

# NHS Resolution

## Factsheet 6: Primary Care Appeals

### Annual Statistics 2023-24

#### 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 2023-24](#), 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 - NHS Resolution](#)

## Annex 1:

### Received and completed cases - all work streams: 01/04/23 to 31/03/24

	Cases received		Cases completed	
	23/24	22/23	23/24	22/23
<b>Pharmacy: 'market entry' and 'opening hours'</b>	87	97	81	93
<b>Pharmacy: 'performance sanctions' and 'payments'</b>	154	24	152	23
<b>Pharmacy: Covid-19 payments</b>	0	26	16	9
<b>GP disputes: APMS</b>	0	0	0	1
<b>GP disputes: GMS 2015</b>	14	11	9	14
<b>GP disputes: PMS 2015</b>	2	5	5	1
<b>Performers Lists Regulations: Consent to withdraw and appeals regarding suspension payments</b>	5	3	3	5
<b>Dental disputes: GDS 2005</b>	13	5	10	5
<b>Dental disputes: PDS 2005</b>	0	1	0	2
<b>Ophthalmic disputes: GOS</b>	0	0	0	0

**Annex 2: Pharmacy market entry and associated appeals ([2013 Regulations](#)) and appeals under [2022 Directions](#): 01/04/23 to 31/03/24**

		Cases completed						
Application 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 (current need)	1	1	0	0	0	0	0	1
Routine (future need)	0	0	0	0	0	0	0	0
Routine (improvements/ better access)	2	1	0	1	0	0	0	2
Routine (unforeseen benefits)	16	5	0	7	1	0	0	13
Routine (future improvements/ better access)	0	0	0	0	0	0	0	0
Routine (neither PNA/ unforeseen benefits)	0	0	0	0	0	0	0	0
Excepted (relocations)-inc joint CoO	6	3	1	1	0	0	1 <sup>1</sup>	6
Excepted (DSP)	8	7	0	3	0	0	0	10
Excepted (change of ownership)	6	5	1	0	0	0	0	6
Consolidation	3	1	0	0	0	0	0	1
Outline Consent/ Premises	1	0	0	0	0	0	0	0
TOTAL 2023/24	43 <sup>2</sup>	23	2	12	1	0	1	39 <sup>3</sup>

<sup>1</sup> Appeal by a third party against a granted application was out of time

<sup>2</sup> Plus one appeal regarding not being granted appeal rights

<sup>3</sup> Plus one appeal regarding not being granted appeal rights - allowed

Case type	Cases received	Confirm decision	Substitute decision	Non-Valid Withdrawn	Remit back	Total
Applications to change core opening hours	28	21	2 <sup>4</sup>	3	N/A	26
Directions to open	14	3	4 <sup>5</sup>	7 <sup>6</sup>	N/A	14
Gradualisation	1	0	1	0	0	1
<b>TOTAL 2023/24</b>	<b>43</b>	<b>24</b>	<b>7</b>	<b>10</b>	<b>0</b>	<b>41</b>
Case type	Cases received	Confirm decision	Substitute decision	Non-Valid Withdrawn	Remit back	Total
Breach Notice re CPAF	3	1	1 <sup>7</sup>	0	N/A	2
Breach Notice re DSP Toolkit	3	0	1 <sup>8</sup>	1	N/A	2
Breach Notice re disclosure	1	1	0	0	N/A	1
Breach Notice re hours	134	127	4 <sup>9</sup>	3 <sup>10</sup>	N/A	134
Breach Notice re 100 hours	1	0	0	0	N/A	0
Breach Notice re Smartcard	1	0	1 <sup>11</sup>	0	N/A	1
Removal from List	1	0	1 <sup>12</sup>	0	N/A	1
Covid-19 payments	0	5	9 <sup>13</sup>	2 <sup>14</sup>	0	16
Covid vaccine payment	0	1	0	0	0	1
MDS payment recovery	8	5	0	3	0	8
NMS payment recovery	2	2	0	0	0	2
<b>TOTAL 2023/24</b>	<b>154</b>	<b>142</b>	<b>17</b>	<b>9</b>	<b>0</b>	<b>168</b>

<sup>4</sup> Two appeals allowed

<sup>5</sup> Four appeals allowed

<sup>6</sup> Three appeals were withdrawn as a result of the Commissioner revoking the direction to open

<sup>7</sup> Substituted with a Remedial Notice

<sup>8</sup> Substituted with a Remedial Notice

<sup>9</sup> Three appeals allowed, one substituted with the correct financial recovery

<sup>10</sup> Appeals withdrawn as a result of the Commissioner revoking the Breach Notices

<sup>11</sup> Substituted with a Remedial Notice

<sup>12</sup> Appeal allowed

<sup>13</sup> Five appeals were allowed in part

<sup>14</sup> Two appeals withdrawn as a result of a decision of the Commissioner not to recover the overpayments

## Annex 3

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

Category	Matter in dispute	Area	Outcome
<b>Dental</b>	Financial recovery (UDAs)	Hertfordshire and West Essex	Application granted in favour of Contractor
	Financial recovery (UDAs)	Kent & Medway	Application granted in favour of Contractor <sup>15</sup>
	Financial recovery/force majeure (UDAs)	Leicester, Leicestershire and Rutland	Application refused in favour of Commissioner
	Financial recovery/force majeure (UDAs)	Lincolnshire	Application granted in favour of Contractor
	Late submission payments	Nottingham and Nottinghamshire	Application refused in favour of Commissioner
	Financial recovery (UDAs)	Suffolk and North East Essex	Application granted in favour of Contractor
	Financial recovery (UDAs)	Suffolk and North East Essex	Application refused in favour of Commissioner
	Financial recovery (UDAs)	Suffolk and North East Essex	Application granted in favour of Contractor
	Financial recovery (UDAs)	Suffolk and North East Essex	Application granted in favour of Contractor
	Financial recovery (UDAs)	South Yorkshire	Application granted in favour of Contractor
<b>Medical</b>	Vaccination payments	Birmingham and Solihull	Application refused in favour of Commissioner
	Prescription dispensing payments	Cheshire and Merseyside	Application refused in favour of Commissioner
	Exit costs	Greater Manchester	Application granted in favour of Contractor (in part)
	Premises rent valuation	Hampshire and Isle of Wight	Application granted in favour of Contractor (in part)
	Termination of contract	North Central London	Application refused in favour of Commissioner
	Former training space now used for GMS	North East and Cumbria	Referred back

<sup>15</sup> If Contractor can supply the Commissioner with evidence of appointment cancellations

	Various payments	North East and Yorkshire	Application granted in favour of Contractor (in part)
	Premises rent valuation	North West London	Application by Contractor out of time
	Service changes	North West London	Application refused in favour of Commissioner
	Split from Primary Care Network	Unknown	No jurisdiction
	Vaccination payments	West Midlands	Application refused in favour of Commissioner
	Premises rent valuation	West Midlands	Application granted in favour of Contractor (in part)
	Vaccination payments	West Midlands	Application refused in favour of Commissioner
	Vaccination payments	Yorkshire and The Humber	Referred back
<b>Performers Lists Regulations</b>	Appeal regarding entitlement to suspension payments	Buckinghamshire, Oxfordshire and Berkshire	Refused
	Consent to withdraw from List	London	Allowed
	Appeal regarding entitlement to suspension payments	South East (Kent)	Refused

## Annex 4:

### Performance against casework indicators 2023-24

Brackets indicate data for 2022-23

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	89% [93%]	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	10 [11]	Maximum 15 weeks
The average number of weeks taken to resolve appeals and disputes – additional input	17 [16]	Maximum 19 weeks
The average number of weeks taken to resolve appeals and disputes – Oral Hearing	21 [24]	Maximum 25 weeks
The average number of weeks taken to resolve disputes – Current Market Rent valuation input required	29 [32]	Maximum 33 weeks



## Annex 5:

### Performers Lists notifications from NHS England and health boards to NHS Resolution and active suspensions: 01/04/23 to 31/03/24

[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 31/03/24
<b>Dental</b>	<b>Suspensions</b>	18	22
	<b>Removals</b>	530	N/A
	<b>Refusals to include</b>	12	N/A
	<b>Conditions</b>	46	N/A
	<b>Reviews, variations etc</b>	135	N/A
<b>Medical</b>	<b>Suspensions</b>	41	43
	<b>Removals</b>	807	N/A
	<b>Refusals to include</b>	4	N/A
	<b>Conditions</b>	52	N/A
	<b>Reviews, variations etc</b>	87	N/A
<b>Ophthalmic</b>	<b>Suspensions</b>	3	4
	<b>Removals</b>	20	N/A
	<b>Refusals to include</b>	1	N/A
	<b>Conditions</b>	10	N/A
	<b>Reviews, variations etc</b>	9	N/A
<b>Pharmaceutical</b>	<b>Suspensions</b>	1	3
	<b>Removals</b>	0	N/A
	<b>Refusals to include</b>	4	N/A
	<b>Conditions</b>	1	N/A
	<b>Reviews, variations etc</b>	1	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

**CoO** – Change of Ownership

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

**DSP** – Distance selling pharmacy

**DSP Toolkit** – Data Security and Protection Toolkit

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

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

**MDS** – Medicines Delivery Service

**NMS** – New Medicines Service

**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](#)

**PNA** – Pharmaceutical Needs Assessment

**UDAs** – Units of Dental Activity

June 2024