

Successful Appeal Against Abatement of Seniority

(Some practices might benefit from knowing about the following story)

- A GP discovered from her accountant that the TVPCA had clawed back what they categorised as overpaid Seniority Payments
- The PCT rationale was based on the Statement of Financial Entitlement (SFE)
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4107508
- The essence of the SFE is:

Seniority is paid on account until the income in any year is known for certain (when practice accounts are produced much later)

How much seniority any GP partner is entitled to is determined by the following table

Income earned by partner compared to the national average	% of entitlement as calculated by table in the middle of the second blue book
>2/3 of national average superannuable income	100%
1/3-2/3 of national average superannuable income	60%
1/3 of national average superannuable income	0%

Income levels are described in each partner's annual superannuation certificate, compiled by the practice accountants.

The government information centre analyzes these and produces a national average.

The PCT (or their agency) compare any partner's income with the national average and retrospectively adjust previous payments (reconciliation)

If past earnings show that any partner had previously been placed in the wrong row in the above table, then claw back of previous income becomes possible.

BUT

The negotiators of our new contract put in a safety net clause

Seniority – pay thresholds

We have therefore agreed that those GPs who believe that they are not receiving the seniority payment to which they are entitled can apply to the PCO which, together with the LMC (or equivalent), will examine the entitlement to ensure the GP is not disadvantaged and correct it upwards where evidence supports this. The intention is that seniority payments should reflect doctors' time commitment to general practice and not simply their earnings. Only the GP would be able to initiate a review. PCTs would not have the power to do so.

- Failure to apply this clause has been the subject of a ruling by ICG (the national arbitration panel on new contract disputes).

This is given below

PCT – Seniority payments

A PCT was not providing full **seniority** payments to a doctor working in a low-earning practice. Under the nGMS contract the GP would receive less in **seniority** payments this year than he did previously. It was agreed that the doctor was entitled to the full annual rate of **seniority** payments and that these should be protected at the level he had received under the old scheme. It was noted that low-income practices should not be disadvantaged with regards to **seniority** payments.

Learning point: Seniority payments

GPs **seniority** payments should not be less than the equivalent payments received under the 'Red Book.' However there was always a clear intention within the national agreement to ensure GP contractors working in a low earning practice should not be disadvantaged in relation to high earning practices, particularly where practitioners are full-time. This may occur where the **seniority** payment has been fixed at previous 'Red Book' levels.

Where GP contractors believe they have been disadvantaged a case may be raised with the PCT for consideration with the LMC over the appropriateness of their **seniority** entitlement. Where the GP contractor is shown to be disadvantaged, PCTs should use their discretionary powers to amend the **seniority** award as agreed locally.

BBO LMC and the GP concerned have worked together to bring the ICG ruling to the attention of the PCT and have been successful in having previous Seniority Levels reinstated.

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