

SCHEDULES

SCHEDULE 3

Combined lists

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;
- (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;

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- (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⁽¹⁾, 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 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.

(1) 2003 c. 42.

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(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.