

SCHEDULE 2

OPT OUTS OF ADDITIONAL AND OUT OF HOURS SERVICES

Out of hours opt out where opt out notice is served before 1st October 2004

5.—(1) This paragraph shall apply where a contractor wishes to serve or serves an out of hours opt out notice before 1st October 2004.

(2) In this paragraph—

“OOH day” is the day specified by the Health Board for the commencement of the out of hours opt out in its decision under sub-paragraph (5);

“OOHB day” is the day six months after the date of service of the out of hours opt out notice; and

“OOHC day” is the day specified by the Health Board in its decision under sub-paragraph (11) or (13) (which must be nine months after the date of service of the out of hours opt out notice or before 2nd January 2005).

(3) A contractor which wishes to terminate its obligation to provide out of hours services which was included in the contract pursuant to regulation 30 shall notify the Health Board in writing to that effect (“an out of hours opt out notice”).

(4) An out of hours opt out notice shall state the date on which the contractor would like the opt out to take effect, which must be either three or six months after the date of service of the out of hours opt out notice.

(5) As soon as is reasonably practicable and in any event within 28 days of receiving the out of hours opt out notice, the Health Board shall approve the notice and specify in accordance with sub-paragraphs (6) and (7) the date on which the out of hours opt out is to commence (“OOH day”) and the Health Board shall notify the contractor in writing of its decision as soon as possible, including reasons for its decision.

(6) Subject to sub-paragraph (7), OOH day shall be—

(a) the date specified in the out of hours opt out notice; or

(b) any other date before 2nd January 2005.

(7) A Health Board may not specify under sub-paragraph (5) a date earlier than the date specified in the out of hours opt out notice.

(8) A contractor may not withdraw an out of hours opt out notice once it has been approved by a Health Board under sub-paragraph (5) without the Health Board’s agreement.

(9) Following receipt of the out of hours opt out notice, the Health Board must use its reasonable endeavours to make arrangements for the contractor’s registered patients to receive the out of hours services from an alternative provider from OOH day.

(10) The contractor’s duty to provide the out of hours services shall terminate on OOH day unless the Health Board—

(a) serves notice under sub-paragraph (11) (extending OOH day to OOHB day or OOHC day); or

(b) makes an application under sub-paragraph (14) (seeking the approval of the assessment panel to a decision to refuse an opt out or to delay the taking of effect of an opt out until after OOH day).

(11) If the Health Board is not successful in finding an alternative provider to take on the provision of the out of hours services from OOH day, then it shall notify the contractor in writing of this fact no later than one month before OOH day, and—

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- (a) in a case where OOH day is three months after service of the out of hours opt out notice, the contractor shall continue to provide the out of hours services until OOHB day unless at least one month before OOHB day the contractor receives a notice in writing from the Health Board under sub-paragraph (13) that despite using its reasonable endeavours, the Board has failed to find an alternative provider to take on the provision of the out of hours services from OOHB day;
- (b) in a case where OOH day is after the day three months after the service of the out of hours opt out notice, the contractor shall continue to provide the out of hours services until OOHC day (which shall be specified by the Health Board in accordance with sub-paragraph (12) and included in its notice to the contractor under this sub-paragraph) unless at least one month before OOHC day the contractor receives a notice from the Health Board under sub-paragraph (16) that it has made an application to the assessment panel under sub-paragraph (14) seeking the panel's approval to a decision to refuse an opt out or to delay the commencement of the opt out until after OOHC day.

(12) OOHC day shall be any day before 2nd January 2005 or the day nine months after the service of the out of hours opt out notice.

(13) Where in accordance with sub-paragraph (11)(a) the out of hours opt out is to commence on OOHB day and the Health Board, despite using its reasonable endeavours has failed to find an alternative provider to take on the provision of the out of hours services from that day, it shall notify the contractor in writing of this fact at least one month before OOHB day, in which case the contractor shall continue to provide the out of hours service until OOHC day (which shall be specified by the Health Board in accordance with sub-paragraph (12) and included in its notice to the contractor under this sub-paragraph) unless at least one month before OOHC day the contractor receives a notice from the Health Board under sub-paragraph (16) that it has applied to the assessment panel under sub-paragraph (14) seeking the approval of the assessment panel to a decision to refuse an opt out or to postpone the commencement of an opt out until after OOHC day.

(14) The Health Board may, if it considers there are exceptional circumstances, make an application to the assessment panel for approval of a decision to—

- (a) refuse an opt out; or
- (b) postpone the commencement of an opt out until after—
 - (i) OOHC day, or
 - (ii) OOH day where OOH day is 1st January 2005 and 1st January 2005 is nine months or more after the date of the out of hours opt out notice.

(15) Where OOH day is 1st January 2005, and 1st January 2005 is nine months or more after the date of the out of hours opt out notice, an application under sub-paragraph (14) shall be made at least one month before OOH day.

(16) As soon as practicable after making an application under sub-paragraph (14) to the assessment panel, the Health Board shall notify the contractor in writing that it has made such an application.

(17) Sub-paragraphs (12) to (24) of paragraph 3 shall apply to an out of hours opt out as they apply to a permanent opt out and as if the reference to "C day" was a reference to OOHC day or OOH day where OOH day is 1st January 2005 and 1st January 2005 is nine months or more after the date of the out of hours opt out notice.