

SCHEDULE 6

Regulation 32

OUT OF HOURS SERVICES

Temporary arrangements for transfer of obligations and liabilities in relation to certain out of hours services

1.—(1) In this Schedule –

“out of hours arrangement” means an arrangement under sub-paragraph (2); and

“transferee out of hours services provider” means a person referred to in sub-paragraph (5) who has undertaken to carry out the obligations of a contractor during all or part of the out of hours period in accordance with an out of hours arrangement specified to in sub-paragraph (2).

(2) Subject to the provisions of this Schedule, where a contractor is required to provide out of hours services pursuant to regulation 30 or 31, the contractor may, with the approval of the Board, make an arrangement with a person referred to in sub-paragraph (5) to transfer the contractor’s obligations under these regulations.

(3) Any arrangement made pursuant to sub-paragraph (2) shall cease to have effect –

(a) on the day when the transferee out of hours services provider ceases to meet any of the conditions required to provide primary medical services under these regulations; or

(b) on 1st January 2005,

whichever is the earlier.

(4) An arrangement made in accordance with sub-paragraph (2) shall, for so long as it continues, relieve the contractor of –

(a) his obligations to provide out of hours services pursuant to regulation 30 or 31; and

(b) all liabilities under the contract in respect of those services.

(5) The person referred to in sub-paragraph (1) is any person who holds a contract with the Board which includes the provision of out of hours services.

(6) A contractor may make more than one out of hours arrangement and may do so (for example) with different contractors or providers of primary medical services and in respect of different patients, different times and different parts of his practice area.

(7) A contractor may retain responsibility for, or make separate out of hours arrangements in respect of, the provision to any patients of maternity medical services during the out of hours period which the contractor is required to provide pursuant to regulation 30 or 31 and any separate out of hours arrangements he makes may encompass all or any part of the maternity medical services he provides.

(8) Nothing in this paragraph prevents a contractor from retaining or resuming his obligations in relation to named patients.

Application for approval of an out of hours arrangement

2.—(1) An application to the Board for approval of an out of hours arrangement shall be made in writing and shall state –

(a) the name and address of the proposed transferee out of hours services provider;

(b) the periods during which the contractor’s obligations under the contract are to be transferred;

(c) how the proposed transferee out of hours services provider intends to meet the contractor’s obligations during the periods specified under paragraph (b);

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- (d) the arrangements for the transfer of the contractor's obligations under the contract to and from the transferee out of hours services provider at the beginning and end of the periods specified under head (b);
 - (e) whether the proposed arrangement includes the contractor's obligations in respect of maternity medical services; and
 - (f) how long the proposed arrangements are intended to last and the circumstances in which the contractor's obligations under the contract during the periods specified under head (b) would revert to it.
- (2) The Board shall determine the application before the end of the period of 28 days beginning with and including the day on which the Board received it.
- (3) The Board shall grant approval to a proposed out of hours arrangement if it is satisfied –
- (a) having regard to the overall provision of primary medical services provided in the out of hours period in its area, that the arrangement is reasonable and will contribute to the efficient provision of such services in the area;
 - (b) having regard, in particular, to the interests of the contractor's patients, that the arrangement is reasonable;
 - (c) having regard, in particular, to all reasonably foreseeable circumstances, that the arrangement is practicable and will work satisfactorily;
 - (d) that it will be clear to the contractor's patients how to seek primary medical services during the out of hours period;
 - (e) where maternity medical services are to be provided under the out of hours arrangement, that they will be performed by a medical practitioner who has such medical experience and training as are necessary to enable the medical practitioner properly to perform such services; and
 - (f) that if the arrangement comes to an end, the contractor has in place proper arrangements for the immediate resumption of the contractor's responsibilities,
- and shall not refuse to grant approval without first consulting the Local Medical Committee (if any) for its area.
- (4) The Board shall give notice to the contractor of its determination and, where it refuses an application, it shall send the contractor a statement in writing of the reasons for its determination.
- (5) A contractor which wishes to refer the matter in accordance with the dispute resolution procedure must do so before the end of the period of 30 days beginning with and including the day on which the Board's notification under sub-paragraph (4) was sent.

Effect of approval of an arrangement with a transferee out of hours services provider

3. Where the Board has approved an out of hours arrangement with a transferee out of hours services provider, the Board and the transferee out of hours services provider shall be deemed to have agreed a variation of their contract which has the effect of including in it, from the date on which the out of hours arrangement commences, and for so long as that arrangement continues, the services covered by that arrangement and paragraph 96(1) of Schedule 5 shall not apply.

Review of approval

4.—(1) Where it appears to the Board that it may no longer be satisfied of any of the matters referred to in paragraph 2(3), it may give notice to the contractor that it proposes to review its approval of the out of hours arrangement.

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(2) On any review under sub-paragraph (1), the Board shall allow the contractor a period of 30 days, beginning with and including the day on which it sent the notice, within which to make representations in writing to the Board.

(3) After considering any representations made in accordance with sub-paragraph (2), the Board may determine to –

- (a) continue its approval;
- (b) withdraw its approval following a period of notice; or
- (c) if it appears to it that it is necessary in the interests of the contractor’s patients, withdraw its approval immediately.

(4) Except in the case of an immediate withdrawal of approval, the Board shall not withdraw its approval without first consulting the Local Medical Committee (if any) for its area.

(5) Where the Board determines to withdraw its approval immediately, it shall notify the Local Medical Committee (if any) for its area.

(6) The Board shall give notice to the contractor of its determination under sub-paragraph (3).

(7) Where the Board withdraws its approval, whether immediately or on notice, it shall include with the notice a statement in writing of the reasons for its determination.

(8) A contractor which wishes to refer the matter in accordance with the dispute resolution procedure must do so before the end of the period of 30 days beginning with and including the day on which the Board’s notification under sub-paragraph (6) was sent.

(9) Where the Board determines to withdraw its approval following a period of notice, the withdrawal shall take effect at the end of the period of two months beginning with and including –

- (a) the date on which the notice referred to in sub-paragraph (6) was sent; or
- (b) where there has been a dispute which has been referred under the dispute resolution procedure and the dispute is determined in favour of withdrawal, the date on which the contractor receives notice of the determination.

(10) Where the Board determines to withdraw its approval immediately, the withdrawal shall take effect on the day on which the notice referred to in sub-paragraph (6) is received by the contractor.

Immediate withdrawal of approval other than following review

5.—(1) The Board shall withdraw its approval of an out of hours arrangement immediately –

- (a) in the case of an arrangement with a person specified in paragraph 1(5), if the person with whom it is made ceases to hold a contract with the Board which includes the provision of out of hours services; or
- (b) where, without any review having taken place under paragraph 4, it appears to the Board that it is necessary in the interests of the contractor’s patients to withdraw its approval immediately.

(2) The Board shall give notice to the contractor of a withdrawal of approval under sub-paragraph (1)(a) or (b) and shall include with the notice a statement in writing of the reasons for its determination.

(3) An immediate withdrawal of approval under sub-paragraph (1) shall take effect on the day on which the notice referred to in sub-paragraph (2) is received by the contractor.

(4) The Board shall notify the Local Medical Committee (if any) for its area of a withdrawal of approval under sub-paragraph (1)(b).

(5) A contractor which wishes to refer a withdrawal of approval under sub-paragraph (1)(b) in accordance with the dispute resolution procedure must do so before the end of the period of 30 days

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beginning with and including the day on which the Board's notification under sub-paragraph (2) was sent.

Termination of an out of hours arrangement

6. The contractor shall terminate an out of hours arrangement made under paragraph 1(2) with effect from the date of the taking effect of the withdrawal of the Board's approval of that arrangement under paragraph 4 or 5.