

## SCHEDULE 1

### TRANSITIONAL AND CONSEQUENTIAL PROVISIONS

#### Interpretation

**1.** In this Schedule—

“the 2001 Rules” means the Family Health Services Appeal Authority (Procedure) Rules 2001<sup>(1)</sup>;

“continuing matter” means any case, other than a case falling within paragraph 2, where the Initial Primary Care Trust had not yet come to a decision on any matter, other than a matter falling within paragraph 8, under the Medical Regulations;

“Initial Primary Care Trust” means a Primary Care Trust in whose medical list the general medical practitioner’s name was or had been included prior to 1st April 2004,

and terms used shall bear the same meaning in this Schedule that they have in Part 2.

#### Allocation of medical practitioners on previous lists

**2.** In the case of a general medical practitioner, whose name, immediately before 1st April 2004, was included in a Primary Care Trust’s—

- (a) medical list, but was not included in the medical list of any other Primary Care Trust;
- (b) services list; or
- (c) supplementary list,

his name shall, on that day, be included in its medical performers list.

**3.** Subject to paragraphs 6 and 8, in the case of a general medical practitioner, whose name, immediately before 1st April 2004, was included in the medical list of more than one Primary Care Trust, his name shall, on that day, be included in the medical performers list of the Trust in whose area the greater or greatest number of the patients on the list of that medical practitioner resided immediately before that day.

**4.** In a case to which paragraph 3 applies, if there is a doubt as to in which area the larger or largest number of the patients on the list of that medical practitioner reside, the Primary Care Trusts involved shall agree between themselves, after considering any representations from him, as to in which medical performers list he shall be included.

**5.** In any case where the Primary Care Trusts are unable to agree between themselves, in accordance with paragraphs 4 or 6, as to in which Trust’s medical performers list that medical practitioner shall be included—

- (a) the Strategic Health Authority in whose area those Trusts fall; or
- (b) if there is more than such Authority, those Authorities acting together;

shall determine the matter, after considering any representations he made to any of those Trusts.

**6.** Subject to paragraph 8, in the case of a general medical practitioner, whose name, immediately before 1st April 2004 was included in the medical list of more than one Primary Care Trust, and on that day will be a party to a scheme to provide primary medical services to more than one of those Trusts, the practitioner shall choose in which list his name shall be included or, if he fails to so choose by 1st April 2004, the Primary Care Trusts involved shall agree between themselves, after considering any representations from him, as to in which medical performers list he shall be included.

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(1) [S.I. 2001/3750](#); as amended by [S.I. 2002/1921](#) and [2469](#).

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### **Applications not decided on 1st April 2004**

7. Subject to paragraph 8, in any case where there was any application, including an application which the Primary Care Trust has deferred, by a medical practitioner to a Trust for his name to be included in its medical list, services list or supplementary list and that application has not been decided before 1st April 2004, it shall be deemed to be an application to have his name included in the medical performers list of that Trust.

8. In a case where—

- (a) a medical practitioner has made an application to which paragraph 7 applies;
- (b) his name was already included in a medical list, services list or supplementary list of any Primary Care Trust; and
- (c) he had not given notice of an intention to withdraw from that list with that application,

that application shall be void and the Primary Care Trust shall so notify him, informing him of the reason for that.

### **Matters relating to the medical practitioner**

9. Subject to paragraphs 7 and 8, in a case falling within paragraph 2, any matter, question or proceeding relating to any medical practitioner under the Medical Regulations, the Services List Regulations or the Supplementary List Regulations, that had not been finally decided before 1st April 2004, shall be treated as though it had arisen in relation to the medical performers list in which that medical practitioner has been included or, but for that matter, would have been included and shall continue to be dealt with by the Primary Care Trust.

10. In a case where the services list, supplementary list or any medical list, on which the medical practitioner's name was included immediately before 1st April 2004, contained, in relation to him, any condition or contingent removal, or if he was then suspended from that list, that condition, contingent removal or suspension, as the case may be, shall equally apply to the medical performers list in which his name is included on and after 1st April 2004 as it did, in relation to any other list, before that date.

11. Subject to paragraph 12, in any case where there is any continuing matter and that matter had not been finally decided before 1st April 2004, it shall be treated as though it had arisen in relation to the medical performers list in which that medical practitioner has been included or, but for that matter, would have been included.

12. In any case where there is a continuing matter and the medical performers list in which that medical practitioner's name is included is not that of the Initial Primary Care Trust that matter shall proceed as though that name were included in the Initial Primary Care Trust's medical performers list.

### **Enhanced criminal record certificates**

13.—(1) Where a medical practitioner's name has been included in a medical performers list of a Primary Care Trust pursuant to this Schedule, and—

- (a) it has not received an enhanced criminal record certificate under section 115 of the Police Act 1997<sup>(2)</sup> relating to him; and
- (b) the Secretary of State directs that the Primary Care Trust shall require such a certificate from any medical practitioner, whose name is included in its medical performers list,

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(2) 1997 c. 50.

the medical practitioner shall, within 3 months of the Trust notifying him of that requirement, provide that certificate to it.

(2) When sub-paragraph (1)(b) applies, the Primary Care Trust shall write to each such medical practitioner informing him that he is now under a duty to—

- (a) provide it with such a certificate; and
- (b) do so within the period of 3 months beginning with the date of that letter,

and, subject to sub-paragraph (3), if the medical practitioner has not provided it with such a certificate within that time, it shall remove him from its medical performers list.

(3) The Primary Care Trust—

- (a) shall extend the period prescribed in sub-paragraph (1), if the Secretary of State directs that an extension should be required in relation to all such cases or in such categories of case as he may set out in the directions; and
- (b) may, if it thinks it is not reasonably practicable for that medical practitioner to provide it with such a certificate within the period of 3 months, beginning with the date of the letter under sub-paragraph (2), as extended by reason of any direction to which head (a) applies, extend that period for such time as it considers appropriate in the circumstances of the case,

and shall notify that medical practitioner of that extension of time.

#### **Appeals to the FHSAA under Part II of the 2001 Rules**

**14.** Where—

- (a) the FHSAA receives a notice of appeal within the time limit specified in rule 5 of the 2001 Rules on or after 1st April 2004; and
- (b) that notice of appeal concerns a disputed decision taken by a respondent Initial Primary Care Trust before 1st April 2004,

that Trust shall continue to be the respondent, even if the medical practitioner's name is, from 1st April 2004, included in the medical performers list of a different Primary Care Trust.

**15.** Where—

- (a) the FHSAA has received a notice of appeal in accordance with rule 6 of the 2001 Rules before 1st April 2004;
- (b) that appeal concerns a disputed decision taken by a respondent Initial Primary Care Trust before 1st April 2004; and
- (c) it has not been finally determined before the 1st April 2004,

that Trust shall continue to be the respondent, even if the medical practitioner's name is, from 1st April 2004, included in the medical performers list of a different Primary Care Trust.

#### **Applications to the FHSAA under Part III of the 2001 Rules**

**16.** Where the FHSAA—

- (a) has received an application pursuant to Part III of the 2001 Rules before 1st April 2004; and
- (b) that application has not been finally determined before 1st April 2004,

the parties to that application shall, from 1st April 2004, continue to be the medical practitioner who was a party immediately before 1st April 2004 and the Initial Primary Care Trust.

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**General matters relating to cases under Part IV of the 2001 Rules**

**17.** Where a panel has—

- (a) pursuant to rule 32(1), 33, 44(2) or 45(2) of the 2001 Rules given any directions; or
- (b) pursuant to rule 37 of those Rules, varied any directions,

in relation to any appeal falling within paragraph 17, those directions or varied directions shall continue to apply to the Initial Primary Care Trust, even if the medical practitioner's name is, on and after 1st April 2004, included in the medical performers list of a different Primary Care Trust.

**18.** Where a panel has, pursuant to rule 42 or 43 of the 2001 Rules, given a decision—

- (a) that decision shall continue to apply to the Initial Primary Care Trust; and
- (b) that Trust, shall be entitled to apply to the FHSAA pursuant to and in accordance with rule 43 of the 2001 Rules for a review of a panel's decision.

**19.** Where the FHSAA has taken a decision before 1st April 2004 which, by virtue of rule 46 of the 2001 Rules, it would, at the time it took that decision have been obliged to publish, that obligation shall continue on or after 1st April 2004 if it has not published the decision.