MedCo Rules Document

Date: 6 April 2022

Owner: MedCo Registration Solutions

MedCo Rules Document

MedCo's Articles of Association define the MedCo Rules (the 'Rules') as follows:

> *''rules made by the MedCo Board from time to time and notified to the User on reasonable notice in accordance with the Board's powers as defined by these Articles of Association''*

The MedCo Ethics Policy in the User Agreement requires Users to:

> *'ensure that they are familiar with the terms of their relevant agreement and the MedCo Rules and ensure that these are adhered to.''*

This document sets out various Rules that MedCo has made to date, which allow it to operate in line with the government's policy objectives. These Rules will be kept under review to ensure that they remain up to date. All Medical Reporting Organisations (MROs), Direct Medical Experts (DME), Authorised Users (AU) and Indirect Medical Experts (IME) are contractually required to comply with these Rules. There are separate Rules for DMEs who wish to opt in to carry out examinations on unrepresented claimants which can be found **here.**

These Rules will be kept under review and updated as necessary.

Contents

Definitions

''Accreditation Training''	means the training MedCo requires an Expert to undertake to attain the status of being accredited by MedCo and which can only be maintained by completing further training as and when required by MedCo. This includes, but not limited to, Continuous Professional Development (CPD) training;
"Addresses''	the Expert's Practicing Addresses or Registered Address, as defined by MedCo or such other address as may be agreed in writing by MedCo;
"Audit Guide"	the guide explaining the audit process which can be found on the MedCo website: www.medco.org.uk;
"Authorised User"	a third party authorised by MedCo to access and use the Database and obtain and use the Database Data to carry out searches on the Database;
"Case Data"	the data items added to the Database by the MRO or DME after completing a medico-legal report as more particularly detailed in the MedCo Data Validation Rules;
"Charges"	as set out in the MedCo charging policy which can be found on the MedCo website: www.medco.org.uk;
"Civil Procedure Rules"	means the rules of court governing the practice and procedure to be followed in civil litigation proceedings in England and Wales as established by the Civil Procedure Act 1997 and updated periodically by the Civil Procedure Rule Committee. For the purposes of this Agreement, any reference to the Civil Procedure Rules incorporates reference to the relevant Practice Directions and pre-action protocols relating to pre-issue conduct, as made and approved from time to time by the Head of Civil Justice;
"Core Function"	the core functions of a MRO are considered as a minimum to be those covered by the Qualifying Criteria (QC) 1.1, 1.8, 1.10 (Responsible Officer only), 1.13, 1.16 and 2.2 as outlined in the guidance to the Ministry of Justice ("MoJ") QC;
"Data Protection Legislation''	means all applicable data protection and privacy legislation, regulations and guidance including Regulation (EU) 2016/679 (the "General Data Protection Regulation" or the "GDPR") and Data Protection Act 2018 (or, in the event that the UK leaves the European Union, all legislation enacted in the UK in respect of the protection of personal

	data) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any applicable guidance or codes of practice issued by any Data Protection Regulator from time to time (all as amended, updated or re-enacted from time to time);
"Data Protection Regulator"	means the Information Commissioner's Office, the Article 29 Working Party, the European Data Protection Board and any other supervisory authority with jurisdiction over MedCo or Users, and in each case any successor body from time to time;
"Database"	as defined in the User Agreement;
"Database Data"	the Expert Data and Case Data provided by MROs and Experts and other data as determined by MedCo from time to time;
"Direct Medical Expert"	as defined in the User Agreement;
"Ethics Policy"	the MedCo Ethics Policy attached as a schedule to the User Agreement (as amended from time to time by MedCo);
"Examination Guidelines"	a document setting out guidelines for undertaking examinations which can be found on the MedCo website: www.medco.org.uk;
"Experts"	means IMEs and/or DMEs;
"Expert Data"	means the full name, contact details and GMC number (or equivalent) / HCPC number of medical experts within the MedCo Database;
"Indirect Medical Expert"	means a medical expert who will only accept instructions to complete a relevant medico-legal report from a MRO and will not provide a report on direct instruction;
"MedCo Data Validation Rules"	the document containing the Rules for the supply of Data set out at www.medco.org.uk (as amended by MedCo from time to time);
"MedCo Guidance"	means any guidance issued by MedCo, from time to time, as relevant to an individual User;
"MedCo Policy Document"	a document setting out the policy decisions MedCo has made to ensure the efficient operation of MedCo which can be found on the MedCo website: www.medco.org.uk;

"MedCo Sourced Report"	a medical report required to be sourced via MedCo in accordance with any Civil Procedure Rules;
"Medical Reporting Organisation"	a Medical Reporting Organisation that meets the definition of a MRO and the other minimum qualifying criteria as outlined in the "Qualifying Criteria for Medical Reporting Organisations" document published by MoJ on www.medco.org.uk (or as otherwise stipulated by MoJ from time to time);
"Practicing Addresses"	the addresses an Expert regularly practices from and has notified to MedCo;
"Qualifying Criteria"	the criteria set by the Ministry of Justice (as amended from time to time);
"Registered Address"	this is the address the User has stated on the Information Commissioner's Office register;
"Regulatory Body"	means any competent governmental, statutory, regulatory or enforcement authority or regulator concerned with the activities carried on by any party or any part, division or element thereof in respect of the activities carried out pursuant to the User Agreement including the General Medical Council, Health and Care Professions Council, the Solicitors Regulation Authority, the Financial Conduct Authority the Information Commissioner and HM Revenue and Customs and their relevant successors (for the avoidance of doubt, this does not include any regulator whose authority arises pursuant to any voluntary code of conduct);
"Rules"	rules made by the MedCo Board from time to time and notified to the User on reasonable notice in accordance with their powers as defined by the MedCo Articles of Association;
"Service Level Standards"	are the standards prescribed by MedCo that Users are expected to meet which can be found on the MedCo website: www.medco.org.uk;
"Technical Data Aid"	a guide to managing data and producing compliant evidence which can be found on the MedCo website: www.medco.org.uk;
"User"	includes AUs, MROs, Experts and any third party granted access to the Database by MedCo (as relevant); and

"User Agreement"	the agreement between MedCo and a User setting out the parties respective obligations. The agreements, as amended from time to time, can be found on the MedCo website: www.medco.org.uk.

Rules - Applicable to All Users

User agreement

1. Users are contractually required to adhere to these Rules and act in a manner that is both compliant with these Rules and in the spirit of the MoJ policy aims of increasing independence and improving the quality in medico-legal reporting.

2. Users must comply with the terms of their MedCo User Agreement. This includes (but not limited to) the following:

    a) engaging constructively with audits as set out in the MedCo audit process guide and demonstrating that they are familiar with MedCo's Guidance;
    b) complying with and being audited against the Service Level Standards that are applicable to them, as set by MedCo from time to time;
    c) being responsible for all acts or omissions by all persons employed by or act on behalf of the User. This includes servants, representatives, agents, suppliers and approved sub-contractors;
    d) paying any Charges within the time stipulated by MedCo. Failure to do so may result in MedCo suspending or terminating the User if the position is not rectified upon notice;
    e) declaring any direct financial links to MedCo on at least an annual basis; and
    f) complying with the Ethics Policy.

3. If requested to do so by MedCo, Users shall provide to MedCo such information as is reasonably required to satisfy MedCo that the User is compliant with their obligations under the User Agreement, within the time period specified by MedCo.

Database

4. Users must accurately upload all Database Data within the timeframes required under the terms of the User Agreement and applicable Service Level Standards as set by MedCo from time to time, including during periods of suspension, and in accordance with the MedCo Data Validation Rules. Subject to any tolerance or exceptions agreed by MedCo in writing, Case Data must be uploaded no later than 6 months from the date of selection by an AU or within 30 calendar days of the medical report being sent to the AU, whichever is sooner.

Records and data protection

5. Where a User is required to comply with the QC they must retain and supply, upon request from MedCo, records to demonstrate that they are meeting their requirements under the QC (as interpreted through the MedCo Guidance and subject-specific guidelines such as the Examination Guidelines), the User Agreement and other Service Level Standards as set down by MedCo from time to time.

6. Users must comply with Data Protection Legislation, have a compliant privacy policy and have adequate processes in place to demonstrate compliance with Data Protection Legislation.

7. Users must ensure they keep up to date with best practice for handling confidential information. Users must ensure that any personal data they have collected and provided to MedCo shall have been obtained and transferred to MedCo in accordance with Data Protection Legislation and Information Commissioner's Office guidance (https://ico.org.uk/).

8. Upon MedCo making a reasonable request for information about whether a third party has been engaged to provide software or any other form of assistance with the medico-legal reporting process, including but not limited to the use of third party platforms and the terms on which they have been engaged, Users shall disclose such information to MedCo within the time period specified by MedCo and in accordance with Rule 5 above.

Conduct

9. All Users must co-operate with MedCo in a professional manner. This includes, but is not limited to, responding to MedCo's correspondence and dealing with complaints in a timely manner.

10. If a User reasonably suspects that another User is in breach of the Rules, they should inform MedCo as soon as practical and provide such assistance as MedCo reasonably requires to investigate the suspected breach.

11. Medical examinations must be undertaken in person at a Practicing Address, unless MedCo specifically states (and for such period as MedCo specifies) that other means of undertaking a medical examination are permitted and subject always to Rule 51.

12. MROs and DMEs must seek approval from MedCo before changing how they identify themselves on the MedCo Database. MedCo shall be entitled to refuse to permit changes to the DME or MRO's name field on the MedCo Database if they reasonably consider that the name change is inappropriate.

Financial

13. All Users must notify MedCo of the direct financial links specified in the User Agreement and as revised from time to time. This must be complied with at application stage and renewal but is an ongoing obligation. The requirement to make a declaration is limited to direct financial links as specified by MoJ. Any direct financial link declared that is not in line with the obligations set out in the User Agreement or is intended to affect a search result will be considered a breach of the User Agreement. Whether that breach is considered to be material will be based on the facts of each case.

14. Users are required to have adequate and appropriate professional indemnity insurance and public liability insurance.

Termination/suspension

15. In order to avail themselves of the escalation procedure set out in the User Agreement, Users must file a dispute notice within 14 days from the date of the dispute arising.

16. If a User is suspended due to an unsuccessful audit outcome, there will be a minimum suspension period as set down in the MedCo Policy Document. If following a re-audit the outcome is still unsuccessful there will be a further minimum period of suspension as set down on in the MedCo Policy Document.

17. If MedCo terminates a User Agreement with a User, that User will require the permission of the Board should they wish to re-register with MedCo. The Board may determine that they will not consider any such request during a stated period that they will stipulate based on the reason for the termination. That period could be indefinitely.

18. Users will be removed from the MedCo Database if the MedCo Board determine that the User has either registered with MedCo with the intention of: breaching the government's stated policy aims, MedCo Rules or QC; or the MedCo Board determine that the registration has had that effect.

Rules - specific to MROs

Audit

19. A MRO seeking to register with MedCo must ensure that it meets the minimum QC before seeking a pre-registration audit by MedCo and must be able to demonstrate that it would

have all the Core Functions (see MedCo Guidance on the QC) ready to operate from day 1 upon being set to 'live' status on the MedCo Database. The audit will be carried out in accordance with the Audit Guide.

20. A MRO wishing to become a HVN MRO will need to be audited against the QC (Table 1 and Table 2) to ensure that it meets the requirements before being given HVN status. MedCo may refuse to carry out such an audit on the grounds that the MRO clearly cannot hope to meet the relevant criteria for an HVN MRO. Each application will be considered on its merits.

21. A MRO must provide ***sufficient, relevant, reliable and substantive*** evidence (**'evidence'**) to MedCo, as required, to demonstrate that it meets its obligations under the User Agreement, MedCo Rules and all individual criteria within the QC. The onus is not on MedCo to look for, and obtain, this evidence. MedCo defines evidence requirements as follows, with further explanation of its approach set out in the applicable Audit Guide:

    a) **Sufficient** relates to the quantity of evidence in breadth and depth.
    b) **Relevant** means the evidence is fundamental to the criterion in question, not incidental.
    c) **Reliable** relates to the source and type of evidence e.g. objective data vs. oral assertion.
    d) **Substantive** refers to evidence that is based more upon demonstrable practice as compared to an entirely theoretical or paper exercise.

22. If a MRO is unable to provide ***sufficient, relevant, reliable and substantive*** evidence to MedCo in respect of any MedCo Rule, User Agreement requirement or individual QC, it will be deemed that the MRO is not meeting that Rule, requirement or QC until such time as the MRO provides this evidence. Where a MRO states that no evidence exists as no such events have occurred (e.g. no complaints), the MRO must demonstrate the plausibility of this e.g. how robust its data capture and business processes are.

Conduct

23. Where an existing MRO intends to or has already registered multiple companies as MROs, each MRO will be considered by reference to the government's stated policy aims and the QC to ensure that the company has not been created in breach of those policy aims and QC. Whether or not a company has been created in breach of these aims and QC will be determined by MedCo which will also consider whether and by whom there has been a breach.

24. MROs must not have Directors or Officers who have been declared bankrupt or convicted of fraud in the last 5 years.

25. A MRO should inform MedCo if it believes it has been instructed to provide a MedCo Sourced Report but has not been provided with a MedCo reference from the AU, despite requesting one.

26. Upon receipt of a MedCo reference, the MRO should check on the MedCo Database that it has been selected to provide that MedCo Sourced Report. If the reference does not appear on its list of references allocated to then it must inform MedCo as soon as possible.

27. A MRO is required to inform MedCo of any concerns it has about a request to amend a medico-legal report by an AU, particularly in circumstances where the request is inappropriate, unusual or a significant amount of time has passed since the report was originally issued.

28. MROs must take adequate steps to ensure that Experts they instruct are not undertaking medical examinations or preparing a MedCo Sourced Report whilst outside of the United Kingdom.

Independence/relationships

29. Where the MRO suspects there is an existing relationship between the Expert and claimant it should make further enquires with the Expert.

30. If an existing relationship is declared by the Expert or if after making enquiries the MRO is satisfied that there is an existing relationship, it should promptly re-allocate the instruction to an alternative Expert.

31. MROs must have a direct contractual relationship with IMEs and instructions must be sent to the IME direct.

Rules - specific to Experts

Accreditation Training

32. In order to be accredited, all experts must hold either a licence to practise with GMC or equivalent registration with HCPC. If a registered expert loses their licence or equivalent registration their accredited expert status will be withdrawn.

33. Experts must complete the Accreditation Training prescribed by MedCo in order to become a MedCo accredited Expert. Experts are expected to provide reports of the quality and standards set down in the Accreditation Training.

34. The initial Accreditation Training must be completed within 9 months of MedCo notifying the Expert that they have approval to undertake the Accreditation Training.

35. Following the successful completion of the initial Accreditation Training, the Expert must enter into a full User Agreement, declare any direct financial links and pay any Charges within

2 months from the date they are notified by MedCo that they are approved to complete the registration process.

36. To continue using the MedCo Database, Experts are required to maintain their Accreditation Training as set out in the MedCo Policy Document. Failure to comply with Accreditation Training requirements or the CPD requirements of their Regulatory Body may result in suspension and/or termination as set out in the MedCo Policy Document.

Quality

37. Medical examinations must be undertaken at suitable Addresses which are confidential, private, safe, secure and professional environment.

38. Experts must conduct themselves in a manner that is consistent with their professional standards, the requirements under part 35 of the Civil Procedure Rules and comply with their overriding duty to the court when undertaking medico-legal reporting.

39. Experts must review all medical reports before they are provided to the MRO, a claimant or AU to ensure that the reports are correct and reflect their professional opinion, in accordance with their duty to the court.

40. Experts must ensure that each medical examination with a claimant lasts a reasonable period of time and that they do not undertake an excessive number of medical examinations in a day. Examination Guidelines can be found at www.medco.org.uk.

Conduct

41. Experts must not have been declared bankrupt or convicted of fraud in the last 5 years

42. When meeting with claimants and preparing the reports, Experts must conduct themselves in accordance with the MedCo Ethics Policy, the Accreditation Training standards and standards set down by their Regulatory Body.

43. Experts should not provide a MedCo Sourced Report for a claimant where: they have provided treatment to or are associated with any person who has provided treatment to the claimant; or they have proposed or recommended treatment that they or an associate then provides to the claimant. Experts must promptly declare any conflicts of interest to those instructing them.

44. Experts should inform MedCo if they believe they have been instructed to provide a MedCo Sourced Report but have not been provided with a MedCo reference after requesting one from the AU.

45. Upon receipt of a MedCo reference, DMEs should check on the MedCo Database that they have been selected to provide that MedCo Sourced Report. If the reference does not appear

on their list of references allocated to them then they must inform MedCo as soon as possible.

46. Experts are required to inform MedCo of any concerns they have about a request to amend a medico-legal report by a MRO or AU, particularly in circumstances where the request is inappropriate, unusual or a significant amount of time has passed since the report was originally issued.

47. Experts must not undertake a medical examination or prepare a MedCo Sourced Report if they are not in the United Kingdom.

Database/Data

48. Experts must ensure that their Addresses and Database Data are kept up to date. An Expert should be prepared to see a claimant at any Address listed on the MedCo Database in a timeframe that accords with the Service Level Standards.

49. 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. Experts should refer to MedCo's Policy Document for MedCo's position on regular use of an Address.

50. If, for any period, a DME does not want to be selected to provide a MedCo Sourced Report they must mark themselves as inactive on the MedCo Database. Unless and until this is changed back to active the DME will not be selectable to provide a MedCo Sourced Report.

51. Any Expert that lists a Practicing Address with the intention of manipulating the search results provided to other Users may be suspended or have their User Agreement terminated.

Audits

52. Experts will grant MedCo access to any of their Addresses for the purpose of undertaking an audit. For the avoidance of doubt, MedCo can undertake audit visits at any of the Expert's Addresses and will do so in accordance with the Audit Guide.

53. Experts may be subject to quality assessment and/or peer review under the terms of their User Agreement with MedCo. If the quality of reporting is deemed by MedCo to be insufficient then MedCo may decide to suspend or terminate the Expert's User Agreement.

54. Experts must provide ***sufficient, relevant, reliable and substantive*** evidence (**'evidence'**) to MedCo, as required, to demonstrate that they meet their obligations under the User Agreement and MedCo Rules. The onus is not on MedCo to look for, and obtain, this evidence. MedCo defines evidence requirements as follows, with further explanation of its approach set out in the applicable Audit Guide:

    a) **Sufficient** relates to the quantity of evidence in breadth and depth.

b) **Relevant** means the evidence is fundamental to the criterion in question, not incidental.
c) **Reliable** relates to the source and type of evidence e.g. objective data vs. oral assertion.
d) **Substantive** refers to evidence that is based more upon demonstrable practice as compared to an entirely theoretical or paper exercise.

55. If an Expert is unable to provide ***sufficient, relevant, reliable and substantive*** evidence to MedCo in respect of any MedCo Rule or User Agreement requirement, it will be deemed that the Expert is not meeting that Rule or requirement until such time as the Expert provides this evidence. Where an Expert states that no evidence exists as no such events have occurred (e.g. no complaints), the Expert must demonstrate the plausibility of this e.g. how robust their data capture and business processes are.

Relationships with third parties

56. Experts must ensure that the sharing of a claimant's personal data with a third party complies with Data Protection Legislation and Information Commissioner's Office guidance (https://ico.org.uk/). This includes, but is not limited to, ensuring that they inform those instructing them of the proposed data sharing prior to the claimant's personal data being shared, that their privacy policy adequately explains all data sharing arrangements and that there is a data sharing agreement in place between them and the third party.

57. IMEs must have a direct contractual relationship with MROs who instruct them with instructions being sent directly to the IME and not via a third party.

58. DMEs must retain control over the medico-legal reporting process, particularly when they are engaging a third party to provide administrative assistance. DMEs must ensure that:

a) they contract directly with AUs;
b) they receive their instructions direct from the AU without them being screened by a third party;
c) they do not provide their MedCo login details to a third party without obtaining MedCo's prior written consent;
d) they provide MedCo with an email address which they have primary control over;
e) they do not allow a third party to re-allocate instructions to another DME;
f) invoices are in their name; and
g) payments are made direct from the AU to the DME's:

i. Personal bank account (a bank account in the DME's name not controlled by a third party e.g. administrative agency's bank account is not a personal bank account); or

ii. Limited company bank account, provided that all three of the following are met: the company is owned by the DME and/or their immediate family

(spouse and linear descendants), is not a MedCo-registered MRO and only handles work (MedCo or otherwise) for that one individual DME.

59. DMEs must not enter in to an agreement with an Authorised User or prepare a MedCo Sourced Report for them where any part of their fee for preparing the report is contingent upon the nature of the expert evidence or upon the outcome of the case.

Rules - specific to Authorised Users

Database

60. A search must be conducted in accordance with MedCo's Database rules set out in the User Agreement (or as otherwise stipulated by MedCo from time to time).

61. A search of the MedCo Database must be undertaken in all low value personal injury claims in road traffic accidents, as defined by the Civil Procedure Rules, prior to instructions being sent to an Expert or MRO and the instructions must include the MedCo reference. Instructions must be sent to the Expert or MRO prior to an examination taking place.

62. In the event that it is necessary to conduct a second search of the MedCo Database for the same claimant for the same accident, the AU must make a contemporaneous record of the reason why a second search was necessary. MedCo may request the AUs contemporaneous records of second searches at any time.

63. If an AU is undertaking one search of the MedCo Database for multiple claimants for the same accident they must all reside at the same address, otherwise multiple searches of the MedCo Database must be undertaken.

Audits

64. AUs may be subject to audit under the terms of their User Agreement with MedCo. Such audits will be conducted in accordance with the Audit Guide. If AUs are deemed by MedCo to be using the MedCo Database inappropriately, circumventing MoJ policy or otherwise breaching their User Agreement then MedCo may decide to suspend or terminate the AU's User Agreement.

65. AUs must provide ***sufficient, relevant, reliable and substantive*** evidence ('**evidence'**) to MedCo, as required, to demonstrate that they meet their obligations under the User

Agreement and MedCo Rules. The onus is not on MedCo to look for, and obtain, this evidence. MedCo defines evidence requirements as follows, with further explanation of their approach set out in the applicable Audit Guide:

a) **Sufficient** relates to the quantity of evidence in breadth and depth.
b) **Relevant** means the evidence is fundamental to the criterion in question, not incidental.
c) **Reliable** relates to the source and type of evidence e.g. objective data vs. oral assertion.
d) **Substantive** refers to evidence that is based more upon demonstrable practice as compared to an entirely theoretical or paper exercise.

66. If an AU is unable to provide ***sufficient, relevant, reliable and substantive*** evidence to MedCo in respect of any MedCo Rule or User Agreement requirement, the AU will be deemed as not meeting that Rule or requirement until such time as the AU provides this evidence. Where an AU states that no evidence exists as no such events have occurred (e.g. no complaints), the AU must demonstrate the plausibility of this e.g. how robust their data capture and business processes are.

Conduct/relationships

67. AUs must consult with MedCo if there is any ambiguity as to whether a MedCo sourced report is required for a particular case.

68. After undertaking a search of the MedCo Database but prior to selecting a MRO or DME, AUs should make enquiries with a DME or MRO to ascertain whether:

a) they have sufficient availability to undertake a medical examination; and
b) if they have not previously instructed them, they should make enquires as to whether terms can be agreed between the parties.

69. Authorised Having selected a DME or MRO to provide a MedCo Sourced Report, AUs must contract with the DME or MRO direct before providing instructions.

70. Authorised Users must not enter in to an agreement or instruct a DME to prepare a MedCo Sourced Report for the Authorised User where any part of the DME's fee for preparing the report is contingent upon the nature of the expert evidence or upon the outcome of the case.