

SCHEDULE 5

OTHER CONTRACTUAL TERMS

PART 2

PATIENTS

List of patients

14. The Board shall prepare and keep up to date a list of the patients –
- (a) who have been accepted by the contractor for inclusion in his list of patients under paragraph 15 and who have not subsequently been removed from that list under paragraphs 19 to 27; and
 - (b) who have been assigned to the contractor under paragraph 32 or 33 and whose assignment has not subsequently been rescinded.

Application for inclusion in a list of patients

15.—(1) The contractor may, if his list of patients is open, accept an application for inclusion in his list of patients made by or on behalf of any person whether or not resident in his practice area or included, at the time of that application, in the list of patients of another contractor or provider of primary medical services.

(2) The contractor may, if his list of patients is closed, only accept an application for inclusion in his list of patients from a person who is an immediate family member of a registered patient whether or not resident in his practice area or included, at the time of that application, in the list of patients of another contractor or provider of primary medical services.

(3) Subject to sub-paragraph (4), an application for inclusion in a contractor's list of patients shall be made by delivering to the practice premises a medical card or an application signed (in either case) by the applicant or a person authorised by the applicant to sign on his behalf.

- (4) An application may be made –
- (a) on behalf of any child –
 - (i) by either parent, or in the absence of both parents, the guardian or other adult who has care of the child,
 - (ii) by a person duly authorised by an authority looking after a child under the provisions of the Children (Northern Ireland) Order 1995, or
 - (iii) by a person duly authorised by a voluntary organisation by which the child is being accommodated under the provisions of that Order; or
 - (b) on behalf of any adult who is incapable of making such an application, or authorising such an application to be made on their behalf, by a relative or the primary carer of that person.

(5) A contractor which accepts an application for inclusion in his list of patients shall notify the Board in writing as soon as possible.

- (6) On receipt of a notice under sub-paragraph (5), the Board shall –
- (a) include that person in the contractor's list of patients from the date on which the notice is received; and
 - (b) notify the applicant (or, in the case of a child or incapable adult, the person making the application on their behalf) of the acceptance.

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Temporary residents

16.—(1) The contractor may, if his list of patients is open, accept a person as a temporary resident provided he is satisfied that the person is –

- (a) temporarily resident away from his normal place of residence and is not being provided with essential services (or their equivalent) under any other arrangement in the place where he is temporarily residing; or
- (b) moving from place to place and not for the time being resident in any place.

(2) For the purposes of sub-paragraph (1), a person shall be regarded as temporarily resident in a place if, when he arrives in that place, he intends to stay there for more than 24 hours but not more than three months.

(3) A contractor which wishes to terminate his responsibility for a person accepted as a temporary resident before the end of –

- (a) three months; or
- (b) such shorter period for which he agreed to accept him as a patient,

shall notify him either orally or in writing and his responsibility for that patient shall cease 7 days after the date on which the notification was given.

(4) At the end of three months, or on such earlier date as his responsibility for the temporary resident has come to an end, the contractor shall notify the Board in writing of any person whom he accepted as a temporary resident.

Refusal of applications for inclusion in the list of patients or for acceptance as a temporary resident

17.—(1) The contractor shall only refuse an application made under paragraph 15 or 16 if he has reasonable grounds for doing so which do not relate to the applicant's race, gender, social class, marital status, age, religion, political opinion, sexual orientation, appearance, disability, medical condition or whether or not the applicant has dependants.

(2) The reasonable grounds referred to in paragraph (1) shall, in the case of applications made under paragraph 15, include the ground that the applicant does not live in the contractor's practice area.

(3) A contractor which refuses an application made under paragraph 15 or 16 shall, within 14 days of his decision, notify the applicant (or, in the case of a child or incapable adult, the person making the application on their behalf) in writing of the refusal and the reason for it.

(4) The contractor shall keep a written record of refusals of applications made under paragraph 15 and of the reasons for them and shall make this record available to the Board on request.

Patient preference of practitioner

18.—(1) Where the contractor has accepted an application for inclusion in his list of patients, he shall –

- (a) notify the patient (or, in the case of a child or incapable adult, the person who made the application on their behalf) of the patient's right to express a preference to receive services from a particular performer or class of performer either generally or in relation to any particular condition; and
- (b) record in writing any such preference expressed by or on behalf of the patient.

(2) The contractor shall endeavour to comply with any reasonable preference expressed under sub-paragraph (1) but need not do so if the preferred performer –

- (a) has reasonable grounds for refusing to provide services to the patient; or

- (b) does not routinely perform the service in question within the practice.

Removal from the list at the request of the patient

19.—(1) The contractor shall notify the Board in writing of any request for removal from his list of patients received from a registered patient.

(2) Where the Board –

- (a) receives notification from the contractor under sub-paragraph (1); or
- (b) receives a request from the patient to be removed from the contractor’s list of patients,

it shall remove that person from the contractor’s list of patients.

(3) A removal in accordance with sub-paragraph (2) shall take effect –

- (a) on the date on which the Board receives notification of the registration of the person with another provider of essential services (or their equivalent); or
- (b) 14 days after the date on which the notification or request made under sub-paragraph (1) or (2) respectively is received by the Board,

whichever is the sooner.

(4) The Board shall, as soon as practicable, notify in writing –

- (a) the patient; and
- (b) the contractor,

that the patient’s name will be or has been removed from the contractor’s list of patients on the date referred to in sub-paragraph (3).

(5) In this paragraph and in paragraphs 20(1)(b) and (10), 21(6) and (7), 23 and 26, a reference to a request received from or advice, information or notification required to be given to a patient shall include a request received from or advice, information or notification required to be given to –

- (a) in the case of a patient who is a child, a parent or other person referred to in paragraph 15(4)(a); or
- (b) in the case of an adult patient who is incapable of making the relevant request or receiving the relevant advice, information or notification, a relative or the primary carer of the patient.

Removal from the list at the request of the contractor

20.—(1) Subject to paragraph 21, a contractor which has reasonable grounds for wishing a patient to be removed from his list of patients which do not relate to the applicant’s race, gender, social class, marital status, age, religion, political opinion, sexual orientation, appearance, disability, medical condition, or whether or not the applicant has dependants shall –

- (a) notify the Board in writing that he wishes to have the patient removed; and
- (b) subject to sub-paragraph (2), notify the patient of his specific reasons for requesting removal.

(2) Where in the reasonable opinion of the contractor –

- (a) the circumstances of the removal are such that it is not appropriate for a more specific reason to be given; and
- (b) there has been an irrevocable breakdown in the relationship between the patient and the contractor,

the reason given under sub-paragraph (1) may consist of a statement that there has been such a breakdown.

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(3) Except in the circumstances specified in sub-paragraph (4), a contractor may only request a removal under sub-paragraph (1), if, within the period of 12 months prior to the date of his request to the Board, he has warned the patient that he is at risk of removal and explained to him the reasons for this.

(4) The circumstances referred to in sub-paragraph (3) are that –

- (a) the reason for removal relates to a change of address;
- (b) the contractor has reasonable grounds for believing that the issue of such a warning would –
 - (i) be harmful to the physical or mental health of the patient, or
 - (ii) put at risk the safety of one or more of the persons specified in sub-paragraph (5); or
- (c) it is, in the opinion of the contractor, not otherwise reasonable or practical for a warning to be given.

(5) The persons referred to in sub-paragraph (4) are –

- (a) the contractor, where he is an individual medical practitioner;
- (b) in the case of a contract with two or more individuals practising in partnership, a partner in that partnership;
- (c) in the case of a contract with a company, a legal and beneficial owner of shares in that company;
- (d) a member of the contractor's staff;
- (e) a person engaged by the contractor to perform or assist in the performance of services under the contract; or
- (f) any other person present –
 - (i) on the practice premises, or
 - (ii) in the place where services are being provided to the patient under the contract.

(6) The contractor shall record in writing –

- (a) the date of any warning given in accordance with sub-paragraph (3) and the reasons for giving such a warning as explained to the patient; or
- (b) the reason why no such warning was given.

(7) The contractor shall keep a written record of removals under this paragraph which shall include –

- (a) the reason for removal given to the patient;
- (b) the circumstances of the removal; and
- (c) in cases where sub-paragraph (2) applies, the grounds for a more specific reason not being appropriate,

and shall make this record available to the Board on request.

(8) A removal requested in accordance with sub-paragraph (1) shall, subject to sub-paragraph (9), take effect from –

- (a) the date on which the Board receives notification of the registration of the person with another provider of essential services (or their equivalent); or
- (b) the eighth day after the Board receives the notice referred to in sub-paragraph (1)(a),

whichever is the sooner.

(9) Where, on the date on which the removal would take effect under sub-paragraph (8), the contractor is treating the patient at intervals of less than seven days, the contractor shall notify the Board in writing of the fact and the removal shall take effect –

- (a) on the eighth day after the Board receives notification from the contractor that the person no longer needs such treatment; or
- (b) on the date on which the Board receives notification of the registration of the person with another provider of essential services (or their equivalent),

whichever is the sooner.

(10) The Board shall notify in writing –

- (a) the patient; and
- (b) the contractor,

that the patient's name has been or will be removed from the contractor's list of patients on the date referred to in sub-paragraph (8) or (9).

Removals from the list of patients who are violent

21.—(1) A contractor which wishes a patient to be removed from his list of patients with immediate effect on the grounds that –

- (a) the patient has committed an act of violence against any of the persons specified in sub-paragraph (2) or behaved in such a way that any such person has feared for his safety; and
- (b) he has reported the incident to the police,

shall notify the Board in accordance with sub-paragraph (3).

(2) The persons referred to in sub-paragraph (1) are –

- (a) the contractor where he is a medical practitioner;
- (b) in the case of a contract with two or more individuals practising in partnership, any partner in that partnership;
- (c) in the case of a contract with a company, a legal and beneficial owner of shares in that company;
- (d) a member of the contractor's staff;
- (e) a person engaged by the contractor to perform or assist in the performance of services under the contract; or
- (f) any other person present –
 - (i) on the practice premises, or
 - (ii) in the place where services were provided to the patient under contract.

(3) Notification under sub-paragraph (1) may be given by any means including telephone or fax but if not given in writing shall subsequently be confirmed in writing within seven days (and for this purpose a faxed notification is not a written one).

(4) The Board shall acknowledge in writing receipt of a request from the contractor under sub-paragraph (1).

(5) A removal requested in accordance with sub-paragraph (1) shall take effect at the time that the contractor –

- (a) makes the telephone call to the Board; or
- (b) sends or delivers the notification to the Board.

(6) Where, pursuant to this paragraph, the contractor has notified the Board that he wishes to have a patient removed from his list of patients, it shall inform the patient concerned unless –

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- (a) it is not reasonably practicable for it to do so; or
- (b) it has reasonable grounds for believing that to do so would –
 - (i) be harmful to the physical or mental health of the patient; or
 - (ii) put at risk the safety of one or more of the persons specified in sub-paragraph (2).

(7) Where the Board has removed a patient from the contractor’s list of patients in accordance with sub-paragraph (5), it shall give written notice of the removal to that patient.

(8) Where a patient is removed from the contractor’s list of patients in accordance with this paragraph, the contractor shall record in the patient’s medical records that the patient has been removed under this paragraph and the circumstances leading to his removal.

Removals from the list of patients registered elsewhere

22.—(1) The Board shall remove a patient from the contractor’s list of patients if –

- (a) the patient has subsequently been registered with another provider of essential services (or their equivalent) in the area of the Board; or
- (b) it has received notice from another Board, a Primary Care Trust, a Local Health Board or a Health Board that the patient has subsequently been registered with a provider of essential services (or their equivalent) outside the area of the Board.

(2) A removal in accordance with sub-paragraph (1) shall take effect –

- (a) on the date on which the Board receives notification of the registration of the person with the new provider; or
- (b) with the consent of the Board, on such other date as has been agreed between the contractor and the new provider.

(3) The Board shall notify the contractor in writing of persons removed from his list of patients under sub-paragraph (1).

Removals from the list of patients who have moved

23.—(1) Subject to sub-paragraph (2), where the Board is satisfied that a person on the contractor’s list of patients has moved and no longer resides in that contractor’s practice area, the Board shall –

- (a) inform that patient and the contractor that the contractor is no longer obliged to visit and treat the person;
- (b) advise the patient in writing either to obtain the contractor’s agreement to the continued inclusion of the person on his list of patients or to apply for registration with another provider of essential services (or their equivalent); and
- (c) inform the patient that if, after the expiration of 30 days from and including the date of the advice mentioned in paragraph (b), he has not acted in accordance with the advice and informed it accordingly, the Board will remove him from the contractor’s list of patients.

(2) If, at the expiration of the period of 30 days referred to in sub-paragraph (1)(c), the Board has not been notified of the action taken, it shall remove the patient from the contractor’s list of patients and inform him and the contractor accordingly.

24. Where the address of a patient who is on the contractor’s list of patients is no longer known to the Board, the Board shall –

- (a) give to the contractor notice in writing that it intends, at the end of the period of six months commencing with the date of the notice, to remove the patient from the contractor’s list of patients; and

- (b) at the end of that period, remove the patient from the contractor's list of patients unless, within that period, the contractor satisfies the Board that he is still responsible for providing essential services to that patient.

Removals from the list of patients absent from the United Kingdom etc.

25.—(1) The Board shall remove a patient from the contractor's list of patients where it receives notification that that patient –

- (a) intends to be away from the United Kingdom for a period of at least three months;
 - (b) is in Her Majesty's Forces;
 - (c) is serving a prison sentence of more than two years or sentences totalling in the aggregate more than that period;
 - (d) has been absent from the United Kingdom for a period of more than three months; or
 - (e) has died.
- (2) A removal in accordance with sub-paragraph (1) shall take effect –
- (a) in the cases referred to in sub-paragraph (1)(a) to (c) from the date of the departure, enlistment or imprisonment or the date on which the Board first receives notification of the departure, enlistment or imprisonment whichever is the later; or
 - (b) in the cases referred to in sub-paragraph (1)(d) and (e) from the date on which the Board first receives notification of the absence or death.

(3) The Board shall notify the contractor in writing of patients removed from his list of patients under sub-paragraph (1).

Removals from the list of patients accepted elsewhere as temporary residents

26.—(1) The Board shall remove from the contractor's list of patients a patient who has been accepted as a temporary resident by another contractor or other provider of essential services (or their equivalent) where it is satisfied, after due inquiry –

- (a) that the patient's stay in the place of temporary residence has exceeded three months; and
- (b) that he has not returned to his normal place of residence or any other place within the contractor's practice area.

(2) The Board shall notify in writing of a removal under sub-paragraph (1) –

- (a) the contractor; and
- (b) where practicable, the patient.

(3) A notification to the patient under sub-paragraph (2)(b) shall inform him of –

- (a) his entitlement to make arrangements for the provision to him of essential services (or their equivalent), including by the contractor by which he has been treated as a temporary resident; and
- (b) the name and address of the Board in whose area he is resident.

Removals from the list of pupils etc. of a school

27.—(1) Where the contractor provides essential services under the contract to persons on the grounds that they are pupils at or staff or residents of a school, the Board shall remove from the contractor's list of patients any such persons who do not appear on particulars of persons who are pupils at or staff or residents of that school provided by that school.

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(2) Where the Board has made a request to a school to provide the particulars mentioned in sub-paragraph (1) and has not received them, it shall consult the contractor as to whether it should remove from his list of patients any persons appearing on that list as pupils at, or staff or residents of, that school.

(3) The Board shall notify the contractor in writing of patients removed from his list of patients under sub-paragraph (1).

Termination of responsibility for patients not registered with the contractor

28.—(1) Where a contractor –

(a) has received an application for the provision of medical services other than essential services –

(i) from a person who is not included in his list of patients,

(ii) from a person whom he has not accepted as a temporary resident, or

(iii) on behalf of a person mentioned in head (a)(i) or (ii), from one of the persons specified in paragraph 15(4); and

(b) has accepted that person as a patient for the provision of the service in question,

his responsibility for that patient shall be terminated in the circumstances referred to in sub-paragraph (2).

(2) The circumstances referred to in sub-paragraph (1) are –

(a) the patient informs the contractor that he no longer wishes him to be responsible for provision of the service in question;

(b) in cases where the contractor has reasonable grounds for terminating his responsibility which do not relate to the person's race, gender, social class, marital status, age, religion, political opinion, sexual orientation, appearance, disability, medical condition or whether or not the patient has dependants, the contractor informs the patient that he no longer wishes to be responsible for providing him with the service in question; or

(c) it comes to the notice of the contractor that the patient –

(i) no longer resides in the area for which the contractor has agreed to provide the service in question; or

(ii) is no longer included in the list of patients of an other contractor to whose registered patients the contractor has agreed to provide that service.

(3) A contractor which wishes to terminate his responsibility for a patient under sub-paragraph (2) shall notify the patient of the termination and the reason for it.

(4) The contractor shall keep a written record of terminations under this paragraph and of the reasons for them and shall make this record available to the Board on request.

(5) A termination under sub-paragraph (2)(b) shall take effect –

(a) from the date on which the notice is given where the grounds for termination are those specified in paragraph 21(1); or

(b) in all other cases, 14 days from the date on which the notice is given.

Closure of lists of patients

29.—(1) A contractor which wishes to close his list of patients shall notify the Board in writing to that effect.

(2) Within a period of 7 days beginning with and including the date of receipt of the notification referred to in sub-paragraph (1), or, if that is not reasonably practicable as soon as is practicable

thereafter, the Board shall enter into discussions with the contractor concerning the support which the Board may give the contractor, or other changes which the Board or the contractor may make, which would enable the contractor to keep his list of patients open.

(3) In the discussions referred to in sub-paragraph (2), both parties shall use reasonable endeavours to achieve the aim of keeping the contractor's list of patients open.

(4) The discussions mentioned in sub-paragraph (2) shall be completed within a period of 28 days beginning with and including the date of the Board's receipt of the notification referred to in sub-paragraph (1), or within such longer period as the parties may agree.

(5) If, following the discussions mentioned in sub-paragraph (2), the Board and the contractor reach agreement that the contractor's list of patients should remain open, the Board shall send full details of the agreement in writing to the contractor.

(6) The Board and the contractor shall comply with the terms of an agreement reached as mentioned in sub-paragraph (5).

(7) If, following the discussions mentioned in sub-paragraph (2) –

- (a) the Board and the contractor reach agreement that the contractor's list of patients should close; or
- (b) the Board and the contractor fail to reach agreement and the contractor still wishes to close his list of patients,

the contractor shall send a closure notice to the Board.

(8) A closure notice shall be submitted in the form specified in Schedule 6, and shall include the following details which (in a case falling within sub-paragraph (7)(a)) have been agreed between the parties or (in a case falling within sub-paragraph (7)(b)) are proposed by the contractor –

- (a) the period of time (which may not exceed 12 months) for which the contractor's list of patients will be closed;
- (b) the current number of the contractor's registered patients;
- (c) the number of registered patients (lower than the current number of such patients, and expressed either in absolute terms or as a percentage of the number of such patients specified pursuant to head (b)) which, if that number were reached, would trigger the re-opening of the contractor's list of patients;
- (d) the number of registered patients (expressed either in absolute terms or as a percentage of the number of such patients specified pursuant to head (b)) which, if that number were reached, would trigger the re-closure of the contractor's list of patients; and
- (e) any withdrawal from or reduction in provision of any additional or enhanced services which had previously been provided under the contract.

(9) The Board shall forthwith acknowledge receipt of the closure notice in writing to the contractor.

(10) Before the Board reaches a decision as to whether to approve or reject the closure notice under sub-paragraph (12), the Board and the contractor may enter into further discussions concerning the details of the closure notice as referred to in sub-paragraph (8), with a view to reaching agreement; and, in particular, if the parties are unable to reach agreement regarding the period of time for which the contractor's list of patients will be closed, that period shall be 12 months.

(11) A contractor may not withdraw a closure notice for a period of three months beginning with and including the date on which the Board has received the notice, unless the Board has agreed otherwise in writing.

(12) Within a period of 14 days beginning with and including the date of receipt of the closure notice, the Board shall –

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- (a) approve the closure notice; or
- (b) reject the closure notice,

and shall notify the contractor of its decision in writing as soon as possible.

(13) Approval of the closure notice under sub-paragraph (12)(a) includes approval of the details specified in accordance with sub-paragraph (8) or, where those details are revised following discussions under sub-paragraph (10), approval of those details as so revised.

Approval of closure notice by the Board

30.—(1) If the Board approves the closure notice in accordance with paragraph 29(12)(a), the contractor shall close his list of patients –

- (a) with effect from a date agreed between the Board and the contractor; or
- (b) if no such agreement has been reached, with effect from the date on which the contractor receives notification of the Board’s decision to approve the closure notice.

(2) Subject to sub-paragraph (3), the contractor’s list of patients shall remain closed for the period specified in the closure notice in accordance with paragraph 29(8)(a) (or, where the period of 12 months specified in paragraph 29(10) applies, for that period).

(3) The contractor’s list of patients shall re-open before the expiry of the period mentioned in sub-paragraph (2) if –

- (a) the number of the contractor’s registered patients falls to the number specified in the closure notice in accordance with paragraph 29(8)(c); or
- (b) the Board and the contractor agree that the list of patients should re-open.

(4) If the contractor’s list of patients has re-opened pursuant to sub-paragraph (3)(a), it shall nevertheless close again if, during the period specified in the closure notice in accordance with paragraph 29(8)(a) (or, where the period of 12 months specified in paragraph 29(10) applies, during that period) the number of the contractor’s registered patients rises to the number specified in the closure notice in accordance with paragraph 29(8)(d).

(5) Except in cases where the contractor’s list of patients is already open pursuant to sub-paragraph (3), the Board shall notify the contractor in writing between 7 and 14 days before the expiry of the period of closure specified in sub-paragraph (2), confirming the date on which the contractor’s list of patients will re-open.

(6) Where the details specified in the closure notice in accordance with paragraph 29(8) have been revised following discussions under paragraph 29(10), references in this paragraph to details specified in the closure notice are references to those details as so revised.

Rejection of closure notice by the Board

31.—(1) This regulation applies where the Board rejects the closure notice in accordance with paragraph 29(12)(b).

(2) The contractor and the Board may not refer the matter for determination in accordance with the dispute resolution procedure (or, where applicable, commence court proceedings) until the assessment panel has given its determination in accordance with the following sub-paragraphs.

(3) The Board must ensure that the assessment panel is appointed as soon as is practicable to consider and determine whether the contractor should be permitted to close his list of patients, and if so, the terms on which he should be permitted to do so.

(4) The Board shall provide the assessment panel with such information as the assessment panel may reasonably require to enable it to reach a determination and shall include in such information any written observations received from the contractor.

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- (5) The members of the assessment panel shall be –
- (a) the Chief Executive of the Board of which the assessment panel is a committee or sub-committee;
 - (b) a person representative of the patients in an area other than that of the Board which is a party to the contract; and
 - (c) a person representative of a Local Medical Committee which does not represent practitioners in the area of the Board which is a party to the contract.
- (6) At least one member of the assessment panel shall visit the contractor before reaching a determination under sub-paragraph (7).
- (7) Within the period of 28 days beginning with and including the date on which the Board rejected the closure notice, the assessment panel shall –
- (a) approve the list closure; or
 - (b) reject the list closure,
- and shall notify the Board and the contractor of its determination in writing as soon as possible.
- (8) Where the assessment panel determines in accordance with sub-paragraph (7)(a) that the contractor’s list of patients should close, it shall specify –
- (a) a date from which the closure shall take effect, which must be within a period of 7 days beginning with and including the date of the assessment panel’s determination; and
 - (b) those details specified in paragraph 29(8).
- (9) Where the assessment panel determines in accordance with sub-paragraph (7)(b) that the contractor’s list of patients may not close, that list shall remain open, and the Board and the contractor shall enter into discussions with a view to ensuring that the contractor receives support from the Board which will enable him to continue to provide services safely and effectively.
- (10) Where the assessment panel determines in accordance with sub-paragraph (7)(b) that the contractor’s list of patients may not close, the contractor may not submit a further closure notice as described in paragraph 29 until –
- (a) the expiry of a period of three months beginning with and including the date of the assessment panel’s determination; or
 - (b) (if applicable) the final determination of the dispute resolution procedure (or any court proceedings),
- whichever is the later, unless there has been a change in the circumstances of the contractor which affects his ability to deliver services under the contract.

Assignment of patients to lists: open lists

- 32.—(1) A Board may, subject to paragraph 34, assign a new patient to a contractor whose list of patients is open.
- (2) In this paragraph and in paragraphs 33 and 35 to 37, a “new” patient means a person who –
- (a) is resident (whether or not temporarily) within the area of the Board;
 - (b) has been refused inclusion in a list of patients of, or has not been accepted as a temporary resident by, a contractor whose premises are within such an area; and
 - (c) wishes to be included in the list of patients of a contractor whose practice premises are within that area.

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Assignment of patients to lists: closed lists

33.—(1) A Board may not assign a new patient to a contractor which has closed his list of patients except in the circumstances specified in sub-paragraph (2).

(2) A Board may, subject to paragraph 34, assign a new patient to a contractor whose practice premises are within the Board's area and which has closed his list of patients, if –

- (a) most or all of the providers of essential services (or their equivalent) whose practice premises are within the Board's area have closed their lists of patients;
- (b) the assessment panel has determined under paragraph 35(7) that patients may be assigned to the contractor in question, and that determination has not been overturned either by a determination of the Department under paragraph 36(13) or (where applicable) by a court; and
- (c) the Board has entered into discussions with the contractor in question regarding the assignment of a patient if such discussions are required under paragraph 37.

Factors relevant to assignments

34. In making an assignment to a contractor under paragraph 32 or 33, the Board shall have regard to –

- (a) the wishes and circumstances of the patient to be assigned;
- (b) the distance between the patient's place of residence and the contractor's practice premises;
- (c) whether, during the six months ending on the date on which the application for assignment is received by the Board, the patient's name has been removed from the list of patients of any contractor in the area of the Board under paragraph 20 or its equivalent provision in relation to an Article 15B provider in the area of the Board;
- (d) whether the patient's name has been removed from the list of patients of any contractor in the area of the Board under paragraph 21 or its equivalent provision in relation to an Article 15B provider in the area of the Board and, if so, whether the contractor has appropriate facilities to deal with such a patient;
- (e) such other matters as the Board considers to be relevant.

Assignments to closed lists: determinations of the assessment panel

35.—(1) This paragraph applies where most or all of the providers of essential services (or their equivalent) whose practice premises are within the area of a Board have closed their lists of patients.

(2) If the Board wishes to assign new patients to contractors which have closed their lists of patients, it must prepare a proposal to be considered by the assessment panel which must include details of those contractors to which the Board wishes to assign patients.

(3) The Board must ensure that the assessment panel is appointed to consider and determine its proposal made under sub-paragraph (2), and the composition of the assessment panel shall be as described in paragraph 31(5).

(4) The Board shall notify in writing –

- (a) contractors or Article 15B providers whose practice premises are within the Board's area which –
 - (i) have closed their list of patients, and
 - (ii) may, in the opinion of the Board, be affected by the determination of the assessment panel; and
- (b) the Local Medical Committee for the area of the Board,

that it has referred the matter to the assessment panel.

(5) In reaching its determination, the assessment panel shall have regard to relevant factors including –

- (a) whether the Board has attempted to secure the provision of essential services (or their equivalent) for new patients other than by means of their assignment to contractors with closed lists of patients; and
- (b) the workload of those contractors likely to be affected by any decision to assign such patients to their list of patients.

(6) The assessment panel shall reach a determination within the period of 28 days beginning with and including the date on which the panel was appointed.

(7) The assessment panel shall determine whether the Board may assign patients to contractors which have closed their lists of patients; and if it determines that the Board may make such assignments, it shall also determine those contractors to which patients may be assigned.

(8) The assessment panel may determine that the Board may assign patients to contractors other than those contractors specified by the Board in its proposal under sub-paragraph (2), as long as the contractors were notified under sub-paragraph (4)(a).

(9) The assessment panel's determination shall include its comments on the matters specified in sub-paragraph (5), and shall be notified in writing to those contractors which were notified under sub-paragraph (4)(a).

Assignments to closed lists: dispute resolution procedure relating to determinations of the assessment panel

36.—(1) Where an assessment panel makes a determination under paragraph 35(7) that the Board may assign new patients to contractors which have closed their lists of patients, any contractor specified in that determination may refer the matter to the Department to review the determination of the assessment panel.

(2) Where a matter is referred to the Department in accordance with sub-paragraph (1), it shall be reviewed in accordance with the procedure specified in the following sub-paragraphs.

(3) Where more than one contractor specified in the determination in accordance with paragraph 35(7) wishes to refer the matter for dispute resolution, those contractors may, if they all agree, refer the matter jointly, and in that case the Department shall review the matter in relation to those contractors together.

(4) Within the period of 7 days beginning with and including the date of the determination by the assessment panel in accordance with paragraph 35(7), the contractor shall send to the Department a written request for dispute resolution which shall include or be accompanied by –

- (a) the names and addresses of the parties to the dispute;
- (b) a copy of the contract (or contracts); and
- (c) a brief statement describing the nature and circumstances of the dispute.

(5) Within the period of 7 days beginning with and including the date on which the matter was referred to it, the Department shall –

- (a) give to the parties notice in writing that it is dealing with the matter; and
- (b) include with the notice a written request to the parties to make in writing within a specified period any representations which they may wish to make about the dispute.

(6) The Department shall give, with the notice given under sub-paragraph (5), to the party, other than the one which referred the matter to dispute resolution, a copy of any document by which the dispute was referred to dispute resolution.

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

(7) The Department shall, upon receiving any representations from a party, give a copy of them to the other party, and shall in each case request (in writing) a party to which a copy of the representations is given to make within a specified period any written observations which it wishes to make on those representations.

(8) For the purpose of assisting it in its consideration of the matter, the Department may –

- (a) invite representatives of the parties to appear before it to make oral representations either together or, with the agreement of the parties, separately, and may in advance provide the parties with a list of matters or questions to which it wishes them to give special consideration; or
- (b) consult other persons whose expertise it considers will assist it in its consideration of the dispute.

(9) Where the Department consults another person under sub-paragraph (8)(b), it shall notify the parties accordingly in writing and, where it considers that the interests of any party might be substantially affected by the result of the consultation, it shall give to the parties such opportunity as it considers reasonable in the circumstances to make observations on those results.

(10) In considering the dispute, the Department shall consider –

- (a) any written representations made in response to a request under sub-paragraph (5)(b), but only if they are made within the specified period;
- (b) any written observations made in response to a request under sub-paragraph (7), but only if they are made within the specified period;
- (c) any oral representations made in response to an invitation under sub-paragraph (8)(a);
- (d) the results of any consultation under sub-paragraph (8)(b); and
- (e) any observations made in accordance with an opportunity given under sub-paragraph (9).

(11) Subject to the other provisions of this paragraph and to any agreement by the parties, the Department shall have wide discretion in determining the procedure of the dispute resolution to ensure the just, expeditious, economical and final determination of the dispute.

(12) In this paragraph, “specified period” means such period as the Department shall specify in the request, being not less than one, nor more than two, weeks beginning with and including the date on which the notice referred to is given, but the Department may, if the period for determination of the dispute has been extended in accordance with sub-paragraph (16), extend any such period (even after it has expired) and, where it does so, a reference in this paragraph to the specified period is to the period as so extended.

(13) Subject to sub-paragraph (16), within the period of 21 days beginning with and including the date on which the matter was referred to it, the Department shall determine whether the Board may assign patients to contractors which have closed their lists of patients; and if it determines that the Board may make such assignments, it shall also determine those contractors to which patients may be assigned.

(14) The Department may not determine that patients may be assigned to a contractor which was not specified in the determination of the assessment panel under paragraph 35(7).

(15) In the case of a matter referred jointly by contractors in accordance with sub-paragraph (3), the Department may determine that patients may be assigned to one, some or all of the contractors which referred the matter.

(16) The period of 21 days referred to in sub-paragraph (13) may be extended (even after it has expired) by a further specified number of days if an agreement to that effect is reached by –

- (a) the Department;
- (b) the Board; and

(c) the contractor which referred the matter to dispute resolution.

(17) The Department shall record its determination, and the reasons for it, in writing and shall give notice of the determination (including the record of the reasons) to the parties.

Assignments to closed lists: assignments of patients by a Board

37.—(1) Before the Board may assign a new patient to a contractor, it shall, subject to sub-paragraph (3), enter into discussions with that contractor regarding additional support that the Board can offer the contractor, and the Board shall use its best endeavours to provide appropriate support.

(2) In the discussions referred to in sub-paragraph (1), both parties shall use reasonable endeavours to reach agreement.

(3) The requirement in sub-paragraph (1) to enter into discussions applies –

(a) to the first assignment of a patient to a particular contractor; and

(b) to any subsequent assignment to that contractor to the extent that it is reasonable and appropriate having regard to the numbers of patients who have been or may be assigned to him and the period of time since the last discussions under sub-paragraph (1) took place.