



Delivering Quality in Primary Care: Medical Performers Lists

LANGUAGE KNOWLEDGE

Primary Care: Medical Performers Lists – Language Knowledge

DH INFORMATION READER BOX	
Policy	Estates Commissioning IM & T Finance Social Care / Partnership Working
HR / Workforce Management Planning / Clinical	
Document Purpose	Policy
Gateway Reference	13564
Title	Delivering Quality in Primary Care: Performers Lists - Language Knowledge
Author	Professional Standards Division
Publication Date	04 Feb 2010
Target Audience	PCT CEs, SHA CEs, Care Trust CEs, Directors of PH, PCT Chairs
Circulation List	Medical Directors, Special HA CEs, GPs
Description	Interim guidance to PCTs in England to assist in making decisions about whether or not a doctor has sufficient knowledge of English to be included on the local performers list.
Cross Ref	
Superseded Docs	
Action Required	N/A
Timing	N/A
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First published February 2010
Published to DH website, in electronic PDF format only.
<http://www.dh.gov.uk/publications>

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Executive summary

LANGUAGE KNOWLEDGE

This interim guidance is issued to assist PCTs in England in making their decision about whether or not a doctor has sufficient knowledge of English to perform primary medical services in the PCT's area. The Department intends to review and revise all its current guidance on the Performers Lists as part of the implementation of the Performers Lists Review. This guidance is provided in the interim.

KEY POINTS

- PCTs are responsible for ensuring that any doctor they admit to their Performers List has the necessary clinical skills and experience to perform primary medical services.
- PCTs must refuse to list a doctor if not satisfied that they have the necessary knowledge of English.
- PCTs must therefore satisfy themselves that doctors have provided adequate evidence of their proficiency in the English language.
- Doctors may provide evidence attesting to their linguistic competence in a number of ways.

This guidance should be read in conjunction with the National Health Service (Performers Lists) Regulations 2004, as amended.

Primary Care: Medical Performers Lists

LANGUAGE KNOWLEDGE

This interim guidance is issued to assist PCTs in England in making decisions about whether or not a doctor has sufficient knowledge of English to perform primary medical services in their area.

Background

1. PCTs are responsible for ensuring that any doctor they admit to their Performers List has the necessary clinical skills and experience to perform primary medical services in its area. A doctor on its list will be able to perform primary medical services in any other PCT's area in England.
2. PCTs are responsible for checking the information provided by applicants and may ask applicants for further information. The full range of checks PCTs should make is given in the National Health Service (Performers List) Regulations 2004 and advice (which is not a substitute for the provisions in the Regulations) given in the Department of Health's publication *Advice for Primary Care Trusts on list management* available on its website.¹
3. When considering applications from doctors for whom English is not their first language PCTs will need to consider whether sufficient information has been provided about their knowledge of English. No doctor should be admitted to a PCT's list unless it is satisfied that the doctor has sufficient knowledge of English to perform primary medical services in the PCTs' area (see regulation 6(2)(b) of the Performers List Regulations).

Language testing

4. Many doctors from overseas will have provided evidence of their language competency to the General Medical Council (GMC), but this is not required if they are from the EEA (see section on Legal Background below).
5. Before deciding to include an EEA national in their Medical Performers List, PCTs must consider the sufficiency of the evidence provided with the application and whether or not they may need to require the applicant to provide any further evidence of language competency so that they may assess their knowledge of English.
6. A list of some English language qualifications is given at the end of this guidance but the list is not an exclusive one. The Department considers that the results attained in these qualifications are a good indicator of the level of language competency that the individual has achieved. PCTs may consider any of the listed qualifications or other evidence of language knowledge that the applicant may provide when assessing whether they are satisfied about the doctor's knowledge of English.
7. In respect of all applicants whose first language is not English, where there is doubt about their ability to communicate in English PCTs must ask for evidence of their knowledge of English. PCTs need to act in a consistent way and not discriminate against any community or group when applying this guidance.

¹ Delivering Quality in Primary Care- Advice for Primary Care Trusts on list management- August 2004
http://www.dh.gov.uk/dr_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4138602.pdf

LEGISLATION

Article 53 of Directive 2005/36/EC deals with the issue of language knowledge:

"Persons benefiting from the recognition of professional qualifications shall have a knowledge of languages necessary for practising the profession in the host Member State."

The National Health Service (Performers Lists) Regulations 2004. Regulation 6(2)(b) states:

"The grounds on which a Primary Care Trust must refuse to include a performer in its performers list are....(b) that it is not satisfied he has the knowledge of English which, in his own interests or those of his patients, is necessary in performing the services, which those included in the relevant performers list perform, in its area;"

LEGAL BACKGROUND

European Directive 2005/36/EC on the recognition of professional qualifications.

The Directive aims to facilitate the free movement of European Union (EU) nationals throughout the EU. Arrangements under the European Economic Area (EEA) Agreement extend its provisions to nationals of other EEA states which are not within the EU. EU law requires all Member States to follow the provisions of the Directive in relation to EEA nationals. The Directive provides for the automatic recognition of qualifications for a number of professions, many in the healthcare field. It also sets out arrangements for the recognition of health professionals' qualifications which do not qualify for automatic recognition.

The Directive achieves facilitation of free movement of EEA nationals through the competent authorities (in the UK the regulatory body: the General Medical Council).

The Directive requires all competent authorities to recognise qualifications from other Member States providing the qualifications meet the minimum standard set out in the Directive. In the UK, the GMC must accept an EEA migrant's qualifications if they meet the minimum standard and cannot impose an additional test eg for language competency before registration.

APPEALS AND SOLVIT

In addition to rights of appeal against a decision by the PCT to refuse admission to its performers list, EEA nationals may use the services of SOLVIT.

SOLVIT is an on-line problem solving network in which EU Member States work together to solve without legal proceedings problems caused by the misapplication of Internal Market law by public authorities. There is a SOLVIT centre in every European Union Member State (as well as in Norway, Iceland and Liechtenstein). SOLVIT Centres can help with handling complaints from both EU citizens and businesses. They are part of the national administration and are committed to providing real solutions to problems within ten weeks. Using SOLVIT is free of charge.

SOLVIT has been working since July 2002. The European Commission coordinates the network, which is operated by the Member States, the European Commission provides the database facilities and, when needed, helps to speed up the resolution of problems. The Commission also passes formal complaints it receives on to SOLVIT if there is a good chance that the problem can be solved without legal action.

If SOLVIT fails to provide a solution, the European Commission will instigate legal proceedings against the Member State if it considers that EU law has not been correctly applied.

Questions & Answers

Q. Why can't a PCT rely on the doctor's registration by the GMC?

A. The regulatory bodies cannot impose a language test on EEA nationals prior to recognising their qualifications for registration. Other doctors from overseas will be tested if the GMC considers this necessary. A PCT must be satisfied about a doctor's knowledge of English before it admits the doctor to its list.

Q. Why can't all doctors be required to pass the International Language Testing System (IELTS)?

A. An IELTS test report form showing a minimum overall score of 7.0 is accepted as a form of assurance that a doctor has a minimum acceptable level of linguistic competence by the GMC for international graduates from outside the EEA. However, a PCT cannot make IELTS the only way to meet the language competence requirement for admittance to its list. (see next question)

Q. Why can't we test all applicants to our lists?

A. Testing cannot be imposed in a systematic way on all applicants from the EEA. Decisions by the PCT about what evidence it requires to be satisfied about the applicant's English language knowledge must be made on a case by case basis and be proportionate in all the circumstances, particularly in relation to the work the doctor is going to undertake and to other evidence the doctor has been able to provide.

Q. How can a PCT decide what level of attainment in a test to accept?

A. You will need to seek the advice of the examining body as to what its test results mean. For instance, IELTS suggest that attainment of level 7 ("Good user") is probably acceptable for a linguistically demanding academic course such as medicine, law, linguistics or journalism.

Q. What evidence other than UK language tests may be acceptable?

A. Doctors may have:

- (i) pursued part of their education in the UK;
- (ii) been taught in English in a recognised institution abroad;
- (iii) recently passed language tests or obtained certificates of language knowledge provided by recognised institutions outside the UK ; or
- (iv) worked in an English speaking country or in an organisation or institution in which communications were in English; or
- (v) lived in a multi-lingual household in which a relative or carer used English as their primary form of communication.

PCTs are advised to consider any such evidence of knowledge of English when making decisions about whether or not an applicant has sufficient knowledge of English

Q. Is there any published guidance on language proficiency?

A. The Council of Europe has published a Common European Framework of Reference for Languages which may help PCTs in applying common standards to language test certificates submitted by applicants.

Q. Do we have to accept a qualification passed many years ago?

A. If the PCT has insufficient evidence about whether the doctor has the necessary knowledge of English it can ask for more recent evidence.

FURTHER INFORMATION & WEB LINKS

Council of Europe - *European Language Portfolio* [http://www.coe.int/t/dg4/linguistic/Portfolio_EN.asp]

European Commission [http://ec.europa.eu/index_en.htm]

IELTS [<http://www.ielts.org/default.aspx>]

COUNTRIES IN THE EEA

For the purpose of this advice, EEA nationals are citizens of the following member states of the European Economic Area.

Austria
Belgium
Bulgaria
Cyprus
Czech Republic
Denmark
Estonia
Finland
France
Germany
Greece
Hungary
Iceland
Ireland
Italy
Latvia
Liechtenstein
Lithuania
Luxembourg
Malta
Netherlands
Norway
Poland
Portugal
Romania
Slovakia
Slovenia
Spain
Sweden
United Kingdom

Notes

Certain UK citizens may have an “enforceable right” and may not have been required to provide evidence of their language competence by the regulatory body. If a PCT has doubts about their knowledge of English they can ask the applicant for evidence of their competency in English.

Citizens of Switzerland (although it is not part of the EEA) should be treated in the same way as EEA citizens as they are exempt from language testing requirements of the regulatory bodies.

Other persons, such as a spouse or family member of an EEA citizen, may also have a Treaty Right (or “enforceable right”) and should be treated in the same way as EEA citizens as they are exempt from language testing requirements of the regulatory bodies.

Croatia and Turkey and the former Yugoslav Republic of Macedonia are candidate countries but have not yet joined the EU. Their citizens are not EEA nationals (until their country’s accession to the EU).

EXAMPLES OF COMMONLY USED LANGUAGE TESTS

English Language Testing Qualifications Awarding body	Title of Qualification
Cambridge University Certificate in English (ESOL) www.cambridgeesol.org	Business English Certificate (BEC)
London Chamber of Commerce Institute Examination (LCCIEB) www.lccieb.com	English for Business (EFB)
National Open College Network (NOCN) www.nocn.org.uk	NOCL Entry Level Certificate in ESOL Skills for Life
City & Guilds www.cityandguilds.com	City & Guilds International ESOL examinations
Trinity www.trinitycollege.co.uk	Certificate in Integrated Skills in English (ISE I)
University of Bath www.bath.ac.uk/ubelt/	English Language Assessment
Linguarama www.linguarama.com	Linguarama English Test
Eutopia Medical Solutions www.eutopiamedical.com	Eutopia Certificate in Dental English Language
International English Language Testing System www.ielts.org	General International English Language Testing System
International English Language Testing System www.ielts.org	International English Language Testing System Academic
Educational Testing Service www.ets.org	Test of English as a Foreign Language (TOEFL) Internet Based Test
Educational Testing Service www.ets.org	Test of English as a Foreign Language (TOEFL) Computer Based Test
Educational Testing Service www.ets.org	Test of English as a Foreign Language (TOEFL) Paper Based Test
Educational Testing Service www.ets.org	Test of English for International Communication (TOEIC)