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Question: We bought our surgery some years ago and have modernised it. The district valuer (DV) assessed our notional rent on behalf of the PCT. We queried this but were told it was fair and reasonable and in line with other surgeries.

Can we challenge the PCT? It used to be possible to appeal to the Health Secretary but is this option still available?

Answer: You can challenge the PCT. The right to appeal notional or current market rents is laid down in the NHS (GMS Contracts) Regulations 2004.

Appealing under the regulations sits above any local resolution dispute procedure. However, the PCT and practice must first use every reasonable effort to solve the dispute locally. This would usually involve the practice obtaining an independent valuation.

If local resolution fails, the PCT must follow the dispute resolution procedure in the regulations. You can trigger this by writing to the Health Secretary through his appointed adjudicator, the Family Health Services Appeals Unit (FHS AU) which is part of the NHS Litigation Authority (NHSLA).

The FHS AU can consult its own experts. In the past, the FHS AU always used someone appointed through the DV's office. However, this was successfully challenged in March 2009 (*GP 1 May*).

Following this, the NHSLA held discussions with the Royal Institution of Chartered Surveyors' Dispute Resolution Service (DRS). The DRS has put together a pilot scheme with a panel of specialist healthcare valuation surveyors who are available to advise the FHS AU.

There are strict rules to ensure a potential expert adviser is not biased and does not have a conflict of interest.

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