

SCHEDULE 2

Regulation 54

CONSEQUENTIAL AND TRANSITIONAL PROVISIONS

**Amendment of the National Health Service (General Ophthalmic Services) Regulations 1986**

1.—(1) Schedule 1 (Terms of Service) to the National Health Service (General Ophthalmic Services) Regulations 1986(1) is amended as follows.

(2) Before paragraph 8A (Complaints) insert—

**“Complaints and Concerns**

**8ZA**

(1) A contractor must have in place—

(a) arrangements for the handling and consideration of complaints about any matter connected with the provision of general ophthalmic services which comply with the provisions of paragraph 8A for the handling and consideration of any complaints—

(i) which were made prior to 1 April 2011; and

(ii) in respect of which the complaints process has not yet been completed, and

(b) arrangements which comply with the requirements of the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011, for the handling and consideration of any concerns notified on or after 1 April 2011. References in paragraphs 8B and 8C to a concern are to a concern notified in accordance with those Regulations.”.

(3) For the heading relating to paragraph 8A (Complaints) substitute —

**“Complaints received prior to 1 April 2011”;**

(4) For paragraph 8B substitute the following—

**“Co-operation with investigations**

**8B**

(1) A contractor must co-operate with any investigation of a complaint or a concern in relation to any matter reasonably connected to the contractor’s provision of general ophthalmic services undertaken by a “relevant body”, which includes—

(a) the Local Health Board;

(b) the Welsh Ministers; or

(c) the Public Services Ombudsman for Wales.

(2) The co-operation required by sub-paragraph (1) includes—

(a) answering questions reasonably put to the contractor by a relevant body;

(b) providing any information relating to the complaint or concern reasonably required by a relevant body; and

(c) attending any meeting to consider the complaint or the concern (if held at a reasonably accessible place and at a reasonable hour, and due notice has been given), if the contractor’s presence is reasonably required by a relevant body.”.

(5) For the heading to paragraph 8C and paragraphs 8C(1) and (2), substitute the following—

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(1) S.I.1986/975.

**“Complaints made against and concerns notified about ophthalmic medical practitioners**

**8C**

(1) Where a contractor who, being an ophthalmic medical practitioner, also performs primary medical services under a GMS contract for any person for whom he provides general ophthalmic services, the complaints procedure or procedure for notifying concerns established and operated in accordance with the terms of that GMS contract shall apply in relation to any matter reasonably connected with his provision of general ophthalmic services as it applies as respects the provision of services under the GMS contract.

(2) Accordingly, any requirement as to co-operation with investigations of complaints or concerns by other bodies imposed on a GMS contractor under the term of his contract which gives effect to paragraph 95 of Schedule 2 to the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004 also applies in relation to complaints or concerns about such matters.”.

**Amendment of the National Health Service (Pharmaceutical Services) Regulations 1992**

**2.**—(1) The National Health Service (Pharmaceutical Services) Regulations 1992(2) are amended as follows.

(2) In Part 4 of Schedule 2 (Clinical Governance and Complaints), for paragraph 28 (Complaints) substitute—

**“Complaints and Concerns**

**28**

(1) A chemist must have in place—

- (a) arrangements for the handling and consideration of complaints about any matter connected with the provision of pharmaceutical services which comply with the provisions of paragraph 10A and 10B of Schedule 2 to these Regulations as they apply on 31 March 2005 for the handling and consideration of any complaints—
  - (i) which were made prior to 1 April 2011; and
  - (ii) in respect of which the complaints process has not yet been completed, and
- (b) arrangements which comply with the requirements of the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011, for the handling and consideration of any concerns notified on or after 1 April 2011.”.

(3) In Part 6 of Schedule 2 (Terms of Service for Doctors who provide Pharmaceutical Services)

— (a) for the heading relating to paragraph 41 (Complaints procedures) substitute—

**“Complaints and concerns”;**

- (b) in paragraph 41(1)(a) for “paragraph 90” substitute “paragraphs 89A and 90”;
- (c) in paragraph 41(2) after “complaints” insert “or concerns notified”.

(4) In Schedule 2A (Terms of Service of Suppliers of Appliances)—

(a) after paragraph 21 (Home Local Health Board of bodies corporate) insert a new paragraph 21A—

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(2) S.I. 1992/662.

**“Concerns notified on or after 1 April 2011**

**21A**

A supplier of appliances must establish and operate arrangements which meet the requirements of the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011 to deal with any concerns notified on or after 1 April 2011.”;

- (b) for the heading to paragraph 22 (Complaints), substitute—

**“Complaints made prior to 1 April 2011”;**

- (c) for paragraph 22(1) substitute—

“A supplier of appliances must establish and operate in accordance with this paragraph a procedure (in this paragraph referred to as a “complaints procedure”) to deal with any complaints made prior to 1 April 2011 by or on behalf of any person to whom the supplier of appliances has provided pharmaceutical services.”.

**Amendment of the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004**

**3.—**(1) The National Health Service (General Medical Services Contracts) (Wales) Regulations 2004**(3)** are amended as follows.

- (2) In Schedule 6 (other contractual terms), before Part 6 (Complaints) insert—

**“Part 5A**

**Concerns notified on or after 1 April 2011**

**89A**

The contractor must establish and operate arrangements which meet the requirements of the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011 to deal with any concerns notified on or after 1 April 2011 about any matter reasonably connected with the provision of services under the contract.”.

- (3) In Part 6 of Schedule 6—

- (a) for the heading relating to paragraph 90 (Complaints procedure), substitute—

**“Complaints received prior to 1 April 2011”;**

- (b) in paragraph 90, for sub-paragraph (1), substitute the following—

“(1) In respect of any complaints made prior to 1 April 2011 in relation to any matter reasonably connected with the provision of services under the contract which have not been resolved by that date, the contractor must continue to deal with such complaints in accordance with the requirements of paragraphs 91 to 94 and 96.”;

- (c) in paragraph 95 (co-operation with investigations)—

- (i) after “complaint” in each place it occurs insert “or a concern notified in accordance with the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011 ”;

- (ii) for sub-paragraph (1)(a)(iii) substitute—

- “(iii) the Welsh Ministers; and
- (iv) the Public Services Ombudsman for Wales; and”.

(4) In paragraph 98 of Part 7 of Schedule 6 (Dispute resolution: non-NHS contracts), for “complaints procedure pursuant to Part 6” substitute “procedures for notifying concerns or making complaints pursuant to Parts 5A and 6”.

(5) In Schedule 10 (information to be included in practice information leaflets), for paragraph 24 substitute—

**“24**

How patients may—

- (1) in respect of complaints made prior to 1 April 2011 make a complaint in accordance with the provisions of Part 6 of Schedule 6;
- (2) in respect of concerns notified on or after 1 April 2011 notify a concern in accordance with the provisions of the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011; or
- (3) comment on the provision of service.”.

**Amendment of the National Health Service (General Dental Services Contracts) (Wales) Regulations 2006**

4.—(1) The National Health Service (General Dental Services Contracts) (Wales) Regulations 2006(4), is amended as follows.

(2) In Schedule 3 (other contractual terms)—

- (a) in Part 5 (Records, Information, Notifications and Rights of Entry), for paragraph 34(1) (c) (Patient Information) substitute —

“(c) information about the procedure for notifying concerns in accordance with Part 5A or, in respect of complaints made prior to 1 April 2011, the complaints procedure which it operates in accordance with Part 6 giving, in the case of a complaint under Part 6, the name and title of the person nominated in accordance with paragraph 50(2)(a) or, in the case of a notification of a concern, the name of the person designated as the senior investigations manager under regulation 8 of the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011.”.

- (b) before Part 6 (Complaints) insert—

**“Part 5A**

**Concerns notified on or after 1 April 2011**

**46A**

The contractor must establish and operate arrangements which meet the requirements of the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011 to deal with any concerns notified on or after 1 April 2011 about any matter reasonably connected with the provision of services under the contract.”.

- (c) in Part 6 (Complaints)—

(i) for the heading relating to paragraph 47 (Complaints procedure), substitute—

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(4) S.I. 2006/490 (W.59).

**“Complaints received prior to 1 April 2011”;**

- (ii) in paragraph 47 (Complaints procedure), for sub-paragraph (1)—

“As regards complaints relating to any matter reasonably connected with the provision of services under the contract which are received before 1 April 2011, the contractor must operate a complaints procedure which complies with the requirements of paragraphs 48 to 50 and 52.”;
  - (iii) in paragraph 51 (co-operation with investigations)—
    - (aa) after “complaint” in each place it occurs insert “or concern notified in accordance with the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011 ”; and
    - (bb) for sub-paragraph (1)(a)(iii) substitute—
      - “(iii) the Welsh Ministers; and
      - (iv) the Public Services Ombudsman for Wales; and”;
  - (d) in Part 7 (Dispute resolution), in paragraph 54 (Dispute resolution: non NHS contracts), for “complaints procedure pursuant to Part 6” substitute “procedures for notifying concerns or making complaints pursuant to Parts 5A or 6”.
- (3) In Schedule 4 (Patient Information Leaflet), for paragraph 17 substitute—

“17

How patients may—

- (1) in respect of complaints made prior to 1 April 2011 make a complaint in accordance with the provisions of Part 6 of Schedule 3;
- (2) in respect of concerns notified on or after 1 April 2011 notify a concern in accordance with the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011; or
- (3) comment on the provision of a service.”.

**Amendment of the National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006**

5.—(1) The National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006(5) is amended as follows.

- (2) In Schedule 3 (other contractual terms)—
  - (a) in Part 5 (Records, Information, Notifications and Rights of Entry), for paragraph 35(1)
    - (c) (Patient information) substitute—
      - “(c) information about the procedure for notifying concerns in accordance with Part 5A or, in respect of complaints made prior to 1 April 2011,, the complaints procedure which it operates in accordance with Part 6 giving, in the case of a complaint under Part 6, the name and title of the person nominated in accordance with paragraph 50(2)(a) or, in the case of a notification of a concern, the name of the person designated as the senior investigations manager under regulation 8 of the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011.”;
  - (b) before Part 6 (Complaints) insert—

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(5) S.I. 2006/489 (W.58).

## **“Part 5A**

### **Concerns Notified On or After 1 April 2011**

#### **46A**

The contractor must establish and operate arrangements which meet the requirements of the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011 to deal with any concerns notified on or after 1 April 2011 about any matter reasonably connected with the provision of services under the contract.”;

- (c) in Part 6 (complaints)—
  - (i) for the heading relating to paragraph 47 (Complaints procedure), substitute—

**“Complaints received prior to 1 April 2011”;**
  - (ii) in paragraph 47 (Complaints procedure), in sub-paragraph (1) for the words from “The contractor” to “the agreement” substitute—

“As regards complaints relating to any matter reasonably connected with the provision of services under the agreement which are received before 1 April 2011, the contractor must operate a complaints procedure”;
  - (iii) in paragraph 51 (Co-operation with investigations)—
    - (aa) after “complaint” in each place it occurs insert “or concern notified in accordance with the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011”; and
    - (bb) for sub-paragraph (1)(a)(iii) substitute—

“(iii) the Welsh Ministers; and

(iv) the Public Services Ombudsman for Wales;”;
- (d) in Part 7 (Dispute Resolution), in paragraph 54 (dispute resolution: non NHS contracts), for “complaints procedure pursuant to Part 6” substitute “procedures for notifying concerns or making complaints pursuant to Parts 5A or 6”.
- (3) In Schedule 4 (Patient Information Leaflet), for paragraph 16 substitute—

#### **“16**

How patients may—

- (1) in respect of complaints made prior to 1 April 2011 make a complaint in accordance with the provisions of Part 6 of Schedule 3;
- (2) in respect of concerns notified on or after 1 April 2011 notify a concern in accordance with the provisions of the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011; or
- (3) comment on the provision of service.”.