

SCHEDULE 3

OTHER CONTRACTUAL TERMS

PART 4

PERSONS WHO PERFORM SERVICES

Dental practitioners

22. A dental practitioner⁽¹⁾ may perform dental services under the agreement provided he or she is—

- (a) included in a dental performers list for a Local Health Board in Wales; and
- (b) his or her inclusion in that list is not subject to a suspension.

Dental care professionals

23.—(1) Prior to the coming into force of the first regulations under section 36A(2) of the Dentists Act⁽²⁾ (professions complementary to dentistry)—

- (a) a dental hygienist; or
- (b) a dental therapist,

may perform dental services under the agreement provided he or she is enrolled in the appropriate register established in accordance with the Dental Auxiliaries Regulations 1986⁽³⁾.

(2) Upon the coming into force of the first regulations under section 36A(2) of the Dentists Act—

- (a) a dental hygienist;
- (b) a dental therapist; or
- (c) a professional or member of a class as specified in regulations made under section 36A(2) of the Dentists Act,

may perform dental services under the agreement provided he or she is—

- (i) a dental care professional; and
- (ii) his or her registration in the dental care professional register established under section 36B of the Dentists Act⁽⁴⁾ is not subject to a suspension.

Performers: further requirements

24.—(1) No health care professional or other person other than one to whom paragraph 23 applies will perform clinical services under the agreement unless he or she is appropriately registered with his or her relevant professional body and his or her registration is not subject to a suspension.

(2) Where—

- (a) the registration of a dental practitioner, dental care professional or other health care professional; or
- (b) a dental practitioner's inclusion in a dental performers list,

(1) The term dental practitioner is defined in section 128 of the Act as a person registered in the dentists register under the Dentists Act.

(2) Section 36A is prospectively inserted into the Dentists Act by the Dentists Act Order 2005.

(3) S.I. 1986/887; relevant amending instruments are S.I. 1999/3460 and 2002/1671.

(4) Section 36B is prospectively inserted into the Dentists Act by article 29 of the Dentists Act Order.

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is subject to conditions, the contractor will ensure compliance with those conditions in so far as they are relevant to the agreement.

(3) No health care professional or other person will perform any clinical services under the agreement unless he or she has such clinical experience and training as are necessary to enable him or her properly to perform such services.

Conditions for employment and engagement: dental practitioners performing dental services

25.—(1) A contractor will not employ or engage a dental practitioner to perform dental services under the agreement unless—

- (a) that practitioner has provided it with the name and address of the Local Health Board on whose dental performers list he or she appears; and
- (b) the contractor has checked that the practitioner meets the requirements in paragraph 22.

(2) Where the employment or engagement of a dental practitioner is urgently needed and it is not possible to check the matters referred to in paragraph 22 in accordance with sub-paragraph (1)(b) before employing or engaging him or her, he or she may be employed or engaged on a temporary basis for a single period of up to seven days whilst such checks are undertaken.

Conditions for employment and engagement: persons performing dental services other than dental practitioners

26.—(1) The contractor will not employ or engage a dental care professional to perform dental services unless it has taken reasonable steps to satisfy itself that he or she has the clinical experience and training necessary to enable him or her to properly perform dental services and—

- (a) prior to the coming into force of the first regulations under section 36A(2) of the Dentists Act, the contractor has checked that his or her name is on the roll of the appropriate register established in accordance with the Dental Auxiliaries Regulations 1986; and
- (b) from the coming into force of the first regulations under section 36A(2) of the Dentists Act, the contractor has checked that—
 - (i) his or her name is included in the register of dental care professionals, and
 - (ii) his or her registration in the dental care professional register is not subject to a suspension.

(2) Where the employment or engagement of a person specified in sub-paragraph (1) is urgently needed and it is not possible to check the references referred to in sub-paragraph (1) (where it applies) before employing or engaging him or her, he or she may be employed or engaged on a temporary basis for a single period of up to seven days whilst such checks are undertaken.

(3) When considering a person's experience and training for the purposes of sub-paragraph (1), the contractor will have regard in particular to—

- (a) any post-graduate or post-registration qualification held by that person; and
- (b) any relevant training undertaken by him or her and any relevant clinical experience gained by him or her.

Conditions for employment and engagement: all persons performing dental services

27.—(1) The contractor will not employ or engage a person to perform dental services under the agreement unless—

- (a) that person has provided two clinical references that relate to two recent posts (which may include any current post) exercising the profession in which he or she seeks employment or engagement with the contractor which lasted for three months or more without a significant

break, or where this is not possible, that person has provided a full explanation and alternative referees; and

(b) the contractor has checked and is satisfied with the references.

(2) Where the employment or engagement of a person falling within sub-paragraph (1) is urgently needed and it is not possible for the contractor to obtain and check the references in accordance with sub-paragraph (1)(b) before employing or engaging him or her, he or she may be employed or engaged on a temporary basis for a single period of up to fourteen days whilst his or her references are checked and considered, and for an additional period of a further seven days if the contractor believes the person supplying those references is ill, on holiday or otherwise temporarily unavailable.

(3) Where the contractor employs or engages the same person on more than one occasion within a period of three months, it may rely on the references provided on the first occasion, provided that those references are not more than twelve months old.

Conditions for employment or engagement: persons assisting in the provision of services under the agreement

28.—(1) Before employing or engaging any person to assist it in the provision of services under the agreement, the contractor will take reasonable care to satisfy itself that the person in question is both suitably qualified and competent to discharge the duties for which he or she is to be employed or engaged.

(2) The duty imposed by sub-paragraph (1) is in addition to the duties imposed by paragraphs 25 to 27.

(3) When considering the competence and suitability of any person for the purpose of sub-paragraph (1), the contractor will have regard, in particular, to—

- (a) that person's academic and vocational qualifications;
- (b) his or her education and training; and
- (c) his or her previous employment or work experience.

Training

29.—(1) The contractor will ensure that for any dental practitioner or dental care professional who is—

- (a) performing dental services under the agreement; or
- (b) employed or engaged to assist in the performance of such services,

arrangements are in place for the purpose of maintaining and updating his or her skills and knowledge in relation to the services which he or she is performing or assisting in performing.

(2) The contractor will afford to each employee reasonable opportunities to undertake appropriate training with a view to maintaining that employee's competence.

Level of skill

30. The contractor will carry out its obligations under the agreement with reasonable care and skill.

Appraisal and assessment

31. The contractor will ensure that any dental practitioner performing services under the agreement—

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- (a) participates in the appraisal system (if any) provided by the Relevant Body or where the contractor is a Local Health Board, by it, unless he or she participates in the appraisal system provided by another health service body; and
- (b) co-operates with an assessment by the NPSA when requested to do so by the Relevant Body, or where the contractor is a Local Health Board, by that Board.

Sub-contracting of clinical matters

32.—(1) The contractor will not sub-contract any of its rights or duties under the agreement to any person in relation to clinical matters unless—

- (a) it has taken reasonable steps to satisfy itself that—
 - (i) it is reasonable in all the circumstances, and
 - (ii) that the person is qualified and competent to provide the service; and
- (b) it is satisfied in accordance with paragraphs 79 and 80 that the sub-contractor holds adequate insurance.

(2) Where the contractor sub-contracts any of its rights or duties under the agreement in relation to clinical matters, it will—

- (a) inform the Relevant Body of the sub-contract as soon as is reasonable practicable; and
- (b) provide the Relevant Body with such information in relation to the sub-contract as it reasonably requests.

(3) Where the contractor sub-contracts clinical services in accordance with sub-paragraph (1), the parties to the agreement will be deemed to have agreed a variation to the agreement which has the effect of adding to the list of the contractor’s premises any premises which are to be used by the sub-contractor for the purpose of the sub-contract and paragraph 60 will not apply.

(4) A contract with a sub-contractor must prohibit the sub-contractor from sub-contracting the clinical services it has agreed with the contractor to provide.