

SCHEDULE 1

TERMS OF SERVICE FOR DENTISTS

PART II

CONTINUING CARE ARRANGEMENT, CAPITATION ARRANGEMENT AND TREATMENT ON REFERRAL

A continuing care arrangement

4.—(1) A contractor who accepts a person for care and treatment under a continuing care arrangement shall—

- (a) at the time at which the contractor accepts the patient provide the patient with the information about care and treatment under general dental services which is set out in Schedule 3 and with a form of acceptance supplied by the Health Board, or form to like effect, which shall specify—
 - (i) the name of the patient;
 - (ii) the name of the dentist who will carry out the care and treatment;
 - (iii) particulars of the places where the patient will receive care and treatment; and
 - (iv) the telephone number at which the dentist who will provide the care and treatment to the patient, or a deputy, may be contacted during normal surgery hours, or at other times in an emergency if different;
- (b) ensure that at the time of the first examination of the patient by a dentist, the dentist provides the patient with a plan for treatment on a form supplied by the Health Board, or a form to like effect, which shall specify—
 - (i) details of the care and treatment (if any) which in the opinion of the dentist, at the date of that examination, is necessary to secure and maintain the oral health of the patient;
 - (ii) the approximate period following which a further examination is recommended by the dentist;
 - (iii) the dentist's estimate of the NHS charge, if any, in respect of that care and treatment; and
 - (iv) any proposals which the dentist may have for private care and treatment as an alternative to the care and treatment proposed under general dental services, including particulars of the cost to the patient;
- (c) ensure that where at any time during the currency of a continuing care arrangement—
 - (i) the circumstances specified in sub-paragraph (2) apply; or
 - (ii) in the opinion of the dentist, the care and treatment included in the plan for treatment provided under paragraph (b) or this paragraph needs to be varied;the patient is provided with a new plan for treatment or, as the case may be, a revised plan for treatment in accordance (except as to the time of its provision) with paragraph (b) of this sub-paragraph;
- (d) complete the care and treatment (if any)—
 - (i) which is referred to in paragraph (b)(i) of this sub-paragraph; and

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- (ii) where sub-paragraph (2) does not apply, any care and treatment which is in the opinion of the dentist at the date of any examination of the patient, necessary to secure and maintain the patient's oral health;
 - (e) provide the patient with emergency cover in accordance with paragraph 6; and
 - (f) repair or replace in accordance with paragraph 7 any restoration which requires repair or replacement.
- (2) The circumstances in which the obligation mentioned in sub-paragraph (1)(c)(i) applies are where—
- (a) the patient requests a new plan for treatment;
 - (b) the patient and the dentist have agreed that all or part of the treatment which is necessary to secure and maintain oral health is to be provided privately; or
 - (c) the care and treatment which is to be provided includes any of the items of treatment mentioned in sub-paragraph (3).
- (3) The items of treatment referred to in sub-paragraph (2)(c) (and also in paragraph 5(2)(c)) are—
- (a) non-surgical treatment of chronic periodontal diseases which is likely to involve 3 or more visits;
 - (b) provision of 3 or more permanent fillings;
 - (c) endodontic treatment;
 - (d) provision of a veneer, inlay, pinlay, crown or bridge;
 - (e) all surgical treatment other than the extractions of teeth;
 - (f) the extraction of—
 - (i) more than 2 teeth; or
 - (ii) any tooth which, in the opinion of the dentist, is likely to present special difficulty;
 - (g) provision of sedation in connection with any item of treatment;
 - (h) provision of prosthetic appliances; and
 - (i) orthodontic care and treatment.
- (4) Where a contractor accepts the transfer of a continuing care arrangement the contractor shall provide the patient with the information specified in sub-paragraphs (1)(a)(ii) to (iv) and assume the obligations set out in sub-paragraphs (1)(c) to (f).
- (5) Where the contractor is informed that the contractor to whom a patient has been referred under paragraph 12 has died and is aware that the particular care and treatment for which the patient was referred has not been completed, the contractor shall inform the patient and refer the patient to another contractor in accordance with paragraph 12 for completion of that care and treatment.
- (6) Where a person who is in prison is accepted for care and treatment by a contractor the contractor shall ensure that a dentist examines the person at the time he or she is accepted for care and treatment.

A capitation arrangement

- 5.—(1) A contractor who accepts a person for care and treatment under a capitation arrangement shall—
- (a) ensure that at the time at which the contractor accepts the patient, or, where sub-paragraph (3) applies at the time of a dentist's first examination of the patient, a dentist shall examine the patient and chart the patient's decayed, missing or filled teeth on the form supplied by the Health Board, or a form to like effect;

- (b) ensure that, except where sub-paragraph (3) applies, following the dentist's first examination of the patient, the dentist shall provide to at least one of the patient's parents, guardians or other person with care or control of the patient, or the patient where in the opinion of the dentist the patient is capable of understanding—
 - (i) appropriate education, advice, a care programme relating to the oral health needs of the patient; and
 - (ii) information about care and treatment under general dental services which is set out in Schedule 3, and with a form of acceptance supplied by the Health Board, or a form to like effect which shall specify—
 - (aa) the name of the patient;
 - (bb) the name of the dentist who will provide the care and treatment;
 - (cc) particulars of the places where the patient will receive care and treatment; and
 - (dd) the telephone number at which the dentist who will provide the care and treatment to the patient, or a deputy, may be contacted during normal surgery hours, or at other times in an emergency if different;
 - (c) ensure that at the time of the first examination of the patient, the dentist provides to at least one of the patient's parents, guardians or other person with care or control of the patient, or the patient where in the opinion of the dentist the patient is capable of understanding a plan for treatment on a form supplied by the Health Board, or a form to like effect, which shall specify—
 - (i) details of the care and treatment (if any) which in the opinion of the dentist, at the date of that examination, is necessary to secure and maintain the oral health of the patient;
 - (ii) the approximate period following which a further examination is recommended by the dentist; and
 - (iii) any proposals the dentist may have for private care and treatment as an alternative to the care and treatment proposed under general dental services, including particulars of the cost to the patient;
 - (d) ensure that where at any time during the currency of a capitation arrangement—
 - (i) the circumstances specified in sub-paragraph (2) apply; or
 - (ii) in the opinion of the dentist, the care and treatment included in a plan for treatment provided under paragraph (c) or this head of this sub-paragraph needs to be varied;the dentist provides to at least one of the patient's parents, guardians or other person with care or control of the patient or, the patient where in the opinion of the dentist the patient is capable of understanding, a new plan for treatment or, as the case may be, a revised plan for treatment in accordance (except as to the time of its provision) with paragraph (c) of this sub-paragraph;
 - (e) complete the care and treatment (if any)—
 - (i) which is referred to in paragraph (c)(i) of this sub-paragraph; and
 - (ii) where sub-paragraph (2) does not apply, any care and treatment which is, in the opinion of the dentist at the date of any examination of the patient, necessary to secure and maintain the patient's oral health; and
 - (f) provide the patient with emergency cover in accordance with paragraph 6.
- (2) The circumstances referred to in sub-paragraph (1)(d)(i) are that—
- (a) the patient requests a new plan for treatment;

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- (b) the patient and the dentist have agreed that all or part of the treatment which is necessary to secure and maintain oral health is to be provided privately; or
- (c) the care and treatment which is to be provided includes any of the items of treatment mentioned in paragraph 4(3).

(3) A dental nurse or dental therapist can, on behalf of a contractor, accept a patient under the age of three years of age for care and treatment under a capitation arrangement and in so doing shall, at the time at which the patient is accepted, provide to at least one of the patient's parents, guardians or other person with care or control of the patient the appropriate education, advice, care programme, information and forms specified in sub-paragraph (1)(b).

(4) Where a contractor accepts the transfer of a capitation arrangement it shall provide the patient with the information specified in sub-paragraph (1)(b)(ii)(bb) to (dd) and assume the obligations set out in sub-paragraph (1)(d) to (f).

(5) Where the contractor is informed that the contractor to whom a patient has been referred under paragraph 12 has died and is aware that the particular care and treatment for which the patient was referred has not been completed, the contractor shall inform the patient and refer the patient to another contractor in accordance with paragraph 12 for completion of that care and treatment.

Emergency cover

6.—(1) Subject to paragraph 18, in providing emergency cover under a continuing care arrangement or a capitation arrangement, a contractor shall make reasonable arrangements to secure that a patient requiring prompt care and treatment will receive such care and treatment as soon as appropriate either from the contractor or from another contractor or dentist.

(2) For the purposes of sub-paragraph (1) a patient requires prompt care and treatment where, in the opinion of a dentist—

- (a) the patient's oral health is likely to deteriorate significantly without such care and treatment; or
- (b) the patient is in severe pain by reason of the patient's oral condition,

but the provision of emergency cover does not include any obligation to repair or replace dentures.

(3) The obligation to provide emergency cover begins on the date on which the patient and the contractor enter into the continuing care arrangement or the capitation arrangement and ceases when that arrangement is terminated.

Repair or replacement of restorations

7.—(1) Subject to sub-paragraph (3) the contractor shall, as part of a continuing care arrangement, repair or replace at no charge to the patient any restoration specified in sub-paragraph (2) which the contractor or another contractor or dentist acting on the contractor's behalf or from whom the continuing care arrangement was transferred had provided by way of personal dental services in connection with a pilot scheme or, has provided under general dental services—

- (a) under that continuing care arrangement; or
- (b) under a capitation arrangement, with or transferred to that contractor where on termination of that arrangement the patient has immediately entered into the continuing care arrangement.

(2) The restorations referred to in sub-paragraph (1) are any filling, root filling, inlay, pinlay or crown which, within 12 months of the date on which it was provided, has to be repaired or replaced to secure oral health.

(3) A contractor shall not be under an obligation to repair or replace any restoration under sub-paragraph (1) where—

- (a) within 12 months after the date on which the restoration was provided—
 - (i) a dentist has provided private treatment; or
 - (ii) another contractor has provided occasional treatment otherwise than of a temporary nature,
on the tooth in respect of which the restoration was provided;
 - (b) the dentist who carried out the restoration advised the patient at the time of the restoration and indicated on any plan for treatment provided to the patient in accordance with paragraph 4(1)(b) or (c) or 5(1)(c) or (d) and on the patient record that—
 - (i) the restoration was intended to be temporary in nature; or
 - (ii) in the dentist's opinion, a different form of restoration was more appropriate to secure oral health but, notwithstanding that advice, the patient insisted on the restoration which was provided;
 - (c) in the dentist's opinion the condition of the tooth in respect of which the restoration was provided is such that the restoration cannot satisfactorily be repaired or replaced and different treatment is now required; or
 - (d) the repair or replacement is required as a result of trauma.
- (4) The obligation to repair or replace any restoration under sub-paragraph (1) begins on the date on which the patient and the contractor enter into the continuing care arrangement and ceases when that arrangement is terminated.

Duration of a continuing care arrangement

8. A continuing care arrangement—
- (a) may be terminated by the dentist or the Health Board in accordance with paragraph 10;
 - (b) shall terminate where—
 - (i) the patient enters into a continuing care arrangement with another dentist;
 - (ii) the patient enters into an arrangement with the dentist or another dentist whereby the whole of the care and treatment which might have otherwise been provided under the continuing care arrangement is to be provided privately; or
 - (iii) the dentist is suspended by direction of the Tribunal and the Health Board does not within the period of one month beginning with the date of the Tribunal's direction arrange for it to be transferred to another dentist under regulation 18.

Duration of a capitation arrangement

9. A capitation arrangement—
- (a) may be terminated by the dentist or the Health Board in accordance with paragraph 10;
 - (b) shall terminate where—
 - (i) the patient enters into a capitation arrangement with another dentist;
 - (ii) the patient enters into an arrangement with the dentist or another dentist whereby the whole of the capitation and care arrangement is to be provided privately;
 - (iii) the patient attains the age of 18;
 - (iv) the dentist is suspended by direction of the Tribunal and the Health Board does not within the period of one month beginning with the date of the Tribunal's direction arrange for it to be transferred to another dentist under regulation 18.

Termination of a continuing care arrangement or a capitation arrangement

10.—(1) Subject to sub-paragraphs (4) and (7) and paragraph 11, a contractor who wishes to terminate a continuing care arrangement before it terminates in accordance with paragraph 8, or a capitation arrangement before it terminates in accordance with paragraph 9, shall give to the patient not less than 3 months' notice in writing of the termination of the arrangement.

(2) Where a contractor gives notice under sub-paragraph (1), it shall use its best endeavours to complete satisfactorily, or secure the satisfactory completion before the termination of the arrangement of, any care and treatment which it has been agreed the patient will receive and which is outstanding at the date of the notice and any further treatment that may be necessary to secure and maintain the oral health of the patient.

(3) Where a contractor gives notice under sub-paragraph (1), it shall at the same time advise the Health Board in writing that such notice has been given, and give details to the Health Board of any care and treatment which it has been agreed the patient will receive and which is outstanding at the date of the notice including any arrangements made for completion of that care and treatment.

(4) Subject to sub-paragraph (7) and paragraph 11, where a contractor wishes a continuing care arrangement or a capitation arrangement to be terminated on less than 3 months' notice, it shall apply in writing to the Health Board—

- (a) asking for the Health Board's consent to the contractor terminating the arrangement;
- (b) setting out the reasons why it wishes the arrangement to be terminated; and
- (c) giving details of any care and treatment which it has been agreed the patient will receive and which is outstanding including any arrangements made for completion of that care and treatment.

(5) Where a contractor applies to the Health Board under sub-paragraph (4), the Health Board may, after considering any representations made by the patient, consent to the termination of the arrangement on such date and on such terms as to completion of any outstanding care and treatment mentioned in sub-paragraph (4)(c) as it thinks fit, save that, where an arrangement is terminated because the patient has refused to pay the NHS charge, the contractor shall not be obliged to complete that care and treatment.

(6) A Health Board which consents to the termination of an arrangement under sub-paragraph (5) shall so inform the patient, contractor and the SDPB in writing that the arrangement has been terminated with the Health Board's consent.

(7) Where—

- (a) under section 5 (approval of pilot schemes) of the 1997 Act the Scottish Ministers have approved a proposal for a pilot scheme under which personal dental services are to be provided, or such a proposal has been subsequently varied with agreement of the Scottish Ministers or, as the case may be, in a manner authorised by directions given by the Scottish Ministers under section 6 (making of pilot schemes) of that Act; and
- (b) under the proposal (or the varied proposal) a patient would be treated under the pilot scheme and not under a continuing care arrangement or a capitation arrangement,

the pilot scheme provider shall give to him such notice of the termination of the arrangement as is required under the pilot scheme.

Violent patients

11.—(1) Where—

- (a) a person, with whom a contractor has a continuing care arrangement or a capitation arrangement, has committed an act of violence against any dentist, dental care professional

or any other person employed or engaged by the contractor or has behaved in such a way that such a person has feared for his or her safety; and

(b) the contractor or a person on the contractor's behalf has reported the incident to the police, the contractor may notify the Health Board that the contractor wishes the arrangement to be terminated immediately.

(2) Notification under sub-paragraph (1) may be given by any means including telephone, e-mail or fax, but if not given in writing shall subsequently be confirmed in writing before the end of the period of seven days beginning with the date of the notification under sub-paragraph (1) (and, for this purpose a faxed or e-mailed confirmation is not a written one).

(3) The time at which the contractor notifies the Health Board shall be the time at which the contractor makes the telephone call or otherwise sends or delivers the notification to the Health Board.

(4) Where pursuant to this paragraph a contractor has notified the Health Board that it wishes a continuing care arrangement or a capitation arrangement with any person to be terminated immediately, the Health Board shall take all reasonable steps to inform the person concerned.

Referral to another contractor or to a hospital or other service

12.—(1) Where a patient requires particular care and treatment under a continuing care arrangement or a capitation arrangement and the contractor with whom the patient has made the arrangement cannot provide the necessary facilities, experience or expertise to provide that care and treatment, it shall, if the patient agrees, refer the patient in accordance with sub-paragraph (2) for the provision of that care and treatment by another contractor under general dental services or personal dental services or by a hospital or other service provided under Part III of the Act.

(2) In referring a patient under sub-paragraph (1) to another contractor or to a hospital or other service for that care and treatment, the contractor shall—

(a) give details of—

(i) the oral condition of the patient and the reason for the referral; and

(ii) if relevant to the referral, details of the care and treatment the contractor has provided or intends to provide in order to secure and maintain the patient's oral health, to that other contractor or, as the case may be, that hospital or other service, either at the time of referral or as soon as practicable afterwards;

(b) include with those details a statement of the amount paid to the contractor by the patient under the National Health Service (Dental Charges) (Scotland) Regulations 2003⁽¹⁾ in respect of any care and treatment already provided in the course of the care and treatment during which the referral is made; and

(c) indicate in the claim for remuneration in respect of that course of care and treatment that the patient has been referred for the required care and treatment.

Referral to dental students

13.—(1) Where the conditions laid down in sub-paragraph (2) are met, and where a dentist considers it suitable to do so, the dentist may refer a patient for care and treatment by a dental student.

(2) The conditions referred to in sub-paragraph (1) are—

(a) that the patient has been informed that the referral is for care and treatment by a dental student and the patient has consented to that referral; and

(1) S.S.I. 2003/158, as amended by S.S.I. 2004/101, 2005/121 and 2006/131.

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- (b) that the dental student who will provide the care and treatment shall be a dental student under the supervision of a dentist.

Treatment on referral

14.—(1) Subject to sub-paragraphs (2) and (3), a contractor may accept a patient who has been referred to the contractor by another dentist who is providing or assisting with the provision of dental services to that patient (whether or not pursuant to the Act) otherwise than under Part III of this Schedule for particular care and treatment.

(2) Subject to sub-paragraph (3) a contractor shall not accept a patient for orthodontic treatment unless that patient has been referred to the contractor for such treatment by a dentist who is providing or assisting with the provision of dental services to that patient (whether or not pursuant to the Act) otherwise than under Part III of this Schedule.

(3) A contractor may only accept a patient who presents for orthodontic treatment without being referred under sub-paragraph (2) if the contractor has obtained the prior approval in writing of the SDPB to the effect that the SDPB is satisfied that there are exceptional circumstances which allow the patient to so present.

(4) Subject to paragraph (5) a contractor who accepts a patient for treatment under sub-paragraphs (1), (2) or (3) shall—

- (a) at the time at which the contractor accepts the patient, provide the patient with a form of acceptance supplied by the Health Board, or a form to like effect, which shall specify—
 - (i) the name of the patient;
 - (ii) the name of the dentist who will carry out the care and treatment;
 - (iii) particulars of the places where the patient will receive care and treatment; and
 - (iv) the telephone number at which the dentist, or a deputy, may be contacted during normal surgery hours, or at other times in an emergency if different;
- (b) ensure that at the time of the first examination of the patient by a dentist, the dentist provides the patient with a plan for treatment on a form supplied by the Health Board, or a form to like effect, which shall specify—
 - (i) details of the care and treatment which, in the opinion of the dentist, at the date of that examination, is necessary for the dentist to provide having regard to the reason for the referral;
 - (ii) the dentist's estimate of the NHS charge (if any) in respect of that care and treatment;
 - (iii) any proposals the dentist may have for private care and treatment as an alternative to the care and treatment proposed under general dental services, including particulars of the cost to the patient;
- (c) ensure that where, in the opinion of the dentist, the care and treatment included in the plan for treatment provided under paragraph (b) of this sub-paragraph needs to be varied, the dentist provides the patient with a revised plan for treatment in accordance (except as to the time of its provision) with paragraph (b) of this sub-paragraph;
- (d) complete the care and treatment, which is referred to in paragraph (b)(i) of this sub-paragraph;
- (e) until such time as the treatment on referral has been completed, provide the patient with emergency cover in accordance with paragraph 6(1) and (2), but only to the extent that the patient requires prompt care and treatment in relation to the particular care and treatment for which the patient has been referred or for which the patient has presented; and
- (f) repair or replace in accordance with sub-paragraph (2) any restoration which requires repair or replacement.

(5) Subject to sub-paragraphs (3) and (4), a contractor shall in the course of treatment on referral repair or replace at no charge to the patient any of the following restorations, namely, filling, root filling, inlay, pinlay or crown which has to be repaired or replaced and which was provided by or on behalf of the contractor in the course of the treatment on referral.

(6) A contractor shall not be under an obligation to repair or replace any restoration under sub-paragraph (5) where—

- (a) within 12 months after the date on which the restoration was provided—
 - (i) a dentist has provided private treatment; or
 - (ii) another contractor has provided occasional treatment otherwise than of a temporary nature,on the tooth in respect of which the restoration was provided;
- (b) the dentist who carried out the restoration advised the patient at the time of the restoration and indicated on any plan for treatment provided to the patient in accordance with sub-paragraph (4)(b) or (c) and on the patient record that—
 - (i) the restoration was intended to be temporary in nature; or
 - (ii) in the dentist's opinion, a different form of restoration was more appropriate but, notwithstanding that advice, the patient insisted on the restoration which was provided;
- (c) in the dentist's opinion, the condition of the tooth in respect of which the restoration was provided is such that the restoration cannot satisfactorily be repaired or replaced and different treatment is now required; or
- (d) the repair or replacement is required as a result of trauma.

(7) The obligation to repair or replace any restoration under sub-paragraph (5) shall cease 12 months after the date on which the restoration was provided or when the treatment on referral has been completed, whichever is the sooner.

(8) Sub-paragraph (4)(b) shall not apply where a patient is referred to a dentist for examination and advice only.

Inability of contractor to complete care and treatment under a continuing care arrangement or a capitation arrangement or treatment on referral

15. If, owing to any cause beyond the contractor's control, or to the contractor taking up the performance of personal dental services in connection with a pilot scheme, the contractor is unable to complete any care and treatment which has been commenced under a continuing care arrangement or a capitation arrangement or treatment on referral, the contractor shall forthwith notify the SDPB in writing of the extent of the care and treatment or treatment on referral provided and of the reason for the contractor's inability to complete the remainder.

Care and treatment summaries

16. Where a patient who has been receiving care and treatment under a continuing care arrangement or a capitation arrangement requests the contractor to provide the patient with a summary of the care and treatment which the patient has received under that arrangement because the patient intends to enter into such an arrangement with another contractor, the contractor shall provide such a summary as the contractor considers appropriate (including details of any care and treatment which could not be easily observed on a visual examination), to the patient on a form supplied by the Health Board, or a form to like effect, within 28 days of the request.

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Mixing of general dental services and private care and treatment

17.—(1) Subject to sub-paragraph (3), a contractor may, with the consent of the patient provide privately any part of the care and treatment—

- (a) necessary under a continuing care arrangement or a capitation arrangement to secure and maintain the oral health of a patient; or
- (b) to be provided as part of treatment on referral.

(2) A contractor or a dentist assisting that contractor in the provision of general dental services shall not, with a view to obtaining the agreement of a patient to undergo care and treatment privately—

- (a) advise a patient falsely that the care and treatment which is necessary in the patient's case—
 - (i) under the continuing care arrangement or capitation arrangement with a contractor to secure and maintain oral health; or
 - (ii) having regard to the reason given for referral, is not available from that contractor under general dental services; or
- (b) seek to mislead the patient about the quality of care and treatment available under general dental services.

(3) Sub-paragraph (1) shall not apply—

- (a) where the treatment necessary to secure oral health relates to a single tooth, in which case the treatment shall be provided wholly under general dental services or wholly privately;
- (b) in respect of orthodontic care and treatment in which case—
 - (i) the assessment, diagnosis and planning of treatment in connection with the orthodontic care and treatment shall be provided wholly under general dental services or wholly privately; and
 - (ii) the orthodontic treatment shall be provided wholly under general dental services or wholly privately;
- (c) to the provision privately of general anaesthesia in association with any care and treatment provided under general dental services.