

## SCHEDULE 2

Regulation 3

### Amendments to the National Health Service (Personal Medical Services Agreements) Regulations 2015

#### Alternative premises for remote provision of services

1. In regulation 3 (interpretation), at the appropriate places, insert—
  - ““GPIT Operating Model” means the document entitled “Securing Excellence in Primary Care (GP) Digital Services: The Primary Care (GP) Digital Services Operating Model 2021-23 V5” issued by NHS England(1);” and
  - ““remote service” means—
    - (a) an online consultation under regulation 64ZD;
    - (b) a secure electronic communication under regulation 64ZE;
    - (c) a video consultation under regulation 64ZF;
    - (d) a telephone consultation;
    - (e) an electronic prescription;
    - (f) any other service which can be provided through a digital or telecommunications method, including administrative tasks in support of the agreement;”.
2. In regulation 13(3) (agreements: general)—
  - (a) after sub-paragraph (a) omit “or”;
  - (b) at the end of sub-paragraph (b) insert—
    - “; or
    - (c) premises where services are provided under regulation 13A (services: remote provision outside practice premises).”.
3. After regulation 13 insert—

#### “Services: remote provision outside practice premises

**13A.**—(1) Without prejudice to regulation 17(7) (essential services) of the General Medical Services Contracts Regulations, where applicable, and without prejudice to paragraph 6 of Schedule 2 (attendance outside practice premises), the contractor and any sub-contractor may provide a remote service from a location which does not constitute practice premises, if the requirements in paragraph (2) are met.

- (2) The requirements referred to in paragraph (1) are that—
  - (a) the service is provided from an appropriate location;
  - (b) the service is provided through an appropriate digital or telecommunications method; and
  - (c) the service is appropriate for provision outside of practice premises.
- (3) For the purposes of paragraph (2)(a), a location is not appropriate if—

---

(1) The document, published in July 2022, which sets out the commissioning framework for the provision of general practice digital services, is available at: <https://www.england.nhs.uk/publication/securing-excellence-in-primary-care-gp-digital-services-the-primary-care-gp-digital-services-operating-model-2021-2023>. The document can be obtained in alternative formats by telephone (on 0300 311 22 33), by email ([England.contactus@nhs.net](mailto:England.contactus@nhs.net)) or by writing to NHS England, PO Box 16738, Redditch, B97 9PT.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (a) the location or its environment is not conducive to ensuring the confidentiality of patient information, in connection with the service to be provided from that location;
  - (b) the location or its environment is not conducive to ensuring appropriate provision of the service from that location.
- (4) For the purposes of paragraph (2)(b), a digital or telecommunications method is appropriate if it meets—
- (a) the requirements in the GPIT Operating Model relevant to that method, including any requirements as to software, or
  - (b) requirements which are equivalent in their effect to the relevant requirements in the GPIT Operating Model;
- (5) For the purposes of paragraph (2)(c) the service is not appropriate for provision outside of practice premises if—
- (a) it would not be clinically appropriate for the patient on that occasion; or
  - (b) it is otherwise not appropriate to the needs or circumstances of the patient.
- (6) For the purposes of paragraph (3)(a), “patient information” means information which relates to the physical or mental health or condition of a patient, to the diagnosis of their condition, to their care and treatment, or information which is to any extent derived, directly or indirectly, from such information.”
- 4.** In regulation 60(4) (patient records)—
- (1) for sub-paragraph (a), substitute—
    - “(a) the computer system upon which the contractor proposes to keep the records meets the requirements set out in the GPIT Operating Model;”;
  - (2) in sub-paragraph (b) for “as accredited in accordance with sub-paragraph (a)” substitute “and compliant with the GPIT Operating Model”.
- 5.** In regulation 63(3) (clinical correspondence: requirement for NHS number), in the definition of “clinical correspondence”, after “of” insert “the provision of a remote service or”.
- 6.** In regulation 64ZG (meaning of “appropriate software” for the purposes of regulation 64ZD, 64ZE and 64ZF), omit paragraph (2).
- 7.** In Schedule 2 (other required terms)—
- (1) for paragraph 5(2)(b) (attendance at practice premises), substitute—
    - “(b) the patient is—
      - (i) offered an appointment, for a time which is appropriate and reasonable having regard to all the circumstances, to attend the contractor’s practice premises again or participate in a telephone or video consultation; or
      - (ii) invited to make a request via an online consultation system, and the patient’s health would not thereby be jeopardised.”;
  - (2) in paragraph 10(2)(c)(i) (duty of co-operation), omit “premises”;
  - (3) in paragraph 16A (NHS e-Referral Service (e-RD)), omit “premises” wherever it appears;
  - (4) in paragraph 43(3) (sub-contracting of clinical matters) after “sub-contractor” insert “as practice premises”; and
  - (5) in paragraph 44 (information to be included in a practice leaflet) for all references to “premises” substitute “practice premises”.

## **Pay transparency**

8. In regulation 3 (interpretation), in the definition of “agreement”, after “regulation 88” insert “or in the definitions of “contract of engagement” and “third party contract” in regulation 21AA”.

9. In regulation 21A (disclosure of information about NHS earnings: contractors and sub-contractors)—

(1) in paragraph (3)—

(i) in sub-paragraph (b) omit “subject to paragraph (ba),”;

(ii) in sub-paragraph (b), in paragraph (i), for “2020” substitute “2022”;

(iii) omit sub-paragraph (ba);

(iv) in sub-paragraph (c), omit paragraph (i);

(2) for paragraph (4), substitute—

“(4) For the purposes of paragraph (3)(a) “the disclosure date”, in relation to a relevant financial year, is 30th April in the financial year which begins immediately after the end of the next financial year.”;

(3) in paragraph (8)(b), for “this regulation comes into force” substitute “the term in paragraph (7) is incorporated into the contract”;

(4) at the end of paragraph (9)(a), omit “and”;

(5) in paragraph (9)(b)(i), after “I’s” insert “NHS”; and

(6) at the end of paragraph (9)(b), insert—

“, and”;

(c) a term which requires S to use reasonable endeavours to ensure that any sub-contract entered into before the term in sub-paragraph (b) was incorporated into that sub-contract is amended to—

(i) include the term in paragraph (i) of sub-paragraph (b) in a sub-contract between S and I, and

(ii) include the term in paragraph (ii) of sub-paragraph (b) in a sub-contract between S and a partnership.”.

10. After regulation 21A insert—

### **“Disclosure of information about NHS earnings: jobholders**

**21AA.**—(1) In this regulation—

(a) “disclosure obligation”, “relevant financial year”, “relevant threshold”, “the disclosure date” and “sub-contractor” have the meanings given in regulation 21A;

(b) “NHS earnings” has the meaning given in regulation 21B.

(2) In this regulation and, where applicable, in regulation 21B—

“contract of engagement” means a contract of employment or other agreement under which a jobholder is engaged;

“jobholder” means—

(a) an individual employed by a relevant person;

(b) an individual engaged by a relevant person under a contract for services to provide services which enable the relevant person to fulfil its obligations under the agreement or sub-contract, as the case may be;

(c) an individual engaged by a third party to provide clinical services;

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

(d) where the relevant person is a company, a director or company secretary of that company;

“relevant person” means—

- (a) the contractor;
- (b) a sub-contractor;
- (c) a person to whom the sub-contractor has sub-contracted obligations as permitted by paragraph 43(4A) of Schedule 2 (“P”);

“third party contract” means a contract or other agreement under which a relevant person is provided with a jobholder to provide clinical services under the agreement or sub-contract, as the case may be, and which is between—

- (a) a contractor and a person other than a jobholder or sub-contractor,
- (b) a sub-contractor and a person other than a jobholder, the contractor, or a person (“P”) to whom the sub-contractor has sub-contracted obligations as permitted by paragraph 43(4A) of Schedule 2, or
- (c) P and a person other than a jobholder or sub-contractor;

“third party” is to be construed in accordance with the definition of “third party contract”.

(3) An agreement must contain a term which prevents the contractor from entering into a contract of engagement unless it requires the jobholder to comply with the disclosure obligation for each relevant financial year in which the jobholder’s NHS earnings exceed the relevant threshold.

(4) An agreement must also contain a term which prevents the contractor from sub-contracting any of its obligations to provide clinical services under the agreement unless—

- (a) the sub-contract entered into by the contractor requires the sub-contractor (“S”) to—
  - (i) include the term specified in paragraph (6) in any contract of engagement S enters into with a jobholder on or after entering into the sub-contract, and
  - (ii) use reasonable endeavours to include it in any contract of engagement which S has entered into prior to entering into the sub-contract; and
- (b) the sub-contract prevents S from sub-contracting to P any of the clinical services S has agreed with the contractor to provide under the sub-contract unless the sub-contract S enters into with P includes the term specified in paragraph (5);

(5) The term requires P to—

- (a) include the term specified in paragraph (6) in any contract of engagement which P enters into with a jobholder on or after entering into the sub-contract with S, and
- (b) to use reasonable endeavours to include it in any contract of engagement which P has entered into prior to entering into that sub-contract.

(6) The term requires the jobholder to comply with the disclosure obligation for each relevant financial year in which the jobholder’s NHS earnings exceed the relevant threshold.

(7) An agreement must also contain a term requiring the contractor to use reasonable endeavours to ensure that any contract of engagement, which the contractor entered into before the term in paragraph (3) is incorporated into the agreement, is amended to include the term specified in paragraph (6).

(8) An agreement must also contain a term requiring the contractor to use reasonable endeavours to ensure that any sub-contract which the contractor entered into before the

term in paragraph (4) is incorporated into the agreement is amended to include the terms specified in paragraph (9).

(9) The terms are—

(a) a term which requires S to—

- (i) include the term specified in paragraph (6) in any contract of engagement S enters into with a jobholder on or after the amendment of the sub-contract,
- (ii) to use reasonable endeavours to include the term specified in paragraph (6) in any contract of engagement to which S is a party entered into before the amendment of the sub-contract, and
- (iii) use reasonable endeavours to include the term specified in paragraph (5) in any sub-contract which S has entered into with P before the amendment of the sub-contract pursuant to paragraph (8);

(b) a term which prevents S from sub-contracting to P obligations to provide clinical services under the agreement unless the sub-contract entered into by S includes the term specified in paragraph (5).

(10) An agreement must also contain a term requiring the contractor to use reasonable endeavours to include in a third party contract (whenever entered into) a term requiring the third party (“T”) to include the term specified in paragraph (6) in any contract of engagement to which T is a party.

(11) An agreement must also contain a term which prevents the contractor from sub-contracting any of its obligations to provide clinical services under the agreement, unless the sub-contract requires S to use reasonable endeavours to—

- (a) include in a third party contract (whenever entered into) a term requiring T to include the term specified in paragraph (6) in any contract of engagement to which T is a party; and
- (b) include in any sub-contract between S and P a term requiring P to include in any third party contract (whenever entered into) the term specified in paragraph (12).

(12) The term is one which requires T to include the term specified in paragraph (6) in any contract of engagement to which T is a party.

(13) Nothing in this regulation requires a jobholder to comply with the disclosure obligation for any relevant financial year which—

- (a) ends before the jobholder enters into a contract of engagement;
- (b) begins after the jobholder’s contract of engagement has terminated.”.

**11.** In regulation 21B (calculation of NHS earnings for the purposes of regulation 21A)—

(1) in the heading, for “regulation 21A” substitute “regulations 21A and 21AA”;

(2) in paragraph (1), for “regulation 21A” substitute “regulations 21A and 21AA”;

(3) in paragraph (3)—

(a) in sub-paragraph (b)(ii), after “any”, in the first place it occurs, insert “other”;

(b) after sub-paragraph (b) insert—

“(ba) in relation to a jobholder who does not fall within sub-paragraph (a) or (b), means—

- (i) any remuneration, salary, wages, fees, director’s remuneration or dividends received in respect of the financial year in question under the contract of engagement and any other contract of engagement under which the

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- jobholder provides services in respect of a contract or an agreement for primary medical services made under section 92 or 83(2) of the Act, and
- (ii) any other income which would be treated as practitioner income under Schedule 10 to the NHS Pension Scheme Regulations as modified in accordance with paragraph 4 in respect of the financial year in question if the jobholder—
    - (aa) were an active member of the scheme, and
    - (bb) a medical practitioner or non-GP provider;”;
- (4) in paragraph (4)—
- (i) at the end of sub-paragraph (a) insert “and”;
  - (ii) in sub-paragraph (b) omit “and”;
  - (iii) omit sub-paragraph (c);
- (5) after paragraph (4) insert—
- “(4A) For the purposes of this regulation, where a contractor has sub-contracted any obligations under the agreement, any payments made—
- (a) under the sub-contract, or
  - (b) under any sub-contract which the sub-contractor has entered into with another person, as permitted by paragraph 43(4A) of Schedule 2,
- are to be treated as income derived from the agreement.”;
- (6) in paragraph (5), in the definition of “relevant year”, for “27A” substitute “21A”.

### **Removal of requirement for orders of buprenorphine or diazepam or certain other controlled drugs to be made by non-electronic prescription form**

**12.** In regulation 49, in paragraph (10), in sub-paragraph (a) (orders for drugs, medicines or appliances), omit “non-electronic”.

### **Directly bookable appointments**

- 13.** In regulation 3 (interpretation), at the appropriate place, insert—
- ““directly bookable appointment” means an appointment of a type which, in line with the guidance entitled “Directly bookable appointments – guidance for practices” issued by NHS England(2), is available for booking by a registered patient or an appropriate person on their behalf;”.
- 14.** In regulation 64(3)(a) (patient online services: appointments and prescriptions), for “a minimum of 25% of its appointments per day during core hours” substitute “all of its directly bookable appointments”.
- 15.** After regulation 64A (patient access to online services) insert—

#### **“Patient access: other availability of directly bookable appointments**

**64B.** A contractor must ensure that all of its directly bookable appointments are made available for booking by telephone or in person.”.

---

(2) This guidance, published in September 2022, is available at <https://www.england.nhs.uk/gp/investment/gp-contract/digital-requirements-guidance/>. Hard copies are available from NHS England, Digital First Primary Care team, Wellington House, 133-155 Waterloo Road, South Bank, London, SE1 8UG.

### **Electronic application for inclusion in a contractor’s list of patients**

**16.** In Schedule 2 (other required terms), in paragraph 17 (application for inclusion in a list of patients), for sub-paragraph (3), substitute—

“(3) Subject to sub-paragraph (4), an application for inclusion in a contractor’s list of patients may be made by the applicant or a person authorised by the applicant submitting a medical card or an application form, including an electronic application form, to the contractor.”.

### **Quality and Outcomes Framework – amending list of indicators no longer in the Quality and Outcomes Framework**

**17.** In regulation 67C (information relating to indicators no longer in the Quality and Outcomes Framework), in the table, omit—

- (a) “Clinical domain”;
- (b) “MH005” in the left hand column (indicator ID); and
- (c) the entry in the right hand column (indicator description) corresponding to the indicator ID MH005.