

## **NHS Litigation Authority**

### **Factsheet 6: Family Health Services Appeal Unit: Annual Statistics 2015-16**

#### **Introduction**

The role of the NHS LA includes discharging the Secretary of State's appellate function. This is carried out by the Family Health Services Appeal Unit (FHS AU). The purpose of the FHS AU is to improve the provision of healthcare by ensuring a prompt and fair resolution of appeals and disputes between primary care contractors and NHS England. Primary care contractors include GPs, dentists, opticians and pharmacists. The FHS AU's 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 contractual disputes between primary care contractors and NHS England;
- Determining disputes over the assessment of GP Registrars' allowances under relevant Directions;
- Determining other occasional appeals and applications under various regulations governing primary care

The NHS LA also has certain obligations under the Performers Lists Regulations, which are also handled by the FHS AU. These are:

- Maintaining a database of primary care contractors who have had restrictions placed upon their inclusion on Performers Lists: and
- Providing information to NHS England against the restrictions database

This Factsheet provides statistical information on the FHS AU's various workstreams, as follows:

Annex 1	Number of received and completed cases - all workstreams
Annex 2	Breakdown of pharmacy appeals under the 2005 Regulations
Annex 3	Breakdown of pharmacy appeals under the 2013 Regulations
Annex 4	Key Performance Indicators
Annex 5	Performers Lists notifications from NHS England and Health Boards to the NHS LA
Annex 6	Performers Lists checks by profession Performers Lists suspensions in force at 31 March 2016
Annex 7	Abbreviations used in this Factsheet:

These statistics are produced on an annual basis shortly after NHS LA Annual Report publication.

**Annex 1: All workstreams - 01/04/15 to 31/03/16**

	Cases received		Cases completed	
	15/16	14/15	15/16	14/15
<b>Pharmacy: 2005, 2012 &amp; 2013 Regulations</b>	283	265	270	281
<b>Pharmacy disputes: 2012 &amp; 2013 Regulations</b>	14	19	8	16
<b>Pharmacy Terms of Service Appeals</b>	0	0	0	0
<b>GP disputes: GMS 2004</b>	29	42	53	25
<b>GP disputes: PMS 2004</b>	19	29	34	13
<b>Performers Lists Regulations: Consent to withdraw and appeals regarding suspension payments</b>	6	4	6	4
<b>Dental disputes: GDS 2005</b>	4	2	1	5
<b>Dental disputes: PDS 2005</b>	3	1	3	1
<b>Ophthalmic disputes: GOS</b>	2	0	2	0
<b>GP Registrar Directions: allowance assessments</b>	9	7	9	8
<b>GP Registrar Directions: representations</b>	0	1	0	1
<b>Schedule 10 – Issue of Goodwill</b>	0	1	0	1

## Annex 2: Pharmacy appeals (2005 Regs) - 01/04/15 to 31/03/16

Case type	Cases received	Cases completed							Total
		Upheld		Dismissed			With-drawn	Non-Valid	
		With Site Visit/Oral Hearing	Without Oral Hearing	With Site Visit/Oral Hearing	Without Oral Hearing	Summary			
Minor relocations under 500m	0	0	0	0	0	0	0	0	0
Minor relocations 500m+	0	0	0	0	0	0	0	0	0
Ph. List inclusion (necessary/desirable/ expedient test only)	0	0	0	0	0	0	0	0	0
Ph. List change of premises (n/d/e test only)	0	0	0	0	0	0	0	0	0
Ph. List Application (controlled, prejudice & n/d/e test)	0	0	0	0	0	0	0	0	0
Outline consent, doctors (controlled, prejudice)	0	0	0	0	0	0	0	0	0
Exemptions (refused and variation)	0	0	0	0	0	0	0	0	0
Change of ownership, suspension, return	0	0	0	0	0	0	0	0	0
Amend premises in ph. application	0	0	0	0	0	0	0	0	0
Extension/comment of ph. application	0	0	0	0	0	0	0	0	0
Removal/withdrawal from Ph. List	0	0	0	0	0	0	0	0	0
Terms of service, hours	0	0	0	0	0	0	0	0	0
Rurality	0	0	0	0	0	0	0	0	0
Reserved location–inc gradualisation appeals	2	0	0	0	0	0	0	2	2
Doctors' ph. services arrangements	0	0	0	0	0	0	0	0	0
Doctors' premises - outline consent	0	0	0	0	0	0	0	0	0
Ph. or Drs. Application refused to consider (controlled)	0	0	0	0	0	0	0	0	0
<b>TOTAL 2015/16</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>2</b>
<i>2014/15</i>	<i>4</i>	<i>0</i>	<i>1</i>	<i>1</i>	<i>4</i>	<i>0</i>	<i>0</i>	<i>3</i>	<i>9</i>

### Annex 3: Pharmacy appeals (2013 Regs) - 01/04/15 to 31/03/16

Case type	Cases received	Cases completed						Total
		Application granted		Application refused		Remit back	Non-Valid Withdrawn	
		Decision quashed and redetermined	Decision confirmed	Decision quashed and redetermined	Decision confirmed			
Routine App (current need)	12	1	0	6	1	0	3	11
Routine App (future need)	3	0	0	1	3	0	0	4
Routine App (improvements/better access)	7	0	0	2	4	0	0	6
Routine App (unforeseen benefits)	78	11	0	32	28	0	3	74
Routine App (future improvements/better access)	1	0	0	2	0	0	0	2
Routine App (neither PNA/unforeseen benefits)	0	0	0	0	0	0	0	0
Excepted App (relocations)- inc joint change of ownership	41	10	3	18	4	0	7	42
Excepted App (distance selling)	65	23	1	30	1	0	2	57
Excepted App (change of ownership)	2	1	0	0	0	0	2	3
Rurality	4							5*
Substantial change (reg 40)	7	0	0	0	1	2	0	3
Reserved location, prejudice and discontinuation	3							3*
Outline Consent/Premises Approval	1	0	0	0	0	0	0	0
Doctors provision – serious difficulty	0	1	0	0	2	0	0	3
Terms of service (hours)	56	3	0	2	38	0	11	54
3 <sup>rd</sup> Party appeal rights	1							1*
<b>TOTAL 2015/16</b>	<b>281</b>	<b>50</b>	<b>4</b>	<b>93</b>	<b>82</b>	<b>2</b>	<b>28</b>	<b>268</b>
2014/15	261	33	23	156	42	2	10	272

*\*Decisions where 'grant' or 'refusal' is not applicable*

## Annex 4:

### FHSAU Performance against Key Performance Indicators 2015-16

Indicator	Actual	Target
% of "first step" letters sent out within 7 days of receiving the appeal or dispute	98% [99%]	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	92%* [98%]	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	12 [13]	Maximum 15 weeks
The average number of weeks taken to resolve appeals - External input	24 [20]	Maximum 25** weeks
The average number of weeks taken to resolve disputes - External input	22 [18]	Maximum 33 weeks

*Data in brackets represents comparison data for 2014/15, if appropriate.*

*\*Previous years did not measure cases referred to hearing*

*\*\*For 2014/15, the target was 26 weeks*

## Annex 5:

### Performers Lists notifications from NHS England and Health Boards to the NHS LA - 01/04/15 to 31/03/16

Profession	Criterion	Notifications	In force at 31/03/16	
Dental	Suspensions	25	19	
	Removals*	20		
	Refusals to include	4		
	Conditions	310		
	Reviews, variations etc	183		
	Withdrawn applications	0		
	Medical	Suspensions	75	74
Medical	Removals*	594		
	Refusals to include	4		
	Conditions	119		
	Reviews, variations etc	92		
	Withdrawn applications	8		
	Ophthalmic	Suspensions	1	1
	Ophthalmic	Removals*	63	
Refusals to include		1		
Conditions		14		
Reviews, variations etc		12		
Withdrawn applications		0		
Pharmaceutical		Suspensions	1	1
Pharmaceutical	Removals	0		
	Refusals to include	4		
	Conditions	2		
	Reviews, variations etc	0		
	Withdrawn applications	0		

#### \*Removals from the List (all professions)

Criterion of removal	Number
14(1)(a),(b),14(3)(a),(b),(c)&(d) - murder, national disqualification, conviction efficiency, fraud or suitability (inc 11(1)(c))	74
14(1)(c) – died	9
14(1)(d) - no longer registered	427
14(5) - has not performed services	350
Other	7

## Annex 6: Fitness to Practise checks by profession - 2013/14 – 2015/16

Profession	15/16	14/15	13/14
Medical	5,417	3,872	4,738
Dental	2,310	2,043	2,316
Ophthalmic	1,549	1,489	1,593
Pharmaceutical	1,429	1,049	866
Director	661	371	559
<b>Total</b>	<b>11,366</b>	<b>8,824</b>	<b>10,072</b>

### Performers Lists suspensions as at 31/03/2016

	Less than 6 months	6-12 months	Over 12 months
Medical (General Practitioner)			
Pending NHS Investigation: <i>(2014/15 in italics)</i>	18 (7)	5 (1)	0 (0)
Pending non-NHS Investigations: <i>(2014/15 in italics)</i>	9 (15)	15 (16)	27 (19)
Dental			
Pending NHS Investigation: <i>(2014/15 in italics)</i>	4 (3)	1 (0)	0 (0)
Pending non-NHS Investigations: <i>(2014/15 in italics)</i>	4 (2)	4 (3)	6 (3)
Ophthalmic			
Pending NHS Investigation: <i>(2014/15 in italics)</i>	0 (0)	0 (0)	0 (0)
Pending non-NHS Investigations: <i>(2014/15 in italics)</i>	0 (0)	1 (1)	0 (1)
Pharmaceutical			
Pending NHS Investigation: <i>(2014/15 in italics)</i>	1 (0)	0 (0)	0 (0)
Pending non-NHS Investigations: <i>(2014/15 in italics)</i>	0 (0)	0 (0)	0 (0)

## **Annex 7:**

### **Abbreviations used in this Factsheet**

#### **Abbreviations**

2005 Regulations - *NHS (Pharmaceutical Services) Regulations 2005*

2012 Regulations - *NHS (Pharmaceutical Services) Regulations 2012*

2013 Regulations - *NHS (Pharmaceutical & Local Pharmaceutical Services) Regulations 2013*

GDS - *NHS (General Dental Services Contracts) Regulations 2005*

GMS - *NHS (General Medical Services Contracts) Regulations 2004*

Ophthalmic - *The General Ophthalmic Services Contracts Regulations 2008*

PDS - *NHS (Personal Dental Services Agreements) Regulations 2005*

PMS - *NHS (Personal Medical Services Agreements) Regulations 2004*

Performers Lists - *NHS (Performers Lists) (England) Regulations 2013*