

EXPLANATORY MEMORANDUM TO
THE NATIONAL HEALTH SERVICE (PRIMARY MEDICAL SERVICES)
(MISCELLANEOUS AMENDMENTS) REGULATIONS 2012.

2012 No. 970

1. This explanatory memorandum has been prepared by The Department of Health and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 This Instrument amends:-
 - i. The National Health Service (General Medical Services Contracts) Regulations 2004 (SI 2004/291) (GMS Contracts Regulations) which set out the framework for General Medical Services (GMS) contracts, and
 - ii. The National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627) (PMS Agreements Regulations) which set out the framework for Personal Medical Services agreements.
 - 2.2 This Instrument makes provision in respect of the Patient Choice Scheme. This is a pilot scheme which enables patient to register with a participating practice in an area in which the patient does not reside or to visit a participating practice for a consultation without registering.
 - 2.3 In addition, the Instrument includes provisions to enable the establishment of an outer practice boundary area in addition to that which is currently known as the practice boundary. This is to enable patients moving from the existing practice area to the outer boundary to be able to remain registered with their practice.
 - 2.4 The Instrument also makes provision in respect of the procedure for practices who wish to close and re-open their lists to new patient registrations and updates the provisions relating to vaccines and immunisations.
 - 2.5 Minor amendments are made to update the reference to available guidance in respect of electronic patient records
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None

4. Legislative Context

- 4.1 These Regulations amend the GMS Contracts Regulations and the PMS Agreements Regulations that control the way in which NHS primary medical services are delivered pursuant to the provisions contained in Part 4 of the National Health Service Act 2006 (“the Act”). Regulations made under that Part prescribe the mandatory contractual terms that must be contained in primary medical services contracts between Primary Care Trusts (“PCTs”) and primary medical services contractors.
- 4.2 Each PCT is required to provide primary medical services within its area, or to secure their provision within its area to the extent that it considers necessary under section 83 of the Act. PCTs provide NHS primary medical services by entering into a general medical services contract (made under section 84 of the Act) or personal medical services agreements (made under section 92 of the Act). These contracts and agreements are respectively governed by the NHS (GMS Contracts) Regulations and the NHS (PMS Agreements) Regulations 2004.
- 4.3 Currently, those providing primary medical services must provide a range of services. In the case of general medical services, a contractor is required to provide essential services and may, if the contract so provides, provide out of hours services and additional services. In providing such services, a contractor is required to provide services outside the practice premises, for example, a home visit if the medical condition warrants a home visit. In addition, a contractor may refuse to accept a person on to its list if the person lives outside the practice area. The position regarding personal medical agreements is similar in so far as the terms of the agreement may require the contractor to provide essential services, additional and out of hours services. The current framework is based on the provision of services to patients who live within a practice boundary area.

Patient Choice Scheme

- 4.4 The Amendment Regulations amend the statutory instruments, as detailed above, to vary specified mandatory terms of the standard primary medical services contract where a contractor enters into a Patient Choice Scheme arrangement but only in respect of the provision of services to patients receiving services under the Patient Choice Scheme. The regulations enable a temporary variation of the contractual framework under which primary medical services are provided and under which patients access such services. This is to enable the Secretary of State to run a temporary Scheme (called the Patient Choice Scheme (“the Scheme”), the details are set out in paragraph 7.5 under his powers in the Act to provide primary medical services. Primary medical services contractors who participate in the Scheme may—
- (i) accept patients who do not reside in their practice area onto their list of registered patients and thus provide primary medical services to them; and

- (ii) provide primary medical services to those persons who do not reside in their practice area and are not registered with them but who wish to receive a primary medical services consultation.

4.5 The powers used to establish the temporary scheme are the Secretary of State's direction making powers in section 8 of the Act, and those directions are in respect of his power under section 3 of the Act which include a power to provide primary medical services (see section 3(1)(c)).

4.6 In order to provide greater choice for patients to enable them to receive primary medical services from contractors in an area where they do not reside, the Department needs to have a better understanding of the behaviour of patients and therefore intends to formally evaluate the scheme. The arrangements that can be made under the scheme are therefore limited to certain PCT areas. It is necessary to vary some of the current contractual requirements so for example, a contractor will not be contractually required to provide essential services, additional services or out of hours services at a person's home if it would not be clinically appropriate or practical.

4.7 This is the first occasion on which the relevant regulation-making powers in Part 4 of the Act have been exercised in order to provide a temporary Scheme which provides primary medical services in particular circumstances.

4.8 The Primary Medical Services (Patient Choice Scheme) Directions 2012 are directions made by the Secretary of State under section 8 of the National Health Service Act on 28 March 2012. A copy of the Directions is attached. The directions, The Primary Medical Services (Patient Choice Scheme) Directions 2012, direct specified PCTs to enter into arrangements up to 31st March 2013. In the pilot PCTs areas, patients will be able to either register with a participating practice, or visit such a practice for a consultation without registering. The scheme will run until April 2013, during which time it will be evaluated to inform decisions on any further roll out and help determine the appropriate new changes to the contractual arrangements.

4.9 In addition, the amendments in these Regulations also cover the following matters:

Outer Practice Boundary

4.10 These Regulations introduce a new provision for general medical services contracts and personal medical services agreements to enable contracts to contain details of a wider practice boundary area for patients who move out of the current practice boundary area; such an area is to be known as an outer boundary area. This is intended to allow patients who move a relatively short distance, who do not wish to change GP practice, to remain registered with their current practice and continue to receive all primary medical services, including for example, home visits .

4.11 A minor consequential amendment is made to require GP practices to provide details of the outer boundary in their practice leaflets and on their websites, if they have one.

List Closure Procedures

4.12 The existing Regulations already provide for a list closure procedure. The current provisions have not been clear to patients or GP practices and the new Regulations simplify the procedure.

4.13 This Instrument abolishes the current scheme and replaces it with simpler and more transparent arrangements for primary medical services contractors to close their registration lists to new patients and subsequently to reopen them.

Vaccines and Immunisation

4.14 These Regulations provide an update of references to the term “vaccine” and to cross-references to the vaccines a contractor must offer.

5. Territorial Extent and Application

5.1 This Instrument applies to England

6. European Convention on Human Rights

As the Instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

Patient Choice Scheme.

7.1 The Coalition Government’s Health **White Paper *Equity and Excellence: Liberating the NHS*** included the statement “To give every patient a clear right to choose to register with any GP practice they want with an open list, without being restricted by where they live. People should be able to expect that they can change their GP quickly and straightforwardly if and when it is right for them, but equally that they can stay with their GP if they wish when they move house.”

7.2 Currently, all patients have the right to choose their GP practice, but usually people can find that they can only register if they live within a practice’s boundary area. A practice may refuse to accept a person living outside its practice area, but in any event must have reasonable, non discriminatory grounds for doing so, which do not relate to a person’s race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition.

7.3 Some patients would like more choice near to where they live, and some would find it more convenient to register with a GP practice further away, such as near their work. The Department of Health's national consultation, carried out in 2010, on enabling people to register with any GP practice, found that over 75% of the public supported the principle that people should be able to register with any GP practice with an open list.. However, a similar proportion of clinicians had concerns over this, particularly around the impact on their future role commissioning arrangements as part of clinical commissioning groups, and on more vulnerable patients, if patients are allowed to register with a practice away from where they live.

7.4 As agreed with the British Medical Association's General Practitioners' Committee, the Patient Choice Scheme aims to test this out by piloting new ways for patients to access primary medical services when they live outside a GP practice's boundary area. The Scheme will pilot in six PCT areas. The participating PCTs are City and Hackney Teaching PCT, Tower Hamlets PCT, Westminster PCT, Nottingham City PCT, Manchester Teaching PCT and Salford PCT where patients, such as commuters, will be able to access a GP practice away from where they live. GP practices in these areas will be able to join the Scheme on a voluntary basis. The scheme is intended to run until April 2013, during which time it will be evaluated to inform decisions on any further roll out and help determine the appropriate new changes to the contractual arrangements.

7.5 The Patient Choice Scheme introduces two new arrangements for access to primary medical services from participating GP practices for patients wishing to access GP services away from where they live: These are:

- (i) Out-of-area registered patients. These are people, living outside the practice's area, accepted as registered NHS patients by practices participating in the Patient Choice Scheme. Such patients are able to access all primary medical services provided by the practice except home visits and immediately necessary treatment owing to an accident or emergency needed whilst the patient is outside the practice's area; and
- (ii) Out-of-area unregistered patients ('day patients'). These are people, living outside the practice area who are present in the practice's area for less than 24 hours (such as commuters who travel into and out of the area each day) to whom the practice provides treatment. These patients will not be registered with the participating practice, and details of any treatment provided must be passed back to their registered practice. Participating practices will receive a separate fee for this type of consultation. The details of the payments relating to fees will be set out in amendments to the Statement of Financial Entitlement Directions. To be eligible for payment of this fee, participating practices must have conducted a face-to-face

consultation on the practice premises and have sent details of the consultation back to the patient's registered practice within 24 hours.

- 7.6 This scheme does not change the existing arrangements for temporary resident patients (who need to be in an area for more than 24 hours, but less than three months) and the essential provision of immediately necessary treatment owing to an accident or emergency. Day patients usually differ from patients seeking immediately necessary treatment owing to an accident or emergency because they will largely be making booked appointments akin to a registered patient relating to conditions which do not require immediately necessary treatment.
- 7.7 A feature of the Patient Choice Scheme is that GP practices who register patients living out of their practice area will not be responsible for the provision of primary medical services to those patients when they are away from their practice area. This is to be the responsibility of the PCT covering the area where the patient lives, which should have arrangements in place to ensure the patient can receive primary medical services. Primary medical services contractors who currently provide out of hours services for their registered patients under the terms of their contract will not have to provide such services for out-of-area registered patients.
- 7.8 Similarly, if an out-of-area registered patient is ill at home and needs a clinically necessary home visit, then the PCT covering the home address should have arrangements in place to provide such home visits to the patient.
- 7.9 All PCTs must have arrangements in place ready to deal with patients who register with primary medical care services contractors in the pilot PCT areas but may require occasional, or if ill for a longer period of time possibly regular, access to primary medical services when they are away from their registered practice's area at home.
- 7.10 All PCTs must also ensure that out-of-area registered patients who are resident in their PCT area are notified of these arrangements both for in and out of hours care so they are clear about which services they can expect from whom and be able to access care seamlessly.
- 7.11 There may be cases where it would be clinically inappropriate for a patient to register with a practice far from their home, for instance because the patient needs a package of home-based or community-based support (eg. for complex long-term conditions or for end-of-life care) that it would not be feasible for a remote practice to coordinate. Similarly, a patient's condition may change from the time they register, so that it becomes inappropriate for remote registration to continue. Practices participating in the Scheme will retain discretion to refuse registration to, and remove patients from, their lists where in their clinical judgement the patient's health needs are such that they cannot be properly met through out-of-area registration.

Outer Practice Boundary Areas

- 7.12 Generally, patients find that when they move house even a short distance out of the practice's boundary area, they may have to leave their old GP practice and re-register with a different one. Many would prefer to remain registered with their old practice with which they may have a well established relationship.
- 7.13 GP practices may agree with their PCT an outer practice boundary area where existing patients who have moved into it, can continue to be registered with the practice, so long as the practice agrees that this is clinically appropriate. Guidance will suggest that it is only in exceptional circumstances, such as a rural practice with a very large practice area, that an outer boundary would not be appropriate.
- 7.14 When outer practice boundary areas have been agreed, and the contractual arrangements amended, practices will be required to inform patients by setting out the details of the outer practice boundary area in their practice leaflets, and on their websites if they have one. Guidance to PCTs will set out the Department's expectation that this information should also be made available to patients via the NHS Choices website.

Closed List Procedures

- 7.15 It is not always clear to patients whether a GP practice is accepting new registrations. Although the current Regulations provide that a list is either open or closed, PCTs and GP practices have told us that the current arrangements for closing lists are complicated and inflexible. One particular difficulty is that practices may be deterred from undergoing the current list procedure because it may involve giving up providing additional and/or enhanced services and the payments associated with these. This has led to some practices declaring their lists "open but full", a concept not legally recognised within the contractual arrangements.
- 7.16 The Regulations are amended to delete the current list closure procedure and replace it with one that is easier and more straightforward for practices and PCTs to understand and administer, and more transparent for patients so that they are clear as to whether a practice's list is open or closed to applications for registration. Where a list is closed, it will also be clear as to how long this will last; a period of not less than three months and no greater than 12 months.
- 7.17 Under the new procedure, practices will apply to their PCT to close their list by making a written submission setting out:
- Any options tried and tested which have sought to relieve; difficulties with an open list, and any plans which can eliminate; these difficulties during the proposed period of list closure;
 - Any discussions with patients and other practices seeking opinions on closing the list;

- The period of time proposed for list closure (three months to 12 months);
- Any support the PCT can provide to keep the list open;
- Any other relevant information for the PCT.

7.18 The PCT must either approve - setting dates for closure and reopening - or reject the application. Before making this decision, the PCT must have discussions with the practice about what support it can provide or any changes that can be made with a view to keeping the list open. These discussions can involve the local medical committee and any other interested parties such as patients affected by the decision.

7.19 Guidance to PCTs will set out the Department's expectation that details of the status of GP practices' lists (whether open or closed) should be made available to patients via the NHS Choices website.

Vaccines and Immunisation

7.20 Currently, the GMS Contracts Regulations 2004, as amended make provision for certain vaccines and immunisations to be provided as additional services. The Regulations cross-refer to the 2003-04 Statement of Fees and Allowances (SFA). The SFA was made under Directions of the Secretary of State prior to the introduction of the new contractual arrangements in 2004— however, these directions were revoked in 2004. The SFA did not accurately reflect current provisions for vaccines and relied on primary care trusts holding a well maintained, copy of the SFA. It was agreed between the Department and the General Practitioners' Committee of the British Medical Association that, in order to ensure accurate reimbursement to primary medical services contractors, that the provisions of the former SFA should be included in the current Statement of Financial Entitlements. The provisions in these amendment regulations reflect that change.

7.21 The existing provisions relating to vaccines to be offered are being brought up to date by amending the cross reference to the former Statement of Fees and Allowances to refer to the current Statement of Financial Entitlements (SFE). The SFE is contained in directions made by the Secretary of State under section 87 of the NHS Act 2006. These are directions made under section 87 by the Secretary of State and are published on date and where... The SFE will be amended to include a list of vaccines and immunisations contractors providing additional services are required to provide and the circumstances they should be offered in, including existing rules of when a charge may be made. There is also a minor amendment to clarify the arrangements for the administration of oral vaccines and the circumstances in which contractors may receive reimbursement.

7.22 The amendment regulations introduce, into the current regulatory framework, a definitive list of immunisations that are covered by the two V&I additional services described in Schedule 2 to the GMS Contracts Regulations.

General

7.23 There is a minor amendment to update reference to good practice guidance on management of electronic patient records.

Consolidation

7.24 In introducing the current set of miscellaneous amending Regulations, the Department of Health considered the possibility of consolidation, the resources required and other sources of information for those who might use these Regulations.

7.25 The GMS Contract Regulations and the PMS Agreement Regulations are used to stipulate the mandatory elements of primary medical care contracts entered into between service providers and the PCTs. Each time these are amended the Department issues electronically:

- A consolidated GMS contract template
- A standard variation notice for use by PCTs when amending existing GMS contracts.

There will be a template for the temporary variation of the terms of the contract as a consequence of the Patient Choice Scheme.

7.26 Resources are currently concentrated on the implementation of the Health and Social Care Act 2012. The Department proposes to consolidate the GMS Contract Regulations and the PMS Agreement Regulations in April 2013 when the secondary legislation associated with the above Act comes into force.

8. Consultation outcome

8.1 The Department of Health's national consultation, carried out in 2010, on enabling people to register with any GP practice, found that over 75% of the public supported the principle that people should be able to register with any GP practice with an open list.. However, a similar proportion of clinicians had concerns about this.

8.2 NHS Employers on behalf of the Department of Health discussed these proposals with the British Medical Association's General Practitioners' Committee (GPC) on a number of occasions as part of the annual GP contract negotiations.

8.3 Further to these discussions and agreement to the Patient Choice Scheme, the Department established a Choice Steering Group to further inform and develop the proposals. This comprises representatives from general practice, Strategic Health Authorities, PCTs, GPC and NHS Employers. Departmental officials have also visited all of the pilot PCT areas to discuss with the PCT and interested GP practices how the scheme might operate in practice and take views on the content of the supporting guidance.

9. Guidance

9.1 Initial guidance has been issued on the Patient Choice Scheme, outer practice boundaries and closed list procedure. Further guidance which will replace this on the Patient Choice scheme, the outer boundary areas and list closure procedures will be published shortly on the Department of Health website. All of these guidance documents have been produced in conjunction with the BMA's General Practitioners' Committee and with NHS Employers who represent the NHS.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no negative impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument as no impact on the private or voluntary sector is foreseen.

11. Regulating small business

11.1 General practitioners providing primary medical services under GMS contracts and PMS agreements are outside the scope of the micro business exemption as such services are regarded as the delivery of public services and are governed by a statutory framework under which NHS primary medical services are delivered.

12. Monitoring & review

12.1 Monitoring of GMS and PMS contracts is part of the role of PCTs. The Department of Health will monitor quarterly the financial implications of the Patient Choice Scheme. In addition, the Department of Health has commissioned the Policy Innovation Research Unit at the London School of Hygiene and Tropical Medicine to undertake an independent evaluation of the Patient Choice Scheme.

13. Contact

Jenny Smith at the Department of Health, Telephone: 0113 254 5020 or email: jenny.smith@dh.gsi.gov.uk can answer any queries regarding the instrument.

D I R E C T I O N S

NATIONAL HEALTH SERVICE, ENGLAND

**The Primary Medical Services (Patient Choice Scheme)
Directions 2012**

The Secretary of State for Health gives the following directions in exercise of the powers conferred by sections 8 and 272(7) and (8) of the National Health Service Act 2006⁽¹⁾.

Citation, commencement, duration and application

1.—(1) These Directions may be cited as the Primary Medical Services (Patient Choice Scheme) Directions 2012 and come into force on 30th April 2012.

(2) These Directions will cease to have effect on 1st April 2013.

(3) These Directions are given to Primary Care Trusts.

Interpretation

2. In these Directions—

“the Act” means the National Health Service Act 2006;

“contractor’s list of patients” means the list of patients prepared and maintained by a Primary Care Trust in accordance with—

(a) paragraph 14 of Schedule 6 to the National Health Service (General Medical Services Contracts) Regulations 2004⁽²⁾;

(b) paragraph 13 of Schedule 5 to the National Health Service (Primary Medical Services Agreements) Regulations 2004⁽³⁾; or

(c) direction 14 of the Alternative Provider Medical Services Directions 2010⁽⁴⁾;

“closed”, in relation to the primary medical contractor’s list of patients, means closed to applications for inclusion in the list of patients other than from immediate family members of registered patients;

“GP health centre” is a centre at which primary medical services are provided—

(a) to persons who are registered patients at the centre and persons who are not registered patients at the centre; and

(b) during the period beginning at 8.00am and ending at 8.00pm every day of the week;

“health care professional” has the same meaning as in section 93(3) of the Act;

“Participating Primary Care Trust” means any one of the Primary Care Trusts listed in the Schedule;

“Participating Primary Medical Services Contractor” means a primary medical services contractor which enters into a Patient Choice Scheme Arrangement with a Participating Primary Care Trust;

(1) 2006 c.41. By virtue of section 271(1) of the Act, the powers conferred by these Sections are exercisable by the Secretary of State only in relation to England.

(2) S.I. 2004/291, there are no relevant amendments.

(3) S.I. 2004/627, there are no relevant amendments.

(4) The Alternative Provider of Medical Services Directions 2010 were signed on 13th April 2010 and published on www.dh.gov.uk. There are no relevant amendments.

“Patient Choice Scheme” means the scheme of that name which the Secretary of State has developed to assist in continuing to promote and secure improvement in the provision of primary medical services in accordance with the Act⁽⁵⁾;

“Patient Choice Scheme Arrangement” means an arrangement which has been entered into as part of the Patient Choice Scheme in accordance with these Directions and which forms a temporary part of—

(a) a general medical services contract made under section 84 of the Act (general medical services contracts: introductory);

(b) a personal medical services agreement entered into under section 92 of the Act (arrangements by Strategic Health Authorities for the provision of primary medical services); or

(c) a contractual arrangement entered into under section 83(2)(b) of the Act (primary medical services);

“practice area” means—

(a) the area referred to in regulation 18(1)(d) of the National Health Service (General Medical Services Contracts) Regulations 2004;

(b) the area specified in the personal medical services agreement entered into under section 92 of the Act as the area in which essential services are to be provided; or

(c) the area specified in the primary medical services contractor’s leaflet in accordance with direction 12(1)(e) of the Alternative Provider Medical Services Directions 2010;

“primary medical services contract” means—

(a) a general medical services contract;

(b) section 92 arrangements⁽⁶⁾ which require the provision of primary medical services; or

(c) contractual arrangements for the provision of primary medical services under section 83(2)(b) of the Act;

“primary medical services contractor” means a person with whom a Primary Care Trust—

(a) is entering or has entered into a general medical services contract under section 84 of the Act;

(b) is entering or has entered into section 92 arrangements which require the provision by that person of primary medical services; or

(c) a person with whom a Primary Care Trust has made contractual arrangements for the provision of primary medical services under section 83(2)(b) of the Act;

“registered patients” means—

(a) a person who is recorded by the Primary Care Trust as being on the list of patients of a primary medical services contractor; or

(b) a person whom a primary medical services contractor of primary medical services has accepted for inclusion on its list of patients, whether or not notification of that acceptance has been received by the Primary Care Trust and who has not been notified by the Primary Care Trust as having ceased to be on that list; and

“walk-in centre” means a centre at which information and treatment for minor conditions is provided to the public.

Primary Care Trusts that may enter into a Patient Choice Scheme Arrangement

3. The Primary Care Trusts listed in the Schedule to these Directions are specified as Primary Care Trusts that can enter into a Patient Choice Scheme Arrangement and may only enter into such an Arrangement in accordance with the following Directions.

(5) See Guidance for PCTs “Choice of GP Practice – Patient Choice Scheme” published on www.dh.gov.uk.

(6) See section 92(8) of the Act.

Establishing a Patient Choice Scheme Arrangement

4.—(1) A Participating Primary Care Trust must consider entering into a Patient Choice Scheme Arrangement with primary medical services contractors within their area (“Area A”), the underlying purpose of which is to improve choice and accessibility for persons seeking primary medical services by enabling contractors to provide primary medical services to—

- (a) persons who do not reside in Area A who wish to be a registered patient of a primary medical services contractor who provides such services in Area A instead of being a registered patient of a primary medical services contractor who provides services in an area of another Primary Care Trust;
- (b) persons who wish to receive primary medical services in Area A who wish to remain on a contractor’s list of patients which is maintained by another Primary Care Trust;
- (c) persons who reside in Area A who wish—
 - (i) to be a registered patient of a primary medical services contractor in whose practice area the person does not reside but whose list of patients that Participating Primary Care Trust maintains; or
 - (ii) to receive primary medical services from a primary medical services contractor who provides services in a practice area in which that person does not reside and wish to remain on another contractor’s list of patients which that Participating Primary Care Trust maintains.

(2) A Participating Primary Care Trust may offer to a primary medical services contractor the opportunity to enter into arrangements under the Patient Choice Scheme only if—

- (a) the primary medical services contractor meets the eligibility conditions specified in direction 5; and
- (b) the Participating Primary Care Trust satisfies itself that the primary medical services contractor—
 - (i) understands the objectives of participating in the Patient Choice Scheme;
 - (ii) understands the requirements being placed upon the primary medical services contractor as a consequence of entering into a Patient Choice Scheme Arrangement; and
 - (iii) is capable of meeting its obligations under the Patient Choice Scheme Arrangement.

(3) The Patient Choice Scheme Arrangement which the Participating Primary Care Trust enters into with a primary medical services contractor—

- (a) must be in writing;
- (b) must contain terms that have the same effect as those terms and conditions specified in directions 8 to 10 and 12 and 13;
- (c) must be of a duration that does not extend to any period after 31st March 2013; and
- (d) must start at the beginning of a day and end at the end of a day.

Eligibility conditions relating to participation in the Patient Choice Scheme

5. A Participating Primary Care Trust must only enter into a Patient Choice Scheme Arrangement with a primary medical services contractor—

- (a) who has a list of registered patients which the Participating Primary Care Trust prepares and keeps up to date and that list of patients is not closed;
- (b) if it satisfies itself that the contractor with which it proposes to enter into those arrangements—
 - (i) is capable of meeting its obligations under the Patient Choice Scheme Arrangement;
 - (ii) in particular, has the necessary facilities, equipment and properly trained and qualified general practitioners, health care professionals and staff to carry out those obligations; and

(iii) is agreeable to participating in the evaluation of the Patient Choice Scheme, and nothing in these Directions shall be taken as requiring a Participating Primary Care Trust to enter into such arrangements with a primary medical services contractor if it has not been able to satisfy itself in this way about the contractor.

Notification by Participating Primary Care Trust

6. Within a period of 7 days starting on the date on which a Participating Primary Care Trust is informed that a patient who resides in another Primary Care Trust area has been accepted onto the Participating Primary Medical Services Contractor's list of patients, the Participating Primary Care Trust must notify, in writing, the Primary Care Trust in whose area the patient resides that the patient has been accepted onto a contractor's list of patients within that Participating Primary Care Trust area.

Requirement on Primary Care Trust following a notification by a Participating Primary Care Trust

7. A Primary Care Trust must provide to any person in respect of whom it has received notification under Direction 6, details, in writing, of the arrangements it has in place for the provision of primary medical services within its area for any period during which that person may be within its area and require such services.

Clinical notes

8. The Participating Primary Care Trust must ensure that the Participating Primary Medical Services Contractor has arrangements in place so that any clinical notes of any consultation carried out by any health care professional performing primary medical services under a Patient Choice Scheme Arrangement are recorded and made accessible—

- (a) in the case where the person who is the subject of the consultation is not registered with the Participating Primary Medical Services Contractor, to any provider of primary medical services of which that person is a registered patient; and
- (b) to any other health care professional who may perform services under a Patient Choice Scheme Arrangement.

Information for Patients

9. The Participating Primary Care Trust must ensure that the Participating Primary Medical Services Contractor has arrangements in place so that the Participating Primary Medical Services Contractor—

- (a) informs patients who receive primary medical services under a Patient Choice Scheme Arrangement of the duration of the Patient Choice Scheme;
- (b) explains the purpose of the Patient Choice Scheme, the need to monitor the Scheme and the manner in which monitoring will take place; and
- (c) explains the range of primary medical services available to patients and the arrangements in place at the end of the Patient Choice Scheme.

Payments

10.—(1) Unless paragraph (2) applies, the Participating Primary Care Trust must make payments, in respect of primary medical services provided under the Patient Choice Scheme Arrangement only in respect of a person who is not a registered patient of the Participating Primary Medical Services Contractor, to that contractor and such payment must be made in accordance with—

- (a) in the case of a person who has entered into a general medical services contract under section 84 of the Act, the provisions relating to such an Arrangement in the GMS Statement of Financial Entitlements signed on 30th March 2005(7); or
- (b) in the case of a person who has entered into section 92 arrangements or has made arrangements under section 82(2)(b) of the Act, terms and conditions based on the payment provisions in respect of such an Arrangement as contained in the GMS Statement of Financial Entitlements signed on 30th March 2005.

(2) A Participating Primary Care Trust must not make a payment in respect of primary medical services provided in accordance with the Patient Choice Scheme Arrangement to a person with whom it has made contractual arrangements under section 82(2)(b) of the Act for the provision of—

- (a) a walk-in centre; or
- (b) a GP Health Centre.

Variation of contractual terms

11.—(1) The Participating Primary Care Trust must vary the primary medical services contract so that the arrangements made in accordance with the Patient Choice Scheme Arrangement and the terms and conditions which are specified in these directions 8 to 10 and 12 and 13 comprise part of the Participating Primary Medical Services Contractor's primary medical services contract.

(2) The Participating Primary Care Trust may vary the terms and conditions of the Patient Choice Scheme Arrangement without the Participating Primary Medical Services Contractor's consent but only to the extent that it is necessary to vary the primary medical services contract so as to comply with the Act, any regulations made pursuant to the Act or any directions given by the Secretary of State pursuant to the Act.

Provision relating to termination of a Patient Choice Scheme Arrangement

12.—(1) The Participating Primary Care Trust and the Participating Primary Medical Services Contractor may withdraw from the Patient Choice Arrangement but each must give a period of not less than 28 days notice to the other.

(2) The Participating Primary Care Trust must make suitable arrangements on termination of the Patient Choice Scheme Arrangement to ensure that patients who participated in the arrangements are notified of the termination of the arrangements and provision is made to ensure that primary medical services are available to them.

Breach

13. The Patient Choice Scheme Arrangement must provide that breach of the terms and conditions made as a consequence of these Directions by the Participating Primary Medical Services Contractor may lead to the termination of the Patient Choice Scheme Arrangement by the Participating Primary Care Trust with that Participating Primary Medical Services Contractor.

Signed by authority of the Secretary of State



A Member of the Senior Civil Service
Department of Health

28 March 2012

(7) A copy of the GMS Statement of Financial Entitlements Directions together with all amendments and a consolidated version as at 1st February 2010 are published on www.dh.gov.uk.

SCHEDULE

Primary Care Trusts that may enter into a Patient Choice Scheme Arrangement

City and Hackney Teaching Primary Care Trust

Nottingham City Primary Care Trust

Manchester Teaching Primary Care Trust

Salford Primary Care Trust

Tower Hamlets Primary Care Trust

Westminster Primary Care Trust