

## SCHEDULE 6

### OTHER CONTRACTUAL TERMS

#### PART 2

#### PATIENTS

##### **Rejection of closure notice by the Health Board**

**28.**—(1) This regulation applies where the Health Board rejects the closure notice in accordance with paragraph 26(14)(b).

(2) The contractor and the Health Board may not refer the matter for determination in accordance with the NHS 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 Health Board must ensure that an assessment panel is appointed by another Health Board as soon as is practicable to consider and determine whether the contractor should be permitted to close its list of patients, and if so, the terms on which the contractor should be permitted to do so.

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

(5) At least one member of the assessment panel must visit the contractor before reaching a determination under sub-paragraph (6).

(6) Within the period of 28 days beginning with the date on which the Health Board rejected the closure notice, the assessment panel must—

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

and must notify the Health Board and the contractor of its determination in writing as soon as possible.

(7) Where the assessment panel determines in accordance with sub-paragraph (6)(a) that the contractor's list of patients should close, it must specify—

- (a) a date from which the closure is to take effect, which must be within a period of 7 days beginning with the date of the assessment panel's determination; and
- (b) those details specified in paragraph 26(9).

(8) Subject to sub-paragraph (9), the contractor's list of patients is to remain closed for the period specified by the assessment panel in accordance with sub-paragraph (7)(b).

(9) The contractor's list of patients is to re-open before the expiry of the period mentioned in sub-paragraph (8) if—

- (a) the number of the contractor's registered patients falls to the number specified by the assessment panel in accordance with sub-paragraph (7)(b) as the number of registered patients which, if that number were reached, would trigger the re-opening of the contractor's list of patients; or
- (b) the Health Board and the contractor agree that the list of patients should re-open.

(10) If the contractor's list of patients has re-opened pursuant to sub-paragraph (9)(a), it will nevertheless close again if, during the period specified by the assessment panel as the period for which the list should remain closed, the number of the contractor's registered patients rise to the number specified by the assessment panel in accordance with sub-paragraph (7)(b) as the number

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of registered patients which, if that number were reached, would trigger the re-closure of the contractor's list of patients.

(11) Except in cases where the contractor's list of patients is already open pursuant to sub-paragraph (9), the Health Board must notify the contractor in writing between 7 and 14 days before the expiry of the closure period specified in sub-paragraph (8), confirming the date on which the contractor's list of patients will re-open.

(12) Where the assessment panel rejects the list closure in accordance with sub-paragraph (6)(b), that list must remain open, and the Health Board and the contractor must enter into discussions with a view to ensuring that the contractor receives support from the Health Board which will enable the contractor to continue to provide services safely and effectively.

(13) An assessment panel which rejects the list closure in accordance with sub-paragraph (6)(b) must specify the number of registered patients (expressed either in absolute terms or as a percentage of the number of such patients specified as the current number of the contractor's registered patients), which if that number were reached, would trigger the closure of the contractor's list of patients.

(14) Where a list closure is triggered in accordance with sub-paragraph (13), a contractor must notify the Health Board to confirm the date the list closure was triggered and the details specified in paragraph 26(9).

(15) Where the assessment panel rejects the list closure in accordance with sub-paragraph (6)(b), the contractor may not submit a further closure notice as described in paragraph 26 until—

- (a) the expiry of a period of six months beginning with the date of the assessment panel's determination; or
- (b) (if applicable) the final determination of the NHS 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 its ability to deliver services under the contract.

(16) Any decision or determination by the assessment panel for the purposes of this paragraph may be reached by a majority.

**Changes to legislation:**

There are currently no known outstanding effects for the The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018, Paragraph 28.