

SCHEDULE 6

OTHER CONTRACTUAL TERMS

PART 9

MISCELLANEOUS

Clinical governance

114.—(1) The contractor must have an effective system of clinical governance.

(2) The contractor must nominate a person who will have responsibility for ensuring the effective operation of a system of clinical governance.

(3) The person nominated under sub-paragraph (2) must be a person who performs or manages services under the contract.

(4) In this paragraph “system of clinical governance” means a framework through which the contractor endeavours continuously to improve the quality of its service and safeguard high standards of care by creating an environment in which clinical excellence can flourish.

Medical Indemnity Insurance

115.—(1) The contractor must at all times have in force in relation to it an indemnity arrangement which provides appropriate cover.

(2) The contractor must not sub-contract its obligations to provide clinical services under the contract unless it has satisfied itself that the sub-contractor has in force in relation to it an indemnity arrangement which provides appropriate cover.

(3) In this paragraph—

- (a) “indemnity arrangement” means a contract of insurance or other arrangement made for the purpose of indemnifying the contractor;
- (b) “appropriate cover” means cover against liabilities that may be incurred by the contractor in the performance of clinical services under the contract, which is appropriate, having regard to the nature and extent of the risks in the performance of such services; and
- (c) a contractor is regarded as having in force in relation to it an indemnity arrangement if there is an indemnity arrangement in force in relation to a person employed or engaged by the contractor in connection with clinical services which that person provides under the contract or, as the case may be, sub-contract.

Public Liability Insurance

116. The contractor must at all times hold adequate public liability insurance in relation to liabilities to third parties arising under or in connection with the contract which are not covered by an indemnity arrangement referred to in paragraph 115.

Gifts

117.—(1) The contractor must keep a register of gifts which—

- (a) are given to any of the persons specified in sub-paragraph (2) by or on behalf of—
 - (i) a patient;
 - (ii) a relative of a patient; or

Status: This is the original version (as it was originally made).

- (iii) any person who provides or wishes to provide services to the contractor or its patients in connection with the contract; and
 - (b) have, in its reasonable opinion, an individual value of more than £100.00.
- (2) The persons referred to in sub-paragraph (1) are—
 - (a) the contractor;
 - (b) where the contract is with a partnership, any partner;
 - (c) where the contract is with a limited liability partnership, any member of the limited liability partnership;
 - (d) where the contract is with a company—
 - (i) any member of the company; or
 - (ii) a director or secretary of the company;
 - (e) any person employed by the contractor for the purposes of the contract;
 - (f) any general medical practitioner engaged by the contractor for the purposes of the contract;
 - (g) any spouse or civil partner of a contractor (where the contractor is an individual medical practitioner) or of a person specified in paragraphs (b) to (f); or
 - (h) any person whose relationship with a contractor (where the contractor is an individual medical practitioner) or with a person specified in paragraphs (b) to (f) has the characteristics of the relationship between spouses or civil partners.
- (3) Sub-paragraph (1) does not apply where—
 - (a) there are reasonable grounds for believing that the gift is unconnected with services provided or to be provided by the contractor;
 - (b) the contractor is not aware of the gift; or
 - (c) the contractor is not aware that the donor wishes to provide services to the contractor.
- (4) The contractor must take reasonable steps to ensure that it is informed of gifts which fall within sub-paragraph (1) and which are given to the persons specified in sub-paragraph (2)(b) to (h).
- (5) The register referred to in sub-paragraph (1) must include the following information:—
 - (a) the name of the donor;
 - (b) in a case where the donor is a patient, the patient's National Health Service number or, if the number is not known, the patient's address;
 - (c) in any other case, the address of the donor;
 - (d) the nature of the gift;
 - (e) the estimated value of the gift; and
 - (f) the name of the person or persons who received the gift.
- (6) The contractor must make the register available to the Health Board on request.

Duty of candour

118. The contractor must have arrangements in place which operate in accordance with Part 2 of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016⁽¹⁾, and any regulations or directions made under that part of that Act⁽²⁾.

(1) 2016 asp 14.

(2) S.S.I. 2018/57.

Compliance with legislation and guidance

119. The contractor must—

- (a) comply with all relevant legislation; and
- (b) have regard to all relevant guidance issued by the Health Board and the Scottish Ministers.

Third party rights

120. The contract will not create any right enforceable by any person not a party to it.