

Framework for managing performer concerns:

NHS (Performers Lists) (England) Regulations 2013

Annex 5: elements of the framework specifically applicable to medical performers



## **Annex 5: Elements of the framework specifically applicable to medical performers**

### **Terminology**

For the purposes of consistency, the terminology used to describe those on the medical performers list will be referred to as:

Contractors – Contractors contract with the NHS to provide an agreed range of treatments for patients. Their name is on the contract as a party and contractors cannot treat patients unless they are also medical performers. Contractors are responsible to the NHS for the treatment and all claims in relation to their patients' treatment under the contract. Contractors employ/contract for services with performers to carry out the work under the contract. A Contractor can also be a Performer.

Performers – Only performers can treat patients under the NHS on behalf of a provider. Performers must be on the national performers list. Performers cannot make NHS claims and are not in a contract with the NHS. A performer can also be a contractor.

Throughout this framework the role responsible officer/medical director is referred to. The term responsible officer and associated duties relate only to primary care medical performers. The NHS England responsible officer(s) will have overall responsibility for responding to concerns through the statutory duties laid out in the Medical Profession (Responsible Officers) Regulations 2010 and the Medical Profession (Responsible Officers) (Amendment) 2013 but may delegate elements of these duties throughout NHS England to appropriate members of the responding to concerns team.

All doctors employed by NHS England will relate to one responsible officer.

### **Revalidation/Appraisal**

Revalidation is the process by which doctors demonstrate to the GMC that they are up to date and fit to practise. The cornerstone of the revalidation process is that doctors will participate in annual medical appraisal. On the basis of this and other information available to the responsible officer from local clinical governance systems, the responsible officer will make a recommendation to the GMC, normally every five years, that the doctor should be revalidated. The GMC will consider the responsible officer's recommendation and decide whether to renew the doctor's licence to practise.

## **Responsible officer regulations**

This framework forms part of the responsible officer functions as set out in the Medical Profession (Responsible Officers) Regulations 2010 and the Medical Profession (Responsible Officer) (Amendment) Regulations 2013. The principles above are also principles of the responsible officer role which will seek to:

- Ensure that doctors who provide and oversee care continue to be safe;
- Ensure that doctors are properly supported and managed in sustaining and, where necessary, raising their professional standards;
- For the very small minority of doctors who fall short of the high professional standards expected, ensure that there are fair and effective local systems to identify them and ensure appropriate remedial, performance or regulatory action to safeguard patients; and
- Increase public and professional confidence in the regulation of doctors.

The Medical Profession (Responsible Officers) Regulations 2010 and the Medical Profession (Responsible Officers) (Amendment) 2013 require each body designated under the regulations to appoint a responsible officer who must monitor and evaluate the fitness to practise of doctors. In particular this gives a responsible officer specific statutory duties relating to the identification, investigation and handling of concerns, monitoring of performance and conduct and in particular ensuring conditions or undertakings are in place, and addressing the concerns through the offering of appropriate support. The decision relating to the fitness to practice remains with the regulator, the General Medical Council (GMC) but is informed by the recommendation and information provided by the responsible officer.

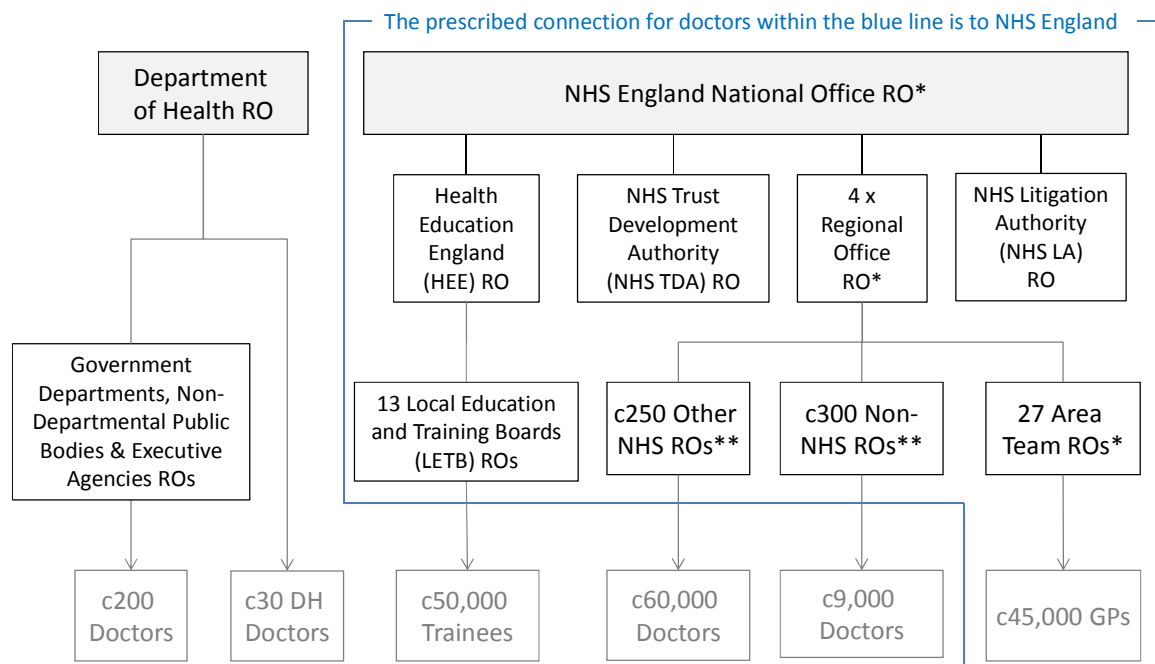
## **NHS England as designated body**

NHS England is the largest designated body under the regulations. It has a prescribed connection to approximately 45,000 primary care medical performers as well as a number of responsible officers, employed doctors and a small number of secondary care locum doctors. The means by which a doctor may have a prescribed connection to NHS England are described in detail in the NHS England published document 'Prescribed Connections to NHS England<sup>1</sup>', and illustrated in Figure 1.

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<sup>1</sup> <http://www.england.nhs.uk/ourwork/qual-clin-lead/revalidation/>

**Figure 1:**



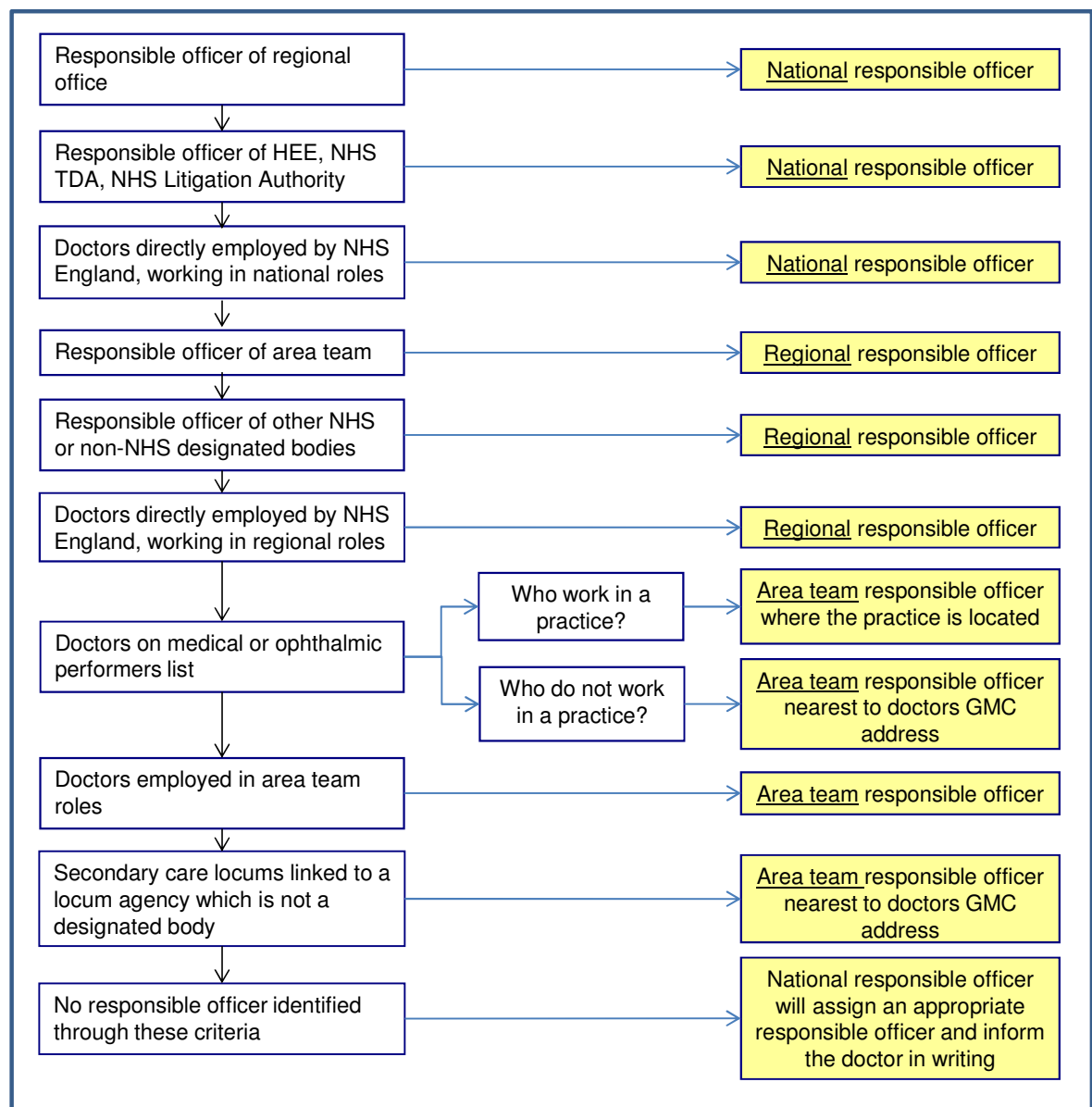
\* Denotes NHS England Responsible Officers (ROs)

\*\* Responsible officer of other NHS or non-NHS designated bodies including ROs from medical defence organisations, RMO organisations, British College of Aesthetic Medicine, NHS Blood & Transplant, Faculty of Homeopathy, Pathology Delivery Board, Defence Deanery, National Deanery for Pharmaceutical Medicine, NHS Leadership Academy, non-NHS organisations and armed forces (on the basis of the address of the Designated Bodies' headquarters)

The rules for establishing which NHS England responsible officer a doctor relates to are illustrated in Figure 2.

Responsible officers have a specific responsibility relating to the duty initiate measures to address concerns which may include requiring the performer to undertake re-skilling, re-training and/or rehabilitation services. There is no requirement on the designated body to fund this remediation however NHS England recognises that in exceptional circumstances it may be appropriate to do so.

**Figure 2:**



### The current funding arrangements for remediation

Details regarding the current funding arrangements can be found on NHS England's FAQs page under 5.2: <http://www.england.nhs.uk/wp-content/uploads/2013/11/reval-faqs-20131119.pdf>