

# DME Audits – Common Findings

Date: 16 November 2023

Owner: MedCo Audit Committee

## Summary

In 2023, MedCo commenced a programme of auditing that included, for the first time, registered Direct Medical Experts (DMEs).

The purpose of the auditing is to evaluate a DMEs processes, systems and operations to determine compliance and understanding with key elements as detailed in the DME User Agreement, MedCo Rules and Policy documents and other areas such as the Examination Guidelines as well as general use of the MedCo system.

The audit process that is followed can be found in the [Medical Expert Audit Guide](#). Auditing of DME's will continue throughout the remainder of 2023 and will carry over in to 2024.

To help experts prepare for auditing, and to serve as a reminder of the obligations and requirements, MedCo have identified common findings that have arisen from audits completed to date and these are set out below.

## Common findings:

### 1. Uploading Case Data - Adherence to timescales

DMEs have failed to upload case data to the MedCo system within the required timescales.

DMEs should ensure that the required case data is uploaded to the Portal within 30 calendar days of the medical report being sent to the instructing party, or within 6 months from the date of selection, whichever is sooner.

Source: **DME User Agreement 3.2.1(a).**

### 2. Anti-Bribery controls

DMEs do not have an anti-bribery policy, had not undertaken an anti-bribery risk assessment, and did not have a gifts and hospitality register.

DMEs should ensure that they can demonstrate compliance with anti-bribery regulations. This should include having an anti-bribery policy (including how gifts and hospitality are dealt with); completing a bribery risk assessment; and having a log in place to record potential bribery issues or concerns.

This includes ensuring policies and assessments are tailored to the expert's business and not generic.

Source: **DME User Agreement Schedule 2, section 3 Anti-Bribery.**

### 3. Information Security and Data Protection

DMEs unaware of the requirements in relation to data security, data protection and GDPR. This includes the absence of policies and procedures. data breach log, and completion of risk assessments.

DMEs should demonstrate that they have considered all data security and data protection risks, including data breaches. This would include having policies and procedures in place, as well as a data breach log and completion of a data risk assessment.

This includes ensuring policies, procedures and assessments are tailored to the expert's business and not generic.

Source: **DME User Agreement Schedule 2, section 2 Data Protection Requirements.**

## 4. Acting on Instructions through the MedCo Portal

Data provided for the audit revealed that some DMEs had acted upon instructions received from solicitors where a different DME has been selected on the MedCo Portal.

DMEs must ensure that they check the MedCo Portal when they receive an instruction, to confirm that they have been selected to complete the medical report. As the process is manual, it is possible that an instructing party could email the instruction to the wrong DME. Where this happens, the DME must contact the instructing party in the first instance and raise concerns to MedCo if not resolved.

Also, checking the Portal will allow the DME to identify cases where they have been instructed, but have not received the instruction through from the instructing party. In the first instance, the instructing party should be contacted for the instruction, and followed up with MedCo if the instructing party does not respond, or where there are concerns with regards to the allocation of the instruction.

Source: **MedCo Rules document - rules 44 and 45.**

## 5. Composition, Number of Practicing Addresses and if regularly used

DMEs not maintaining their current practicing addresses on their MedCo account.

The DME should only list practicing addresses on MedCo that they use frequently (at least quarterly). Any other clinic addresses should be removed from MedCo. The DME should regularly check what addresses they have listed on MedCo and amend accordingly.

Each address must be the full postal address and experts must not list an Address which they do not regularly practice from unless it is their Registered Address.

Source: **MedCo Rules document - rules 48, 49, 51. MedCo Policies documents - section 19).**

## 6. Suitability of appointment venues

DME does not ensure that appointment venues are suitable and are 'equipped to an equivalent standard to medical facilities that are confidential, private, safe and secure'.

Source: **MedCo Examination Guidelines document.**

## 7. Retaining Control over the Medico-Legal Reporting Process

DMEs do not contract directly and agree payment terms with instructing parties, with payments received on completion of cases. This reflects an increased risk of contingency fees, where payment is withheld in the event of unfavourable outcomes.

The DME should agree terms with instructing parties at the outset of their relationship, particularly over when they expect to be paid.

Source: **MedCo Rules document- rules 58 and 59.**

## 8. Complaints

DMEs do not have an appropriate complaints policy, clear complaints process or a complaints log.

Source: **MedCo Rules document - rules 9 and 55. DME User Agreement Schedule 1 Ethics Policy. Rules for DMEs authorised to accept instructions from Unrepresented claimants - rule 6.**

## 9. Conflicts of Interest

DMEs do not demonstrate a clear approach to managing potential conflicts of interest.

The DME should make enquiries prior to carrying out examinations as to whether the claimant, to the best of their knowledge, has ever received treatment from the examining expert. Best practice would include documenting such a Conflict of Interest Policy and including a conflict of interest declaration within report templates.

Source: **MedCo Rules document – rule 43. Paragraph 1.2(17) of RTA Small Claims Protocol and paragraph 1.1(10A) of the Pre-Action Protocol for Low Value Personal Injury Claims in RTAs from 31 July 2013.**