

### **Payment of final PGEA payments under the 1990 GMS contract**

A recent County Court judgement found in favour of a GP claiming payment due in 2004/05 in arrears for PGEA undertaken in 2003/2004. The claimant was able to demonstrate to the court that he had undertaken the necessary period of education in the year before the introduction of the 1990 contract, was therefore paid in arrears for this allowance throughout the duration of the old contract, and was due a further full year's payment in the first year of the new contract. Following this judgement, the question has arisen of whether it sets a precedent for all GPs.

This whole matter hinges on whether PGEA was paid annually in arrears or in advance. The GPC's legal advice is that the ruling cannot be applied generically to all GPs because;

- It would only apply to those who could present evidence themselves (as did the claimant in this judgement) that they had been paid annually in arrears.
- It is evident that some doctors were paid in advance.
- It would not apply to PMS GPs, who have different arrangements, and is not likely to apply to new GPs post 1990-91

It is important to note that the judgement ruling on this case is only relevant to this one particular case. It therefore does not set a precedent for all GMS GPs who have worked under both old and new contracts to claim this money.

However, what it does do is indicate that any other GP in the same situation as the claimant in this case may be successful in a challenge. The GPC's current advice is therefore that only those who can provide evidence (in the form of their practice accounts, for example) that they had been paid annually in arrears might have a case.

The Department of Health do not believe that the circumstances of the case reflect those of the generality of GPs, and so do not expect any other cases.

### **How to pursue small claims**

Claims will usually be allocated to the small claims track in the county court if their value is £5,000 or less. This is the simplest of the three tracks used in the county court. A case may be allocated to another track if it is complex.

Before applying to the court you must be able to show that you have attempted to settle the claim. The court will expect you to have made your claim in writing, giving the other party a reasonable time to apply (usually a month) and warning them that you intend to take court action if they fail to reply within that time.

To start a claim in the county court, you must fill in a claim form, which are available from the internet (in England and Wales) at [www.courtservice.gov.uk](http://www.courtservice.gov.uk) or from legal stationers or from local courts. The forms ask for details of the value of the claim. If you wish to claim interest, you must give details of this in the particulars of the claim.

You will need to attach to the claim any relevant documentation that provides evidence of your claim.

You then send two copies (three in Northern Ireland) of the claim form to the court at which you want to make the claim, and keep one for your own records. You must also send the court fee, which depends on the value of the claim.

Usually the court will serve the claim to the defendant itself. If you want to serve it yourself you must ask to do so and once it has been stamped by the court it will be returned to you for this purpose.

Once the court has decided to allocate your claim to the small claims track, it will serve the parties a notice of allocation telling them what they have to do to prepare for the final hearing, including sending copies of documents which they intend to use in court. This notice will usually specify the date, time and place of the hearing and how long has been allotted to it. You may apply for a later date if this date does not suit you, but you will have to pay a fee.

If you win your case, you will be reimbursed your court fees and certain expenses. If the defendant does not pay the claim, you will have to return to the same court to have the decision enforced.

If you lose, you may only appeal if the court made a mistake in law or if there was a serious irregularity in the proceedings. Appeals must be made within 14 days by notice of appeal.