

Revalidation of locum doctors in secondary care

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Workshop provided at the Annual National Conference for Responsible Officers

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Both workshops contained a mixture of Responsible Officers (RO's) from NHS/Independent organisations and locum agencies however the majority of attendees were from NHS/Independent organisations on each occasions.

Process Issues

The issue was raised around European doctors who are able to come to the UK and gain automatic GMC Registration and a Licence to Practice.

It was confirmed that they would still need to follow the normal process to determine who their Designated Body (DB) should be.

It is understood that the default position is that the doctor would connect with the nearest NHS England Area Team.

It was suggested that a doctor must relinquish his licence if he has not worked in the UK for a period of 12 months. However, it was confirmed that this is not the case. The GMC can only **advise** a doctor to consider dropping their licence if they are abroad for any significant length of time.

A concern was raised that the GMC website does not give clear guidance to these doctors. Doctors find it very difficult to understand what they are required to do and the website could be much more informative.

Prescribed Connection issues

Issues were raised from both NHS RO's and Locum Agency RO's with regard to prescribed connection issues. All reported the issue of doctors inappropriately connecting with them. Whilst the DB does not need to accept the connection, it does cause an administrative problem particularly for the larger organisations who may take some time to determine who the doctor is.

There was a view that NHS organisations are happy to accept Trust locums who work with them for at least 3 months as it is possible that they may remain on a locum contract for up to 3 years before being substantively employed, the concern was mainly around locums who may do short term contracts e.g. a maximum of one week.

This would not apply to locums from agencies who are DB's as they would not require a prescribed connection.

There remains great confusion over how the RO regulations for locums are interpreted by locum doctors, different agencies, NHS England and GMC. This seems to be centred on a lack of definition of the term 'contract' and whether such contracts are active or time expired at any one time?" The workshop agreed that further clarification is needed. There has been concern recently that some agencies may be using revalidation support as a recruitment tool and this new guidance may be assisting them in doing that. I.e. they could accept a prescribed connection with any locum provided the locum then signed a contract with the agency.

There was general consensus the practice of enticing locums to register on this basis would be against the ethos of the regulations

Employment Structure Concerns

NHS Professionals is owned by DH and have one share holder who is the secretary of state. Their RO was concerned about locums working through Limited Company structures. She understands the regulations to state that you can't revalidate a doctor who is working through a limited company but doctors get very confused about this when told that it would have no lawful status. If this is the case, there may be doctors who have been revalidated unlawfully where the RO wasn't aware that this is the case.

A representative from an acute Trust stated that they obtain their locums from an agency but employ them via a VAT efficient model of which there are several e.g. PWC, HB Retinue, Brooksons, NL Group Partnership etc.

Using these models, the employing Trust would need to take full responsibility for revalidating the doctors but only for the periods that they were employed. There is concern that this may not be fully understood by Trusts using these arrangements.

Appraisal Issues

There is confusion regarding when an appraisal should be carried out when someone joins an organisation as a Trust locum.

The North Appraisal Reference Group has agreed that their organisations will carry out an appraisal after a locum has been in the organisation for more than 3 months. However, it was pointed out that an appraisal may not be due at that time and so the date of the last appraisal should be the guiding rule. If the appraisal is over due then it may be difficult to collect the evidence needed and so locums should be aware of this.

Clarification is required on how this approach would fit with the AOA. It states that an appraisal should be carried out straight away. If one is not carried out within the 3 months then it would be classed as missed or incomplete.

If a locum cannot be appraised by an NHS organisation then an arrangement needs to be made with an individual who is suitably trained. Whilst the commercial arrangements should be between the agency and the appraiser to ensure probity, the locum may still make a decision on who to choose based on commercial reasons. Is that a sound basis for deciding who should appraise any particular locum?

There were a number of examples of locum doctor's behaviour changing once they had been successfully revalidated. In particular, locums who work through the revalidation process but once completed, move to work with other agencies. This is also a cost concern to some agencies as agencies with the systems to support doctors through revalidation will incur the costs but once complete, they may work elsewhere.

It was stressed again that revalidation is not just a "once every 5 years" process. Even after a positive recommendation has been made RO's can still raise concerns even about professional behaviour.

If a locum actually moves DB following a positive recommendation then this issue should be discussed between the relevant 2 ROs.

Obtaining Feedback

There were various views about how long someone should work in an organisation before being allowed to obtain colleague feedback although it was agreed that for patient feedback, this could be obtained from day 1.

There did not appear to be a definite answer to the question around colleague feedback although it seemed likely that colleagues would only respond if they felt they had sufficient knowledge of the doctor to complete the questionnaire.

There is also a required process for obtaining feedback for locums after each placement. It was acknowledged that this can be a difficult process as the requests can be numerous and if it is a short term locum then it may be difficult to give a view on their clinical practice.

This is very important feedback for locums and the locum agencies use this information to spot trends in concerns. RO's from healthcare providers were asked to recognise the importance of these forms and support the agencies as far as possible.

Complaints

Locum doctors do feel discriminated against. They are concerned that any complaint about them will not be handled correctly.

NHS Representatives confirmed that they immediately refer issues around locums to the GMC and some felt they had been advised by the GMC to take that action. A GMC ELA said however that with many locums now having an RO this offered a

local opportunity for an early concern to be looked at initially by the locum's RO without recourse to a 'safety net' referral to GMC as has often happened in the past .

Historically, there has been an issue. Common practice was to ask agencies to remove a locum should there be concerns without any further discussion about the issue.

Templars Medical Agency reported that they feel this situation has greatly improved and there is significantly better communication between healthcare providers and locum agencies. It was hoped that the National RO conference and other similar events were helping to improve communications between both parties even further and that an understanding of the issues from both perspectives was very helpful.

An NHS RO confirmed that it's easy to investigate a member of staff who is working there for a period of time but it can be hard to engage the individual once they have left the trust, if that person no longer wishes to engage with them, if the complaint is serious enough, they have no choice but to refer to the GMC.

If working with a locum who works for a locum agency then this should be communicated to the locum agency RO. Agency RO's in the room confirmed that they all have clear processes for dealing with complaints and should have access to trained Case Managers and Case Investigators.

Agencies whether a DB or not, should hold the RO details for every locum they supply and so it should be relatively straightforward to trace a doctors RO. Should a doctor have changed his RO, the previous RO will have been notified.

NHS RO's felt it was not always the case that agencies had the correct procedures in place and it was discussed that they may be dealing with "off contract" non DB agencies.

There is considerable sharing of information already in place as the GMC will contact the agency if there has been a concern raised about a doctor who has listed the agency as one of their employers. This happens regularly although it is accepted that a locum may not list all relevant agencies. This would then be a probity matter for the doctor concerned.

Agencies also receive the Alerts issued by NHS England and have processes to deal with these communications.

Overseas Locums

The Suitable Person from Nobles Hospital on the Isle of Man raised concern around how UK RO's could judge overseas evidence for appraisal.

It is understood that the GMC's advice is that even if the evidence is from overseas, if the RO can be confident in its content then they can still make a positive recommendation. This can be straightforward in some cases for example where an RO is familiar with a different healthcare system. However, if they are not familiar with the system they feel this puts them in a very difficult position.

A previous session on GMC thresholds raised the question about overseas evidence and 83% of RO's said they would defer because they did not believe there was sufficient information. They found it difficult looking at feedback from a different cultural environment.

A GMC ELA stated that MDs have always had a duty of quality within their organisations to ensure that any doctor they employ is fit for purpose for the role in question. Many overseas doctors have been employed by Trust MDs in the past so presumably they have always had to consider whether they have enough info about their background, qualifications and experience to ensure they are fit for purpose to employ. Revalidation is about a general fitness to practise level and not fitness for purpose for any specific post. If an RO is happy that employment checks have been done then they have made that judgement call. The GMC representative accepted that in these cases a judgement needs to be made.

The Locum Agency representatives felt that this was different for locums. They do indeed ensure that the recruitment checks are carried out in accordance with NHS Employers guidance but that does not give them the evidence they need to be sure the doctor is suitable for revalidation and this decision could not be made until the doctor had worked in the UK for some period. Even if the locum had worked in the UK previously it may have been through various different agencies and it is difficult to be confident that you have all the information needed.

Appraisal ticks one box and does not give full reassurance that the doctor is competent.

Usually, UK evidence is obtained and an appraisal undertaken if the locum is a regular visitor to the UK however periodic locums are the biggest challenge. There was one RO from an Acute Trust who had a locum who worked directly for the Trust for one month a year and the RO was comfortable in agreeing to be that doctors DB and revalidate them.

Independent Locums

Concern was raised about locums who work in Trusts but are not registered with a locum agency but work independently.

The responsibility to carry out all the necessary employment checks would then lie with the body engaging the doctor's services.

The default position for prescribed connections would be NHS England in this situation.

Locum Agency Designated Bodies

Clarification was given as to why some agencies are DB's and others are not. The regulations state that only agencies who are suppliers on the Crown Commercial Services contract (CCS) can be DB's as they have passed certain quality requirements.

It was clear that no one knew how non DB agencies were coping with the regulations as by definition, they had no RO and so had not been invited to the event.

If the agency is an approved supplier to one of the other framework agreements that are in place then they will still have all of the quality measures required by CCS.

Remediation

It is very difficult for locum agencies to provide remediation as they have no access to clinical practice.

It is sometimes possible to arrange honorary contracts where the doctor would be supervised and could address particular clinical concerns. This would need to be funded by the locum.

In general, locum doctors are paid a higher rate of remuneration to reflect the fact that they do not get the employment benefits of a substantive doctor. This would include access to remediation.

There are current discussions about a national body that may be able to help in this regard.

Should a doctor refuse to undertake remediation, this should be communicated and dealt with by his RO.

Conflict of interest

Locum Agency RO's should have no involvement in the business side of the organisation. Whilst locum doctors are essentially the "product" they supply, providing a poor quality doctor can have significant implications for the agency and therefore no agency would be swayed by commercial issues.

In trusts or small hospitals, the RO may have more of a conflict of interest. This would not be a commercial problem but an HR issue, dealing with friends and colleagues etc.

Other suggestions

- Agencies should group together and have 1 RO to provide services to them all (how would this be funded?).
- A national forum for RO's from locum agencies would be very advantageous and would allow many of the issues above to be considered.

