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Shell companies to be removed from MedCo in two weeks, says government

The Ministry of Justice (MoJ) has finally laid out how it will stop the large medical reporting organisations (MROs) registering 'shell' companies on MedCo, a practice it said "undermined the government's policy principles of independence and fair competition".

The MoJ said the [revised qualifying criteria for MROs](#) included a definition of an MRO which would preclude organisations set up purely as a shell "to gather instructions and forward them on to a related organisation".

From 8 November, existing shell companies will be judged against the revised criteria and removed from the system if they do not meet them. The criteria apply with immediate effect to new MROs registering on MedCo and those applying for reclassification as a high-volume national MRO (ie, tier 1). For all other MROs, the criteria will be implemented on 25 January 2017.

We reported recently that a host of major tier 1 MROs had [created dozens more shell companies](#), although they argue that the purpose was to meet client demand rather than farm more work.

The definition requires the MRO to be independent (ie stand-alone companies with their own management and in separate premises from any other MRO), properly staffed and resourced, and "directly and solely responsible for all work associated with receiving instructions from the MedCo portal and instructing a medical expert to provide an initial medical report".

Where MROs have a common third-party owner, they will not be removed from the system so long as they are fully functioning entities in their own right, with a principal function of providing medical reporting services.

The MoJ said the aim was to enable MedCo "to ensure that MROs registered on the system, or applying to register, do not undermine the system's random allocation model".

MROs which were removed from the system would be able to fulfil existing instructions, it added.



MedCo will be publishing supporting guidance for MROs to assist with the interpretation of the revised criteria.

Nigel Teasdale, vice-president of the Forum of Insurance Lawyers (FOIL) and its representative on the MedCo board, said: "The introduction of MedCo is an on-going process and it is important that abuses which undermine the system are tackled as they arise. FOIL sees the changes to the qualifying criteria and the declaration of financial links as significant steps in MedCo's development: hopefully this will enable MedCo to focus its resources on improving the quality of the medical reports themselves.

"It is clear that MedCo is changing behaviours and it is important that the regime continues to develop. FOIL welcomed the MOJ's commitment earlier this year to keep the framework under review and, in particular, hopes in due course to see formal regulation of MROs as part of the regime."

Meanwhile, a survey on personal injury (PI) commissioned by the Solicitors Regulation Authority (SRA) – see full story on *Legal Futures* here – found that just 24% of (mainly claimant) respondents believed that MedCo achieved independence between MROs and firms, while 59% said relationships between solicitor firms, insurers and MROs had not improved as a result of the system.

Even more (68%) thought that the quality of reports had not improved as a result of MedCo (only 4% said they had).

The in-depth interviews conducted as part of the research corroborated the survey's findings, but the report said "many of those critical of the portal did not disagree with the rationale behind its introduction, but rather criticised the 'rushed implementation' and resultant 'loopholes' and the regrettable 'complication of a previously simple system'".

The poorer quality medical reports were largely attributed to the standardisation process, increased use of drop-down lists and reduced fees for medical experts.

Both claimant and defendant solicitors commonly mentioned that the mechanisms used to circumvent portal objectives included shell companies and bilateral agreements between MROs and solicitors.

"Some interviewees also thought that large practices were able get around the MedCo system due to the scale of their operation: big firms, dealing with thousands of cases a year, could have arrangements with groups of MROs, ensuring that one would always appear on the list of agencies produced by MedCo.

"However, it was also possible for small firms to manipulate the system by filtering search results by location. Recently however, it was said that MedCo had increased efforts to prevent PI firms' manipulation of the MedCo portal and attempts to circumvent the random allocation of MROs.

“Additionally, solicitors thought to be manipulating the system's search function to increase the probability of known experts appearing are, it is said, being monitored.”

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