

SCHEDULES

SCHEDULE 3

Regulations 10, 12, 13, 15, 16, 17, 19, 28
and 38

Combined lists

PART 1

Information in the combined list

Information in the ophthalmic list

1. A Local Health Board's ophthalmic list must contain the following information—
 - (a) the full names of the persons the Local Health Board has included in it;
 - (b) each such person's professional registration number, with—
 - (i) suffixed to that number, the organisational code given by the Welsh Ministers to the Local Health Board, and
 - (ii) prefixed to that number, the initials OL;
 - (c) in the case of an individual, where consent is given, that person's date of birth or where consent is not given or in the case of a corporate optician, the date of their first registration in the register;
 - (d) the date that the person's name was first included in the ophthalmic list;
 - (e) if the qualified practitioner has made arrangements with the Local Health Board to provide mobile services, that fact;
 - (f) if the qualified practitioner is a mobile practice, that fact;
 - (g) the addresses of any places in the locality of the Local Health Board at which the qualified practitioner has undertaken to provide primary ophthalmic services other than mobile services, or in the case of a mobile practice, the address to which correspondence in connection with such provision may be sent and the addresses of any day or residential centres visited regularly;
 - (h) particulars of the days on which and hours between which the qualified practitioner has agreed to provide primary ophthalmic services at those addresses, or in the case of visits to day or residential centres by a mobile practice, the months in which visits are intended to take place and the planned interval between such visits, as agreed with the Local Health Board;
 - (i) the names of every other qualified practitioner who is regularly engaged as a deputy, director or employee in assisting in the provision of primary ophthalmic services at any of those addresses or in the provision of mobile services.

Information in the supplementary list

2. A Local Health Board's supplementary list must contain the following information—

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- (a) the full names of the persons the Local Health Board has included in it;
- (b) each such person's professional registration number, with—
 - (i) suffixed to that number, the organisational code given by the Welsh Ministers to the Local Health Board, and
 - (ii) prefixed to that number, the initials SOL;
- (c) date of birth, where the qualified practitioner has given consent, or if consent is not given, the date of the qualified practitioner's first registration in the register;
- (d) the date on which that person's name was included in the supplementary list.

PART 2

Information and undertakings to be provided in applications

Ophthalmic lists: information to be included in an application

3. A qualified practitioner applying to be included in a Local Health Board's ophthalmic list must provide the following information—

- (a) the qualified practitioner's full name;
- (b) the qualified practitioner's professional registration number, with—
 - (i) suffixed to that number, the organisational code given by the Welsh Ministers to the Local Health Board, and
 - (ii) prefixed to that number, the initials OL;
- (c) in the case of an individual, where consent is given, that person's date of birth or where consent is not given or in the case of a corporate optician, the date of their first registration in the register;
- (d) details of the addresses of any places in the Local Health Board's locality at which the qualified practitioner undertakes to provide primary ophthalmic services;
- (e) the names of every other ophthalmic medical practitioner or optometrist who is regularly engaged as a deputy, director or employee in assisting in the provision of primary ophthalmic services at any of those addresses or in the provision of mobile services;
- (f) if the qualified practitioner wishes to provide mobile services, the addresses to which correspondence in connection with such provision may be sent;
- (g) particulars of the days on which and hours between which the qualified practitioner agrees to provide primary ophthalmic services;
- (h) company number, if appropriate;
- (i) the qualified practitioner's private address, or in the case of a corporate optician, the address of its registered office, and, in either case, a telephone number;
- (j) qualifications and where they were obtained;
- (k) chronological details of the qualified practitioner's professional experience (including starting and finishing dates of each appointment together with an explanation of any gaps between appointments), with any supporting particulars, and an explanation of why the qualified practitioner was dismissed from any post;
- (l) names and addresses of two referees who are willing to provide references in respect of two recent posts (which may include any current post) as a qualified practitioner, which lasted for at least 3 months without a significant break, and where this is not possible, a full explanation and the names and addresses of alternative referees;

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- (m) any information that the qualified practitioner has undertaken to provide under this Schedule;
- (n) particulars of any outstanding or deferred application for inclusion in the ophthalmic list, or any other list of a Local Health Board or equivalent body, with the name of the Local Health Board or equivalent body in question;
- (o) particulars of any Local Health Board or equivalent body in whose lists the qualified practitioner is included, or from which the qualified practitioner has been removed or contingently removed, or is suspended, or to which they have been refused admission or in which they have been conditionally included, with an explanation as to why;
- (p) if the applicant is a director of a body corporate that is included in any list or equivalent list, or which has an outstanding application (including a deferred application) for inclusion in such a list, the name and address of the registered office of that body and details of the Local Health Board or equivalent body concerned;
- (q) if the applicant is, or was in the preceding 6 months, or was at the time of the originating events, a director of a body corporate, details of any list or equivalent list to which that body has been refused admission, in which it has been conditionally included, from which it has been removed, contingently removed or from which it is currently suspended, with an explanation as to why and details of the Local Health Board or equivalent body concerned;
- (r) all necessary authority to enable a request to be made by the Local Health Board to any employer (or former employer), licensing, regulatory or other body in the United Kingdom or elsewhere, for information relating to a current investigation, or an investigation where the outcome was adverse, by them into the qualified practitioner;
- (s) any other information the Local Health Board may reasonably require.

Ophthalmic lists: undertakings and consent

4. A qualified practitioner applying to be included in a Local Health Board's ophthalmic list must provide the following undertakings and consent—

- (a) an undertaking to provide the information required by this Schedule and any further information requested by the Local Health Board;
- (b) an undertaking to notify the Local Health Board within 7 days of any material changes to the information provided in the application until the application is finally determined;
- (c) an undertaking to neither provide nor assist in the provision of primary ophthalmic services in the area of another Local Health Board or equivalent body from whose combined list or equivalent list the qualified practitioner has been removed, except where that removal was at the qualified practitioner's request or in accordance with regulation 17(3)(e), without the consent, in writing of that Local Health Board or equivalent body;
- (d) consent to the disclosure of information in accordance with these Regulations.

Supplementary lists: information to be provided in an application

5. A qualified practitioner applying to be included in a Local Health Board's supplementary list must provide the following information—

- (a) the qualified practitioner's full name;
- (b) the qualified practitioner's date of birth;
- (c) the qualified practitioner's private address and telephone number;
- (d) details of the qualified practitioner's qualifications and where they were obtained;

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- (e) a declaration that the qualified practitioner is a fully registered ophthalmic medical practitioner or optometrist, or student optometrist, included in the register;
- (f) the qualified practitioner's professional registration number and their date of first registration in the register;
- (g) chronological details of the qualified practitioner's professional experience (including starting and finishing dates of each appointment together with an explanation of any gaps between appointments), with any supporting particulars, and an explanation of why the qualified practitioner was dismissed from any post;
- (h) except where the applicant is a student optometrist, names and addresses of two referees who are willing to provide references in respect of two recent posts (which may include any current post) as a qualified practitioner, which lasted for at least 3 months without a significant break, and where this is not possible, a full explanation and the names and addresses of alternative referees;
- (i) whether the qualified practitioner has any outstanding application, including a deferred application, to be included in a combined list or an equivalent list and, if so, particulars of that application;
- (j) details of any Local Health Board or equivalent list from which the qualified practitioner has been removed or contingently removed, or to which they have been refused admission or in which they have been conditionally included, with an explanation as to why;
- (k) if the qualified practitioner is the director of a body corporate that is included in any combined list or equivalent list, or which has an outstanding application (including a deferred application) for inclusion in such a list, the name and address of the registered office of that body and details of the Local Health Board or equivalent body concerned;
- (l) where the practitioner is or was, in the preceding six months or at the time of the originating events, a director of a body corporate, details of any combined list or equivalent list to which that body has been refused admission, in which it has been conditionally included, from which it has been removed, contingently removed or from which it is currently suspended, with an explanation as to why and details of the Local Health Board or equivalent body concerned;
- (m) any other information the Local Health Board may reasonably require.

Supplementary lists: undertakings and consents

6. A qualified practitioner applying to be included in a Local Health Board's supplementary list must provide the following undertakings and consents—

- (a) an undertaking to provide the information and document, if applicable, required by regulation 16;
- (b) an undertaking not to assist in the provision of primary ophthalmic services in the area of another Local Health Board or equivalent body from whose combined list or equivalent list the qualified practitioner has been removed, except where that removal was at the qualified practitioner's request or in accordance with regulation 17(3)(e), without the consent in writing of that Local Health Board or equivalent body;
- (c) an undertaking to notify the Local Health Board within 7 days of any material changes to the information provided in the application until the application is finally determined;
- (d) an undertaking to notify the Local Health Board if the qualified practitioner is included, or applies to be included, in any other combined list or equivalent list held by a Local Health Board or equivalent body;
- (e) consent to the disclosure of information in accordance with these Regulations;

- (f) consent a request being made by the Local Health Board to any employer (or former employer), licensing, regulatory or other body in the United Kingdom or elsewhere, for information relating to a current investigation, or an investigation where the outcome was adverse, by them into the qualified practitioner.

Declarations

7.—(1) A qualified practitioner applying to be included in the Local Health Board’s combined list must declare whether the qualified practitioner—

- (a) has any criminal convictions in the United Kingdom;
- (b) has been bound over following a criminal conviction in the United Kingdom;
- (c) has accepted a police caution in the United Kingdom;
- (d) has accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995⁽¹⁾ (fixed penalty: conditional offer by procurator fiscal) or agreed to pay a penalty under section 115A of the Social Security Administration Act 1992⁽²⁾ (penalty as alternative to prosecution);
- (e) has, in proceedings in Scotland for an offence, been the subject of an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 (admonition and absolute discharge) discharging the practitioner absolutely;
- (f) has been convicted elsewhere of an offence, or what would constitute a criminal offence if committed in England and Wales;
- (g) is charged in the United Kingdom with a criminal offence, or is charged elsewhere with an offence which, if committed in England and Wales, would constitute a criminal offence;
- (h) is currently the subject of any proceedings which might lead to such a conviction, which have not yet been notified to the Local Health Board;
- (i) has been subject to any investigation into the professional conduct of the qualified practitioner by any licensing, regulatory or other body anywhere in the world, where the outcome was adverse;
- (j) is currently subject to any investigation into the professional conduct of the qualified practitioner by any licensing, regulatory or other body anywhere in the world;
- (k) is, or has been where the outcome was adverse, the subject of any investigation into the professional conduct of the qualified practitioner in respect of any current or previous employment;
- (l) becomes to the qualified practitioner’s knowledge the subject of any investigation by the NHS Counter Fraud Authority in relation to fraud, or is notified of the outcome of such an investigation, where it is adverse;
- (m) is the subject of an investigation by another Local Health Board or equivalent body, which might lead to the qualified practitioner’s removal from a primary care list or equivalent list;
- (n) has been removed, contingently removed or suspended from, refused admission to or conditionally included in a primary care list or equivalent list, and if so, why and the name of that Local Health Board or equivalent body;
- (o) is, or has ever been, subject to a national disqualification.

(2) A declaration under sub-paragraph (1) must give details, including approximate dates, of where the investigation or proceedings were or are to be brought, the nature of that investigation or those proceedings, and any outcome.

(1) 1995 c. 46.

(2) 1992 c. 5.

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(3) If the qualified practitioner applying to be included in the Local Health Board's combined list is, has in the preceding 6 months been, or was at the time of the originating events, a director of a body corporate, the qualified practitioner must declare whether the body corporate—

- (a) has any criminal convictions in the United Kingdom;
- (b) has been convicted elsewhere of an offence, or what would constitute a criminal offence if committed in England and Wales;
- (c) is currently the subject of any proceedings which might lead to such a conviction, which have not yet been notified to the Local Health Board;
- (d) is charged in the United Kingdom with a criminal offence, or is charged elsewhere with an offence which, if committed in England and Wales would constitute a criminal offence;
- (e) has been subject to any investigation into its provision of professional services by any licensing, regulatory or other body anywhere in the world, where the outcome was adverse;
- (f) is currently subject to any investigation into its provision of professional services by any licensing, regulatory or other body anywhere in the world;
- (g) becomes to the qualified practitioner's knowledge the subject of any investigation by the NHS Counter Fraud Authority in relation to fraud, or is notified of the outcome of such an investigation, where it is adverse;
- (h) is the subject of any investigation by another Local Health Board which might lead to its removal from a primary care list or equivalent list;
- (i) has been removed, contingently removed or suspended from, refused admission to or conditionally included in a primary care list or equivalent list, and if so, why and the name of that Local Health Board or equivalent body.

(4) A declaration under sub-paragraph (3) must give the name and address of the registered office of the body corporate and details of any investigation or proceedings which were or are to be brought, including the nature of the investigation or proceedings, where and approximately when that investigation or those proceedings took place or are to take place, and any outcome.

(5) Where the qualified practitioner applying to be included in a Local Health Board's ophthalmic list is a corporate optician, the qualified practitioner must declare whether any of its directors—

- (a) has any criminal convictions in the United Kingdom;
- (b) has been bound over following a criminal conviction in the United Kingdom;
- (c) has accepted a police caution in the United Kingdom;
- (d) has accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal) or agreed to pay a penalty under section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution);
- (e) has, in proceedings in Scotland for an offence, been the subject of an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 (admonition and absolute discharge) discharging that director absolutely;
- (f) has been convicted elsewhere of an offence, or what would constitute a criminal offence if committed in England and Wales;
- (g) is currently the subject of any proceedings which might lead to such a conviction which have not yet been notified to the Local Health Board;
- (h) is currently subject to any investigation into that director's professional conduct by any licensing, regulatory or other body;

- (i) is to that director's knowledge the subject of any investigation by the NHS Counter Fraud Authority in relation to fraud, or is notified of the outcome of such an investigation, where it is adverse;
 - (j) is the subject of any investigation by another Local Health Board or equivalent body which might lead to that director's removal from a primary care list or equivalent list;
 - (k) has been removed, contingently removed or suspended from, refused admission to, or conditionally included in a primary care list or equivalent list, and if so, why and the name of that Local Health Board or equivalent body.
- (6) A declaration under sub-paragraph (5) must give details, including approximate dates, of where any investigation or proceedings were or are to be brought, the nature of that investigation or those proceedings, and any outcome.

PART 3

Determination of applications

8. The grounds on which a Local Health Board must refuse to include a qualified practitioner in its combined list are that—

- (a) the qualified practitioner has been convicted in the United Kingdom of murder;
- (b) the qualified practitioner is the subject of a national disqualification;
- (c) the qualified practitioner has not provided further information under regulation 15(5);
- (d) the qualified practitioner has not notified the Local Health Board under regulation 28(6);
- (e) the Local Health Board is not satisfied of the qualified practitioner's intention to provide or assist in the provision of primary ophthalmic services (as the case may be) in the Local Health Board's area;
- (f) the qualified practitioner—
 - (i) applies to be included in the ophthalmic list, but is included in the supplementary list of any Local Health Board, or
 - (ii) applies to be included in the supplementary list, but is included in either the ophthalmic list of any Local Health Board or the supplementary list of another Local Health Board unless, in either case, the qualified practitioner has given notice in writing to that Local Health Board that they wish to withdraw from that list;
- (g) except in relation to a student optometrist, the Local Health Board considers that the qualified practitioner is not qualified to provide, or assist in the provision of, primary ophthalmic services (as appropriate);
- (h) in relation to a student optometrist, the Local Health Board considers that the person is not qualified to assist in the provision of services under supervision.

9. The grounds on which a Local Health Board may refuse to include a qualified practitioner in its combined list are that—

- (a) the Local Health Board, having reviewed the qualified practitioner's application and any other relevant information or documents, considers the qualified practitioner is unsuitable to be included in its combined list;
- (b) the Local Health Board, having checked the information provided by the qualified practitioner, is not satisfied with the information provided in the qualified practitioner's application;

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- (c) having obtained references from the referees named by the qualified practitioner under Part 2 of Schedule 3, the Local Health Board is not satisfied with those references;
- (d) having checked with the NHS Counter Fraud Authority for any facts that the Local Health Board considers relevant relating to any past or current fraud investigation involving or relating to the qualified practitioner and, having considered these and any other facts in its possession relating to fraud or relating to the qualified practitioner, the Local Health Board considers that these justify such refusal;
- (e) the Local Health Board considers that there are reasonable grounds for concluding that including the qualified practitioner in the combined list would be prejudicial to the efficiency of the services which the qualified practitioner would provide or assist with;
- (f) having checked with the Welsh Ministers for any facts that they consider relevant relating to past or current investigations or proceedings involving or relating to the qualified practitioner and, having considered these and any other facts in its possession involving or relating to the qualified practitioner, the Local Health Board considers that these justify such refusal;
- (g) on or after 30 July 2002 in the case of the ophthalmic list, or on or after 1 February 2006 in the case of the supplementary list, the qualified practitioner has been convicted in the United Kingdom of any criminal offence (other than murder) and has been sentenced to a term of imprisonment (whether suspended or not) of over 6 months.

10.—(1) Where the Local Health Board is considering a refusal of a qualified practitioner's application on a ground contained in paragraph 9, it must consider all facts which appear to it to be relevant including—

- (a) the nature of any offence, investigation or incident;
- (b) the length of time since any such offence, incident, conviction or investigation;
- (c) whether there are other offences, incidents or investigations to be considered;
- (d) any action taken or penalty imposed by any licensing, regulatory or other body, the police or the courts as a result of any such offence, incident or investigation;
- (e) the relevance of any offence, investigation or incident in respect of the qualified practitioner's provision of (or assistance in providing, as applicable) primary ophthalmic services and any likely risk to any patients or to public finances;
- (f) whether any criminal offence was a sexual offence for the purposes of Part 1 of the Sexual Offences Act 2003⁽³⁾, or which if it had been committed in England and Wales, would have been such an offence;
- (g) whether the qualified practitioner has been refused admission to, conditionally included in, removed, contingently removed, or is currently suspended from, a primary care list or equivalent list, and if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or equivalent body for such action;
- (h) whether the qualified practitioner is, has in the preceding 6 months been, or was at the time of the originating events, a director of a body corporate which was refused admission to, conditionally included in, removed or contingently removed from a primary care list or equivalent list or is currently suspended from any such list, and if so, what the facts were in each such case and the reasons given by the Local Health Board or equivalent body in each case for such action;
- (i) in the case of a corporate optician, whether any of its directors, or anyone who has in the preceding 6 months been one of its directors, has been refused admittance to, conditionally included in, removed, contingently removed or suspended from a primary care list, or

(3) 2003 c. 42.

equivalent list and, if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or equivalent body for such action.

(2) When the Local Health Board takes into consideration the matters set out in sub-paragraph (1), it must consider the overall effect of all the matters being considered.

PART 4

Deferral of decisions

- 11.—(1) The circumstances referred to in regulation 15 are—
- (a) the qualified practitioner is suspended from a primary care list or equivalent list;
 - (b) a body corporate of which the qualified practitioner is, has in the preceding 6 months been, or was at the time of the originating events, a director, is suspended from a primary care list or equivalent list;
 - (c) any of the circumstances mentioned in sub-paragraph (2), where the Local Health Board considers it likely that a conviction, or equivalent to a conviction, or a finding against the qualified practitioner would lead to the qualified practitioner's removal from its combined list if they were included on it.
- (2) The circumstances are—
- (a) active criminal proceedings in relation to the qualified practitioner in the United Kingdom;
 - (b) active proceedings in relation to the qualified practitioner elsewhere in the world relating to conduct, which, if it had occurred in the United Kingdom, would constitute a criminal offence;
 - (c) in respect of a body corporate of which the qualified practitioner is, has in the preceding 6 months been, or was at the time of the originating events a director—
 - (i) active criminal proceedings in relation to that body corporate in the United Kingdom;
 - (ii) active proceedings in relation to that body corporate elsewhere in the world relating to conduct, which, if it had occurred in the United Kingdom, would constitute a criminal offence;
 - (d) in the case of a corporate optician, where in respect of any of its directors—
 - (i) there are active criminal proceedings in the United Kingdom;
 - (ii) there are active proceedings elsewhere in the world relating to conduct, which, if it had occurred in the United Kingdom, would constitute a criminal offence;
 - (e) there is an active investigation anywhere in the world by the qualified practitioner's licensing or regulatory body or any other investigation (including one by another Local Health Board or equivalent body) relating to the qualified practitioner in their professional capacity;
 - (f) the First-tier Tribunal is considering an appeal by the qualified practitioner against a decision of a Local Health Board to refuse to admit the qualified practitioner to its combined list, or to conditionally include them in, or to remove or contingently remove them from any list kept by the Local Health Board;
 - (g) the First-tier Tribunal is considering an appeal by a body corporate of which the qualified practitioner is, has in the preceding 6 months been, or was at the time of the originating events a director against a decision of a Local Health Board to refuse to admit the body corporate to its combined list, or to conditionally include them in, or to remove or contingently remove them from any lists kept by a Local Health Board or equivalent body;

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- (h) the qualified practitioner is being investigated by the NHS Counter Fraud Authority in relation to any fraud;
- (i) a body corporate, of which the qualified practitioner is, has in the preceding 6 months been, or was at the time of the originating events, a director, is being investigated in relation to any fraud;
- (j) the First-tier Tribunal is considering an application from a Local Health Board for a national disqualification of the qualified practitioner;
- (k) the First-tier Tribunal is considering an application from a Local Health Board for a national disqualification of a body corporate of which the qualified practitioner is, or has in the preceding 6 months been, or was at the time of the originating events a director.

PART 5

Removal from a combined list

Procedure for removal under these Regulations

12.—(1) In the circumstances in sub-paragraph (4), a Local Health Board must give the qualified practitioner—

- (a) notice of any allegation against the qualified practitioner;
- (b) notice of the action the Local Health Board is considering and on what grounds;
- (c) the opportunity to make written representations to the Local Health Board within 28 days of the date of notification under paragraph (b) (“the specified period”);
- (d) the opportunity to make representations at an oral hearing before the Local Health Board within the specified period if the qualified practitioner requests one.

(2) If the qualified practitioner requests an oral hearing, the hearing must take place within the specified period and before the Local Health Board reaches its decision.

(3) If the qualified practitioner makes written representations or an oral hearing takes place, the Local Health Board must take any representations made by the qualified practitioner into account before reaching its decision.

(4) This paragraph applies where a Local Health Board is considering—

- (a) removal on the grounds in regulation 17(3),
- (b) removal for breach of a condition imposed under regulation 14, or
- (c) contingent removal under regulation 19.

Procedure for removal under the Act

13. A Local Health Board must follow the procedure set out in paragraph 12(1) to (3) where it is considering—

- (a) removing a qualified practitioner from its ophthalmic list under section 107 of the Act (disqualification of practitioners), or
- (b) contingently removing a qualified practitioner from its ophthalmic list under section 108 of the Act.

Factors to be considered before removal

14. In making any decision under section 107 of the Act (disqualification of practitioners) or regulation 17(3)(d) of these Regulations, the Local Health Board must take into account the overall effect of any relevant incidents and offences relating to the qualified practitioner of which it is aware, whichever condition it relies on.

Factors relating to unsuitability cases

15.—(1) Where a Local Health Board is considering whether to remove a qualified practitioner from its combined list under section 107(4) of the Act (disqualification of practitioners) or under regulation 17(3)(d) of these Regulations, in relation to an unsuitability case, it must—

- (a) consider any information relating to the qualified practitioner which it has received in accordance with any provision of Part 2 of Schedule 3 or Schedule 4,
 - (b) check with the Welsh Ministers for, and consider, any facts that the Welsh Ministers consider relevant relating to past or current investigations or proceedings involving or relating to the qualified practitioner, and
 - (c) in reaching its decision, take into consideration the matters set out in sub-paragraph (2).
- (2) The matters referred to in sub-paragraph (1)(c) are—
- (a) the nature of any offence, investigation or incident;
 - (b) the length of time since any offence, incident, conviction or investigation occurred or was concluded;
 - (c) whether there are other offences, incidents or investigations to be considered;
 - (d) any action taken or penalty imposed by any licensing or regulatory body, the police or the courts as a result of any such offence, incident or investigation;
 - (e) the relevance of any offence, incident or investigation to the qualified practitioner's provision of (or assistance in providing, as applicable) primary ophthalmic services and any likely risk to any patients or to public finances;
 - (f) whether any offence was a sexual offence for the purposes of Part 1 of the Sexual Offences Act 2003, or which if it had been committed in England and Wales, would have been such an offence;
 - (g) whether the qualified practitioner has been refused admission to, conditionally included in, removed, contingently removed, or is currently suspended from, a primary care list or equivalent list, and if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or equivalent body for such action;
 - (h) whether the qualified practitioner is, has in the preceding 6 months been, or was at the time of the originating events, a director of a body corporate which was refused admission to, conditionally included in, removed or contingently removed from a primary care list or equivalent list or is currently suspended from any such list, and if so, what the facts were in each such case and the reasons given by the Local Health Board or equivalent body in each case for such action;
 - (i) in the case of a corporate optician, whether a person who, at the time of the originating events, was one of its directors, has been refused admittance to, conditionally included in, removed, contingently removed or suspended from a primary care list, or equivalent list and, if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or equivalent body for such action.

Factors relating to fraud cases

16.—(1) Where a Local Health Board is considering whether to remove a qualified practitioner from its combined list under section 107(3) of the Act (disqualification of practitioners) or under regulation 17(3)(d) of these Regulations, in relation to a fraud case, it must—

- (a) consider any information relating to the qualified practitioner which it has received in accordance with any provision of Part 2 of Schedule 3 or Schedule 4,
 - (b) check with the Welsh Ministers for, and consider, any facts that the Welsh Ministers consider relevant relating to past or current investigations or proceedings involving or relating to the qualified practitioner, and
 - (c) in reaching its decision, take into consideration the matters set out in sub-paragraph (2).
- (2) The matters referred to in sub-paragraph (1)(c) are—
- (a) the nature of any cases of fraud;
 - (b) the length of time since the last case of fraud occurred and since any investigation into it was concluded;
 - (c) whether there are other cases of fraud or other offences to be considered;
 - (d) any action taken by any licensing, regulatory or other body, the police or the courts as a result of any such offence, investigation or case;
 - (e) the relevance of any investigation into a case of fraud to the qualified practitioner's provision of (or assistance in providing, as applicable) primary ophthalmic services and the likely risk to patients or to public finances;
 - (f) whether the qualified practitioner has been refused admission to, conditionally included in, removed, or contingently removed or is currently suspended from, a primary care list or equivalent list, and, if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or equivalent body for such action;
 - (g) whether the qualified practitioner is, has in the preceding 6 months been, or was at the time of the originating events, a director of a body corporate, which was refused admission to, conditionally included in, removed or contingently removed from, a primary care list or equivalent list, or is currently suspended from any such list, and if so, what the facts were in each such case and the reasons given by the Local Health Board or equivalent body in each case;
 - (h) in the case of a corporate optician, whether a person who, at the time of the originating events, was one of its directors, has been refused admittance to, conditionally included in, removed, contingently removed or suspended from a primary care list or equivalent list and, if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or equivalent body for such action.

Factors relating to efficiency cases

17.—(1) Where a Local Health Board is considering the removal of a qualified practitioner from its combined list under section 107(2) of the Act (disqualification of practitioners) or under regulation 17(3)(d) of these Regulations, in relation to an efficiency case, it must—

- (a) consider any information relating to the qualified practitioner which it has received in accordance with any provision of Part 2 of Schedule 3 or Schedule 4,
- (b) check with the Welsh Ministers for, and consider, any facts that the Welsh Ministers consider relevant relating to past or current investigations or proceedings involving or relating to the qualified practitioner, and
- (c) in reaching its decision, take into consideration the matters referred to in sub-paragraph (2).

- (2) The matters referred to in sub-paragraph (1)(c) are—
- (a) whether the continued inclusion of the qualified practitioner in the combined list would be prejudicial to the efficiency of the primary ophthalmic services—
 - (i) provided by the qualified practitioner, or
 - (ii) which the qualified practitioner assists in providing;
 - (b) the length of time since the last incident occurred and since any investigation into it was concluded;
 - (c) any action taken by any licensing, regulatory or other body, the police or the courts as a result of any such incident;
 - (d) the nature of the incident and whether there is a likely risk to patients;
 - (e) whether the qualified practitioner has previously failed to supply information, make a declaration or comply with an undertaking required by these Regulations;
 - (f) whether the qualified practitioner has ever failed to comply with a request by the Local Health Board to take an assessment by NHS Resolution or any of its predecessor bodies;
 - (g) whether the qualified practitioner has been refused admission to, conditionally included in, removed or contingently removed or is currently suspended from, a primary care list or equivalent list, and if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or the equivalent body for such action;
 - (h) whether the qualified practitioner is, has in the preceding 6 months been, or was at the time of the originating events, a director of a body corporate which was refused admission to, conditionally included in, removed or contingently removed from a primary care list or equivalent list, or is currently suspended from any such list, and if so, what the facts were in each such case and the reasons given by the Local Health Board or equivalent body in each case for such action;
 - (i) in the case of a corporate optician, whether a person, who, at the time of the originating events, was one of its directors, has been refused admittance to, conditionally included in, removed, contingently removed or suspended from a primary care list or equivalent list and, if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or equivalent body for such action.

PART 6

Interpretation

Interpretation

18. In this Schedule—

“mobile practice” (*“practis symudol”*) means a contractor who—

- (a) has made arrangements with the Local Health Board to provide mobile services, and
- (b) does not have premises in that Local Health Board’s area;

“originating events” (*“digwyddiadau cychwynnol”*) means the events that gave rise to the conviction, investigation, proceedings, suspension, refusal to admit, conditional inclusion, removal or contingent removal that took place;

“the register” (*“y gofrestr”*) means—

- (a) in relation to an ophthalmic medical practitioner, a register maintained by the General Medical Council under the Medical Act 1983, or

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) in relation to a qualified practitioner other than an ophthalmic medical practitioner, a register maintained by the General Optical Council under the Opticians Act 1989.