

Direct Medical Expert Rules (from 6 April 2025)

The following rules have been developed to enable DMEs to demonstrate that they can provide a good level of service to unrepresented claimants seeking a medical report. DMEs wishing to undertake this work will be subject to an audit interview arranged by the MedCo Audit Committee. Where appropriate, additional rationale for each rule has been provided below, and further guidance will be provided prior to audit interviews being undertaken.

Rule 1: Fit and Proper Persons

DMEs must adhere to the following fit and proper persons criteria, and ensure that any employee dealing with unrepresented claimants also adheres to these criteria:

- a) Be honest, of good character, credible, and must act with integrity;
- b) Be competent and capable of performing tasks intrinsic to their role, both in terms of their core medico-legal expert duties and/or related administrative tasks;
- c) Have relevant qualifications, knowledge, skills and experience necessary for the role they undertake;
- d) Enhanced certification is considered best practice, but basic DBS certification is mandatory for all experts and key staff dealing with unrepresented claimants. A basic DBS certification request can be made here: <https://www.gov.uk/request-copy-criminal-record>; and
- d) Not have been responsible for, privy to, have contributed to or facilitated any serious misconduct or mismanagement in the production of MedCo or non-MedCo medico-legal reports.

Additional Rationale: Given the imbalance in knowledge, experience and power in the relationship between unrepresented claimants and DMEs, a 'fit and proper persons' regime is appropriate to protect their interests. In the case of an employee of a DME, evidence that the employee is a fit and proper person may include references from former employers, references from professional advisers, or a review of social media profiles. This is in line with best practice in the NHS¹ and where in doubt, DMEs should contact MedCo to discuss any concerns. It is noted that there are a range of appropriate administrative qualifications available to employees, however DMEs will be responsible for ensuring qualifications claimed by staff are valid and suitable for the role undertaken.

¹ <https://nhsproviders.org/fit-and-proper-persons-regulations-in-the-nhs>

Rule 2: Audits and Accreditation

DMEs will be authorised to undertake unrepresented claimant work only upon satisfactory completion of both:

- a) an audit in the form of an assessment interview and/or an onsite audit of their compliance with and adherence to the Rules specific to DMEs including the Rules specific to DMEs authorised to accept instructions from unrepresented claimants. In the event that a DME attending an assessment interview with the Medco Audit Team fails to satisfy the audit criteria, an on-site audit may at Medco's discretion be arranged at a later date, and
- b) the Medco Accreditation Training Unrepresented Claimant Module.

Additional Rationale: Passing an assessment interview undertaken by an auditor appointed by the MedCo Audit Committee provides reassurance that the DME understands the roles and responsibilities that they and their staff have in relation to providing services to unrepresented claimants. The accreditation module will form part of the MedCo accreditation process which is designed to ensure the quality of training undertaken by medical experts undertaking MedCo work remains consistent.

Rule 3: Data Protection

DMEs are required under paragraph 6 of the MedCo Rules to comply with all relevant requirements in relation to duties imposed under the Data Protection Act 2018 (<http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>) and any additional relevant legislation such as the UK General Data Protection Regulation (GDPR).

DMEs dealing with unrepresented claimants must be aware of and able to demonstrate compliance with all requirements relating to the processing of personal data under Data Protection Legislation and the requirement to treat individuals fairly, including but not limited to the requirements relating to consent. Additional information on the application of the UK GDPR can be obtained from a wide variety of sources including from:

- the Information Commissioner's Office: <https://ico.org.uk/for-organisations/advice-for-small-organisations/checklists> and <https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources>
- the National Health Service: <https://digital.nhs.uk/data-and-information/keeping-data-safe-and-benefitting-the-public/gdpr>
- the Health and Care Professions Council: <https://www.hcpc-uk.org/news-and-events/blog/2018/gdpr-and-hcpc-standards-six-months-on>
- the British Medical Association: <https://www.bma.org.uk/advice-and-support/ethics/confidentiality-and-health-records/gps-as-data-controllers-under-gdpr>; and
- the Chartered Society of Physiotherapy: <https://www.csp.org.uk/professional-clinical/digital-physiotherapy/data-ethics-gdpr>.

Additional Rationale: DMEs will be assessed against this rule as part of the face-to-face audit process as described in Rule 1. Additional links to sources of helpful information on compliance with the UK GDPR rules have been provided.

Rule 4: Interactions with unrepresented claimants

DMEs must be able to demonstrate timeliness when responding to unrepresented claimants' questions and a commitment to treating such claimants with respect, empathy, courtesy and professionalism. DMEs should also show an awareness of the differing needs of potentially vulnerable unrepresented claimants.

Additional Rationale: Compliance with this rule will demonstrate an understanding of how to engage in a sensitive way with unrepresented claimants and that DMEs and their staff know how to deal with the differing needs of individuals. Consideration could also be given to ensuring staff training/qualifications on customer services and obtaining external certifications e.g., ISO9001² (2015 and successor versions).

² <https://www.iso.org/iso-9001-quality-management.html>

Rule 5: Resources and Delivery

Whether they employ staff or not, DMEs must demonstrate they have the resources and structure necessary for operational delivery of the unrepresented claimant service on a consistent and stable basis. Including the ability to:

- be contactable at times when unrepresented claimants may wish to pursue their claims, which may be outside normal office hours; and
- operate across multiple communications channels to cater for different unrepresented claimants' preferences and needs (e.g. if vulnerable or they do not have web access).

DMEs should have robust end-to-end customer service systems, including sufficient resources (people, processes and technology). DMEs are personally responsible for their dealings with unrepresented claimants and will be held accountable for any interactions they have with the instructing claimant as well as those by their staff or any outsourced customer service providers/administration agencies.

DMEs opting-in to undertake unrepresented claimant work must be compliant with all MedCo Rules. They are also expected to be willing to accept instructions in relation to road traffic accident related soft-tissue and (where applicable) non-soft tissue injury claims from represented and unrepresented claimants as an operational norm.

Additional Rationale: Unrepresented claimants may have different working pattern which could restrict their ability to engage with their claim during office hours. DMEs should be able to demonstrate that they have considered this and have sufficient systems or capability in place to ensure that they also receive a good service, including an option of communicating through multiple channels (e.g., email, phone, SMS/text, social media and live-chat applications).

This may require an effective messaging process to be in operation and some responses/conversations may need to be made outside normal working hours. Whilst DMEs are expected to respond promptly, this does not mean they must be available 24/7 or that office phones must always be answered at any time outside normal hours.

Rule 6: Provision of information

DMEs must be able to verifiably demonstrate how they will provide unrepresented claimants with transparent, accurate, timely and up-to-date information, in plain English³, about:

- their process for producing medico-legal reports, especially the consultation procedure and what the claimant's roles, responsibilities and rights are in this process;
- the contact details and the different communications channels they offer; and
- their service standards and how to make complaints, if necessary, about the DME and how to initiate a dispute resolution process.

Additional Rationale: Unrepresented claimants may not have a good understanding of the medico-legal process or be aware of what they need to do and when they need to do it. It is important that all information and communications provided to unrepresented claimants uses easily understandable language and is available in an accessible format.

DMEs are responsible for ensuring that an unrepresented claimant understands the process of arranging and attending an examination, including what the claimant needs to do and when. This includes clearly explaining the unrepresented claimant's rights to challenge factual elements of their report as well as other practical considerations such as what the consequences are if they miss their appointment etc.

It is also important that DMEs can demonstrate how they will explain this and that they have an effective complaint handling mechanism in place. If DMEs fail to address the claimant's complaint to his/her satisfaction, the claimant should have the process for how to report the DME to MedCo clearly explained to them. A complaints system does not need to be overly complex, but should be clear, fair and proportionate to the size of the practice⁴.

³ <https://www.plainenglish.co.uk/medical-information.html>

⁴ <https://www.legalombudsman.org.uk/information-centre/learning-resources/good-complaints-handling/best-practice-complaint-handling-guide>

<https://www.england.nhs.uk/long-read/nhs-england-complaints-policy>