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PROSPECTIVE

## SCHEDULE 3

### Other contractual terms

## PART 4

### Assignment of patients to lists

- 42.—**(1) This Part applies in respect of the assignment by the Local Health Board of—
- (a) a person as a new patient to a contractor’s list of patients where that person—
    - (i) has been refused inclusion in a contractor’s list of patients or has not been accepted as a temporary resident by a contractor, and
    - (ii) would like to be included in the list of patients of a contractor within the area of the Local Health Board in which that person resides, or
  - (b) any person who is part of a list dispersal resulting from the closure of a practice where that person—
    - (i) has not registered with another contractor, and
    - (ii) would like to be included in the list of patients of a contractor within the area of the Local Health Board in which that person resides; or
  - (c) any person who is part of a list dispersal resulting from the closure of a practice where that person has not registered with another contractor and the Local Health Board has been unable to contact that person.
- (2) In this paragraph, “list dispersal” means the allocation of patients from a contractor’s list of patients by the Local Health Board following termination of the contract or during the period set out in the notice of termination or agreement to terminate.

#### Commencement Information

**II** Sch. 3 para. 42 in force at 1.10.2023, see [reg. 1\(2\)](#)

#### Assignment of patients to list of patients: open and closed lists

- 43.—**(1) Subject to paragraph 44, the Local Health Board may—
- (a) assign a new patient to a contractor whose list of patients is open, and
  - (b) only assign a new patient to a contractor whose list of patients is closed in the circumstances specified in sub-paragraph (2).
- (2) The circumstances specified in this sub-paragraph are where—
- (a) the assessment panel has determined under paragraph 45(7) that new patients may be assigned to the contractor in question, and that determination has not been overturned either by a determination of the Welsh Ministers under paragraph 46(13) or (where applicable) by a court, and

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- (b) the Local Health Board has entered into discussions with the contractor in question regarding the assignment of new patients if such discussions are required under paragraph 47.

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#### **Commencement Information**

**I2** Sch. 3 para. 43 in force at 1.10.2023, see [reg. 1\(2\)](#)

#### **Factors relevant to assignments**

**44.** When assigning a person as a new patient to a contractor's list of patients under paragraph 43(1)(a) or (b), the Local Health Board must have regard to—

- (a) the preferences and circumstances of the person,
- (b) the distance between the person's place of residence and the contractor's practice premises,
- (c) any request made by a contractor to remove the person from its list of patients within the preceding period of 6 months beginning with the date on which the application for assignment is received by the Local Health Board,
- (d) whether, during the preceding period of 6 months beginning with the date on which the application for assignment is received by the Local Health Board, the person has been removed from a list of patients on the grounds referred to in—
  - (i) paragraph 29 (relating to the circumstances in which a person may be removed from a contractor's list of patients at the request of the contractor),
  - (ii) paragraph 30 (relating to the removal from the contractor's list of patients of persons who are violent), or
  - (iii) the equivalent provisions to those paragraphs in relation to arrangements made under section 41(2) of the Act (which relate to arrangements for the provision of primary medical services),
- (e) in a case to which sub-paragraph (d)(ii) applies (or equivalent provisions as mentioned in sub-paragraph (d)(iii) apply), whether the contractor has appropriate facilities to deal with such patients, and
- (f) such other matters as the Local Health Board considers relevant.

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#### **Commencement Information**

**I3** Sch. 3 para. 44 in force at 1.10.2023, see [reg. 1\(2\)](#)

#### **Assignments to closed lists: composition and determinations of the assessment panel**

**45.—(1)** Where the Local Health Board wants to assign a new patient to a contractor which has closed its lists of patients, the Local Health Board must prepare a proposal to be considered by the assessment panel.

**(2)** The Local Health Board must give notice in writing that it has referred the matter to the assessment panel to—

- (a) contractors, including those contractors who provide primary medical services under arrangements made under section 41(2) of the Act (which relate to arrangements for the provision of primary medical services) which—

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- (i) have closed their lists of patients, and
  - (ii) may, in the opinion of the Local Health Board, be affected by the determination of the assessment panel, and
- (b) the Local Medical Committee (if any) for the area in which the contractors referred to in paragraph (a) provide unified services (or their equivalent).
- (3) The Local Health Board must ensure that the assessment panel is appointed to consider and determine the proposal made under sub-paragraph (1), and the composition of the assessment panel must be as described in sub-paragraph (4).
- (4) The members of the assessment panel must be—
- (a) the Chief Executive of the Local Health Board of which the assessment panel is a committee or sub-committee,
  - (b) a person representative of patients in an area other than that of the Local Health Board which is a party to the contract, and
  - (c) a person representative of a Local Medical Committee which does not represent practitioners in the area of the Local Health Board which is a party to the contract.
- (5) In reaching its determination, the assessment panel must have regard to all relevant factors including—
- (a) whether the Local Health Board has attempted to secure the provision of unified services (or their equivalent) for new patients other than by means of assignment to a contractor with a closed list; and
  - (b) the workload of those contractors likely to be affected by any decision to assign such patients to their list of patients.
- (6) The assessment panel must reach a determination before the end of the period of 28 days beginning with the date on which the panel was appointed.
- (7) The assessment panel must—
- (a) determine whether the Local Health Board may assign new patients to a contractor which has a closed list of patients, and
  - (b) if it determines that the Local Health Board may make such an assignment, determine, where there is more than one contractor, the contractors to which patients may be assigned.
- (8) The assessment panel may determine that the Local Health Board may assign new patients to contractors other than any of the contractors specified in its proposals under sub-paragraph (1), as long as the contractors were given notice in writing under sub-paragraph (2)(a).
- (9) The assessment panel's determination must include its comments on the matters referred to in sub-paragraph (5), and notice in writing of that determination must be given to those contractors referred to in sub-paragraph (2)(a).

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#### **Commencement Information**

**14** Sch. 3 para. 45 in force at 1.10.2023, see [reg. 1\(2\)](#)

#### **Assignment to closed lists: NHS dispute resolution procedure relating to determinations of the assessment panel**

**46.—(1)** Where an assessment panel makes a determination under paragraph [45\(7\)](#) that the Local Health Board may assign new patients to contractors who have closed their lists of patients,

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any contractor specified in the determination may refer the matter to the Welsh Ministers to review that determination.

(2) Where a matter is referred to the Welsh Ministers under sub-paragraph (1), it must be reviewed in accordance with the procedure specified in the following sub-paragraphs.

(3) Where more than one contractor specified in the determination would like to refer the matter for dispute resolution, those contractors may, if they all agree, refer the matter jointly and, in that case, the Welsh Ministers must review the matter in relation to those contractors together.

(4) The contractor (or contractors) must send to the Welsh Ministers, before the end of the period of 7 days beginning with the date of the determination of the assessment panel in accordance with paragraph 45(7), a written request for dispute resolution which must include or be accompanied by—

- (a) the names and addresses of the parties to the dispute,
- (b) a copy of the contract (or contracts), and
- (c) a brief statement describing the nature of and circumstances giving rise to the dispute.

(5) The Welsh Ministers must, before the end of the period of 7 days beginning with the date on which the matter was referred to the Welsh Ministers—

- (a) give notice in writing to the parties that the Welsh Ministers are dealing with the matter, and
- (b) include with the notice a written request to the parties to make, in writing before the end of a specified period, any representations which those parties would like to make about the dispute.

(6) The Welsh Ministers must give, with the notice under sub-paragraph (5), to the party other than the one which referred the matter to dispute resolution, a copy of any document by which the dispute was referred to dispute resolution.

(7) The Welsh Ministers must, upon receiving any representations from a party—

- (a) give a copy of those representations to each other party, and
- (b) request, in writing, that each party to which a copy of those representations is given makes, before the end of a specified period, any written observations which the party would like to make about those representations.

(8) The Welsh Ministers may—

- (a) invite representatives of the parties to appear before, and make oral representations to, the Welsh Ministers either together or, with the agreement of the parties, separately, and may, in advance, provide the parties with a list of matters or questions to which the Welsh Ministers would like them to give special consideration, or
- (b) consult other persons whose expertise the Welsh Ministers considers is likely to assist the Welsh Ministers consideration of the dispute.

(9) Where the Welsh Ministers consult another person under sub-paragraph (8)(b), the Welsh Ministers must—

- (a) give notice in writing to that effect to the parties, and
- (b) where the Welsh Ministers consider that the interests of any party might be substantially affected by the results of the consultation, give to the parties such opportunity as the Welsh Ministers consider reasonable in the circumstances to make observations about those results.

(10) In considering the dispute, the Welsh Ministers must take into account—

- (a) any written representations made in response to a request under sub-paragraph (5)(b), but only if those representations are made before the end of the specified period,

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- (b) any written observations made in response to a request under sub-paragraph (7), but only if those written observations are made before the end of the specified period,
- (c) any oral representations made in response to an invitation under sub-paragraph (8)(a),
- (d) the results of any consultation under sub-paragraph (8)(b), and
- (e) any observations made in accordance with an opportunity given under sub-paragraph (9).

(11) Subject to the other provisions of this paragraph and to any agreement between the parties, the Welsh Ministers may determine the procedure which is to apply to the dispute resolution in such manner as the Welsh Ministers consider appropriate in order to ensure the just, expeditious, economical and final determination of the dispute.

(12) In this paragraph, “specified period” means—

- (a) such period as the Welsh Ministers specify in the request being a period of not less than 7 days and not more than 14 days beginning with the date on which the notice referred to is given, or
- (b) such longer period as the Welsh Ministers may allow for the determination of the dispute where the period for determination of the dispute has been extended in accordance with sub-paragraph (16), and where the Welsh Ministers do so allow, a reference in this paragraph to the specified period is to the period as so extended.

(13) Subject to sub-paragraph (16), the Welsh Ministers must—

- (a) determine the dispute before the end of the period of 21 days beginning with the date on which the matter was referred to the Welsh Ministers,
- (b) determine whether the Local Health Board may assign new patients to contractors which have closed their lists of patients, and
- (c) if the Welsh Ministers determine that the Local Health Board may assign new patients to those contractors, determine the contractors to which the new patients may be assigned.

(14) The Welsh Ministers must not determine that patients may be assigned to a contractor which was not specified in the determination of the assessment panel under paragraph 45(7)(b).

(15) In the case of a matter referred jointly by contractors in accordance with sub-paragraph (3), the Welsh Ministers may determine that patients may be assigned to one, some or all of the contractors which referred the matter.

(16) The period of 21 days referred to in sub-paragraph (13) may be extended (even after it has expired) by a further specified number of days if an agreement to that effect is reached by—

- (a) the Welsh Ministers,
- (b) the Local Health Board, and
- (c) the contractor (or contractors) which referred the matter to dispute resolution.

(17) The Welsh Ministers must—

- (a) record the determination, and the reasons for it, in writing, and
- (b) give notice in writing of the determination (including the record of the reasons) to the parties.

#### **Commencement Information**

**I5** Sch. 3 para. 46 in force at 1.10.2023, see [reg. 1\(2\)](#)

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### Assignments to closed lists: assignments of patients by the Local Health Board

**47.**—(1) Before the Local Health Board assigns a new patient to a contractor, the Local Health Board must, subject to sub-paragraph (3)—

- (a) enter into discussions with the contractor regarding the additional support that the Local Health Board can offer the contractor, and
- (b) use its best endeavours to provide such appropriate support.

(2) In the discussions referred to in sub-paragraph (1)(a), both parties must use reasonable endeavours to reach agreement.

(3) The requirement in sub-paragraph (1)(a) to enter into discussions applies—

- (a) to the first assignment of a patient to a particular contractor, and
- (b) to any subsequent assignment to that contractor to the extent that it is reasonable and appropriate having regard to—
  - (i) the numbers of patients who have been or may be assigned to it, and
  - (ii) the period of time since the last discussions under sub-paragraph (1)(a) took place.

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#### Commencement Information

**I6** Sch. 3 para. 47 in force at 1.10.2023, see [reg. 1\(2\)](#)

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**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 3 para. 16(3) inserted by [S.I. 2023/1421 reg. 18\(b\)](#)
- Sch. 5 para. 2(2)(a)(iv)(aa) omitted by [S.I. 2023/1421 reg. 20\(d\)](#)
- Sch. 5 para. 2(2)(a)(i)(aa) word substituted by [S.I. 2023/1421 reg. 20\(c\)](#)