

Practitioner Performance Advice

Consideration of Assessment:

Policy statement

Background

1. All services provided by Practitioner Performance Advice, including our assessment services, are directed towards supporting the early identification, and fair and effective management and resolution of concerns in relation to the performance of doctors, dentists and pharmacists. In all cases, patient safety and public protection are our paramount concerns.
2. The purpose of this policy is to explain the procedure which Practitioner Performance Advice adopts when considering, in cases referred to us, whether to recommend that an assessment should be carried out. The policy does not apply to any of our other services.
3. This policy is supported by additional guidance as identified in the policy. We are unable to decide whether an assessment should be carried out unless this policy and the procedures set out in the allied guidance entitled 'Assessment Consideration Group decision making guidance' has been followed.
4. Our Consideration of Assessment function arises from The National Health Service Litigation Authority Directions 2013 ("Directions"). In relation to the consideration of assessment, these Directions require us to determine who may refer practitioners to the Authority, or other bodies acting on its behalf, for the purpose of an assessment and to determine the criteria for the making of such referrals and for their acceptance by the Authority (Direction 2.(1)(f)).
5. As an NHS function, we are required to manage our Consideration of Assessment function in accordance with the resources available to us. The referrals we receive for consideration of whether to recommend that an assessment should be carried out, may or may not be submitted pursuant to the provisions set out in Maintaining High Professional Standards in the Modern NHS (the procedure for dealing with issues of capability) as described at paragraph 6 below.
6. Part IV of Maintaining High Professional Standards in the Modern NHS includes a requirement for employers and case managers to seek advice from us and in some instances to refer cases to us in order for consideration to be given to whether an assessment should be carried out.
7. When considering whether an assessment should be offered we need to ensure that we apply our expertise in a manner which is consistent with our Directions.

8. Our assessment services are not a specific investigation into the concerns which gave rise to the referral to us. It is also not part of our function to make decisions regarding a practitioner's employment or contractual status, which are matters for the employing/contracting organisation. We are not empowered to adjudicate upon any dispute about the resolution of concerns which are matters to be resolved by the employing/contracting organisation, although we are able to give advice at each stage regarding the procedural requirements to which the employing/contracting organisation and/or practitioner should have regard.
9. We are an advisory organisation and as such are unable to require an employing/contracting organisation or a practitioner to undertake or agree to an assessment. Any recommendation referred to in this policy should be construed in accordance with our advisory role.

Consideration of assessment

10. The Assessment Consideration Group ("the Group") will be solely responsible for deciding whether to recommend that an assessment should be carried out.
11. A referral to Practitioner Performance Advice for it to consider whether to recommend that an assessment should be carried out may be made by a doctor, dentist or pharmacist's employing/contracting organisation or any other organisation which falls within our Directions ("the referring organisation") by the submission of a completed Referral for consideration of assessment form ("the referral form"). The referral form must not contain any patient identifiable data, unless all third parties named in the form and any supporting documentation have given their consent to disclosure of their personal data for the purpose of supporting an assessment and have been provided with/directed to a copy of our privacy statement.
12. The referring organisation is required to seek the practitioner's views on the referral in writing prior to its submission and (if received) to include these with the referral form. We require that both the referring organisation and the practitioner complete and sign the declarations at the end of the referral form. If these are not completed, then we are unable to consider the referral.
13. If the referral form does not provide sufficient information to enable the matter to be considered for an assessment, we may request any outstanding information prior to the referral being considered. Any request for information (including the rationale for requesting it) and any information received should be documented and shared with the practitioner (who will be given an opportunity to comment upon it) before consideration of whether to recommend that an assessment should be carried out is undertaken.

14. The referral form and supporting documentation will be considered by the Group. The Group will act independently of our other functions including the advisory function. It will not, unless in exceptional circumstances as decided by our Core Operational Group or the Group's Chair, consider any information other than that submitted to us by the referring organisation and practitioner as part of the referral for consideration as to whether an assessment should be carried out.
15. The Group will consider the information provided in the referral form which should include:
 - The nature of, and evidence supporting, the concerns. This should include for example details of any complaints, investigations or reviews that have been received or completed to explore the concerns. The details provided should include the type, scope, outcome and findings of any investigation or review, as well as any comments from the practitioner (where provided) on the investigation or review findings. Specific details should also be provided of any steps taken to try and resolve the concerns. These should include the nature, scope and outcome of the steps taken to resolve concerns and reasons why they have been unsuccessful (if known). The referring organisation should enclose copies of any relevant documents which may include investigation reports, reviews, action plans and copies of complaints and any comments from the practitioner or response to complaints (where provided).
 - The practitioner's current circumstances including for example the practitioner's work status, any continuing investigations or reviews, any practice restrictions, exclusions or suspensions that are in place and why they have been considered necessary, as well as their nature, duration and the systems in place for their review.
 - Details of how the referring organisation believes an assessment may help to resolve the concerns.
 - Confirmation that the practitioner has been given the opportunity to comment upon the referral and that any comments have been set out in the form or attached as a separate document.
 - A complete and up to date job plan and/or work timetable for the practitioner.
 - Any relevant information from the referring organisation and practitioner, which will impact on when and how we may undertake an assessment, which may include details of their availability.
 - Confirmation that the practitioner is fit to participate in an assessment. The Group may recommend that an occupational health assessment is undertaken as part of the assessment to provide assurance of the practitioner's fitness to be assessed. This will be considered according to the individual circumstances of the case. (Note: if this confirmation has not been provided then the Group may still reach a decision to offer an assessment, subject to this being received.)

Potentially relevant factors

16. In reaching a recommendation as to whether an assessment should be carried out, the Group will carefully review the information contained in and provided with the referral form (including that provided by the practitioner).
17. In reaching its recommendation the Group will consider the individual circumstances of each case, informed by factors relevant to the case. The factors set out below are for guidance purposes only and are presented in no particular order. They are not intended to comprise an exhaustive list of the factors which may be considered by the Group.
- The nature of the reported concerns, the available evidence for those concerns and any steps that have been taken to resolve the concerns.
 - Whether an assessment would appreciably add to what is already known from earlier investigation or other review. In this regard, the Group will consider the nature and extent of any investigations or other enquiries that have already been undertaken (whether internally or externally) into the substance of the concerns. It will also consider when these were undertaken and the practitioner's response to the findings (where provided).
 - Whether there are likely to be significant constraints on the nature and scope of any assessment or the feasibility of undertaking assessment. Relevant considerations in this context may include the practitioner's state of health and whether he or she is subject to suspension/exclusion or restricted practice (including voluntary arrangements) as a consequence of local or regulatory interventions. This may have implications for the nature of any assessment that can be offered or for arrangements that may need to be put in place to enable the assessment to proceed.
 - The duration of the practitioner's contract and/or their expectations or plans for future practice. This information may assist the Group in assessing the feasibility and potential utility of any assessment being provided.
 - The parties' submissions as to whether they wish for an assessment to be undertaken and the benefit they perceive it would bring in terms of managing the concerns.
 - The nature and scope of our assessments including their ability to provide robust evidence to help identify any concerns and what might be causing them.

Patient safety or public protection concerns

18. Where the reported concerns about a practitioner appear to raise an immediate issue of patient safety or public protection indicating a referral to the relevant professional regulator, we will advise the parties accordingly and may revisit the matter as to whether or not an assessment should be carried out.

Possible outcomes of the Group's consideration

19. The Group will make a recommendation in accordance with paragraph 20. Following notification of the recommendation the referring organisation and/or the practitioner may submit a request for it to be reviewed. Any such request must be made within 10 working days of the date of the Group's recommendation and must contain the reasons for seeking the review; such reasons shall be limited to the factual content of the Group's recommendation.

20. The Group may make any of the following recommendations:

- That an assessment should be carried out, and, if so, the nature of any assessment;
- That an assessment should not be carried out.

Before making a recommendation the Group may also adjourn consideration of the case pending our receipt of further information from the referring organisation, practitioner or as otherwise directed by the Group.

Recommendation

21. The referring organisation and the practitioner will be notified in writing of the Group's recommendation as to whether an assessment should be carried out. We will confirm the rationale for our recommendation. In circumstances where the Group has decided to recommend that an assessment should be carried out the notification should include the rationale for the specific type of assessment recommended together with a note of any likely constraints or restrictions. Where the Group recommends that an assessment should be carried out, this may be one of a range of options for consideration by the parties depending on the circumstances of the case.

Steps to be taken following a recommendation that an assessment should be carried out

22. The referring organisation and the practitioner will be asked to sign a form confirming their agreement to an assessment being carried out in line with the Group's recommendation. We cannot carry out an assessment without the express agreement of all parties.

23. Where necessary, we will arrange a meeting with the referring organisation and/or the practitioner (and their representative, if required) to discuss any aspect of the assessment, including practical arrangements for its completion and the likely timeframe for its delivery. This meeting will normally take place by telephone but, if necessary, a face-to-face meeting can be arranged.

24. We will commit to confirming the arrangements for and completion of an assessment as soon as reasonably practicable.

Practitioner support

25. As part of our advisory service, we shall endeavour to ensure that a referring organisation has advised a practitioner to seek appropriate support throughout the time when they are the subject of concerns. This includes when a practitioner is being invited to provide comments on a referral to us as to whether an assessment should be carried out. This support may be provided by a practitioner’s defence organisation, trade union, professional association or other relevant body or person. It may also be provided by other professional support services including the practitioner’s GP and the referring organisation’s occupational health service.

Miscellaneous

26. As set out in this policy both the referring organisation and practitioner must ensure that any information provided to us in order for a decision to be made whether to recommend that an assessment should be undertaken is shared with the other party. We are not responsible for ensuring this has been done. Instead responsibility for this rests with the parties.

27. The application of the policy may be amended in exceptional circumstances. The nature and extent of such amendment must be authorised by the Group’s Chair or a member of the Core Operational Group.

28. The procedures identified in this document will be followed by us in all cases including those where we are being asked by a referring organisation to consider whether an assessment should be carried out in accordance with Part IV of *Maintaining High Professional Standards in the Modern NHS*. We recognise that in these cases we may be asked to consider whether an assessment should be carried out in circumstances where the referring organisation and/or the practitioner consider that an assessment should not be carried out.

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