeals or disputes where 14 or more days' notice of hearing has been given	100% [100%]	100%
% of appeals where Decision Maker agreed with recommendation of Case Manager	93% [96%]	80%
% outcome of quality audits for appeals and dispute files	100% [100%]	80%
The average number of weeks taken to resolve appeals and disputes - Internal input only	11 [11]	Maximum 15 weeks
The average number of weeks taken to resolve appeals and disputes – additional input	16 [17]	Maximum 19 weeks
The average number of weeks taken to resolve appeals and disputes - Oral Hearing	24 [30 <sup>4</sup> ]	Maximum 25 weeks
The average number of weeks taken to resolve disputes – Current Market Rent valuation input required	32 [40]	Maximum 33 weeks

<sup>4</sup> Hearings delayed due to pandemic – for 2021/22, performance against indicator was 23 weeks



## Annex 5:

### Performers Lists notifications from NHS England and health boards to NHS Resolution and active suspensions: 01/04/22 to 31/03/23

[The National Health Service \(Performers Lists\) \(England\) Regulations 2013](#) currently apply to the medical, dental and ophthalmic professions, with similar provision for pharmacists in separate regulations. NHS England is required to provide notification to NHS Resolution of any decisions relating to those on the lists and those applying to enter them. Similar provisions apply for the Health Boards in Northern Ireland, Wales and Scotland. NHS Resolution shall keep a record of such notifications. Before determining new applications to enter the Performers Lists, NHS England is required to check with NHS Resolution for any facts relating to investigations or proceedings involving the proposed applicants. This process provides a centralised system for the disclosure of relevant information enabling NHS England to make informed decisions regarding the suitability of those applying to join the relevant list.

Profession	Criterion	Notifications	Active as at 31/03/23
<b>Dental</b>	<b>Suspensions</b>	48	26
	<b>Removals</b>	1119	N/A
	<b>Refusals to include</b>	2	N/A
	<b>Conditions</b>	57	N/A
	<b>Reviews, variations etc</b>	143	N/A
<b>Medical</b>	<b>Suspensions</b>	23	58
	<b>Removals</b>	455	N/A
	<b>Refusals to include</b>	7	N/A
	<b>Conditions</b>	69	N/A
	<b>Reviews, variations etc</b>	272	N/A
<b>Ophthalmic</b>	<b>Suspensions</b>	5	5
	<b>Removals</b>	52	N/A
	<b>Refusals to include</b>	3	N/A
	<b>Conditions</b>	11	N/A
	<b>Reviews, variations etc</b>	14	N/A
<b>Pharmaceutical</b>	<b>Suspensions</b>	1	2
	<b>Removals</b>	4	N/A
	<b>Refusals to include</b>	5	N/A
	<b>Conditions</b>	0	N/A
	<b>Reviews, variations etc</b>	0	N/A

N/A = Not Applicable

## Annex 6:

### Terminology, abbreviations and regulations in this factsheet

#### 2013 Regulations

[NHS \(Pharmaceutical and Local Pharmaceutical Services\) Regulations 2013](#)

#### 2022 Directions

[National Health Service Litigation Authority \(Pharmaceutical Remuneration – Payment Disputes\) \(England\) Directions 2022](#)

**APMS** - Alternative Provider Medical Services

**CPAF** – Community Pharmacy Assurance Framework  
[Community Pharmacy Assurance Framework](#)

**GDS** – General Dental Services  
[NHS \(General Dental Services Contracts\) Regulations 2005](#)

**GMS** – General Medical Services  
[NHS \(General Medical Services Contracts\) Regulations 2015](#)

**Ophthalmic** – of, relating to, or situated near the eye  
[The General Ophthalmic Services Contracts Regulations 2015](#)

**Performers Lists** - a list of approved GPs, opticians and dentists who satisfy a range of criteria necessary for working in the NHS.  
[NHS \(Performers Lists\) \(England\) Regulations 2013](#)

**PDS** – Personal Dental Services  
[NHS \(Personal Dental Services Agreements\) Regulations 2005](#)

**PMS** – Personal Medical Services  
[NHS \(Personal Medical Services Agreements\) Regulations 2015](#)

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