



### **Qualifying criteria for Medical Reporting Organisations**

The qualifying criteria for all Medical Reporting Organisations (MROs) to register on the MedCo Registration Solutions (MedCo) IT portal are set out in Table One below. The additional qualifying criteria for MROs classified as having high claims capacity and national coverage are set out in Table Two below.

The criteria have been developed by the MoJ with substantial input from the MoJ's stakeholder Core Group and were also subject to a two week stakeholder survey. The information from this survey has been analysed to inform the MoJ's decision on the final criteria for MROs. The MoJ will review the operation of the criteria following a full 6 months of operational data becoming available for analysis.

### **MedCo search results**

The Government is committed to minimising, where possible the whiplash reform programme's impact on the market whilst seeking to deliver its key public policy objectives. When using the MedCo website, users will have the opportunity to search for either a MRO or an independent expert. For both searches the user will be provided with several choices. The user can choose which of the options to engage.

For a search of MROs, the results will include both a high capacity, national MRO with the capability to service high numbers of clients with reports to agreed minimum standards and timeframes, along with a number of regionally based MROs who service a local market. The aim is for this mechanism to maintain consumer choice with sufficient flexibility so as not to prevent MROs from developing their business. There is no intention for there to be barriers restricting growth as a result of the introduction of MedCo, and it is envisaged that those MROs which meet the additional criteria can apply for reclassification following an appropriate audit of their capabilities.

The operation of this system is intended to strike a balance between, on the one hand, avoiding a disproportionate adverse effect on organisations which have established their business over time and, on the other, avoiding entrenching their position and creating barriers to entry that will protect current organisations from competition. The number of MROs to choose from and the number of high capacity, national and regionally based MROs generated by the search have been informed by data received through a pre registration survey that took place in November and December 2014 via the MedCo website. The MoJ intends to review these numbers when six months of data from the MedCo IT portal is available, with a view to making changes, if appropriate.

## Qualifying Criteria for all Medical Reporting Organisations (MROs)

**Table One – Minimum Qualifying Criteria**

All MROs applying for inclusion on the MedCo system must meet these criteria. The criteria listed in table 2 cover the extra requirements for high volume, national MROs.

| 1. Qualifying Criteria for all MROs   | Rationale for criteria  |
|---|---|
| <p><b>1.1 Obligation to declare all “direct financial links”</b></p>  | <p>The Government has consistently stated its commitment to tackling the issue of ‘direct financial links’ between those who commission reports and those who produce them. In order to ensure this public policy objective is delivered, MROs are required to declare all those individuals and organisations to which they are “linked”, as defined in the MedCo user agreement for MROs, and keep that declaration up to date.</p> <p>This agreement is available when MROs register with <a href="#">MedCo</a>.</p> |
| <p><b>1.2 Commitment to pay medical experts on set credit terms irrespective of the outcome of the case</b></p>   | <p>MROs must commit to, and demonstrate the ability to pay medical experts within, payment terms agreed. These payment terms must not include any element of contingency based on a particular outcome of the case in order to remove any suggestion that the medical expert has an interest in the outcome of the case.</p> <p>This is consistent with paragraph 88 of the “Guidance for instruction of experts in civil claims” produced by the Civil Justice Council and which came into force on 01/12/14.</p>      |
| <p><b>1.3 A financial bond or other financial instrument of at least £20,000 demonstrating that the MRO has sufficient funds available to remunerate medical experts from whom it has commissioned medical reports in the case of failure of the MRO.</b></p> | <p>The availability of sufficient financial resources is required to ensure that medical experts are protected in the event of a failure of an MRO.</p> <p>Payment of this bond is also a disincentive to the establishment of “shell” MROs designed to undermine the random allocation model.</p>  |

| 1. Qualifying Criteria for all MROs   | Rationale for criteria  |
|---|---|
| <p><b>1.4 Evidence of a minimum of £1m for professional indemnity insurance and £3m for public liability insurance.</b></p> | <p>If a MRO mismanages a case (e.g. misses a limitation date or court deadline) then the claimant and the claimant's representative might suffer significant financial loss. Therefore, a minimum level of Public Liability cover is required for MROs.</p> <p>On the same basis, if a claimant sustains any loss or injury during the course of the medico-legal process, the MRO must have appropriate insurance cover to mitigate any losses arising from a claim</p> <p>The level of insurance included in this criterion is a reflection of the premiums that the industry currently pays.</p> |
| <p><b>1.5 Compliance with all relevant regulatory requirements in relation to information security.</b></p>                 | <p>MROs, irrespective of their size, handle sensitive information, much of it of a medical nature. This requirement will ensure that all MROs can demonstrate that they have all necessary systems, controls and checks in place in relation to information security. This will give confidence to instructing parties that MROs registered with MedCo all adhere to a consistent minimum standard and, if necessary that they can demonstrate compliance if audited.</p>   |
| <p><b>1.6 Commitment to, and compliance with, anti-bribery legislation.</b></p>   | <p>MROs, irrespective of their size, may be susceptible to bribery. Therefore, all MROs are required to demonstrate that they have all necessary systems, controls and checks in place from to comply with anti-bribery legislation. This will give instructing parties confidence that all MROs accredited through MedCo adhere to consistent minimum standards and, if necessary, that they can demonstrate compliance if audited.</p>  |
| <p><b>1.7 Commitment to, and compliance with, a business ethics policy.</b></p>   | <p>In order to give all users the comfort that this and other legislation is being taken seriously. All MROs must comply with the requirement in the MedCo user agreement to have and to follow an appropriate business ethics policy.</p>  |

| 1. Qualifying Criteria for all MROs   | Rationale for criteria  |
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| <p><b>1.8 Documented complaints handling process.</b></p>   | <p>It is a consequence of the operation of the MedCo Portal that instructing parties will have to utilise MROs that they previously may not have chosen. As such, and in order to retain MedCo credibility, any MRO must demonstrate that it handles all complaints seriously and in a professional manner. A documented process must be in place and be auditable.</p> |
| <p><b>1.9 Appointment of a Responsible Officer/Compliance officer.</b></p>  | <p>All MROs must have a single point of contact responsible for demonstrating compliance with MedCo requirements.</p>   |
| <p><b>1.10 Restriction on providing medical evidence in any case where a Related Party is involved.</b></p>                                       | <p>No MRO may provide a medical report in support of a case in which a related party is involved in order to avoid conflicts of interest.</p>   |
| <p><b>1.11 MROs should not have Shareholders, Directors and Officers who has been declared bankrupt or convicted of fraud in last 5 years</b></p> | <p>MROs must be owned and operated by people of appropriate character.</p>  |
| <p><b>1.12 Direct management of an MRO's panel of medical experts.</b></p>  | <p>The MRO is responsible for the recruitment, validation and management of the medical experts on it's panel, so must be able to demonstrate that it's medical experts comply with all legal and regulatory requirements as well as any additional requirements specified by MedCo (such as accreditation).</p>  |
| <p><b>1.13 Payment of the requisite fees for registration with MedCo.</b></p>   | <p>MROs will only be able to become registered with MedCo upon receipt of the requisite fee as determined by the MedCo Board and published at <a href="http://www.medco.org.uk">www.medco.org.uk</a>.</p>   |
| <p><b>1.14 Collection of management information</b></p>   | <p>In order to underpin effective management of the MedCo Portal and to monitor its effectiveness, MROs must provide to MedCo the management information set out at <a href="http://www.medco.org.uk">www.medco.org.uk</a></p>  |

## Table Two – Additional Qualifying Criteria

All MROs applying for inclusion on the MedCo system must meet the criteria shown in table 1 above. The criteria listed in table 2 below cover the extra requirements needed to be reclassified as a high volume, national MRO.

| 2. Additional Qualifying Criteria   | Rationale for criteria   |
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| <p><b>2.1 Minimum two years of trading history.</b></p>   | <p>This will give the instructing party confidence in the sustainability of the chosen MRO and provide reassurance in the market that the random allocation model will only produce MROs that have a demonstrable record of delivery.</p>  |
| <p><b>2.2 Operational Capability: MRO will be able to demonstrate:</b></p> <p><b>capacity to process at least 40,000 independent medical reports each year (where instructions are received from an unlinked source);</b></p> <p><b>that it has contractual arrangements with at least 250 individual medical experts who are able to provide medical reports;</b></p> <p><b>that it has contracted medical experts in each of the postcodes listed at <a href="http://www.medco.org.uk">www.medco.org.uk</a></b></p> <p><b>upon registration, it has a minimum of five distinct clients, which are not associated organisations with it;</b></p> <p><b>upon registration, no client represents more than 40% of the total instruction volume (to prevent an in-house MRO serving its own commercial ambitions);</b></p> <p><b>the MROs must be able to</b></p> | <p>It is important that MROs will be able to provide confidence to users of the MedCo system that they operate to the required minimum standards, even with high instruction volumes. This will be auditable as part of the MedCo accreditation process.</p> <p>The requirements as to the availability and number of experts are intended to ensure that there are a sufficient number of medical experts available. The larger the number of experts with whom a MRO has a contractual relationship, the greater the likelihood that a MRO will have the ability to offer geographically convenient appointments at a time that suits for those members of the public who require a medical report. A small number of experts in any region could restrict choice in this respect.</p> <p>A distinction is made between instructions received from a linked source and an independent source, since, in a free and open market, the service required from an independent source will be more demanding and challenging for the MRO.</p> <p>The requirements for there to be a minimum of five distinct clients, which are not associated organisations with the MRO, and that no client represents more than 40% of the total instruction volume, are initial requirements for when the MedCo system</p> |

| 2. Additional Qualifying Criteria   | Rationale for criteria   |
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| <p><b>comply with minimum standards and service levels as defined by MedCo.</b></p>   | <p>goes live in April 2015. These are to ensure that larger MROs have the capacity to deal with a high volume of clients to the required standards.</p> <p>Once MedCo has been operational for a period of time these requirements will be removed.</p>  |
| <p><b>2.3 A bond or other financial instrument of £100,000 demonstrating that the MRO has sufficient funds available to remunerate medical experts from whom it has commissioned medical reports in the case of failure of the MRO.</b></p> | <p>The availability of financial resources will ensure that medical experts are protected in the event of a failure of a larger MRO with more contracted medical experts on their panel.</p> <p>Given the additional number of reports that will be processed by the larger MROs, there is a need for the bond or financial instrument to be significantly higher.</p>   |
| <p><b>2.4 A documented Disaster Recovery Plan (DRP) and Business Continuity Plan (BCP), including testing schedule, which demonstrates that the MRO can return to normal operation within a maximum of 72 hours</b></p>                     | <p>It is good industry practice for an MRO handling significant volumes of cases to have a documented disaster recovery plan and business continuity plan.</p> <p>Clients currently and typically expect that plans of this nature are in place. Lawyers are likely to require such plans so that, in the event of any significant problems, they can be assured that this will not have a prolonged detrimental impact on their own business and their clients.</p> |
| <p><b>2.5 Appointment of Chief Medical Officer</b></p>  | <p>A retained General Medical Council of Health Care Professionals Council registered CMO would ensure clinical governance and dispute resolution.</p> <p>Whilst not mandatory for all MROs, it is clearly preferable for those providing high volumes of medical reports and this requirement demonstrates commitment to clinical governance.</p>   |

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|---|--|
| <p><b>2.6 Appointment of nominated Caldicott Guardian</b></p>                                     | <p>To ensure claimant data is protected and used for the correct purpose only.</p> <p>Organisations that have access to patient records are required to have a Caldicott guardian, a senior person responsible for protecting the confidentiality of a patient and enabling appropriate information sharing.</p> <p>This is required by the NHS and is an example of “best practice” and demonstrates further commitment to the protection of sensitive information.</p> |
| <p><b>2.7 Payment of the requisite fees for registration with MedCo and onsite inspection</b></p> | <p>MROs will be required to undergo an onsite inspection of their adherence to the criteria set out in this paper. Payment will be made to an external inspector and the report resulting from the inspection must be provided to MedCo</p>  |
| <p><b>2.8 Demonstration of the ability to offer A2A functionality to solicitors</b></p>           | <p>A2A functionality streamlines the claims process for all stakeholders, including the claimant, making the system more efficient and timely and also removing unnecessary costs for both MROs and solicitors.</p>  |