

## 1. What is MedCo?

MedCo is the system used in the UK to facilitate the sourcing of medical reports in soft tissue injury claims brought under the MoJ's Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents.

## 2. How does MedCo work?

All those instructing medical reports, such as firms of solicitors, along with providers of medical reports must register with MedCo. Providers include medical experts and medical reporting organisations (MROs).

All parties that register must declare any direct financial links that meet the MoJ's criteria.

When a firm of solicitors or other instructing party requires a medical report the MedCo system searches for either an accredited direct medical expert (DME) or an audited medical reporting organisation (MRO). From the search criteria entered the system returns an offer – a random but fair shortlist of medical experts and reporting organisations – from which the solicitor must make a selection. The offer is set by the MoJ and excludes any organisation or individual medical expert that has declared a direct financial link to the instruction party.

Once a report has been produced the DME or MRO uploads anonymised case data to MedCo. The report itself is not loaded on the MedCo system. This data is then used by MedCo to monitor and ensure the quality of medical reporting.

## 3. When did MedCo go live?

MedCo was launched in April 2015.

## 4. Does MedCo apply for a claimant who was involved in an RTA in England/Wales but resides elsewhere (outside the jurisdiction) e.g. Scotland?

Provisions dating from the original RTA Pre-Action Protocol already effectively limited the claimant to instructing a medical expert in the UK. Paragraph 1(12) of the protocol states:

“(12) ‘medical expert’ means a person who is—

- (a) registered with the General Medical Council;
- (b) registered with the General Dental Council; or

(c) a Psychologist or Physiotherapist registered with the Health Care Professions Council”

The only difference arising since the implementation of the MedCo reforms, is that, now, initial medical reports in soft tissue injury claims must be obtained from a medical expert, as defined above, who is also registered with MedCo.

Prior to the implementation of MedCo, a pragmatic system was in place where defendant insurers would accept reasonably sourced reports from non-registered experts in the small number of cases where the claimant, because they live outside the England and Wales jurisdiction had been unable to present a report from a GMC registered expert. Therefore following discussion of this issue between MoJ and members of the MedCo Board, the ABI, MASS and APIL have agreed to advise their membership that this pragmatic approach to agreeing the provision of a suitable medical report should continue to be taken.

## 5. What should I do if I am a Direct Medical Expert or an MRO and I have concerns about the terms and conditions and or payments of fees by an instructing Solicitor?

MedCo was established to facilitate the operational changes required under the MoJ’s Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents; namely, to enable the sourcing of medical reports in soft tissue injury claims. MedCo is designed to improve the quality and consistency of medical reports and to remove potential conflicts of interest by ensuring there are no financial links between law firms and the medical experts who provide advice. It is not MedCo’s function to interpret the Civil Procedure Rules [CPR], neither does MedCo have the power to intervene in breaches of the relevant rules, directions and guidance.

- Experts and those instructing them are governed by [Part 35 of the Civil Procedure Rules](#) and [Practice Direction 35](#)
- [Guidance for the Instruction of experts in civil claims](#) is also provided by the Civil Justice Council, who state at paragraph 88 that the “Payment of experts’ fees contingent upon the nature of the expert evidence or upon the outcome of the case is strongly discouraged. In *ex parte Factortame* (no8) [2003] QB 381 at [73], the court said ‘ we consider that it will be a rare case indeed that the court will be prepared to consent to an expert being instructed under a contingency fee agreement’.
- [Guidance issued by the Academy of Experts Judicial Committee](#) positions the instruction of experts on a contingency basis as ‘objectionable and does compromise the expert’s independence and impartiality.’
- Solicitors also must adhere to the [Code of Conduct](#) and the [Principles](#) of their regulatory body, Solicitors Regulation Authority.

It is the responsibility of the instructing Solicitor to engage ethically and ensure that the terms and conditions they apply are compliant with the relevant rules, directions and guidance.

Medical Experts and MROs who have concerns that an instructing solicitor’s terms and conditions may be in breach of the relevant rules, directions and guidance should contact the Solicitors Regulation Authority. More information on reporting to the Solicitors Regulation Authority can be found [here](#).