
STATUTORY INSTRUMENTS

2004 No. 865

**The General Medical Services and Personal Medical Services
Transitional and Consequential Provisions Order 2004**

PART 2

**TRANSITIONAL PROVISIONS RELATING
TO GENERAL MEDICAL SERVICES**

Investigation of outstanding complaints

23.—(1) Where, on 31st March 2004—

- (a) a complaint had been made under paragraph 47A of Schedule 2 to the 1992 Regulations⁽¹⁾ by or on behalf of a patient or former patient of a relevant medical practitioner; and
- (b) the investigation of that complaint under the practice based complaints procedure required to be established under paragraph 47A had not concluded,

that complaint must, from 1st April 2004, be investigated, or in an appropriate case continue to be investigated, by the succeeding contractor as if paragraph 47A had not been revoked.

(2) Where, on 31st March 2004—

- (a) a complaint had been made under paragraph 47A of Schedule 2 to the 1992 Regulations by or on behalf of a patient or former patient of a medical practitioner to whom there is no succeeding contractor; and
- (b) the investigation of that complaint under the practice based complaints procedure required to be established under paragraph 47A had not concluded,

that complaint must be investigated by one of the persons specified in paragraph (3) as if paragraph 47A had not been revoked.

(3) The persons referred to in paragraph (2) are—

- (a) the person or persons who was or were the former partner or partners of the medical practitioner on whose list of patients the complainant was included, if he or they meet the requirements in paragraph (4);
- (b) if the person or persons specified in paragraph (a) satisfy the Primary Care Trust on whose medical list their former partner was included for the purposes of providing general medical services to the complainant that, having regard to the nature of the complaint, it would not be appropriate for the complaint to be investigated by him or them, that Primary Care Trust; or
- (c) in any other case, the Primary Care Trust on whose medical list the medical practitioner was included for the purposes of providing general medical services to the complainant.

(4) The requirements referred to in paragraph (3) are that the former partner or partners—

(1) Paragraph 47A was inserted by S.I.1996/702.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) has or have entered into a default contract or a general medical services contract, as an individual medical practitioner or as one of two or more individuals practising in partnership, with the Primary Care Trust on whose medical list their former partner was included for the purposes of providing general medical services to the complainant; or
 - (b) is a legal and beneficial shareholder or are legal and beneficial shareholders in a company which has entered into a general medical services contract with that Primary Care Trust.
- (5) Where, under paragraph (3), a complaint made by or on behalf of a patient or former patient would fall to be investigated, or continue to be investigated, by more than one general medical services contractor or default contractor, the contractors concerned shall—
- (a) enter into discussions as to which of them would be the most appropriate person to deal with the complaint; and
 - (b) if they are unable to reach agreement, refer the matter to the Primary Care Trust on whose medical list their former partner was included for the purposes of providing general medical services to the complainant and that Primary Care Trust shall investigate the complaint itself.
- (6) Where, under this article, a complaint falls to be investigated by a Primary Care Trust the investigation shall be carried out in accordance with the directions dated 29th June 1998 on dealing with complaints about family health services practitioners given by the Secretary of State under section 17 of the 1977 Act⁽²⁾.

(2) Directions to Health Authorities on dealing with complaints about family health service practitioners and providers of personal medical services, 28th June 1998. A copy of these directions can be obtained by writing to the Department of Health, P.O. Box 777, London SE1 6XH.