

SCHEDULE 2

AGREEMENTS TO PROVIDE ESSENTIAL SERVICES

PART 2

LIST OF PATIENTS

Rejection of closure notice by the Health Board

21.—(1) This regulation applies where the Health Board rejects the closure notice in accordance with paragraph 19(14)(b).

(2) The provider and the Health Board may not refer the matter for determination in accordance with the NHS dispute resolution procedure (or, where applicable, in the case of a non-NHS contract, 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 the assessment panel is appointed by another Health Board as soon as is practicable to consider and determine whether the provider should be permitted to close its list of patients, and if so, the terms on which the provider 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 provider.

(5) At least one member of the assessment panel must visit the provider 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 provider of its determination in writing as soon as possible.

(7) Where the assessment panel determines, in accordance with sub-paragraph 21(6)(a), that the provider'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 19(9).

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

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

- (a) the number of the provider'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 provider's list of patients; or
- (b) the Health Board and the provider agree that the list of patients should re-open.

(10) If the provider's list of patients has re-opened pursuant to sub-paragraph (9)(a), it must 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 provider's registered patients rise to the number specified by the assessment panel in accordance with sub-paragraph (7)(b) as the number of

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

(11) Except in cases where the provider's list of patients is already open pursuant to sub-paragraph (9), the Health Board must notify the provider 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 provider'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 provider must enter into discussions with a view to ensuring that the provider receives support from the Health Board which will enable the provider 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 provider's registered patients), which if that number were reached, would trigger the closure of the provider's list of patients.

(14) Where a list closure is triggered in accordance with sub-paragraph (13), a provider must notify the Health Board to confirm and the details specified in sub-paragraph (6).

(15) Where the assessment panel rejects the list closure in accordance with sub-paragraph (6)(b) the provider may not submit a further closure notice as described in paragraph 19 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 provider which affects its ability to deliver services under the agreement.

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