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Standard General Medical Services Contract

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Standard General Medical Services (GMS) Contract

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Equalities and health inequalities statement

"Promoting equality and addressing health inequalities are at the heart of NHS England's values. Throughout the development of the policies and processes cited in this document, we have:

- given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as cited under the Equality Act 2010) and those who do not share it;
- given regard to the need to reduce inequalities between patients in access to, and outcomes from, healthcare services and in securing that services are provided in an integrated way where this might reduce health inequalities."

Contents

THIS CONTRACT is made on the day of 20[ ]

BETWEEN

(1) NHS [Insert Name] Integrated Care Board whose name and address appears at Schedule 1 to this Contract (called "the Commissioner") and

(2) The contractor(s) whose name(s) appear(s) at Schedule 1 to this Contract (called "the Contractor")

BACKGROUND

A. The Commissioner is an *integrated care board* established under Chapter A3 of Part 2 of the National Health Service Act 2006.[1]

B. *NHS England* is a statutory body established by section 1H of the National Health Service Act 2006.[2] It is the duty of *NHS England* to exercise its powers so as to secure the provision of primary medical services throughout England. In order to achieve this object, *NHS England* is empowered by Part 4 of the National Health Service Act 2006, and the regulations made there under[3], to enter into a general medical services contract with specified categories of person. The Contractor falls within one of the specified categories of person.

C. Under section 65Z5(1) of the National Health Service Act 2006, *NHS England* has arranged for such functions to be exercised by the Commissioner in respect of the area for which the Commissioner is established. The details of those functions delegated by *NHS England* to the Commissioner, those functions reserved to *NHS England*, and on what terms, are set out within the delegation agreement between *NHS England* and the Commissioner as in force from time to time.

D. The Commissioner and the Contractor wish to enter into a general medical services contract under which the Contractor is to provide primary medical services and other services in accordance with the provisions of this Contract.

[1] Chapter A3 of Part 2 is inserted by section 19(2) of the Health and Care Act 2022.
[2] Section 1H is inserted by section 9 of the Health and Social Care Act 2012
[3] The National Health Service (General Medical Services Contracts) Regulations 2015. Please also see *the Transitional Order* which, amongst other matters, sets out certain categories of persons who are entitled to a GMS Contract and, where such entitlement exists, this Order specifies particular requirements as to the terms of the GMS Contract to be entered into.

1 PART 1[4]

1.1 Definitions and Interpretation

The following terms and phrases shall have the following meanings for the purposes of this Contract:

"**1977 Act**" means the National Health Service Act 1977;

"**2004 Regulations**" means the National Health Service (General Medical Services Contracts) Regulations 2004 (S.I. 2004/291);

"**2006 Act**" means the National Health Service Act 2006;

"**2012 Act**" means the Health and Social Care Act 2012;

"**accountable GP**" means a *general medical practitioner* assigned to a *registered patient* in accordance with clauses 7.7B.1 and 7.9.3;

"adjudicator" means *the Secretary of State* or a person or persons appointed by *the Secretary of State* under section 9(8) of the *2006 Act* or under regulation 83(5)(b) of *the Regulations*;

"advanced electronic signature" means an *electronic signature* which meets the following requirements:

(a) it is uniquely linked to the *signatory*,

(b) it is capable of identifying the *signatory*,

(c) it is created using *electronic signature creation data* that the *signatory* can, with a high level of confidence, use under the *signatory's* sole control, and

(d) it is linked to the data signed in such a way that any subsequent change in the data is detectable;

"appliance" means an appliance which is included in a list for the time being approved by *the Secretary of State* for the purposes of section 126 of the *2006 Act*;

"appropriate person" (other than in clause 26.20.2(c)) means:

(a) in relation to a person who has not attained the age of 16 years, means a person mentioned in clause 13.5.4(a)(i), (ii) or (iii);

(b) in relation to a person who lacks capacity:

  (i) to make an application or provide information to, to accept an offer from, or otherwise communicate with, the Contractor; or

  (ii) to authorise the making of an application or provision of information to, the acceptance of an offer from, or other communication with, the Contractor on their behalf;

means a person mentioned in clause 13.5.4(b)(i), (ii) or (iii);

"approved medical practice" has the same meaning as in section 11 of the Medical Act 1983;

[4] Part 1 is not required by *the Regulations,* but is recommended.

"armed forces GP" means a medical practitioner who is employed on a contract of service by the Ministry of Defence, whether or not as a member of the *armed forces of the Crown*;

"armed forces of the Crown" means the forces that are "regular forces" or "reserve forces" within the meaning given in section 374 of the Armed Forces Act 2006 (definitions applying for the purposes of the whole Act);

"assessment panel" means a panel appointed by the Commissioner under paragraph 41(7) of Schedule 3 to *the Regulations*;

"**authorised person**", in relation to a patient, is a person who is entitled to make an application for pharmaceutical services on behalf of the patient by virtue of regulation 116(a) to (c) of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (authorised persons to apply for services);

"bank holiday" means any day that is specified or proclaimed as a bank holiday in England and Wales pursuant to section 1 of the Banking and Financial Dealings Act 1971;

"batch issue" means a form, in the format required by *NHS England* and approved by *the Secretary of State* which:

(a) is issued by a *repeatable prescriber* at the same time as a *non-electronic repeatable prescription* to enable a *chemist* to receive payment for the provision of *repeat dispensing services*;

(b) relates to a particular *non-electronic repeatable prescription* and contains the same date as that prescription;

(c) is generated by a computer and not signed by a *repeatable prescriber*;

(d) is issued as one of a sequence of forms, the number of which is equal to the number of occasions on which the drugs, medicines or appliances ordered on the *non-electronic repeatable prescription* may be provided, and

(e) has included on it a number denoting its place in the sequence referred to in sub-clause (d);

"Care Quality Commission" means the body established under section 1 of the Health and Social Care Act 2008;

"CCT" means certificate of completion of training awarded under section 34L(1) of the Medical Act 1983 including any such certificate awarded in pursuance of the competent authority functions of the General Medical Council specified in section 49B of, and Schedule 4A to, that Act;

"cervical screening services" means the following services:

(a) providing necessary information and advice to assist women who are identified by *NHS England* as recommended nationally for a cervical screening test in making an informed decision as to their participation in the NHS Cervical Screening Programme;

(b) performing cervical screening tests on women who have agreed to participate in that programme;

(c) ensuring that test results are followed up appropriately;

(d) where a cervical screening test is performed on a woman, recording in the *patient*'s record (kept in relation to a *patient* in accordance with clause 16.1):

(i) the carrying out of the test;

(ii) the result of the test; and

(iii) any clinical follow up requirements;

"the Charges Regulations" means the National Health Service (Charges for Drugs and Appliances) Regulations 2015;

"charity trustee" means one of the persons having the general control and management of the administration of a charity;

"chemist" means:

(a) a person lawfully conducting a retail pharmacy business in accordance with section 69 of the Medicines Act 1968 (general provisions) , or

(b) a supplier of appliances,

who is included in the list held by *NHS England* under section 129 of the *2006 Act* (regulations as to pharmaceutical services), or a local pharmaceutical scheme made under Schedule 12 of the Act (LPS Schemes);

"child", other than in clause 13.17A, means a person under the age of 16 years;

"child health surveillance services" means the following services:

(a) monitoring the health, well-being and physical, mental and social development (*"development"*) of a *patient* who has not attained the age of five years (a *"relevant patient"*) with a view to detecting any deviations from normal development:

(i) by the consideration of information concerning the *relevant patient* received by or on behalf of the Contractor; and

(ii) on any occasion when the *relevant patient* is examined or observed by or on behalf of the Contractor (whether by virtue of sub-clause (c) or otherwise);

(b) offering to the *parent* of the *relevant patient* an examination of the *relevant patient* at the frequency that has been agreed with the Commissioner in accordance with the nationally agreed evidence based programme set out in the fifth edition of "Health for all Children";[5]

(c) where any offer of an examination under sub-clause (b) is accepted, carrying out the examination of the *relevant patient*;

(d) maintaining, in the *relevant patient*'s record (kept in relation to a *patient* in accordance with clause 16.1), an accurate record of the development of the *patient* whilst under the age of five years, which is compiled as soon as reasonably practicable following the first examination of the *relevant patient*

[5] "Health for all Children" revised fifth edition by Alan Emond was published by Oxford University Press on 28th February 2019.

and, where appropriate, amended following each subsequent examination; and

(e) recording in the *relevant patient's* record (kept in relation to a *patient* in accordance with clause 16.1) the response (if any) to any offer of an examination under sub-clause (b);

"chiropodist or podiatrist independent prescriber" means a person:

(a) who is engaged or employed by the Contractor or is a party to the Contract; and

(b) who is registered in Part 2 of the register maintained under article 5 of the Health and Social Work Professions Order 2001 (establishment and maintenance of register), and against whose name in that register is recorded an annotation signifying that the chiropodist or podiatrist is qualified to order drugs, medicines and appliances as a chiropodist or podiatrist independent prescriber;

"clinical correspondence" means all correspondence in writing, whether in electronic form or otherwise, between the Contractor and other health service providers concerning or arising out of the provision of a *remote service* or patient attendance and treatment at *practice premises* including referrals made by letter or by any other means;

"closed" in relation to the *Contractor's list of patients*, means closed to application for inclusion in the list of patients other than from *immediate family members* of *registered patients*;

"the Commissioner" means the *Integrated Care Board* whose name and address appears at Schedule 1;

"complete course" means the course of treatment appropriate to the patient's condition, being the same as the amount that would have been prescribed if the patient had been seen during *core hours*;

"contraceptive services" means the following services:

(a) the giving of advice about the full range of contraceptive methods;

(b) where appropriate, the medical examination of patients seeking such advice;

(c) the treatment of such patients for contraceptive purposes and the prescribing of contraceptive substances and appliances (excluding the fitting and implanting of intrauterine devices and implants);

(d) the giving of advice about emergency contraception and, where appropriate, the supplying or prescribing of emergency hormonal contraception;

(e) the giving of advice and referral in cases of unplanned pregnancy including advice about the availability of free pregnancy testing in the Contractor's *practice area*;

(f) the giving of initial advice about sexual health promotion and sexually transmitted infections; and

(g) the referral as necessary to specialist sexual health services, including tests for sexually transmitted infections;

"Contract" means this Contract between the Commissioner and the Contractor named in Schedule 1;

"Contractor's list of patients" means the list prepared and maintained by the Commissioner under clause 13.4.3;

"**contractor's EPS phase 4 date**" means the date, encoded within the Electronic Prescription Service software, which is the date that a contractor has agreed is to be the date on and after which the contractor's prescribers are to use the Electronic Prescription Service for all eligible prescriptions;

"core hours" means, subject to clause 26.21.1, the period beginning at 8.00am and ending at 6.30pm on any day from Monday to Friday except Good Friday, Christmas Day or *bank holidays*;

"default contract" means a contract with *a Primary Care Trust* made pursuant to article 13 of *the Transitional Order* which transferred to *NHS England* as a consequence of a property transfer scheme made under section 300 of *the 2012 Act;*

"the detained estate healthcare service" means the healthcare service commissioned by *NHS England* in respect of persons who are detained in prison or in other secure accommodation by virtue of regulations made under section 3B(1)(c) of the *2006 Act*;[6]

"digital practice area map" means a map of the practice area produced on digital tools provided by *NHS England*;

"directly bookable appointment" means an appointment of a type which, in line with the guidance entitled "Directly bookable appointments — guidance for practices" issued by *NHS England*,[7] is available for booking by a *registered patient* or an *appropriate person* on their behalf;

"disease" means a disease included in the list of three-character categories contained in the tenth revision of the International Statistical Classification of Diseases and Related Health Problems (published by the World Health Organisation, a copy of which can be found at: http://www.who.int/classifications/icd/ICD10Volume2_en_2010.pdf);

"dispenser" means a *chemist*, medical practitioner or contractor whom a patient wishes to dispense the patient's *electronic prescriptions*;

"dispensing services" means the provision of drugs, medicines or appliances that may be provided as pharmaceutical services by a medical practitioner in accordance with arrangements made under section 126 and section 129 of the *2006 Act*;

"Drug Tariff" means the publication known as the Drug Tariff which is published by *the Secretary of State* and which is referred to in section 127(4) of the *2006 Act*;

[6] Regulation 10 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 (S.I. 2012/2996) and amended by S.I. 2013/261 and S.I. 2014/452.

[7] This guidance, published in September 2022, is available at https://www.england.nhs.uk/gp/investment/gp-contract/digital-requirements-guidance/. Hard copies are available from NHS England, Digital First Primary Care team, Wellington House, 133-155 Waterloo Road, South Bank, London, SE1 8UG.

"electronic communication" has the same meaning as in section 15 of the Electronic Communications Act 2000 (general interpretation);

"electronic prescription" means *an electronic prescription form* or an *electronic repeatable prescription*;

"electronic prescription form" means a prescription form which falls within the definition of paragraph (b) of *prescription form;*

"Electronic Prescription Service" means the service of that name which is managed by *NHS England*;

"electronic repeatable prescription" means data created in an electronic form for the purposes of ordering a drug, medicine or appliance, which:

(a) is signed with a *prescriber's advanced electronic signature*;

(b) is transmitted as an *electronic communication* to a nominated dispensing contractor by the *Electronic Prescription Service*;

(c) indicates that the drug, medicine or appliance ordered may be provided more than once; and

(d) specifies the number of occasions on which they may be provided;

"electronic signature" means data in electronic form which is attached to or logically associated with other data in electronic form and which is used by the *signatory* to sign;

"electronic signature creation data" means unique data which is used by the *signatory* to create an *electronic signature*;

"English health service medicine" means a medicinal product used to any extent for the purposes of the health service continued under section 1(1) of the *2006 Act*;

"enhanced services" are:

(a) services other than *essential services*, *minor surgery* or *out of hours services*; or

(b) *essential services*, *minor surgery* or *out of hours services* or an element of such a service that a contractor agrees under a contract to provide in accordance with specifications set out in a plan, which requires of the contractor an enhanced level of service provision compared to that which it needs generally to provide in relation to that service or element of service;

*"***EPS token***"* means a form (which may be an electronic form), approved by the Secretary of State, which—

(a) is issued by a prescriber at the same time as an electronic prescription is created; and

(b) has a barcode that enables the prescription to be dispensed by a provider of pharmaceutical services that is able to use the Electronic Prescription Service for the purposes of dispensing prescriptions, in circumstances where the provider is not dispensing the prescription as a nominated dispenser;

"essential services" means the services required to be provided in accordance with clause 8.1;

"financial year" has the meaning given in section 275(1) of the *2006 Act* (interpretation);

"friends and family test" means the arrangements that the Contractor is required by the Commissioner to implement to enable its patients to provide anonymous feedback about the patient experience at the Contractor's *practice*;

"general medical practitioner" means a medical practitioner whose name is included in the General Practitioner Register kept by the General Medical Council under section 2 of the Medical Act 1983;

"general medical services contract" means a general medical services contract under section 84 of the *2006 Act*;

"geographical number" means a number which has a geographical area code as its prefix;

"global sum" has the same meaning as in the *GMS Statement of Financial Entitlements*;

"GMS Statement of Financial Entitlements" is the directions given by *the Secretary of State* under section 87 of the *2006 Act*[8];

"GP Specialty Registrar" means a medical practitioner who is being trained in general practice by a *general medical practitioner* who is approved under section 34I(1)(c) of the Medical Act 1983 (postgraduate education and training: approvals) for the purpose of providing training in accordance with that section, whether as part of training leading to a *CCT* or otherwise;

"GPIT Operating Model" means the document entitled "Securing Excellence in Primary Care (GP) Digital Services: The Primary Care (GP) Digital Services Operating Model 2021-23 V5" issued by *NHS England*;[9]

"GP2GP facility" means the facility provided by *NHS England* to the Contractor's *practice* which enables the electronic health records of a *registered patient* which are held on the computerised clinical systems of the Contractor's *practice* to be transferred securely and directly to another provider of *primary medical services* with which the patient has registered;

"Health and Social Services Board" means a Health and Social Services Board established under article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972 (establishment of Health and Social Services Boards);

"Health and Social Services Trust" means a Health and Social Services Trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991 (ancillary services);

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[8] Copies are available at https://www.gov.uk/government/publications/general-medical-services-statement-of-financial-entitlements-directions or from the Primary Care Team, Department of Health and Social Care, 4th Floor, 39 Victoria Street, London SW1H 0EU.

[9] The document, published in July 2022, which sets out the commissioning framework for the provision of general practice digital services, is available at: https://www.england.nhs.uk/publication/securing-excellence-in-primary-care-gp-digital- services-the-primary-care-gp-digital-services-operating-model-2021-2023. The document can be obtained in alternative formats by telephone (on 0300 311 22 33), by email (England.contactus@nhs.net) or by writing to NHS England, PO Box 16738, Redditch, B97 9PT.

"Health Board" means a Health Board established under section 2 of the National Health Service (Scotland) Act 1978;

"health care professional" has the same meaning as in section 108 of the *2006 Act*, and "health care profession" is to be construed accordingly;

"health check" means a consultation undertaken by the Contractor which is of the type which the Contractor is required to undertake at a patient's request under clause 7.9.4(c);

"the health service" means the health service continued under section 1(1) of the *2006 Act*;

"health service body", unless the context otherwise requires, has the meaning given to it in section 9(4) of the *2006 Act*;

"home oxygen order form" means a form provided by *NHS England* and issued by a *health care professional* to authorise a person to supply *home oxygen services* to a patient requiring oxygen therapy at home;

"home oxygen services" means any of the following forms of oxygen therapy or supply:

(a) ambulatory oxygen supply;

(b) urgent supply;

(c) hospital discharge supply;

(d) long term oxygen therapy; and

(e) short burst oxygen therapy;

"immediate family member" means:

(a) a spouse or civil partner;

(b) a person whose relationship with the *registered patient* has the characteristics of the relationship between spouses;

(c) a parent or step-parent;

(d) a son or daughter; or

(e) a *child* of whom the *registered patient* is-

  (i) the guardian; or

  (ii) the carer duly authorised by the local authority to whose care the *child* has been committed under the Children Act 1989; or

(f) a grandparent;

"independent nurse prescriber" means a person:

(a) who is either engaged or employed by the Contractor or is a party to the Contract;

(b) who is registered in the *Nursing and Midwifery Register*; and

(c) against whose name in that register is recorded an annotation signifying that he is qualified to order drugs, medicines and appliances as a community

practitioner nurse prescriber, a nurse independent prescriber or as a nurse independent/supplementary prescriber;

"integrated care board" means an integrated care board established under Chapter A3 of Part 2 of the *2006 Act*;

"licensing body" means any body that licenses or regulates any profession;

"limited partnership" means a partnership registered in accordance with section 5 of the Limited Partnerships Act 1907 (registration of limited partnerships required);

"Local Health Board" means a body established under section 11 of the National Health Service (Wales) Act 2006 (Local Health Boards);

"Local Medical Committee" means a committee recognised by *NHS England* under section 97 of the *2006 Act*;

"local pharmaceutical services" means such services as are prescribed under s.134(7) of, or paragraph 1(7) of Schedule 12 to, the *2006 Act*;

"listed prescription items" means the prescription items mentioned in regulation 13(1) of the National Health Service (Charges for Drugs and Appliances) Regulations 2015 (exemption from charges: risks to public health);

"listed prescription items voucher" means a form which:

(a) is provided or approved by the Commissioner for the purposes of ordering a prescription item mentioned in regulation 13(1) of the National Health Service (Charges for Drugs and Appliances) Regulations 2015; and

(b) may be an electronic form sent or to be sent via a secure service approved for this purpose by the Commissioner;

"mandatory term" means a term required to be included in the Contract by *the Regulations*;

"maternity medical services" means the following services:

(a) providing to expectant mothers all necessary *relevant services* throughout the *antenatal period*;

(b) providing to mothers and their babies (if relevant) all necessary *relevant services* throughout the *postnatal period* other than neonatal checks;

(c) inviting each mother who gives birth to a *child* (which, for the purposes of this sub-clause, includes a still-born child within the meaning of the Births and Deaths Registration Act 1953) to attend a *maternal postnatal consultation*;

(d) where the invitation is accepted, providing the mother with such a consultation:

(i) otherwise than at the same time as any consultation at which the physical health of the baby is reviewed (if relevant); and

(ii) wherever possible, within the *postnatal consultation period*;

(e) providing all necessary *relevant services* to *patients* whose pregnancy has terminated as a result of miscarriage or abortion;

and for the purposes of this definition of *maternity medical services*:

(a) *"antenatal period"* means the period beginning with the start of the pregnancy and ending with the onset of labour;

(b) *"maternal postnatal consultation"* means a consultation with a *general medical practitioner*, at which the physical and mental health and well-being of the mother is reviewed;

(c) *"postnatal consultation period"* means the period which:

(i) begins six weeks after the conclusion of the delivery of the baby; and

(ii) ends eight weeks after the conclusion of the delivery, or, if the mother has not been discharged from secondary care services before the end of that period, eight weeks after the mother's discharge from secondary care services;

(d) *"postnatal period"* means the period which:

(i) begins with the later of the conclusion of the delivery of the baby and the mother's discharge from secondary care services; and

(ii) ends eight weeks after the conclusion of the delivery;

(e) *"relevant services"*:

(i) in relation to a *patient* (other than a baby), means all *primary medical services* relating to pregnancy, excluding intra partum care; and

(ii) in relation to a baby, means any *primary medical services* necessary in their first eight weeks of life.

"medical officer" means a medical practitioner who is:

(a) employed or engaged by the Department for Work and Pensions, or

(b) provided by an organisation under a contract entered into with the Secretary of State for Work and Pensions;

"medical performers list" means the list of medical practitioners maintained and published by *NHS England* in accordance with section 91 of the *2006 Act* (persons performing primary medical services);

"Medical Register" means the registers kept under section 2 of the Medical Act 1983;

"the MHRA" means the Medicines and Healthcare products Regulatory Agency;

"minor surgery" means the following services:

(a) making available to *patients* where appropriate:

(i) curettage;

(ii) cautery; and

(iii) cryocautery of warts, verrucae and other skin lesions;

(b) recording in the *patient's* record (kept in relation to a *patient* in accordance with clause 16.1):

(i) details of the *minor surgery* provided to the *patient*; and

(ii)the consent of the *patient* to that surgery.

"National Diabetes Audit" means *NHS England*'s clinical priority programme on diabetes which measures the effectiveness of diabetes healthcare provided against clinical guidelines and quality standards issued by the National Institute for Heath and Care Excellence (NICE) in England and Wales).

"national disqualification" means:

(a) a decision made by the First-tier Tribunal under section 159 of the 2006 Act (national disqualification) or under regulations corresponding to that section made under:

(i) section 91(3) of the *2006 Act* (persons performing primary medical services),

(ii)section 106(3) of the *2006 Act* (persons performing primary dental services),

(iii) section 123(3) of the *2006 Act* (persons performing primary ophthalmic services), and

(iv) sections 145, 146, 147A or 149 (performers of pharmaceutical services and assistants),

of the *2006 Act*; or

(b) a decision under provisions in force in Wales, Scotland or Northern Ireland corresponding to section 159 of the 2006 Act (national disqualification);

"necessary drugs, medicines and appliances" means those drugs, medicines and appliances which the patient requires and for which, in the reasonable opinion of the Contractor, and in the light of the patient's medical condition, it would not be reasonable in all the circumstances for the patient to wait to obtain them;

"NHS contract" has the meaning assigned to it in section 9 of the *2006 Act*;

"NHS dispute resolution procedure" means the procedure for the resolution of disputes specified in:

(a) Part 12 of *the Regulations*; or

(b) a case to which paragraph 42 of Schedule 3 to *the Regulations* applies, in that paragraph;

"NHS England" means the body corporate established under section 1H of the *2006 Act*;

"NHS foundation trust" has the meaning given in section 30 of the *2006 Act* (NHS foundation trusts);

"NHS trust" means a body established under section 25 of the *2006 Act* (NHS trusts);

"NHS number" means, in relation to a *registered patient*, the number consisting of ten numeric digits which serves as the national unique identifier used for the purpose of safely, accurately and efficiently sharing information relating to that patient across the whole of the health service in England;

"nominated dispenser" means a *chemist*, medical practitioner or contractor who has been nominated in respect of a patient where the details of that nomination are

held in respect of that patient in the Patient Demographics Service which is managed by *NHS England*;

"non-electronic prescription form" means a prescription form which falls within paragraph (a) of the definition of "*prescription form*";

"non-electronic repeatable prescription" means a *prescription form* for the purpose of ordering a drug, medicine or appliance which:

(a) is provided by *NHS England*, a local authority or *the Secretary of State*;

(b) is issued by the *prescriber*;

(c) indicates that the drug, medicine or appliance ordered may be provided more than once; and

(d) specifies, or is to specify, the number of occasions on which the drug, medicine or appliance may be provided;.

"normal hours" means those days and hours on which and the times at which services under the Contract are normally made available and normal hours may be different for different services;

"Nursing and Midwifery Register" means the register maintained by the Nursing and Midwifery Council under article 5 of the Nursing and Midwifery Order 2001 (establishment and maintenance of register);

"nursing officer" means a *health care professional* who is registered on the Nursing and Midwifery Register and who is:

(a) employed by the Department for Work and Pensions, or

(b) provided by an organisation under a contract with the Secretary of State for Work and Pensions;

"occupational therapist" means a *health care professional* who is registered in the part of the register maintained by the Health Professions Council under article 5 of the Health and Social Work Professions Order 2001 (establishment and maintenance of register) relating to occupational therapists and who is:

(a) employed or engaged by the Department for Work and Pensions, or

(b) provided by an organisation under a contract entered into with the Secretary of State for Work and Pensions;

"online consultation tool" means an online facility provided using appropriate software:

(a) through which:

(i) a *patient*; or

(ii) where the *patient* is a *child* or lacks the capacity to communicate with the Contractor through an online facility or to authorise a person to communicate with the Contractor through such a facility on their behalf, an *appropriate person* acting on behalf of the *patient*;

may, in writing in electronic form, seek advice or information related to the *patient's* health or make a clinical or administrative request; but

(b) which does not require the response to be given by the Contractor in real time;

"online practice profile" has the meaning given in clause 16.7E.7;

"open" in relation to the *Contractor's list of patients*, means open to applications from patients in accordance with clause 13.5;

"optometrist independent prescriber" means a person:

(a) who is registered in the register of optometrists maintained under section 7(a) of the Opticians Act 1989 (register of opticians); and

(b) against whose name is recorded in that register an annotation signifying that that person is qualified to order drugs, medicines and appliances as an optometrist independent prescriber;

"opt out notice" means a notice given under clause 11.1.3 to *permanently opt out* or *temporarily opt out* of the provision of *minor surgery*;

"out of hours opt out notice" means a notice given under clause 11.4.2 to opt out permanently of the provisions of *out of hours services*;

"out of hours performer" means a *prescriber*, a person acting in accordance with a *Patient Group Direction* or any other *health care professional* employed or engaged by the Contractor who can lawfully supply a drug, medicine or appliance, who is performing *out of hours services* under the Contract;

"out of hours period" means, subject to clause 26.21.2:

(a) the period beginning at 6.30pm on any day from Monday to Thursday and ending at 8.00am on the following day;

(b) the period beginning at 6.30pm on Friday and ending at 8.00am on the following Monday; and

(c) Good Friday, Christmas Day and *bank holidays*,

and "part" of an out of hours period means any part of any one or more of the periods described in paragraphs (a) to (c);

"out of hours services" means the services required to be provided in all or part of the *out of hours period* which:

(a) would be *essential services* if provided by the Contractor to its *registered patients* in *core hours*; or

(b) are included in the Contract as *minor surgery* funded under the *global sum*;

"paramedic independent prescriber" means a person:

(a) who is either engaged or employed by the Contractor or who is party to the Contract;
(b) who is registered in the register maintained by the Health and Care Professions Council under article 5 of the Health and Social Work Professions Order 2001 (establishment and maintenance of register); and
(c) against whose name in that register is recorded an annotation signifying that that person is qualified to order drugs, medicines or appliances as a paramedic independent prescriber;

"parent" includes, in relation to any *child*, any adult who, in the opinion of the Contractor, is for the time being discharging in respect of that *child* the obligations normally attaching to a parent in respect of a *child*;

"patient" means:

(a) a *registered patient*,

(b) a *temporary resident*,

(c) persons to whom the Contractor is required to provide immediately necessary treatment under clause 8.1.2(b)(iii) or 8.1.5,

(d) any other person to whom the Contractor has agreed to provide services under the Contract;

(e) any person for whom the Contractor is responsible for the provision of *out of hours* services;

"Patient Choice Extension Scheme" means the scheme of that name established by *the Secretary of State* under which primary medical services may be provided under arrangements made in accordance with directions given to the Commissioner by *the Secretary of State* under section 98A of *the 2006 Act*;

"Patient Group Direction" has the same meaning as in the Human Medicines Regulations 2012 (interpretation);[10]

"permanent opt out" in relation to the provision of *minor surgery* that is funded through the *global sum*, means the termination of the obligation under the Contract for the Contractor to provide that service; and "permanently opt out" is to be construed accordingly;

"permanent opt out notice" means an *opt out notice* to *permanently opt out*;

"personal number" means a telephone number which starts with the number 070 followed by a further eight digits;

"Pharmaceutical Regulations" means the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (S.I. 2013/349);

"pharmacist independent prescriber" means a person:

(a) who is either engaged or employed by the Contractor or is party to the Contract,

(b) who is registered in Part 1 of the register maintained under article 19 of the Pharmacy Order 2010 (establishment, maintenance of and access to the register) or the register maintained under Articles 6 (the Register) and Article 9 (the Registrar) of the Pharmacy (Northern Ireland) Order 1976, and

(c) against whose name in that register is recorded an annotation signifying that that person is qualified to order drugs, medicines and appliances as a pharmacist independent prescriber;

"physiotherapist independent prescriber" means a person who is:

[10] The definition of "Patient Group Direction" in the Prescription Only Medicines (Human Use) Order 1997 was consolidated into the Human Medicines Regulations 2012.

(a) engaged or employed by the Contractor or is a party to the Contract; and

(b) registered in Part 9 of the register maintained under article 5 of the Health and Social Work Professions Order 2001 (establishment and maintenance of register), and against whose name in that register is recorded an annotation signifying that that physiotherapist is qualified to order drugs, medicines and appliances as a physiotherapist independent prescriber;

"physiotherapist" means a *health care professional* who is registered in the part of the register maintained by the Health Professions Council under article 5 of the Health and Social Work Professions Order 2001 (establishment and maintenance of register) relating to physiotherapists and:

(a) employed or engaged by the Department for Work and Pensions, or

(b) provided by an organisation under a contract entered into with the Secretary of State for Work and Pensions;

"pilot doctor" means a medical practitioner who performs personal medical services in connection with a pilot scheme;

"**pilot scheme**" means an agreement made under Part I of the National Health Service (Primary Care) Act 1997;

"**practice**" means the business operated by the Contractor for the purpose of delivering services under the Contract;

"practice area" means the area referred to in clause 13.2.1;

"practice leaflet" means a leaflet drawn up in accordance with clause 16.7.1;

"practice premises" means an address specified in the Contract as one at which services are to be provided under the Contract;

"practice website" means a website through which the Contractor advertises the *primary medical services* it provides;

"preliminary opt out notice" means a notice given under clause 11.1.1 that the Contractor wishes to *temporarily opt out* or *permanently opt out* of the provision of *minor surgery*;

"prescriber" means:

(a) *a chiropodist or podiatrist independent prescriber*;

(b) *an independent nurse prescriber*;

(c) a medical practitioner;

(d) *an optometrist independent prescriber*;

(e) *a paramedic independent prescriber;*

(f) *a pharmacist independent prescriber*;

(g) *a physiotherapist independent prescriber;*

(h) *a supplementary prescriber*; and

(i) a *therapeutic radiographer independent prescriber*,

who is either engaged or employed by the Contractor or is a party to the Contract;

"prescription form" means:

(a) a form for the purpose of ordering a drug, medicine or appliance which:

(i) is provided by *NHS England*, a local authority or the Secretary of State and is in the format required by the NHS Business Services Authority,

(ii) is issued, or is to be issued, by the *prescriber*, and

(iii) does not indicate that the drug, medicine or appliance ordered may be provided more than once; or

(b) in the case of an *electronic prescription* to which clause 14.3 (electronic prescriptions) applies, data created in an electronic form for the purpose of ordering a drug, medicine or appliance, which:

(i) is signed, or is to be signed, with a *prescriber*'s *advanced electronic signature*;

(ii) is transmitted, or is to be transmitted, as an *electronic communication* to a nominated dispenser or via an information hub by the *Electronic Prescription Service*; and

(iii) does not indicate that the drug, medicine or appliance ordered may be provided more than once;

"**Prescription of Drugs Regulations**" means the National Health Service (General Medical Services) (Prescription of Drugs etc.) Regulations 2004 (S.I.2004/629);

"**prescription only medicine**" means a medicine referred to in regulation 5(3) of the Human Medicines Regulations 2012;

"primary care list" means:

(a) a list of persons performing *primary medical services*, primary dental services, primary ophthalmic services or pharmaceutical services prepared in accordance with regulations made under:

(i) section 91 of the *2006 Act* (persons performing primary medical services),

(ii) section 106 of the *2006 Act* (persons performing primary dental services),

(iii) section 123 of the *2006 Act* (persons performing primary ophthalmic services),

(iv) sections 145, 146, 147A or 149 of the *2006 Act* (performers of pharmaceutical services and assistants),

(b) a list of persons undertaking to provide, or assist in the provision of:

(i) *primary medical services* in accordance with regulations made under Part 4 of the *2006 Act* (primary medical services),

(ii) primary dental services in accordance with regulations made under Part 5 of the *2006 Act* (primary dental services),

(iii) primary ophthalmic services in accordance with regulations made under Part 6 of the *2006 Act* (primary ophthalmic services), and

(iv) pharmaceutical services in accordance with regulations made under Part 7 of the *2006 Act* (pharmaceutical services and local pharmaceutical services); or

(c) a list corresponding to any of the above in Wales, Scotland or Northern Ireland;

"primary carer" means, in relation to an adult, the adult or organisation primarily caring for that adult;

"Primary Care Trust" means the Primary Care Trust which was a party to the Contract, immediately before the coming into force of section 34 of *the 2012 Act* (abolition of primary care trusts);

"primary medical services" means medical services provided under or by virtue of a contract or agreement to which the provisions of Part 4 of the *2006 Act* applies;

"Primary Medical Services (Directed Enhanced Services) Directions" means directions relating to provision of *enhanced services* given to *NHS England* under section 98A(3) of the *2006 Act*;[11]

"private services" means the provision of any treatment which would amount to *primary medical services* if it were provided under or by virtue of a contract or agreement to which the provisions of Part 4 of the *2006 Act* apply;

"registered patient" means:

(a) a person who is recorded by the Commissioner as being on the *Contractor's list of patients*; or

(b) a person whom the Contractor has accepted for inclusion in its list of patients, whether or not notification of that acceptance has been received by the Commissioner and who has not been notified by the Commissioner as having ceased to be on that list;

"the Regulations" means the National Health Service (General Medical Services Contracts) Regulations 2015 (S.I. 2015/1862) as amended;

"relevant register" means:

(a) in relation to a nurse, the *Nursing and Midwifery Register*;

(b) in relation to a pharmacist, Part 1 of the register maintained under article 19 of the Pharmacy Order 2010 (establishment, maintenance of and access to the register) in pursuance of section 2(1) of the Pharmacy Act 1954 or the register maintained under article 6 (the Register) and article 9 (the Registrar) of the Pharmacy (Northern Ireland) Order 1976;

(c) in relation to an optometrist, the register maintained by the General Optical Council in pursuance of section 7(a) of the Opticians Act 1989 (register of opticians); and

(d) the part of the register maintained by the Health and Care Professions Council under article 5 of the Health and Social Work Professions Order 2001 relating to:

[11] These directions are available online at: https://www.gov.uk/government/publications/primary-medical-services-directed-enhanced-services-directions. Hard copies are available from the Department of Health and Social Care, 39 Victoria Street, London, SW1H 0EU

(i) chiropodists and podiatrists;

(ii) paramedics;

(iii) physiotherapists; or

(iv) radiographers;

"**Remission of Charges Regulations**" means the National Health Service (Travel Expenses and Remission of Charges) Regulation 2003 (S.I. 2003/2382);

"**remote consultation**" means a consultation under the Contract in which a *patient*, or their representative, participates by any means permitted under the Contract, other than in person;

"**remote service**" means a service under the Contract which is:

(a) an online consultation under clause 16.5ZD;

(b) a secure electronic communication under clause 16.5ZE;

(c) a video consultation under clause 16.5ZF;

(d) a telephone consultation;

(e) an *electronic prescription*;

(f) any other service which can be provided through a digital or telecommunications method, including administrative tasks in support of the Contract;

"**repeat dispensing services**" means pharmaceutical services or *local pharmaceutical services* which involve the provision of drugs, medicines or appliances by a *chemist* in accordance with a *repeatable prescription*;

"**repeatable prescriber**" means a *prescriber* who is engaged or employed by the Contractor or who is a party to a Contract in a case where the Contractor provides *repeatable prescribing services* under clause 14.5;

"**repeatable prescribing services**" means services which involve the prescribing of drugs, medicines or appliances on a *repeatable prescription*;

"repeatable prescription" means:

(a) a form provided by *NHS England*, a local authority or *the Secretary of State* for the purpose of ordering a drug, medicine or *appliance* which is in the format required by the NHS Business Services Authority and which:

(i) is issued, or is to be issued, by a *repeatable prescriber* to enable a *chemist* or person providing *dispensing services* to receive payment for the provision of *repeat dispensing services*;

(ii) indicates, or is to indicate, that the drug, medicine or *appliance* ordered may be provided more than once; and

(iii) specifies, or is to specify, the number of occasions on which the drug, medicine or *appliance* may be provided; or

(b) in the case of an *electronic prescription* to which clause 14.3 applies, data created in an electronic form for the purpose of ordering a drug, medicine or *appliance*, which:

(i) is signed, or is to be signed, with a *prescriber*'s *advanced electronic signature*,

(ii) is transmitted, or is to be transmitted, as an *electronic communication* to a *nominated dispenser* or via an information hub by the *Electronic Prescription Service*, and

(iii) indicates, or is to indicate, that the drug, medicine or *appliance* ordered may be provided more than once and specifies, or is to specify, the number of occasions on which the drug, medicine or *appliance* may be provided;

"**restricted availability appliance**" means an appliance which is approved for particular categories of persons or for particular purposes only;

"**Scheduled drug**" means:

(a) a drug, medicine or other substance specified in any directions given by *the Secretary of State* under section 88 of the *2006 Act* (GMS contracts: prescription of drugs etc.) as being a drug, medicine or other substance which may not be ordered for patients in the provision of medical services under the Contract, or

(b) except where the conditions in clause 14.6.3 are satisfied, a drug, medicine or other substance which is specified in any directions given by *the Secretary of State* under section 88 of the *2006 Act* as being a drug, medicine or other substance which can only be ordered for specified patients and specified purposes;

"the scheduled release date" means the date on which the person making an application under clause 13.5B.2.3 is due to be released from detention in prison.

"the Secretary of State" means, unless the context otherwise requires, one of Her Majesty's Principal Secretaries of State;

"section 92 provider" means a person who is providing services in accordance with arrangements under section 92 of the 2006 Act (arrangements for the provision of primary medical services);

"service provider" has the same meaning as in regulation 2 of the Care Quality Commission (Registration) Regulations 2009;

"signatory" means a natural person who creates an electronic signature;

"Summary Care Record" means the system approved by *NHS England* for the automated uploading, storing and displaying of patient data relating to medications, allergies, adverse reactions and, where agreed with the Contractor and subject to the patient's consent, any other data (other than any information recorded in accordance with clause 16.1A or any information about ethnicity provided under clause 16.5ZC) taken from the patient's electronic record;

"summary information" means items of patient data that comprise the Summary Care Record;

"supplementary prescriber" means a person:

(a) who is either engaged or employed by the Contractor or is a party to the Contract;

(b) whose name is registered in:

(i) the *Nursing and Midwifery Register*;

(ii) Part 1 of the register maintained under article 19 of the Pharmacy Order 2010 (establishment, maintenance of and access to the register);

(iii) the register maintained under article 6 (the Register) and article 9 (the Registrar) of the Pharmacy (Northern Ireland) Order 1976;

(iv) the register maintained by the Health and Care Professions Council under article 5 of the Health and Social Work Professions Order 2001 (establishment and maintenance of register) relating to:

(aa) chiropodists and podiatrists;

(bb) dieticians;

(cc) paramedics;

(dd) *physiotherapists*; or

(ee) radiographers; or

(v) the register of optometrists maintained by the General Optical Council in pursuance of section 7(a) of the Opticians Act 1989 (register of opticians), and

(c) against whose name is recorded in the relevant register an annotation or entry signifying that that person is qualified to order drugs medicines and appliances as a supplementary prescriber or, in the case of the *Nursing and Midwifery Register*, a nurse independent/supplementary prescriber;

"**supply form**" means a form provided by *NHS England* and completed by or on behalf of the Contractor for the purpose of recording the provision of drugs, medicines or appliances to a patient during the *out of hours period*;

"**system of clinical governance**" means a framework through which the Contractor endeavors continuously to improve the quality of its services and safeguard high standards of care by creating an environment in which clinical excellence can flourish;

"**temporary opt out**" in relation to the provision of *minor surgery* that is funded through the *global sum*, means the suspension of the obligation under the Contract for the Contractor to provide that service for a period of more than six months and less than twelve months and includes an extension of a temporary opt out and "temporarily opt out" and "temporarily opted out" shall be construed accordingly;

"**temporary opt out notice**" means an *opt out notice to temporarily opt out*;

"temporary resident" means a person:

(a) accepted by the Contractor as a *temporary resident* under clauses 13.6, 13.17A.5 and 13.17A.7;

(b) for whom the Contractor's responsibility has not terminated under clauses 13.6, 13.17A.5 and 13.17A.7 (as the case may be);

"therapeutic radiographer independent prescriber" means a radiographer:

(a) who is registered in Part 11 of the register maintained under article 5 of the Health and Social Work Professions Order 2001; and

(b) against whose name in that register is recorded:

(i) an entitlement to use the title "therapeutic radiographer", and

(ii) an annotation signifying that the radiographer is qualified to order drugs, medicines and appliances as a therapeutic radiographer independent prescriber;

"the Transitional Order" means the General Medical Services Transitional and Consequential Provisions Order 2004 (S.I. 2004/433);[12]

"vaccine and immunisation services" means the following services:

(a) offering to administer or provide to *patients* all vaccines and immunisations of the type, and in the circumstances which are, specified in the *GMS Statement of Financial Entitlements*;

(b) providing appropriate information and advice to *patients* and, where appropriate, to the *parents* of *patients*, about such vaccines and immunisations;

(c) in relation to *patients* other than *children* and taking into account the individual circumstances of the *patient*, considering whether:

(i) immunisation ought to be administered by the Contractor or by another *health care professional*; or

(ii) a *prescription form* ought to be provided for the purpose of self-administration by the *patient* of the immunisation;

(d) recording in the *patient*'s record (kept in relation to a *patient* in accordance with clause 16.1) any refusal of the offer mentioned in sub-clause (a);

(e) where:

(i) the offer mentioned in sub-clause (a) is accepted; and

(ii) in case of a *patient* who is not a *child,* the immunisation is to be administered by the Contractor or another *health care professional*,

administering the immunisations and recording the *immunisation information* in the *patient's* record (kept in relation to a *patient* in accordance with clause 16.1), using codes agreed by the Commissioner for this purpose;

(f) where:

(i) the offer mentioned in sub-clause (a) is accepted; and

(ii) in the case of a *patient* who is not a *child*, the immunisation is not to be administered by the Contractor or another *health care professional*,

issuing a prescription form for the purposes of self-administration by the *patient*;

[12] See also S.I. 2013/235

and for the purposes of this definition of *vaccine and immunisation services*, *"immunisation information"* means:

(a) either:

(i) the *patient's* consent to immunisation; or

(ii) where another person consents to immunisation on behalf of the *patient*, the name of the person who gave that consent and their relationship to the *patient*;

(b) the batch number, expiry date and title of the vaccine;

(c) the date of administration of the vaccine;

(d) where two vaccines are administered by injections, in close succession, the route of administration and the injection site of each vaccine;

(e) any contraindications to the vaccine; and

(f) any adverse reactions to the vaccine.

1.2. In this Contract unless the context otherwise requires:

1.2.1. Defined terms and phrases appear in italics, except for the terms "patient" and "Contract".

1.2.2. In Schedule 7, defined terms and phrases which appear in bold italics are terms and phrases referred to in the *Pharmaceutical Regulations*.

1.2.3. Words denoting any gender include all genders and words denoting the singular include the plural and vice versa.

1.2.4. Reference to any person may include a reference to any firm, company or corporation.

1.2.5. Reference to "day", "week", "month" or "year" means a calendar day, week, month or year, as appropriate, and reference to a working day means any day except Saturday, Sunday, Good Friday, Christmas Day and any *bank holiday*.

1.2.6. The headings in this Contract are inserted for convenience only and do not affect the construction or interpretation of this Contract.

1.2.7. The schedules to this Contract are and shall be construed as being part of this Contract.

1.2.8. Reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated (whether before or after the date of this Contract), and all statutory instruments or orders made pursuant to it.

1.2.9. Where, pursuant to the General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004:

(a) any matter or act that took place, or

(b) any notice that was served,

before the entry into force of the Contract is to be treated as if it took place pursuant to the Contract, it shall be so treated and the Contract, and obligations under the Contract, shall be interpreted consistently with that Order.

1.2.10. Any obligation relating to the completion and submission of any form that the Contractor is required to complete and submit to the Commissioner includes the obligation to complete and submit the form in such a format or formats (electronic, paper or otherwise) as the Commissioner may specify.

1.2.11. Any obligation on the Contractor to have systems, procedures or controls includes the obligation effectively to operate them.

1.2.12. Where this Contract imposes an obligation on the Contractor, the Contractor must comply with it and must take all reasonable steps to ensure that its personnel and contractors comply with it. Similarly, where this Contract imposes an obligation on the Commissioner, the Commissioner must comply with it and must take all reasonable steps to ensure that its personnel and contractors (save for the Contractor) comply with it.

1.2.13 Where under section 65Z5 of *the 2006 Act* a relevant body (as defined therein) has arranged for functions exercisable by it to be exercised by or jointly with one or more other bodies, a reference to that relevant body shall, as the context requires, include a reference to the body or bodies exercising the functions in question (and vice versa).

1.3. Where there is any dispute as to the interpretation of a particular term in the Contract, the parties shall, so far as is possible, interpret the provisions of the Contract consistently with the European Convention on Human Rights, *the 2006 Act*, *the Regulations*, *the Transitional Order,* the General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004 and any other relevant regulations or orders made under the *2006 Act*.

1.4. Where the parties have indicated in writing that a clause in the Contract is reserved, that clause is not relevant and has no application to the Contract[13].

1.5. Where a particular clause is included in the Contract but is not relevant to the Contractor because that clause relates to matters which do not apply to the Contractor (for example, if the clause only applies to partnerships and the Contractor is an individual medical practitioner), that clause is not relevant and has no application to the Contract.

[13] This provision has been included so that if, in relation to a particular contract, a particular clause number or numbers are not relevant (for example, because that clause or those clauses only need to be included in contracts with a partnership and the contractor concerned is an individual medical practitioner) the words of that clause can be deleted and the word 'reserved' can be inserted next to that clause number: this is to avoid renumbering the clauses or cross-references in the Contract.

2 PART 2[14]

2.1 Relationship between the parties

2.1.1. The Contract is a contract for the provision of services. The Contractor is an independent provider of services and is not an employee, partner or agent of the Commissioner. The Contractor must not represent or conduct its activities so as to give the impression that it is the employee, partner or agent of the Commissioner.

2.1.2. The Commissioner does not by entering into this Contract, and shall not as a result of anything done by the Contractor in connection with the performance of this Contract, incur any contractual liability to any other person.

2.1.3. This Contract does not create any right enforceable by any person not a party to it.[15]

2.1.4. In complying with this Contract, in exercising its rights under the Contract and in performing its obligations under the Contract, the Contractor must act reasonably and in good faith.

2.1.5. In complying with this Contract, and in exercising its rights under the Contract, the Commissioner must act reasonably and in good faith and as a responsible public body required to discharge its functions under the *2006 Act*.

2.1.6. Clauses 2.1.4 and 2.1.5 above do not relieve either party from the requirement to comply with the express provisions of this Contract and the parties are subject to all such express provisions.

2.1.7. The Contractor shall not give, sell, assign or otherwise dispose of the benefit of any of its rights under this Contract, [save in accordance with Schedule 1][16]. The Contract does not prohibit the Contractor from delegating its obligations arising under the Contract where such delegation is expressly permitted by the Contract.

2.1.8. Reserved.

[14] Except where indicated, Part 2 is not required by *the Regulations,* but is recommended.
[15] This clause is required by *the Regulations* (see regulation 95).
[16] The words indicated in square brackets only need to be included if the Contractor is a partnership and Schedule 1 (partnerships) has therefore been utilised.

3 PART 3

3.1 NHS Contract[17]

3.1. The Contractor has [not] elected to be regarded as a *health service body* for the purposes of section 9 of the *2006 Act*. Accordingly, this Contract is [not] an *NHS contract*.[18]

[17] If the Contractor has elected to be regarded as a *health service body* for the purposes of section 9 of *the 2006 Act* pursuant to regulation 10 of *the Regulations,* then the Contract must state that it is an *NHS contract:* see regulation 14 of *the Regulations.*

[18] Where the contract is an *NHS contract,* it is not enforceable in the courts but instead is subject to the dispute resolution procedures set out in clause 25.3 of the Contract and paragraph 41 of Schedule 6 and Part 12 to *the Regulations.* Therefore, the Contract must specify whether or not the Contractor has elected to be regarded as a *health service body,* and if it has, the Contractor must indicate that the Contract is *an NHS contract.*

4 PART 4

4.1 Commencement of the Contract

4.1.1. This Contract shall commence on [date].[19]

4.2. Duration of the Contract

4.2.1. [Subject to clause 4.2.2][20] The Contract shall subsist until [insert date]/ [it is terminated in accordance with the terms of this Contract or by virtue of the operation of any other legal provision.][21]

4.2.2. [If the parties agree that the Contractor is going to provide services other than *essential services*, *minor surgery* funded under the *global sum* or *out of hours services* provided pursuant to regulation 18 of *the Regulations*, (for example, *enhanced services*) details in relation to the period for which each of those services is to be provided should be inserted here: the period for which each of such services will be provided is a matter for negotiation between the parties.][22]

4.2.3. [ ]

4.2.4. [ ]

4.2.5. [ ]

[19] The parties must insert the date of commencement: services can only be provided under the Contract on a date after 31st March 2004 (see regulation 28 of *the 2004 Regulations).*

[20] The words in square brackets only need to be included if clause 4.2.3 et seq. are completed.

[21] This clause is required by *the Regulations:* see Regulation 16 of *the Regulations.* The option for the Contract to subsist until it is terminated in accordance with the terms of the Contract or the general law must be included unless the Commissioner is entering into a temporary contract for a period not exceeding 12 months for the provision of services to the patients of the Contractor, following the termination of a previous contract that that Contractor held with the Commissioner. The Commissioner or the Contractor may, if it wishes to do so, invite the *Local Medical Committee* to participate in the negotiations intending to lead to a temporary contract.

[22] This clause, and clauses 4.2.3, 4.2.4 or 4.2.5 if further space is needed, need to be adapted and completed as indicated (see regulation 20 of *the Regulations)*– if it is not relevant because there are no such services to be provided under the Contract, these clauses should be omitted.

5 PART 5[23]

5.1 Reserved.

5.2. **Patient Participation**

5.2.1. The Contractor must establish and maintain a group known as a "Patient Participation Group" comprising some of its *registered patients* for the purposes of:

(a) obtaining the views of patients who have attended the Contractor's *practice* about the services delivered by the Contractor; and

(b) enabling the Contractor to obtain feedback from its *registered patients* about those services.

5.2.2. The Contractor is not required to establish a Patient Participation Group if such a group has already been established by the Contractor in accordance with any directions about enhanced services which were given by the Secretary of State under section 98A of the *2006 Act* [b]efore 1st April 2015.

5.2.3. The Contractor must make reasonable efforts during each *financial year* to review the membership of its Patient Participation Group in order to ensure that the Group is representative of its *registered patients*.

5.2.4. The Contractor must:

(a) engage with its Patient Participation Group, at such frequent intervals throughout each *financial year* as the Contractor must agree with that Group, with a view to obtaining feedback from the Contractor's *registered patients*, in an appropriate and accessible manner which is designed to encourage patient participation, about the services delivered by the Contractor; and

5.2.5 review any feedback received about the services delivered by the Contractor, whether by virtue of clause 5.2.4(a) or otherwise, with its Patient Participation Group with a view to agreeing with that Group the improvements (if any) which are to be made to those services.

5.2.6 The Contractor must make reasonable efforts to implement such improvements to the services delivered by the Contractor as are agreed between the Contractor and its Patient Participation Group.

[23] Part 5 is required by *the Regulations:* see regulation 21 of *the Regulations.*

6 PART 6[24]

6.1 Warranties

6.1.1. Each of the parties warrants that it has power to enter into this Contract and has obtained any necessary approvals to do so.

6.1.2. The Contractor warrants that:

(a) all information in writing provided to the Commissioner in seeking to become a party to this Contract was, when given, true and accurate in all material respects, and in particular, that the Contractor satisfied the conditions set out in regulations 5 and 6 of *the Regulations*;

(b) no information has been omitted which would make the information that was provided to the Commissioner materially misleading or inaccurate;

(c) no circumstances have arisen which materially affect the truth and accuracy of such information; and

(d) it is not aware as at the date of this Contract of anything within its reasonable control which may or will materially adversely affect its ability to fulfil its obligations under this Contract.

6.1.3. The Commissioner warrants that:

(a) all information in writing which it provided to the Contractor specifically to assist the Contractor to become a party to this Contract was, when given, true and accurate in all material respects;

(b) no information has been omitted which would make the information that was provided to the Contractor materially misleading or inaccurate;

(c) no circumstances have arisen which materially affect the truth and accuracy of such information.

6.1.4. The Commissioner and the Contractor have relied on, and are entitled to rely on, information provided by one party to the other in the course of negotiating the Contract.

[24] This Part is not required by *the Regulations,* but is recommended.

7 PART 7

7.1 Level of Skill[25]

7.1.1. The Contractor must carry out its obligations under the Contract in a timely manner and with reasonable care and skill.

Provision of Services[26]

7.2. Premises

7.2.1. The address of each of the premises to be used by the Contractor or any sub-contractor for the provision of services under the Contract is as follows: [ ][27].

7.2.2. Subject to any plan which is included in the Contract pursuant to clause 7.2.3, the Contractor must ensure that premises used for the provision of services under the Contract are:

(a) suitable for the delivery of those services; and

(b) sufficient to meet the reasonable needs of the Contractor's patients.

7.2.3. Where, on the date on which the Contract was signed, the Commissioner is not satisfied that all or any of the premises specified in clause 7.2.1 met the requirements set out in clause 7.2.2 and consequently the Commissioner and the Contractor have together drawn up a plan (contained in Schedule 5 to this Contract) which specifies:

(a) the steps to be taken by the Contractor to bring the premises up to the relevant standard;

(b) any financial support that is available from the Commissioner; and

(c) the timescale in which such steps will be taken.[28]

7.2.4. The Contractor must comply with the plan specified in clause 7.2.3 and contained in Schedule 5 to this Contract as regards the steps to be taken by the Contractor to meet the requirements in clause 7.2.2 and the timescale in which those steps will be taken.

7.2A. Remote provision outside *practice premises*

[25] This clause is required by *the Regulations* (see regulation 53).
[26] Except where specifically indicated in a footnote, this whole section (Provision of Services) is required by *the Regulations* (see regulation 20(1)(b), (4) and (5), 32 and Part 1 of Schedule 3).
[27] All relevant addresses from which services under the Contract will be provided by the Contractor or any subcontractor must be included here. It does not include the homes of patients, any other premises where services are provided on an emergency basis, or premises where services are provided under clause 7.2A (remote provision outside practice premises). This clause is required by regulation 20(1)(b) of *the Regulations,* together with regulation 20(4).
[28] Clause 7.2.3, clause 7.2.4 and Schedule 6 need only be included in the Contract if the Commissioner is not satisfied that any or all of the premises at which services are to be provided meet the standards set out in clause 7.2.2 at the date the Contract is signed. If the premises do meet the standards, these clauses can be deleted.

7.2A.1. Without prejudice to clauses 7.6 and 8.1.2(b)(iii), the Contractor and any sub-contractor may provide a *remote service* from a location which does not constitute *practice premises*, if the requirements in clause 7.2A.2 are met.

7.2A.2. The requirements referred to in clause 7.2A.1 are that:

(a) the service is provided from an appropriate location;

(b) the service is provided through an appropriate digital or telecommunications method; and

(c) the service is appropriate for provision outside of *practice premises*.

7.2A.3. For the purposes of clause 7.2A.2(a), a location is not appropriate if:

(a) the location or its environment is not conducive to ensuring the confidentiality of *patient information*, in connection with the service to be provided from that location;

(b) the location or its environment is not conducive to ensuring appropriate provision of the service from that location.

7.2A.4. For the purposes of clause 7.2A.2(b), a digital or telecommunications method is appropriate if it meets:

(a) the requirements in the *GPIT Operating Model* relevant to that method, including any requirements as to software, or

(b) requirements which are equivalent in their effect to the relevant requirements in the *GPIT Operating Model*.

7.2A.5. For the purposes of clause 7.2A.2(c) the service is not appropriate for provision outside of *practice premises* if:

(a) it would not be clinically appropriate for the *patient* on that occasion; or

(b) it is otherwise not appropriate to the needs or circumstances of the *patient*.

7.2A.6. For the purposes of clause 7.2A.3(a), “patient information” means information which relates to the physical or mental health or condition of a *patient*, to the diagnosis of their condition, to their care and treatment, or information which is to any extent derived, directly or indirectly, from such information.

7.3. **Telephone services**

7.3.1. The Contractor must not be a party to a contract or other arrangement under which the number for telephone services ("relevant telephone services”) to be used by:

(a) patients to contact the Contractor’s *practice* for any purpose related to the Contract; or

(b) any other person to contact the Contractor's *practice* in relation to services provided as part of the *health service*,

starts with the digits 087, 090 or 091 or consists of a *personal number*, unless the service is provided free of charge to the caller.

7.3.2 The Contractor must ensure that any new contract or other arrangement relating to *relevant telephone services* is procured under the Advanced Telephony Better Purchasing Framework.[29]

7.3.3 Where NHS England requires, the Contractor must make available to NHS England, within such reasonable time frame as specified by NHS England, such information as specified by NHS England that is available to the Contractor in relation to the handling of calls under relevant telephone services.[30]

7.3A. **Reserved**

7.3A.1 Reserved.

7.4. **Cost of relevant calls**

7.4.1. The Contractor must not enter into, renew or extend a contract or other arrangement for telephone services unless it is satisfied that, having regard to the arrangement as a whole, persons will not have to pay more to make relevant calls to the Contractor's *practice* than they would to make equivalent calls to a *geographical number*.

7.4.2. Where it has not been possible to ensure that persons will not pay more to make relevant calls to the Contractor's *practice* than they would to make equivalent calls to a *geographical number*, the Contractor must consider introducing a system under which if a caller asks to be called back, the Contractor will do so at the Contractor's own expense.

7.4.3. For the purpose of clause 7.4:

(a) "relevant calls" means calls:

(i) made by patients to the *practice* for any reason related to services provided under the contract, and

(ii) made by persons, other than patients, to the *practice* in relation to services provided as part of the *health service*.

[29] https://digital.nhs.uk/services/digital-services-for-integrated-care/advanced-telephony-better-purchasing-framework/buyers-guide. Hard copies are available from NHS England, Wellington House, 133-155 Wellington Road, London SE1 8UG.

[30] This clause takes effect from 1 October 2024 (see The National Health Service (Primary Medical Services and Performers Lists) (Amendment) Regulations (S.I. 2024/575)).

7.5 Contact with the practice

7.5.1 The Contractor must take steps to ensure that all of the following means of contacting the Contractor are available for patients throughout core hours:

(a) by attending the Contractor's *practice premises*;

(b) by telephone; and

(c) through the practice's *online consultation tool* within the meaning give in sub-clause 16.5ZD.2.

7.5.1A The Contractor must take steps to ensure that a patient who contacts the Contractor through:

(a) any of the means listed in sub-clause 7.5.1(a) to (c); or

(b) a relevant electronic communication method within the meaning given in sub-clause 16.5ZE.3,

is provided with an appropriate response in accordance with the following sub-clauses.

7.5.2 Subject to sub-clause 7.5.2A, the appropriate response is that the Contractor must:

(a) invite the patient for an appointment, either to attend the Contractor's *practice premises* or to participate in a telephone or *video consultation*, at a time which is appropriate and reasonable having regard to all the circumstances;

(b) provide appropriate advice or care to the patient by another method;

(c) invite the patient to make use of, or direct the patient towards, appropriate services which are available to the patient, including services which the patient may access themselves; or

(d) communicate with the patient:

(i) to request further information; or

(ii) as to when and how the patient will receive further information on the services that may be provided to them, having regard to the urgency of their clinical needs and other relevant circumstances.

7.5.2A The Contractor must not ask a patient to contact the practice on another day.

7.5.3 For matters which the Contractor has identified as clinically urgent, the appropriate response must be provided:

(a) if the contact is made outside *core hours*, during the following *core hours*;

(b) in any other case, during the day on which the *core hours* fall.

7.5.3A For matters which the Contractor has identified as not clinically urgent, the appropriate response must be provided before the end of

the next working day after contact.

7.5.4 The appropriate response must take into account:

(a) the needs of the patient, including the need to avoid jeopardising the patient's health;

(b) where appropriate, the preferences of the patient; and

(c) any benefits to the patient of providing for continuity of the health care professional involved in their care and treatment.

7.6. Attendance outside *practice premises*

7.6.1. Where the medical condition of a patient is such that in the reasonable opinion of the Contractor attendance on the patient is required and it would be inappropriate for the patient to attend the Contractor's *practice premises*, the Contractor must provide services to that patient at whichever of the following places is, in the Contractor's judgement, the most appropriate:

(a) the place recorded in the patient's medical records as being the patient's last home address;

(b) such other place as the Contractor has informed the patient and the Commissioner is the place where the Contractor has agreed to visit and treat the patient; or

(c) another place in the Contractor's *practice area*.

7.6.2. Nothing in this clause or clause 7.6.1 prevents the Contractor from:

(a) arranging for the referral of the patient without first seeing the patient, in any case where the patient's medical condition makes that course of action appropriate; or

(b) visiting the patient in circumstances where this clause or clause 7.6.1 does not place the Contractor under an obligation to do so.

7.7. Newly *registered patients*

7.7.1. Where a patient has been accepted on the *Contractor's list of patients* under clause 13.5 or assigned to that list by the Commissioner, the Contractor must invite the patient to participate in a *remote consultation* or a consultation either at the Contractor's *practice premises* or, if the patient's medical condition so warrants, at one of the places described in clause 7.6.1. Such an invitation must be issued by the Contractor before the end of the period of six months beginning with the date of the acceptance of the patient on, or assignment of the patient to, the *Contractor's list of patients*.

7.7.2. Where a patient (or, where appropriate, in the case of a patient who is a *child*, the patient's *parent*) agrees to participate in a

consultation mentioned in clause 7.7.1 above, the Contractor must, during the course of that consultation, make such inquiries and undertake such examinations as appear to the Contractor to be appropriate in all the circumstances.

7.7A. Newly *registered patients* – alcohol dependency screening

7.7A.1. Where a patient has been:

(a) accepted onto the *Contractor's list of patients*; or

(b) assigned to that list by the Commissioner,

the Contractor must, whether as part of the consultation which the Contractor is required to offer the patient under clause 7.7.1 or otherwise, take action to identify any such patient over the age of 16 who is drinking alcohol at increasing or higher risk levels with a view to seeking to reduce the alcohol related risks to that patient.

7.7A.2. The Contractor must comply with the requirement in clause 7.7A.1 by screening the patient using either of the two shortened versions of the World Health Organisation Alcohol Use Disorders Identification ("AUDIT") questionnaire[31] which are known as:

(a) FAST (which has four questions); or

(b) AUDIT-C (which has three questions).

7.7A.3. Where, under clause 7.7A.2, the Contractor identifies a patient as positive using one of the shortened versions of the AUDIT questionnaire specified in clause 7.7A.2, the remaining questions of the full ten question AUDIT questionnaire are to be used by the Contractor to determine increasing risk, higher risk or likely dependent drinking.

7.7A.4. Where a patient is identified as drinking at increasing or higher risk levels, the Contractor must:

(a) offer the patient appropriate advice and lifestyle counselling;

(b) respond to any other need identified in the patient which relates to the patient's levels of drinking, including by providing additional support or treatment required for people with mental health issues; and

(c) in any case where the patient is identified as a dependent drinker, offer the patient a referral to such specialist services as are considered clinically appropriate to meet the needs of the patient.

[31] The World Health Organisation Alcohol Use Disorders Identification Test (AUDIT) questionnaire can be accessed at http://www.who.int/substance_abuse/activities/sbi/en/. Further information about the test, and the questionnaires themselves, is available in hard copy from NHS England, PO Box 16738, Redditch, B97 7PT

7.7A.5. Where a patient is identified as drinking at increasing or higher risk levels or as a dependent drinker, the Contractor must ensure that the patient is:

(a) assessed for anxiety and depression;

(b) offered screening for anxiety and depression; and

(c) where anxiety and depression is diagnosed, provided with any treatment or support which may be required under the Contract, including referral for specialist mental health treatment.

7.7A.6 The Contractor must make relevant entries, including the results of the completed questionnaire referred to in clause 7.7A.2, in the patient's record that the Contractor is required to keep under clause 16.1.

7.7AA Patients living with frailty

7.7AA.1 The Contractor must take steps each year to identify any *registered patient* aged 65 years and over who is living with moderate to severe frailty.

7.7AA.2 The Contractor must comply with the requirements of clause 7.7AA.1 by using the Electronic Frailty Index[32] or any other appropriate assessment tool.

7.7AA.3 Where the Contractor identifies a patient aged 65 or over who is living with severe frailty, the Contractor:

7.7AA.3.1 undertake a clinical review in respect of the patient which includes:

(a) an annual review of the patient's medication; and

(b) where appropriate, a discussion with the patient about whether the patient has fallen in the last 12 months,

7.7AA.3.2 provide the patient with any other clinically appropriate interventions; and

7.7AA.3.3 where the patient does not have an enriched Summary Care Record[33], advise the patient about the benefits of having an enriched Summary Care Record and activate that record at the patient's request.

[32] Information about the Electronic Frailty Index is available in guidance published by NHS England entitled "Supporting Routine Frailty Identification through the GP Contract 2017/18". This guidance is available at: https//www.england.nhs.uk/publication/supporting-routine-frailty-identification-and-frailty-through-the-gp-contract-20172018/ or from NHS England, PO Box 16738, Redditch, B97 7PT.

[33] Guidance about enriching a patient's Summary Care Record with additional information published by *NHS England* is available at: http://webarchive.nationalarchives.gov.uk/20160921135209/http:/systems.digital.nhs.uk/scr/additional/patientconsent.pdf or from *NHS England*, 4 Trevelyan Square, Boar Lane, Leeds LS1 6AA.

7.7AA.4 The Contractor must, using codes agreed by *NHS England* for the purpose, record in the patient's Summary Care Record any appropriate information relating to clinical interventions provided to a patient under this clause.

7.7B. Accountable GP

7.7B.1. A Contractor must ensure that for each of its *registered patients* (including those patients under the age of 16) there is assigned an *accountable GP*.

7.7B.2. The *accountable GP* must take lead responsibility for ensuring that any services which the Contractor is required to provide under the Contract are, to the extent that their provision is considered necessary to meet the needs of the patient, coordinated and delivered to the patient.

7.7B.3. The Contractor must:

(a) inform the patient, as soon as is reasonably practicable and in such manner as is considered appropriate by the Contractor's *practice*, of the assignment to the patient of an *accountable GP* and must state the name and contact details of the *accountable GP* and the role and responsibilities of the *accountable GP* in respect of the patient;

(b) inform the patient as soon as any circumstances arise in which the *accountable GP* is not able, for any significant period, to carry out the duties of an *accountable GP* in respect of the patient; and

(c) where the Contractor's *practice* considers it to be necessary, assign a replacement *accountable GP* to the patient and inform the patient accordingly.

7.7B.4. The Contractor must comply with the requirement in clause 7.7B.3 in the case of any person who is accepted by the Contractor as a *registered patient* on or after the date *the Regulations* came into force within 21 days from the date on which that patient is so accepted.

7.7B.5. The requirement in this clause 7.7B does not apply to:

(a) any patient of the Contractor who is aged 75 or over, or who attains the age of 75, on or after the date the Regulations came into force; or

(b) any other patient of the Contractor if the Contractor has been informed that the patient does not wish to have an *accountable GP*.

7.7B.6. Where, under clause 7.7B.3(a), the Contractor informs a patient of the assignment to the patient of an *accountable GP*, the patient may express a preference as to which *general medical practitioner* within the Contractor's *practice* the patient would like to have as the patient's *accountable GP* and, where such a preference has been expressed, the Contractor must make reasonable efforts to accommodate the request.

7.7B.7. Where, under clause 7.7B.5(b), the Contractor has been informed by, or in relation to, a patient that the patient does not wish to have an *accountable GP*, the Contractor must record that fact in the patient's record that the Contractor is required to keep under clause 16.1.

7.7B.8. The Contractor must include information about the requirement to assign an *accountable GP* to each of its new and existing *registered patients*:

(a) on the Contractor's *practice website* or *online practice profile*; and

(b) in the Contractor's *practice leaflet*.

7.8. **Patients not seen within 3 years**

7.8.1. This clause 7.8 applies where a *registered patient* who has attained the age of 16 years but has not attained the age of 75 years:

(a) requests a consultation with the Contractor; and

(b) has not attended either a consultation with, or a clinic provided by, the Contractor within the period of three years prior to the date of the request.

7.8.2. The Contractor must:

(a) provide the patient with a consultation; and

(b) during that consultation, make such inquiries and undertake such examinations of the patient as the Contractor considers appropriate in all the circumstances.

7.8.3. This clause 7.8 does not affect the Contractor's other obligations under the Contract in respect of the patient.

7.9. **Patients aged 75 years and over**

7.9.1. Where a *registered patient* who requests a consultation:

(a) has attained the age of 75 years; and

(b) has not participated in a consultation within the of twelve month period prior to the date of the request,

the Contractor must provide such a consultation during which it must make such inquiries and undertake such examinations as it considers appropriate in all the circumstances.

7.9.2. A consultation under clause 7.9.1 must take place in the home of the patient where, in the reasonable opinion of the Contractor, it would be inappropriate, as a result of the patient's medical condition, for the patient to attend at the *practice premises* or to participate in a *remote consultation*. Clauses 7.9.1 and 7.9.2 do not affect the Contractor's other obligations under the Contract in respect of the patient.

7.9.3. The Contractor must ensure that for each of its *registered patients* aged 75 and over there is assigned an *accountable GP*.

7.9.4. The *accountable GP* must:

(a) take lead responsibility for ensuring that all services which the Contractor is required to provide under the Contract are, to the extent that their provision is considered necessary to meet the needs of the patient, delivered to the patient;

(b) take all reasonable steps to recognise and appropriately respond to the physical and psychological needs of the patient in a timely manner;

(c) ensure that the patient receives a *health check* if, and within a reasonable period after, one has been requested; and

(d) work co-operatively with such other health and social care professionals who may become involved in the care and treatment of the patient to ensure the delivery of a multidisciplinary care package designed to meet the needs of the patient.

7.9.5. The Contractor must:

(a) inform the patient, in such manner as is considered appropriate by the Contractor's *practice*, of the assignment to the patient of an *accountable GP;*

(b) provide the patient with the name and contact details of the *accountable GP* and information regarding the role and responsibilities of the *accountable GP* in respect of the patient;

(c) inform the patient as soon as any circumstances arise in which the *accountable GP* is not able, for any significant period, to carry out the duties of an accountable GP in respect of the patient; and

(d) where the Contractor's *practice* considers it to be necessary, assign a replacement *accountable GP* to the patient and inform the patient accordingly.

7.9.6. The Contractor must comply with the requirement in clause 7.9.5(a):

(a) in the case of any person aged 75 or over who is accepted by the Contractor as a *registered patient*, on or after the date on which *the Regulations* came into force, before the end of the period of 21 days beginning with the date on which that person was so accepted; or

(b) in the case of any person who is included in the *Contractor's list of patients* immediately before the date on which *the Regulations* came into force who attains the age of 75 or over on or after that date, before the end of the

period of 21 days from the date on which that person attained that age.

7.9A **NHS e-Referral Service (e-RS)**

7.9A.1. Except in the case of a contactor to which clause 7.9A.2 or 7.9A.3 applies, the Contractor must require the use in its *practice* of the system for electronic referrals known as the NHS e-Referral Service ("e-RS") in respect of each referral of any of its *registered patients* to a first consultant-led out-patient appointment for medical services under the Act in respect of which the facility to use e-RS is available.

7.9A.2. This clause applies to a contractor which does not yet have e-RS in place for use in the Contractor's *practice*.

7.9A.3. This clause applies to a contractor which:

(a) is experiencing technical or other practical difficulties which are preventing the use, or effective use, of e-RS in its *practice*; and

(b) has notified the Commissioner that this is the case.

7.9A.4. A contractor to which clause 7.9A.2 applies must require the use in its *practice* of alternative means of referring its registered patients to a first consultant-led outpatient appointment for medical services under the Act until such time as the contractor has e-RS in place for use in its *practice*.

7.9A.5. A contractor to which clause 7.9A.3 applies:

(c) must ensure that a plan is agreed between the contractor's *practice* and the Commissioner for resolving the technical or other practical difficulties which are preventing the use, or effective use, of e-RS in the Contractor's *practice*; and

(d) must require the use in its *practice* of alternative means of referring its registered patients to a first consultant-led out-patient appointment for medical services under the Act until such time as those technical or other practical difficulties have been resolved to the satisfaction of the Commissioner.

7.9B. **Direct booking by NHS 111 or via a *connected service***

7.9B.1. The Contractor must ensure that as a minimum the following number of appointments during *core hours* for its *registered patients* are made available per day for direct booking by or via a service ("a connected service") approved by *NHS England* that is or may be accessed via NHS 111:

(a) one, where the Contractor has 3,000 *registered patients* or fewer; or

(b) one for each whole 3,000 *registered patients*, where the Contractor has more than 3,000 *registered patients*.

7.9B.2. The Contractor must:

(a) configure its computerised systems to allow direct booking by NHS 111 or via *a connected service*;

(b) monitor its booking system for appointments booked by NHS 111 or via *a connected service*;

(c) assess the *Post Event Message* received from NHS 111 or via *a connected service* in order to decide whether an alternative to the booked appointment should be arranged, such as a telephone call to the patient or an appointment with another *health care professional* and where appropriate, make those arrangements; and

(d) co-operate with *NHS England* in its oversight of direct booking by NHS 111 or via *a connected service* by providing any information relating to direct booking by NHS 111 or via *a connected service* which is reasonably required by *NHS England*.

7.9B.3. The requirements in clauses 7.9B.1 and 7.9B.2 do not apply where:

(a) *NHS England* has agreed to a request from the Contractor to suspend the requirements for operational reasons; or

(b) the Contractor does not have access to computer systems and software which would enable it to offer the service described in clause 7.9B.1.

7.9B.4. In this clause 7.9B, *"Post Event Message"* means the electronic message which is sent to a contractor at the end of a telephone call to NHS 111 or via *a connected service*.

7.9B.5 In order to assist in the management of a serious or potentially serious risk to human health arising as a consequence of a disease being, or in anticipation of a disease being imminently:

(a) pandemic; and

(b) a serious risk or potentially a serious risk to human health;

NHS England may with the agreement of *the Secretary of State* make an announcement to the effect that the minimum numbers of appointments mentioned in clause 7.9B.1 are modified in the circumstances specified (which may limit the area to which the modification relates), and for the duration of the period specified, in the announcement, and where *NHS England* does so, the minimum numbers are as so modified.

7.9C. **Referral pathways**

7.9C.1. The Commissioner may notify the Contractor of *referral pathways* that apply to the referral of patients for other services under the 2006 Act.

7.9C.2. The Contractor must, where clinically appropriate, comply with any relevant referral pathways notified under clause 7.9C.1., prior to referring a patient for services under the 2006 Act.

7.9C.3. In this paragraph:

"Advice and Guidance" means arrangements established by the Commissioner to enable contractors to obtain consultant-led clinical advice about the management of a patient for the purpose of informing clinical decision making in relation to a referral;

"referral pathways" means arrangements, such as *Advice and Guidance*, determined by the Commissioner as applying to the referral of a patient for a service under the 2006 Act, including any locally determined arrangements that apply in relation to the Contractor's *practice area*.

7.9D. **Directory of Services**

7.9D.1. The Contractor must record in the *Directory of Services* an electronic mail address nominated for the purpose of communicating clinical information relating to the Contractor's patients with health service providers.

7.9D.2. The Contractor must monitor the electronic mail address nominated under clause 7.9D.1. at least once per day during core hours.

7.9D.3. In clause 7.9D.1., "Directory of Services" means the national directory of services provided as part of the health service in England, managed by the Commissioner.[34]

7.10. **Clinical reports**

7.10.1. Where the Contractor provides clinical services, other than under a private arrangement, to a patient who is not on its list of patients, the Contractor must, as soon as reasonably practicable, provide to the Commissioner a clinical report relating to that consultation, and any treatment provided to the patient.

7.10.2. The Commissioner must send a report received in accordance with clause 7.10.1 to the person with whom the patient is registered for the provision of *essential services* or their equivalent.

7.10.3. This clause 7.10 does not apply in relation to the provision of *out of hours services* provided by the Contractor on or after 1st January 2005.

7.11. **Storage of vaccines**

7.11.1. The Contractor must ensure that:

(a) all vaccines are stored in accordance with the manufacturer's instructions; and

[34] For further information, see: https://digital.nhs.uk/services/directory-of-services-dos

(b) all refrigerators in which vaccines are stored have a maximum/minimum thermometer and that temperature readings are taken on all working days.

7.12. **Infection control**

7.12.1. The Contractor must ensure that it has appropriate arrangements in place for infection control and decontamination.

7.13. **Duty of co-operation in relation to *minor surgery*, *enhanced* and *out of hours services*[35]**

7.13.1. Where the Contractor is not, pursuant to the Contract, providing to its *registered patients* or to persons whom it has accepted as *temporary residents*:

(a) *minor surgery*;

(b) a particular *enhanced service*, except in relation to one provided under the Network Contract Directed Enhanced Service Scheme which is a scheme provided for by the *Primary Medical Services (Directed Enhanced Services) Directions*; or

(c) *out of hours services*, either at all or in respect of some periods or some services,

the Contractor must comply with the requirements specified in clause 7.13.2.

7.13.2. The requirements specified in this sub-clause are that the Contractor must:

(a) co-operate, insofar as is reasonable, with any person responsible for the provision of that service or those services;

(b) comply in *core hours* with any reasonable request for information from such a person or from the Commissioner relating to the provision of that service or those services; and

(c) in the case of *out of hours services*:

(i) take reasonable steps to ensure that any *patient* who contacts the Contractor's *practice* during the *out of hours period* is provided with information about how to obtain services during that period;

(ii) ensure that the clinical details of all *out of hours* consultations received from the *out of hours* provider are reviewed by a clinician within the Contractor's *practice* on the same working day as those details are received by the *practice* or, exceptionally, on the next day;

[35] Although not every aspect of clauses 7.13.1 to 7.13.4 will be relevant to every Contractor, these clauses should be left in every GMS Contract as in many cases, a Contractor will not be providing *minor surgery,* each *enhanced service* and *out of hours services:* these clauses have been drafted so that they can be left in the Contract even if that were to be the case. These clauses are required by paragraph 15 of Schedule 3 to *the Regulations.*

(iii) ensure that any information requests received from the *out of hours* provider in respect of any *out of hours* consultations are responded to by a clinician within the Contractor's *practice* on the same day as those requests are received by the Contractor's *practice*, or on the next working day;

(iv) take all reasonable steps to comply with any systems which the *out of hours* provider has in place to ensure the rapid, secure and effective transmission of patient data in respect of *out of hours* consultations; and

(v) agree with the *out of hours* provider a system for the rapid, secure and effective transmission of information about *registered patients* who, due to chronic disease or terminal illness, are predicted as more likely to present themselves for treatment during the *out of hours period*.

7.13.3. Nothing in clauses 7.13.1 and 7.13.2 requires the Contractor (if it is not providing *out of hours services* under the Contract) to make itself available during the *out of hours period*.

7.13.4. If the Contractor is to cease to be required to provide to its p*atients*:

(a) *minor surgery*;

(b) a particular *enhanced service*; or

(c) *out of hours services,* either at all or in respect of some periods or some services,

the Contractor must comply with any reasonable request for information relating to the provision of that service, or those services, made by the Commissioner or by any person with whom the Commissioner intends to enter into a contract for the provision of such services.

7.13.5 **Co-operation with the Commissioner: performance management**

7.13.5.1. The Contractor must co-operate with the Commissioner, in so far as is reasonable, in relation to the performance and improvement of services provided under this Contract, including co-operating with the provision of any support, performance review or improvement activity.

7.13A. **Duty of co-operation: Primary Care Networks**

7.13A.1. The Contractor must comply with the requirements in clause 7.13A.2 where it is:

(a) signed up to the Network Contract Directed Enhanced Service Scheme ("*the Scheme*"); or

(b) not signed up to the Scheme but its *registered patients* or *temporary residents*, are provided with services under the Scheme ("*the services*") by a contractor which is a member of a *primary care network*.

7.13A.2. The requirements referred to in clause 7.13A.1 are that the Contractor must:

(a) co-operate, in so far as is reasonable, with any person responsible for the provision of *the services*;

(b) comply in core hours with any reasonable request for information from such a person or from the Commissioner relating to the provision of *the services*;

(c) have due regard to the guidance published by *NHS England*;

(d) participate in *primary care network* meetings, in so far as is reasonable;

(e) take reasonable steps to provide information to its *registered patients* about *the services*, including information on how to access *the services* and any changes to them; and

(f) ensure that it has in place suitable arrangements to enable the sharing of data to support the delivery of *the services*, business administration and analysis activities.

7.13A.3. For the purposes of this paragraph, "*primary care network*" means a network of contractors and other providers of services which has been approved by the Commissioner, serving an identified geographical area.

7.13B. **Duty to have regard to Armed Forces Covenant principles**

7.13B.1 When providing services under this Contract, the Contractor must have due regard to the principles contained in section 343AA(1)(a) to (c) of the Armed Forces Act 2006[36] in relation to its patients and prospective patients.

7.14. ***Private services***

7.14.1. Where the Contractor proposes to provide *private services* in addition to *primary medical services*, to persons other than its patients the provision must take place:

(a) outside of the hours the Contractor has agreed to provide *primary medical services*; and

(b) on no part of any *practice premises* in respect of which the Commissioner makes any payments pursuant to the National Health Service (General Medical Services - Premises Costs) Directions 2013 save where the *private services* are those specified in clause 19.1.2B.

[36] 2006 c. 52. Section 343AA was inserted by sections 8(1) and (3) of the Armed Forces Act 2021 (c. 35)

8 PART 8[37]

8.1 Essential Services

8.1.1. Subject to clause 8.1.8, the Contractor must provide the services described in Part 8 (namely *essential services*) at such times, within *core hours*, as are appropriate to meet the reasonable needs of its patients, and to have in place arrangements for its patients to access such services throughout the *core hours* in case of emergency[38].

8.1.2. The Contractor must provide:

(a) services required for the management of the Contractor's *registered patients* and *temporary residents* who are, or believe themselves to be:

(i) ill with conditions from which recovery is generally expected;

(ii) terminally ill; or

(iii) suffering from chronic *disease*,

which are delivered in the manner determined by the Contractor's *practice* in discussion with the patient;

(b) appropriate ongoing treatment and care to all of the Contractor's *registered patients* and *temporary residents* taking account of their specific needs including:

(i) advice in connection with the patient's health and relevant health promotion advice;

(ii) the referral of a patient for other services under the *2006 Act*;

(iii) *primary medical services* required in *core hours* for the immediately necessary treatment of any person to whom the Contractor has been requested to provide treatment owing to an accident or emergency at any place in the Contractor's *practice area*; and

(iv) *cervical screening services*, *child health surveillance services*, *contraceptive services*, *maternity medical services* and *vaccine and immunisation services*.

8.1.3. For the purposes of clause 8.1.2, "management" includes:

(a) offering a consultation and, where appropriate, physical examination for the purposes of identifying the need, if any, for treatment or further investigation; and

[37] This Part is required by *the Regulations* (see regulation 17). Every GMS Contract must require the Contractor to provide *essential services.*

[38] This clause is also required by regulation 20 of *the Regulations.*

(b) making available such treatment or further investigation as is necessary and appropriate, including the referral of the patient for other services under the *2006 Act* and liaison with other *health care professionals* involved in the patient's treatment and care.

8.1.4. For the purposes of clause 8.1.2(b)(iii) "emergency" includes any medical emergency whether or not related to services provided under the Contract.

8.1.5. The Contractor must provide *primary medical services* required in *core hours* for the immediately necessary treatment of any person to whom clause 8.1.6 applies who requests such treatment, for the period specified in clause 8.1.7.

8.1.6. This clause applies to a person if:

(a) that person's application for inclusion in the *Contractor's list of patients* has been refused in accordance with clauses 13.7, 13.17A.4, or 13.17A.6, and that person is not registered with another provider of *essential services* (or their equivalent);

(b) that person's application for acceptance as a *temporary resident* has been rejected under clauses 13.7, 13.17A.5, or 13.17A.7; or

(c) that person is present in the Contractor's *practice area* for a period of less than 24 hours.

8.1.7. The period referred to in clause 8.1.5 is, in the case of a person to whom:

(a) clause 8.1.6(a) applies, 14 days beginning with the *relevant date* or until that person has been subsequently registered elsewhere for the provision of *essential services* (or their equivalent), whichever occurs first;

(b) clause 8.1.6(b) applies, 14 days beginning with the *relevant date* or until that person has been subsequently accepted elsewhere as a *temporary resident*, whichever occurs first; or

(c) clause 8.1.6(c) applies, 24 hours or such shorter period as the person is present in the Contractor's *practice area*.

8.1.7A For the purposes of clause 8.1.7 *"relevant date"*:

(a) if the person's application is refused in accordance with clauses 13.17A.4, 13.17A.5, 13.17A.6 or 13.17A.7, means the later of:

(i) the date on which the application is refused; and

(ii) the date on which the person returns to the United Kingdom.

(b) if the person's application is refused in accordance with clause 13.7, means the date on which the application is refused.

8.1.8. The Contractor does not have to provide the services described in clauses 8.1.2 and 8.1.5 during any period in respect of which the *Care Quality Commission* has suspended the Contractor as a *service provider* under section 18 of the Health and Social Care Act 2008.

9 PART 9[39]

9.1 *Minor Surgery*

9.1.1. The Contractor must provide such facilities as are necessary to enable the Contractor to properly perform *minor surgery*.

9.1.2. Where *minor surgery* is to be funded under the *global sum*, the Contractor must provide that *minor surgery* at such times, within *core hours*, as are appropriate to meet the reasonable needs of its *patients*. The Contractor must also have in place arrangements for its *patients* to access such services throughout the *core hours* in case of emergency.

9.1.3. The Contractor shall provide *minor surgery* to:

(a) its *registered patients;* and

(b) persons accepted by it as *temporary residents*.

9.1.4. Reserved.

9.1.5. The Contractor shall provide *minor surgery* to [ ][40].

9.1.6. Reserved.

9.1.7. Reserved.

9.1.8. Reserved.

9.1.9. Reserved.

9.1.10. Reserved.

9.1.11. [ ][41]

[39] This Part only needs to be included in the Contract where the Contractor is to provide *minor surgery*. It is for the Contractor and the Commissioner to negotiate whether *minor surgery* will be provided by the Contractor. If the Contractor is providing *minor surgery* under the Contract then Part 9 must be included. This reflects the requirements of regulation 19.

[40] Clause 9.1.5 only needs to be included if the parties agree that the Contractor will provide *minor surgery* that is not funded by the *global sum.* If the parties do so agree, details need to be inserted at clause 9.1.5 of the patients to whom such services will be provided, and where *minor surgery* is to be provided to particular patients, the space in square brackets at clause 9.1.5 should be completed to make it clear to which patients *minor surgery* is provided..

[41] Clause 9.1.2 makes provision in respect of *minor surgery* funded by the *global sum* in respect of the times during which *minor surgery* is to be provided to patients. In relation to *minor surgery* that is not funded by the *global sum* (specified in clause 9.1.5), the parties will need to specify here the times during which such services are to be provided: there is further space in the clauses below to include such further detail as is necessary.

10 PART 10

10.1 Out of Hours Services[42]

10.1.1. [Subject to clause 10.1.2, the Contractor must provide:

(a) the services which must be provided in *core hours* pursuant to clauses 8.1.1 to 8.1.8; and

(b) such *minor surgery* (if any) as is included in the Contract pursuant to Part 4,

during the *out of hours period*[43]].

10.1.2. The Contractor:

(a) is only required to provide *out of hours services* to a patient if, in the Contractor's reasonable opinion having regard to the patient's medical condition, it would not be reasonable in all the circumstances for the patient to wait to obtain those services[44].

(b) must, in the provision of *out of hours services*:

(i) meet the quality requirements set out in the Integrated Urgent Care Key Performance Indicators published on 25th June 2018 (as amended from time to time) (the document is published electronically at https://www.england.nhs.uk/publication/integrated-urgent-care-key-performance-indicators-and-quality-standards-2018/)[45]; and

(ii) comply with any requests for information which it receives from, or on behalf of, the Commissioner about the provision by the Contractor of *out of hours services* to its *registered patients* in such manner, and before the end of such period, as is specified in the request.

10.1.3. Where the Contractor is not required to provide *out of hours services* or, by virtue of Part 11, has opted out of the provision of such services under the Contract, the Contractor must:

(a) monitor the quality of the *out of hours services* which are offered or provided to the Contractor's registered patients

[42] A contractor is required to provide *out of hours services* under the Contract where required under regulation 18 of *the Regulations:* otherwise it is a matter for negotiation between the parties.
[43] This clause is mandatory only if *out of hours services* are being provided pursuant to regulation 18 of *the Regulations:* if *out of hours services* are included in the Contract other than by virtue of regulation 18, details of what services are to be provided by the Contractor during the *out of hours period* should be included here instead, and the provision can be re-drafted depending on what is agreed between the parties.
[44] This clause is required whenever *out of hours services will* be provided, whether pursuant to regulation 18of *the Regulations* or not.
[45] This clause is required whenever *out of hours services will* be provided, whether pursuant to regulation 18 of *the Regulations* or not.

having regard to the Integrated Urgent Care Key Performance Indicators referred to in clause 10.1.2(b) and record, and act appropriately in relation to, any complaints;

(b) record any patient feedback received, including any complaints;

(c) report to the Commissioner, either at the request of the Commissioner or otherwise, any concerns arising about the quality of the *out of hours services* which are offered or provided to patients having regard to:

(i) any patient feedback received, including any complaints, and

(ii) the quality requirements set out in the Integrated Urgent Care Key Performance Indicators referred to in clause 10.1.2(b).

10.2. **Supply of medicines etc. by contractors providing out of hours services**[46]

10.2.1. If the Contract includes the supply of *necessary drugs, medicines and appliances* to patients at the time that the Contractor is providing them with *out of hours services,* the Contractor must comply with the requirements in clauses 10.2.2 to 10.2.5.

10.2.2. The Contractor must ensure that an *out of hours performer*:

(a) only supplies *necessary drugs, medicines and appliances*;

(b) supplies the *complete course* of the necessary medicine or drug to treat the patient; and

(c) does not supply:

(i) drugs, medicines or appliances which the Contractor could not lawfully supply,

(ii) appliances which are not listed in Part IX of the *Drug Tariff*,

(iii) *restricted availability appliances*, except where the patient is a person, or it is for a purpose, specified in the *Drug Tariff*, or

(iv) a drug, medicine or other substance listed in Schedule 1 to the *Prescription of Drugs Regulations* (drugs, medicines and other substances not to be ordered under a general medical services contract), or a drug listed in Schedule 2 to those Regulations other than in the circumstances specified in that Schedule.

10.2.3. The *out of hours performer:*

[46] This clause is required whenever *out of hours services will* be provided, whether pursuant to regulation 18 of *the Regulations* or not.

(a) must, except where subclause (b) applies, record on a separate *supply form* for each patient any drugs, medicines or appliances supplied to the patient; and

(b) may complete a *single supply form* in respect of the supply of any *necessary drugs, medicines or appliances* to two or more persons in a school or other institution in which at least 20 persons normally reside, in which case the *out of hours* performer may write on the *supply form* the name of the school or institution rather than the name of each individual patient.

10.2.4. The *out of hours performer* must ask any person to produce satisfactory evidence of such entitlement where that person makes a declaration that a patient does not have to pay any of the charges specified in regulations made under sections 172 (charges for drugs, medicines or appliances, or pharmaceutical services) or section 174 (pre-payment certificates) of the *2006 Act* in respect of *dispensing services* to a patient by virtue of either:

(a) entitlement to exemption under regulations made under section 172 or 174 of the *2006 Act*; or

(b) entitlement to full remission of charges under regulations made under sections 182 (remission and repayment of charges) or 183 (payment of travelling expenses) of that Act,

unless at the time of the declaration satisfactory evidence of entitlement is already available to the *out of hours performer*.

10.2.5. If, in accordance with clause 10.2.4, no satisfactory evidence of entitlement is produced or no such evidence is otherwise already available to the *out of hours performer*, the *out of hours performer* must endorse the *supply form* to that effect.

10.2.6. Subject to clause 10.2.7, nothing in clauses 10.2.1 to 10.2.5 prevents an *out of hours performer* from supplying a *Scheduled drug* or a *restricted availability appliance* in the course of treating a patient under a private arrangement.

10.2.7. The provisions of Part 19 which relate to fees and charges apply in respect of the supply of *necessary drugs, medicines and appliances* under clauses 10.2.1 to 10.2.5 as they apply in respect of prescriptions for drugs, medicines and appliances.

10.2.8. If the Contractor is required to provide *out of hours services* under the Contract pursuant to regulation 31 of *the 2004 Regulations* to the patients of an exempt contractor it shall provide such services, and continue to provide such services until:

(a) it has opted out of the provision of *out of hours services* in accordance with Part 11 of this Contract;

(b) the Commissioner has agreed in writing that the Contractor need no longer provide some or all of those services to some or all of those patients[47].

10.2.9. [If the Contractor is required to provide *out of hours services* under the Contract, pursuant to article 20 of *the Transitional Order*, to the patients of a party to a *default contract* who is an exempt contractor (within the meaning of that article) it shall provide such services to those patients, and continue to provide such services until:

(a) the exempt contractor's *default contract* referred to in article 20(3)(a) of *the Transitional Order* has come to an end and not been succeeded by a *general medical services contract* which does not include *out of hours services* pursuant to regulation 30(1)(b) of *the 2004 Regulations*;

(b) the Contractor has opted out of the provision of *out of hours services* in accordance with Part 11 of the Contract; or

(c) the Commissioner has agreed in writing that the Contractor need no longer provide some or all of those services to some or all of those patients.][48]

[47] This clause is only required if the Contractor is providing *out of hours services* pursuant to regulation 18 of *the Regulations.* Otherwise this clause should be deleted.

[48] Clause 10.2.9 only needs to be included if, pursuant to article 20 of the *Transitional Order,* the Contractor will be responsible for providing *out of hours* services to the patients of a party to a *default contract.* If it is not relevant to the Contractor, the clause can be deleted.

11 PART 11

11.1 Opt outs of minor surgery and out of hours services[49]

11.1. Opt outs of minor surgery: general

11.1.1. Where the Contractor wants to *permanently opt out* or *temporarily opt out* of the provision of *minor surgery* (referred to in clauses 11.1.2 to 11.3.11 below as "*minor surgery*"), the Contractor must give to the Commissioner in writing a *preliminary opt out notice* which must state the reasons for the Contractor wanting to opt out.

11.1.2. The Commissioner must enter into discussions with the Contractor concerning:

(a) the support which the Commissioner is able to give the Contractor, or

(b) other changes which the Commissioner or the Contractor may make,

that would enable the Contractor to continue to provide *minor surgery*.

11.1.3. The discussions referred to in clause 11.1.2 must be:

(a) entered into as soon as is reasonably practicable but before the end of the period of seven days beginning with the date on which the *preliminary opt out notice* was received by the Commissioner; and

(b) completed before the end of the period of ten days beginning with the date on which the *preliminary opt out notice* was received by the Commissioner or as soon as reasonably practicable thereafter. If, following the discussions referred to in clause 11.1.2, the Contractor still wants to opt out of the provision of *minor surgery*, the Contractor must send an *opt out notice* to the Commissioner.

11.1.4. An *opt out notice* must specify:

(a) Reserved.

(b) whether the Contractor wants to:

(i) *permanently opt out,* or

(ii) *temporarily opt out*;

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[49] These provisions are required by *the Regulations* in certain circumstances (see Part 6)):-

- if the Contract provides for the Contractor to provide *minor surgery* that is to be funded through the *global sum,* clauses 11.1.1 to 11.3.11 are required;
- if the Contract provides for the Contractor to provide *out of hours services* pursuant to regulation 18 of *the Regulations,* clauses 11.4.1 to 11.4.8 are required.

If any of the provisions relating to opt outs of *minor surgery* and *out of hours services* are included, clauses 11.5.1 to 11.5.3 are required.

(c) the reasons for the Contractor wanting to opt out;

(d) the date from which the Contractor would like the opt out to commence, which must:

(i) in the case of a *temporary opt out*, be at least 14 days after the date of the service of the *opt out notice*, and

(ii) in the case of a *permanent opt out,* be the day either three or six months after the date of service of the *opt out notice*; and

(e) in the case of a *temporary opt out*, the desired duration of the opt out.

11.1.5. Where, before the end of the period of three years ending with the date on which the *opt out notice* was given to the Commissioner, the Contractor has given two previous *temporary opt out notices* (whether or not they also concerned *minor surgery*), the latest *opt out notice* is to be treated as a *permanent opt out notice* (even if the *opt out notice* says that it wishes to *temporarily opt out*).

11.2. **Temporary opt outs and permanent opt outs following temporary opt outs**

11.2.1. Clauses 11.2.1 to 11.2.12 apply following the giving of a *temporary opt out notice*.

11.2.2. Where the Commissioner has been given a temporary opt out notice or a temporary opt out notice which, by virtue of clause 11.1.5, is treated as a permanent opt out notice, the Commissioner must, as soon as is reasonably practicable and in any event within the period of seven days beginning with the date on which the Commissioner receives a notice given under clause 11.1.3:

(a) approve the *opt out notice* and specify in accordance with clauses 11.2.4 and 11.2.5 the date on which the *temporary opt out* is to commence and the date on which it is to come to an end ("the end date"); or

(b) reject the *opt out notice* in accordance with clause 11.2.3,

and the Commissioner must give notice to the Contractor of its decision as soon as practicable, including the reasons for its decision.

11.2.3. The Commissioner may reject the *opt out notice* on the ground that the Contractor:

(a) is providing *minor surgery* to patients other than its own *registered patients*, or *enhanced services*; or

(b) has no reasonable need to *opt out* temporarily having regard to its ability to deliver *minor surgery*.

11.2.4. The date specified by the Commissioner for the commencement of the *temporary opt out* must, where reasonably practicable, be the date requested by the Contractor in the Contractor's *opt out notice*.

11.2.5. Before determining the end date, the Commissioner must make reasonable efforts to reach agreement with the Contractor.

11.2.6. Where the Commissioner approves an *opt out notice*, the Contractor's obligation to provide *minor surgery* is to be suspended from the date specified by the Commissioner in its decision under clause 11.2.2 and is to remain suspended until the end date unless:

(a) the Contractor and the Commissioner agree in writing an earlier date, in which case the suspension comes to an end on the earlier date agreed;

(b) the Commissioner specifies a later date under clause 11.2.7 in which case the suspension comes to an end on the later date specified;

(c) clause 11.2.8 applies, and the Contractor refers the matter to the *NHS dispute resolution procedure* or the court, in which case the suspension comes to an end:

(i) where the outcome of the dispute is to uphold the decision of the Commissioner, on the day after the date of the decision of *the Secretary of State* or the court;

(ii) where the outcome is to overturn the decision of the Commissioner, 28 days after the date of the decision of *the Secretary of State* or the court; or

(a) where the Contractor ceases to pursue the *NHS dispute resolution procedure* or court proceedings, on the day after the date that the Contractor withdraws its claim or the proceedings are otherwise terminated by *the Secretary of State* or the court;

(d) clause 11.2.10 applies and:

(i) the Commissioner refuses the Contractor's request for a *permanent opt out* before the end of the period of 28 days ending with the end date, in which case the suspension comes to an end 28 days after the end date; or

(ii) the Commissioner refuses the Contractor's request for a *permanent opt out* after the end date, in which case the suspension comes to an end 28 days after the date of service of the notice.

11.2.7. Before the end date, the Commissioner may, in exceptional circumstances and with the agreement of the Contractor, give notice in writing to the Contractor of a later date on which the *temporary opt out* is to come to an end, being a date no more than six months later than the end date.

11.2.8. Where the Commissioner considers that:

(a) the Contractor will be unable to satisfactorily provide *minor surgery* at the end of the *temporary opt out*; and

(b) it would not be appropriate to exercise its discretion under clause 11.2.7 to specify a later date on which the *temporary opt out* is to come to an end or the Contractor does not agree to a later date,

the Commissioner may give notice in writing to the Contractor at least 28 days before the end date that a *permanent opt out* is to follow a *temporary opt out*.

11.2.9. Where the Commissioner gives notice to the Contractor under clause 11.2.8 that the *permanent opt out* is to follow a *temporary opt out*, the *permanent opt out* is to take effect immediately after the end of the *temporary opt out*.

11.2.10. Where the Contractor has *temporarily opted out*, the Contractor may at least three months prior to the end date give notice in writing to the Commissioner that it wants to *permanently opt out* of *minor surgery*.

11.2.11. Where the Contractor has given notice to the Commissioner under clause 11.2.10 that it wants to *permanently opt out*, the *temporary opt out* is to be followed by a *permanent opt out* beginning on the day after the end date of the *temporary opt out notice* unless the Commissioner refuses the Contractor's request to *permanently opt out* by giving notice in writing to the Contractor to this effect.

11.2.12. A *temporary opt out* or *permanent opt out* commences, and a *temporary opt out* ends, at 8.00am on the relevant day unless:

(a) the day is a Saturday, Sunday, Good Friday, Christmas Day or a *bank holiday*, in which case the opt out is to take effect on the next working day at 8.00am; or

(b) the Commissioner and the Contractor agree a different day or time.

11.3. **Permanent opt outs**

11.3.1. In clauses 11.3.2 to 11.3.11–

"A Day" is the day specified by the Contractor in the *permanent opt out notice* which the Contractor gives to the Commissioner for the commencement of the *permanent opt out*;

"B Day" is the day six months after the date on which the *permanent opt out notice* was given to the Commissioner; and

"C Day" is the day nine months after the date on which the *permanent opt out notice* was given to the Commissioner.

11.3.2. The Commissioner must, as soon as is reasonably practicable and in any event before the end of the period of 28 days beginning with the date on which the Commissioner receives a *permanent opt out notice* under clause

11.1.3 (or *temporary opt out notice* which is treated as a *permanent opt out notice* under clause 11.1.5):

(a) approve the *opt out notice*; or

(b) reject the *opt out notice* in accordance with clause 11.3.3,

and the Commissioner must give notice to the Contractor of its decision as soon as possible, including the reasons for its decision where that decision is to reject the *opt out notice*.

11.3.3. The Commissioner may reject the *opt out notice* on the ground that the Contractor is providing *minor surgery* to patients other than its *registered patients* or *enhanced services*.

11.3.4. The Contractor may not withdraw an *opt out notice* once that notice has been approved by the Commissioner in accordance with clause 11.3.2(a) without the Commissioner's agreement.

11.3.5. If the Commissioner approves the *opt out notice* under clause 11.3.2(a), the Commissioner must use reasonable endeavours to make arrangements for the Contractor's *patients* to receive *minor surgery* from an alternative provider from A day.

11.3.6. The Contractor's duty to provide *minor surgery* terminates on A Day unless the Commissioner gives notice to the Contractor under clause 11.3.7 (extending A day to B day or C day).

11.3.7. If the Commissioner is not successful in finding an alternative provider to take on the provision of *minor surgery* from A day, then the Commissioner must give notice in writing to the Contractor of that fact no later than one month before A day, and in a case where A day is:

(a) three months after the date on which the *opt out notice* was given, the Contractor must continue to provide *minor surgery* until B Day unless, at least one month before B Day, the Contractor is given notice in writing by the Commissioner under clause 11.3.8 to the effect that, despite using reasonable endeavours, the Commissioner has not been able to find an alternative provider to take on the provision of *minor surgery* from B Day;

(b) six months after the *opt out notice* was given, the Contractor must continue to provide *minor surgery* until C Day.

11.3.8. Where, in accordance with clause 11.3.7(a) the *permanent opt out* is to commence on B Day and the Commissioner, despite using reasonable endeavours, has not been able to find an alternative provider to take on the provision of *minor surgery* from that day, the Commissioner must give notice in writing to the Contractor of that fact at least one month before B Day, in which case the Contractor must continue to provide *minor surgery* until C Day.

11.3.9. As soon as is practicable and in any event, within seven days of the Commissioner giving notice to the Contractor under clause 11.3.8, the

Commissioner must enter into discussions with the Contractor concerning the support that the Commissioner is able to give to the Contractor or other changes which the Commissioner or the Contractor may make in relation to the provision of *minor surgery* until C Day.

11.3.10. Nothing in clauses 11.3.1 to 11.3.9 above prevents the Contractor and the Commissioner from agreeing a different date for the termination of the Contractor's duty under the Contract to provide *minor surgery* and, accordingly, varying the Contract in accordance with clause 26.1.1.

11.3.11. The *permanent opt out* takes effect at 8.00am on the relevant day unless:

(a) the day is a Saturday, Sunday, Good Friday, Christmas Day or a *bank holiday*, in which case the opt out is to take effect on the next working day at 8.00am; or

(b) the Commissioner and the Contractor agree a different day or time.

11.4. **Out of hours services: opt outs**

11.4.1. Where the Contractor wants to terminate its obligation under the Contract to provide *out of hours services,* the Contractor must give an *out opt notice* in writing to the Commissioner to that effect (an *out of hours opt out notice*).

11.4.2. An *out of hours opt out notice* must specify the date on which the Contractor would like the out of hours opt out to take effect, which must be either three or six months after the date on which that notice is given.

11.4.3. The Commissioner must approve the *out of hours opt out notice* and specify in accordance with clause 11.4.5 the date on which the out of hours opt out is to commence ("OOH Day") as soon as is reasonably practicable and in any event before the end of the period of 28 days beginning with the date on which the Commissioner receives the *out of hours opt out notice*.

11.4.4. The Commissioner must give notice to the Contractor of its decision as soon as possible.

11.4.5. The OOH Day is the date that is specified in the *out of hours opt out notice*.

11.4.6. The Contractor may not withdraw an *out of hours opt out notice* once it has been approved by the Commissioner under clause 11.4.3 without the Commissioner's agreement.

11.4.7. Following receipt of the *out of hours opt out notice*, the Commissioner must use reasonable endeavours to make arrangements for the Contractor's *registered patients* to receive *out of hours services* from an alternative provider from OOH Day.

11.4.8. Clauses 11.3.6 to 11.3.9 apply in respect of an out of hours opt out:

(a) as they apply to a *permanent opt out*; and

(b) as if the reference to “A Day” was a reference to “OOH Day”.

11.5. **Informing patients of opt outs**

11.5.1. Before any opt out takes effect, the Commissioner and the Contractor must discuss how to inform the Contractor’s patients of the proposed opt out.

11.5.2. The Contractor must, if requested by the Commissioner, inform its *registered patients* of an opt out and of the arrangements made for those patients to receive *minor surgery* or *out of hours services* by:

(a) placing a notice in the Contractor’s *practice* waiting rooms; or

(b) including the information in the Contractor’s *practice leaflet*.

11.5.3. In clauses 11.5.1 and 11.5.2 “opt out” means an out of hours opt out, a *permanent opt out* or a *temporary opt out*.

11A Part 11A
11A Vaccines and Immunisations

11A.1 Vaccines and immunisations: duty of co-operation

11A.1.1 The Contractor must co-operate, in so far as is reasonable, with *relevant persons*:

(a) to understand the current uptake, and barriers to uptake, of offers to provide or administer vaccines and immunisations of the type specified in the *GMS Statement of Financial Entitlements* (*"relevant vaccines and immunisations"*) to *patients*; and

(b) to develop (if necessary) a strategy for improving the Contractor's immunisation programme.

11A.1.2 For the purposes of clause 11A.1.1 *"relevant persons"* means:

(a) other persons who administer *relevant vaccines and immunisations* to *patients*;

(b) *NHS England*;

(c) *the Secretary of State*; and

(d) local authorities; and

(e) *integrated care boards*.

11A.2 Vaccines and immunisations: standards

11A.2.1 A Contractor must ensure that they have in place a system for delivering appointments at which *relevant vaccines or immunisations* are administered to *patients* (*"immunisation appointments"*) which meets the *Vaccines and Immunisations Standards*.

11A.2.1A A Contractor must comply with the standards contained in the *Vaccines and Immunisations Standards* on the processing of data relating to patients.

11A.2.2 In clause 11A.2:

"processing" has the meaning given by section 3(4) of the Data Protection Act 2018;[50]

"relevant vaccine or immunisation" has the same meaning as in Clause 11A.1.1(a) of this Contract;

[50] 2018 c. 12. There are amendments to section 3, but none are relevant

"the Vaccines and Immunisations Standards" means the standards determined by *NHS England* published on 15 April 2024 and which a Contractor is required to meet in relation to the following matters:

(a) the invitation of *patients* for *immunisation appointments* when they first become eligible for relevant vaccines or immunisations (*"newly eligible patients"*);

(b) the steps to be taken if no response is received to an invitation falling within sub-clause (a);

(c) the provision of *immunisation appointments* to newly eligible *patients*;

(d) the steps to be taken if a newly eligible *patient* does not attend an *immunisation appointment*;

(e) requests for *relevant vaccines or immunisations* made by *patients* who are eligible for them but have not previously received them for any reason;

(f) the identification of gaps in the vaccination records of *registered patients*, and the offer, and provision of, *immunisation appointments* to those *patients*; and

(g) the processing of records relating to patient vaccinations and immunisations, including records relating to the administration of vaccines and patient vaccination status.

11A.3 **Vaccines and immunisations: catch-up campaigns**

11A.3.1 The Contractor must participate in a manner reasonably required by the Commissioner in one *vaccine and immunisations catch-up campaign* in each financial year.

11A.3.2 In clause 11A.3.1 *"vaccine and immunisations catch-up campaign"* means a campaign which is aimed at maximising the uptake of a particular vaccine or immunisation by *patients* who are eligible for it but have not received that vaccine or immunisation for any reason (other than a decision to refuse the vaccine or immunisation).

11A.4 **Vaccines and immunisations: additional staff training**

11A.4.1 The Contractor must ensure that all staff involved in the administration of vaccines and immunisations are trained in the recognition and initial treatment of anaphylaxis.

11A.4.2 This clause does not affect the Contractor's obligations under Part 15.

11A.5 **Vaccines and immunisations: nominated person**

11A.5.1 The Contractor must nominate a person (a *"V & I lead"*) who is to have responsibility for:

(a) overseeing the provision of *vaccine and immunisation services* by the Contractor;

(b) carrying out, on behalf of the Contractor, any of the Contractor's functions under clause 11A.1; and

(c) overseeing compliance with the requirements of clauses 11A.1 to 11A.4;

11A.5.2 The Contractor must ensure that the *V & I lead*:

(a) has regard to all guidance issued by *NHS England* which is relevant to that role; and

(b) if they are not a *health care professional*, is directly supervised in that role by a *health care professional*.

11A.6 **Vaccines and immunisations: exception for private arrangements**

11A.6.1 Nothing in this Part applies in relation to the offer or administration of any vaccine or immunisation to a patient under a private arrangement.

12 PART 12[51]

12.1 Enhanced Services

12.1. [The parties should insert here the details of the *enhanced services* that the Contractor has agreed to provide under the Contract (if any) including details of to whom each of such services will be provided].

12.2. [ ]

12.3. [ ]

12.4. [ ]

12.5. [ ]

12.6. [ ]

12.7. [ ]

[51] This Part is not required by *the Regulations* but if the parties agree that the Contractor is going to provide *enhanced services* under the GMS Contract, or any relevant Directions direct the Commissioner to include particular *enhanced services* if the Contractor so requests, details of such services, together with any relevant specifications, should be incorporated in this Part.

13 PART 13[52]

13.1 Patients

13.1. Persons to whom services are to be provided[53]

13.1.1. [Except where specifically stated otherwise in respect of particular services][54] The Contractor must provide services under the Contract to:

(a) *registered patients*,

(b) *temporary residents*,

(c) persons to whom the Contractor is required to provide immediately necessary treatment under clause 8.1.2(b)(iii) or 8.1.5,

[52] Except where specifically indicated in a footnote, this Part is required by *the Regulations:* see regulation 20, regulation 31 and Part 2 of Schedule 3.
[53] This provision is required by regulation 20(1)(c) of *the Regulations* which requires the Contract to specify to whom services under the Contract are to be provided.
[54] The words in square brackets may be required where the Contractor is providing *minor surgery* not funded by the *global sum, enhanced services* or *out of hours services* only to specific categories of patients (and not all of the patients specified in clauses 13.1.1(a) to 13.1.1(d)).

(d) any person for whom the Contractor is responsible for the provision of *out of hours services*[55] [or article 20 of *the Transitional Order*][56]; and

(e) any other person to whom the Contractor has agreed to provide services under the Contract.

13.2. **Patient registration area**

13.2.1. The area in respect of which persons resident in it will, subject to any other terms of the Contract relating to patient registration, be entitled to register with the Contractor, or seek acceptance by the Contractor as a *temporary resident*, is [ ][57].

13.3. **Outer boundary area[58]**

13.3.1. The area, other than the Contractor's *practice area*, which is to be known as the outer boundary area is [ ].

13.3.2. Where a patient moves into the outer boundary area referred to in clause 13.3.1 and would like to remain on the *Contractor's list of*

[55] Regulation 31 of the 2004 Regulations provides that if the Contract is with any of the persons specified in a) to c) below, the Contract must require the Contractor to continue providing out of hours services to patients of an exempt contractor where the Contractor is-

(a) an individual medical practitioner who is, or was on 31st March 2004, responsible for providing services during all or part of the out of hours period to the patients of a medical practitioner who meets the requirements set out in paragraph 2 below ("exempt contractor");

(b) two or more individuals practising in partnership at least one of whom was, or will be, on 31st March 2004, a medical practitioner responsible for providing such services; or

(c) a company in which one or more of the shareholders was, or will be, on 31st March 2004, a medical practitioner responsible for providing such services,

and the Contractor must continue to provide such services until it has opted out of the provision of out of hours services in accordance with Part 11 of the Contract, or the Commissioner (or if it is different, the Commissioner with whom the exempt contractor holds its contract)) has or have agreed in writing that the Contractor need no longer provide some or all of those services to some or all of those patients.

2. The requirements are that-

a) the medical practitioner was relieved of responsibility for providing services to his patients under paragraph 18(2) of Schedule 2 to the National Health Service (General Medical Services) Regulations 1992; and

b) he-

a. has entered or intends to enter into a contract which does not include out of hours services pursuant to paragraph 1(b) above,

b. is one of two or more individuals practising in partnership who have entered or intends to enter into a contract which does not includes out of hours services pursuant to paragraph 1(b) above;

c. is the owner of shares in a company which has entered or intends to enter into a contract which does not include out of hours services pursuant to paragraph 1(b) above

[56] The words indicated in square brackets need only be included if, pursuant to article 20 of *the Transitional Order* and clause 10.2.9 the Contractor is required to provide *out of hours services* to the patients of a party to a *default contract* who is an exempt contractor as set out in that article.

[57] The *practice area* needs to be specified here – this is required by regulation 20(1)(d) of *the Regulations.*

[58] Clauses 13.3.1, 13.3.2 and 13.3.3 must be included and clause 13.7.2 amended only where the parties agree there is to be an outer boundary area.

patients, the patient may remain on that list if the Contractor so agrees, notwithstanding that the patient no longer resides in the Contractor's *practice area*.

13.3.3. Where a patient remains on the *Contractor's list of patients* as a consequence of clause 13.3.2, the outer boundary area is to be treated as part of the Contractor's *practice area* for the purposes of the application of any other terms and conditions of this Contract in respect of that patient.

13.4. **List of patients**

13.4.1. The *Contractor's list of patients* is [open/closed][59].

13.4.2. [The *Contractor's list of patients* is to remain closed for a period of [ ][60] from the date on which the Contract comes into force. The *Contractor's list of patients* is to remain closed for that whole period, unless the Contractor successfully applies for an extension to the closure period in accordance with clauses 13.21.1 to 13.21.11 or the Contractor and the Commissioner agree that the Contractor should re-open its list of patients in accordance with clause 13.21.11(b).][61]

13.4.3. The Commissioner must prepare and keep up to date a list of the patients:

(a) who have been accepted by the Contractor for inclusion in the *Contractor's list of patients* under clauses 13.5, 13.5A, 13.5B, 13.17A.4, 13.17A.6 and who have not subsequently been removed from that list under clauses 13.9.1 to 13.16.3; and

(b) who have been assigned by the Commissioner to the *Contractor's list of patients*:

(i) under clause 13.23, or

(ii) under clause 13.24 (by virtue of a determination of the assessment panel under clause 13.26.8 which has not subsequently been overturned by a determination of the Secretary of State under clause 13.27 or by a court).

13.4.3A. The Contractor must, upon receipt of a reasonable written request from the Commissioner:

(a) take appropriate steps as soon as is reasonably practicable, to correct and update *patient* data held on the practice's computerised clinical systems, and where necessary register or deregister *patients* to ensure that the *patient* list is accurate; and

[59] The Contract must specify whether, at the date the Contract comes into force, the Contractor's list of patients will be *open* or *closed.* Please delete as appropriate. This clause is required by regulation 20(1)(e) of *the Regulations.*

[60] A period of at least 3 months and not more than 12 months should be inserted here.

[61] This clause should only be included if clause 13.4.1 states that the Contractor's list is *closed*

(b) provide information relating to its *list of patients* as soon as is reasonably practicable and, in any event, no later than 30 days from the date on which the request was received by the Contractor, in order to assist the Commissioner in the exercise of its duties under clause 13.4.3, contacting *patients* where reasonably necessary to confirm that their *patient* data is correct.

13.4.4. [The Commissioner shall also include in the *Contractor's list of patients* those patients who, on 31st March 2004, were recorded by the Commissioner pursuant to regulation 19 of the National Health Service (General Medical Services) Regulations 1992 as being on the list of:

(a) the Contractor, if the Contractor is an individual medical practitioner,

(b) any of the two or more medical practitioners practising in partnership who have entered into the contract, if the Contractor is a partnership, or

(c) any of the medical practitioners who are legal and beneficial shareholders in the company which has entered into the contract,

unless the patient lives outside the *practice area,* and that patient was included on that medical practitioner's list other than by virtue of an assignment under regulation 4 of the National Health Service (Choice of Medical Practitioner) Regulations 1998.

13.4.5. [The Commissioner shall also include in the *Contractor's list of patients*:

(a) all the patients who, on the date immediately before the coming into force of the *general medical services contract* were on the *Contractor's list of patients* for the purposes of a *default contract* with the Commissioner, unless the patient lives outside the *practice area,* and that patient was included on the Contractor's list other than by virtue of an assignment under regulation 4 of the National Health Service (Choice of Medical Practitioner) Regulations 1998 or under the *default contract*; and

(b) any patient who had been assigned to the Contractor when he was a party to that *default contract* in accordance with the terms of that contract but not yet included in the list referred to in clause 13.4.4.][62]

13.4.6. [The Commissioner shall also include in the *Contractor's list of patients* all of the patients who, on the date on which temporary arrangements under regulation 25(2) or (6) of the National Health

[62] This clause should only be included if the Contract with the Commissioner is being entered into with a Contractor who was a party to a *default contract* with the Commissioner immediately before the coming into force of the Contract: see article 29 of *the Transitional Order.* If the clause does not apply, it should be deleted.

Service (General Medical Services) Regulations 1992 came to an end, were:

(a) temporarily re-assigned to other medical practitioners under paragraph (14A) of regulation 25; or

(b) included on the list of the medical practitioner for whom the temporary arrangements were in place,

unless the patient lives outside the *practice area* and that patient became registered with either the medical practitioner for whom the temporary arrangements are in place or the medical practitioner or practitioners providing the temporary arrangements otherwise than as a result of an assignment under regulation 4 of the National Health Service (Choice of Medical Practitioner) Regulations 1998.][63]

13.4.7. [The Commissioner shall also include in the *Contractor's list of patients*, all of the patients who were, on the date on which contractual arrangements under article 15 of *the Transitional Order* in respect of the Contractor's patients came to an end, on the list or lists of patients prepared and maintained by the Commissioner for the purpose of those contractual arrangements, unless the patient lives outside the *practice area* and that patient's inclusion in the list of patients did not result from an assignment under regulation 4 of the National Health Service (Choice of Medical Practitioner) Regulations 1998 or under the contractual arrangements under article 15][64].

13.5. **Application for inclusion in a list of patients**

13.5.1. Subject to sub-clause 13.5.1.3, the Contractor may, if the *Contractor's list of patients* is *open*, accept an application for inclusion in that list made by or on behalf of any person, whether or not that person is resident in its *practice area* or is included, at the time of that application, in the list of patients of another contractor or provider of *primary medical services*.

13.5.1.1. The Commissioner may, following consultation with the *Local Medical Committee* (if any) for the area in which the Contractor provides services under the Contract, determine that in certain circumstances the Commissioner's approval is required before a contractor accepts an application for inclusion in its

[63] This clause is required by article 30(1) of *the Transitional Order* if the Contractor is an individual medical practitioner for whom, immediately before the Contract commences, the Commissioner had in place temporary arrangements under regulation 25(2) or (6) of the National Health Service (General Medical Services) Regulations 1992: if the Contractor is not such a person, this clause should be deleted.

[64] Clause 13.4.8 is required by article 30(2) of *the Transitional Order* if the Contractor is an individual medical practitioner for whom, immediately before the Contract commences, the Commissioner had in place contractual arrangements under article 15 of *the Transitional Order.* If the Contractor is not such a person, this clause should be deleted.

list of patients in respect of a patient who resides outside the Contractor's *practice area*.

13.5.1.2. Where the Commissioner has made a determination in accordance with sub-clause 13.5.1.1. it must set out the circumstances in which its approval is required in a notice to the Contractor.

13.5.1.3. Where the Commissioner has made a determination in accordance with sub-clause 13.5.1.1., the Contractor may only accept an application for inclusion in its *list of patients* in respect of a person who resides outside the Contractor's *practice area* in the circumstances set out in a notice given under sub-clause 13.5.1.2. with the Commissioner's approval.

13.5.2. If the *Contractor's list of patients* is *closed*, the Contractor may only accept an application for inclusion in that list made by or on behalf of a person who is an *immediate family member* of a *registered patient* whether or not that person is resident in the Contractor's *practice area* or is included, at the time of the application, in the list of patients of another contractor or provider of *primary medical services*.

13.5.3. Subject to clause 13.5.4, the Contractor may only accept an application for inclusion in that list if it is:

(a) an application on a form specified to the Contractor by NHS England; or

(b) an application through the online registration service supplied to the Contractor by NHS England.[65]

13.5.3A The Contractor must make available both application methods referred to in clause 13.5.3.[66]

13.5.4. An application may be made:

(a) where the patient is a *child,* on behalf of the patient by:

(i) either *parent*, or in the absence of both *parent*s, the guardian or other adult who has care of the *child*,

(ii) a person duly authorised by a local authority to whose care the *child* has been committed under the Children Act 1989, or

(iii) a person duly authorised by a voluntary organisation by which the *child* is being

[65] This clause takes effect from 31 October 2024 (see The National Health Service (Primary Medical Services and Performers Lists) (Amendment) Regulations (S.I. 2024/575)).
[66] This clause takes effect from 31 October 2024 (see The National Health Service (Primary Medical Services and Performers Lists) (Amendment) Regulations (S.I. 2024/575)).

accommodated under the provisions of the Children Act 1989;

(b) where the patient is an adult who lacks the capacity to make such an application, or to authorise such an application to be made on their behalf, by:

(i) a relative of that person;

(ii) the *primary carer* of that person;

(iii) a donee of a lasting power of attorney granted by that person; or

(iv) a deputy appointed for that person by the court under the provisions of the Mental Capacity Act 2005.

13.5.4A. Where the Contractor receives an application by the method referred to in sub-clause 13.5.3(a), they must submit the information provided in the application via the online registration service referred to in sub-clause 13.5.3(b), except where the Contractor's computerised clinical system does not facilitate interconnectivity with the online registration service supplied by the Commissioner.

13.5.5. Where the Contractor accepts an application for inclusion in the *Contractor's list of patients*, the Contractor must give notice in writing to the Commissioner of that acceptance as soon as possible.

13.5.6. The Commissioner must, on receipt of a notice under clause 13.5.5:

(a) include the applicant in the *Contractor's list of patients* from the date on which the notice is received; and

(b) give notice in writing to the applicant (or, in the case of a *child* or an adult who lacks capacity, the person making the application on their behalf) of that acceptance.

13.5.7. This clause 13.5 is subject to clause 13.17A.

13.5A. **Inclusion in list of patients: armed forces personnel**

13.5A.1 The Contractor may, if the *Contractor's list of patients* is *open*, include a person to whom clause 13.5A.2 applies in that list for a period of up to two years and clause 13.14.1(b) does not apply in respect of any person who is included in the *Contractor's list of patients* by virtue of clause 13.5A.

13.5A.2 Clause 13.5A.2 applies to a person who is:

(a) a serving member of the *armed forces of the Crown* who has received written authorisation from Defence

Medical Services[67] to receive *primary medical services* from the Contractor's *practice*; and

(a) living or working within the Contractor's *practice area* during the period in respect of which that written authorisation is given.

13.5A.3 Where the Contractor has accepted a person to whom clause 13.5A.2 applies onto its list of patients, the Contractor must:

(b) obtain a copy of the patient's medical record, or a summary of that record, from Defence Medical Services; and

(c) provide regular updates to Defence Medical Services, at such intervals as are agreed with Defence Medical Services, about any care and treatment which the Contractor has provided to the patient.

13.5A.4 At the end of the period of two years, or on such earlier date as the Contractor's responsibility for the patient has come to an end, the Contractor must:

(a) notify Defence Medical Services of the fact that the Contractor's responsibility for the patient has come to an end; and

(b) update the patient's medical record, or summary of that record, and return it to Defence Medical Services.

13.5B **Inclusion in list of patients: detained persons**

13.5B.1 The Contractor must, if the Contractor's list of patients is open, include a person to whom clause 13.5B.2 applies (a "detained person") in that list and clause 13.14.1(c) does not apply in respect of a detained person who is included in the *Contractor's list of patients* by virtue of this clause.

13.5B.2 This clause applies to a person who:

13.5B.2.1 is serving a term of imprisonment of more than two years, or more than one term of imprisonment totalling, in the aggregate, more than two years;

13.5B.2.2 is not registered as a patient with a provider of *primary medical services*; and

13.5B.2.3 makes an application under this clause in accordance with clause 13.5B.3 to be included in the *Contractor's list of patients* by virtue of either clause 13.5B.1 or clause 13.5B.6 before the *scheduled release date*.

[67] Defence Medical Services is an umbrella organisation within the Ministry of Defence responsible for the provision of medical, dental and nursing services in the United Kingdom to members of the armed forces of the Crown

13.5B.3 An application under clause 13.5B.2.3 may be made during the period commencing one month prior to the *scheduled release date* and ending 2 hours prior to that date.

13.5B.4 Subject to clauses 13.5B.5 and 13.5B.6, the Contractor may only refuse an application under clause 13.5B.2.3 if the Contractor has reasonable grounds for doing so which do not relate to the applicant's age, appearance, disability or medical condition, gender or gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sexual orientation or social class.

13.5B.5 The reasonable grounds referred to in clause 13.5B.4 may include the ground that the applicant will not, on or after *the scheduled release date*, live in the Contractor's practice area or does not intend to live in that area.

13.5B.6 Where the *Contractor's list of patients* is closed, the Contractor may, by virtue of this clause, accept an application under clause 13.5B.2.3 if the applicant is an immediate family member of a registered patient.

13.5B.7 Where the Contractor accepts an application from a person under clause 13.5B.2.3 for inclusion in the *Contractor's list of patients*, the Contractor:

13.5B.7.1 must give notice in writing to the provider of *the detained estate healthcare service* or to the Commissioner of that acceptance as soon as possible, and

13.5B.7.2 is not required to provide *primary medical services* to that person until after the scheduled release date.

13.5B.8 The Commissioner must, on receipt of a notice given under clause 13.5B.7.1:

13.5B.8.1 include the applicant in the *Contractor's list of patients* from the date notified to the Commissioner the provider of *the detained estate healthcare service*; and

13.5B.8.2 give notice in writing to the provider of *the detained estate healthcare service* of that acceptance.

13.5B.9 Where the Contractor refuses an application made under clause 13.5B.2.3, the Contractor must give notice in writing of that refusal, and the reasons for it, to the provider of *the detained estate healthcare service* or to the Commissioner before the end of the period of 14 days beginning with the date of the Contractor's decision to refuse.

13.5B.10 The Contractor must:

13.5B.10.1 keep a written record of:

(a) the refusal of any application under clause 13.5B.2.3; and

(b) the reasons for that refusal; and

13.5B.10.2 make such records available to the Commissioner on request.

13.6. ***Temporary residents***

13.6.1. The Contractor may, if the *Contractor's list of patients* is *open*, accept a person as a *temporary resident* provided the Contractor is satisfied that the person is:

(a) temporarily resident away from their normal place of residence and is not being provided with *essential services* (or their equivalent) under any other arrangement in the locality where that person is temporarily residing; or

(b) moving from place to place and not for the time being resident in any place.

13.6.2. For the purposes of clause 13.6.1, a person is to be regarded as temporarily resident in a place if, when that person arrives in that place, they intend to stay there for more than 24 hours but not more than three months.

13.6.3. Where the Contractor wants to terminate its responsibility for a person accepted as a *temporary resident* before the end of:

(a) three months; or

(b) such shorter period for which the Contractor agreed to accept that person as a patient,

the Contractor must give notice of that fact to the person either orally or in writing and the Contractor's responsibility for that person is to cease seven days after the date on which notice is given.

13.6.4. Where the Contractor's responsibility for a person as a *temporary resident* comes to an end, the Contractor must give notice in writing to the Commissioner of its acceptance of that person as a *temporary resident*:

(a) at the end of the period of three months beginning with the date on which the Contractor accepted that person as a *temporary resident*, or

(b) If the Contractor's responsibility for that person as a *temporary resident* came to an end earlier than at the end of the three month period referred to in sub-clause (a), at the end of that period.

13.6.5 This clause 13.6 is subject to clause 13.17A.

13.7. **Refusal of applications for inclusion in the list of patients or for acceptance as a *temporary resident***

13.7.1. The Contractor may only refuse an application made under clauses 13.5.1 to 13.5.6 if the Contractor has reasonable grounds for doing so which do not relate to the applicant's age, appearance,

disability or medical condition, gender or gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sexual orientation or social class.

13.7.2. The reasonable grounds referred to in clause 13.7.1 may, in the case of an application made under clauses 13.5.1 to 13.5.6, include the ground that the applicant:

(a) does not live in the Contractor's *practice area;* or

(b) lives in the outer boundary area (the area referred to in clause 13.3).

13.7.3. Where the Contractor refuses an application made under clauses 13.5.1 to 13.6.4, the Contractor must give notice in writing of that refusal and the reasons for it to the applicant (or, in the case of a *child* or an adult who lacks capacity, to the person who made the application on their behalf) before the end of the period of 14 days beginning with the date of its decision to refuse.

13.7.4. The Contractor must:

(a) keep a written record of:

(i) the refusal of any application made under clauses 13.5.1 to 13.5.6, and

(ii) the reasons for that refusal; and

(b) make such records available to the Commissioner on request.

13.8. **Patient preference of practitioner**

13.8.1. Where the Contractor has accepted an application made under clause 13.5, 13.6, 13.17A.4, 13.17A.5, 13.17A.6, or 13.17A.7 the Contractor must:

(a) give notice in writing to the person (or, in the case of a *child* or an adult who lacks capacity, to the person who made the application on the applicant's behalf) of that person's right to express a preference to receive services from a particular performer or class of performer either generally or in relation to any particular condition; and

(b) record in writing any such preference expressed by or on behalf of that person.

13.8.2. The Contractor must endeavour to comply with any reasonable preference expressed under clause 13.8.1 but need not do so if the preferred performer:

(a) has reasonable grounds for refusing to provide services to the person who expressed the preference, or

(b) does not routinely perform the service in question within the Contractor's *practice*.

13.9. **Removals from the list at the request of the patient**

13.9.1. The Contractor must give notice in writing to the Commissioner of a request made by any person who is a *registered patient* to be removed from the *Contractor's list of patients*.

13.9.2. Where the Commissioner:

(a) receives a notice given by the Contractor under clause 13.9.1, or

(b) receives directly a request from a person to be removed from the *Contractor's list of patients*,

the Commissioner must remove that person from the *Contractor's list of patients*.

13.9.3. The removal of a person from the *Contractor's list of patients* in accordance with clause 13.9.2 takes effect on whichever is the earlier of:

(a) the date on which the Commissioner is given notice of the registration of that person with another provider of *essential services* (or their equivalent); or

(b) 14 days after the date on which the notice given under clause 13.9.1, or the request made under clause 13.9.2 is received by the Commissioner.

13.9.4. The Commissioner must, as soon as practicable, give notice in writing to:

(a) the person who requested the removal; and

(b) the Contractor,

that the person's name is to be or has been removed from the *Contractor's list of patients* on the date referred to in clause 13.9.3.

13.9.5. In clauses 13.9, 13.10.1(b), 13.10.10, 13.11.6, 13.11.7, 13.13 and 13.15 a reference to a request received from, or advice, information or notice required to be given to, a person includes a request received from or advice, information or notice required to be given to:

(a) in the case of a *child:*

(i) either *parent,* or in the absence of both parents, the guardian or other adult who has case of the *child,*

(ii) a person duly authorised by a local authority to whose care the *child* has been committed under the Children Act 1989, or

(iii) a person duly authorised by a voluntary organisation by which the *child* is being accommodated under the Children Act 1989; or

(b) in the case of an adult patient who lacks capacity to make the relevant request or receive the relevant advice, information or notice:

(i) a relative of that person,

(ii) the *primary carer* of that person,

(iii) a donee of a lasting power of attorney granted by that person; or

(iv) a deputy appointed for that person by the court under the provisions of the Mental Capacity Act 2005.

13.10. **Removals from the list at the request of the Contractor**

13.10.1. Subject to clauses 13.11.1 to 13.11.8, where the Contractor has reasonable grounds for wishing a patient to be removed from its list of patients which do not relate to the person's age, appearance, disability or medical condition, gender or gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sexual orientation or social class the Contractor must:

(a) give notice in writing to the Commissioner that it wants to have that person removed; and

(b) subject to clause 13.10.2, give notice in writing to that person of its specific reasons for requesting the removal of that person.

13.10.2. Where, in the reasonable opinion of the Contractor, the circumstances of the person's removal are such that it is not appropriate for a more specific reason to be given, and there has been an irrevocable breakdown in the relationship between the relevant person and the Contractor, the reason given under clause 13.10.1 may consist of a statement that there has been such a breakdown.

13.10.3. Except in the circumstances specified in clause 13.10.4, the Contractor may only request the removal of a person from its list of patients under clause 13.10.1, if, before the end of the period of 12 months beginning with the date of the Contractor's request to the Commissioner, the Contractor has:

(a) warned that person of the risk of being removed from that list; and

(b) explained to that person the reasons for this.

13.10.4. The circumstances specified in this clause are that:

(a) Reserved;

(b) the Contractor has reasonable grounds for believing that the giving of such a warning would:

(i) be harmful to the person's physical or mental health; or

(ii) put at risk the safety of one or more of the persons specified in clause 13.10.5; or

(c) the Contractor considers that it is not otherwise reasonable or practical for a warning to be given.

13.10.5. The persons referred to in clause 13.10.4 are:

(a) if the Contractor is an individual medical practitioner, the Contractor;

(b) if the Contractor is a partnership, a partner in the partnership;

(c) if the Contractor is a company limited by shares, a person who is both a legal and beneficial owner of shares in that company;

(d) a member of the Contractor's staff;

(e) a person engaged by the Contractor to perform or assist in the performance of services under the Contract; or

(f) any other person present on the *practice premises* or in the place where services are being provided to the patient under the Contract.

13.10.6. The Contractor must keep a written record of:

(a) the date of any warning given in accordance with clause 13.10.3 and the reasons for giving such a warning as explained to the patient concerned; or

(b) the reason why no such warning was given.

13.10.7. The Contractor must keep a written record of the removal of any person from its list of patients under clause 13.10 which must include:

(a) the reason given for the removal;

(b) the circumstances of the removal; and

(c) in cases where clause 13.10.2 applies, the grounds for a more specific reason not being appropriate,

and the Contractor must make this record available to the Commissioner on request.

13.10.8. The removal of a person from the *Contractor's list of patients* must, subject to clause 13.10.9, take effect from whichever is the earlier of:

(a) the date on which the Commissioner is given notice of the registration of that person with another provider of *essential services* (or their equivalent), or

(b) the eighth day after the Commissioner is given notice under clause 13.10.1(a).

13.10.9. Where, on the date on which the removal of a person would take effect under clause 13.10.8(b), the Contractor is treating that person at intervals of less than seven days, the Contractor must give notice in writing to the Commissioner of that fact and the removal is to take effect on whichever is the earlier of:

(a) the eighth day after the Commissioner is given notice by the Contractor that the person no longer needs such treatment, or

(b) the date on which the Commissioner is given notice of the registration of the person with another provider of *essential services* (or their equivalent).

13.10.10. The Commissioner must give notice in writing to:

(a) the person in respect of whom the removal is requested; and

(b) the Contractor,

that the person's name has been or is to be removed from the *Contractor's list of patients* on the date referred to in clause 13.10.8(b) or 13.10.9.

13.11. **Removals from the list of patients who are violent**

13.11.1. Where the Contractor wants a person to be removed from its list of patients with immediate effect on the grounds that:

(a) the person has committed an act of violence against any of the persons specified in clause 13.11.2 or has behaved in such a way that any of those persons has feared for their safety; and

(b) the Contractor has reported the incident to the police,

the Contractor must give notice to the Commissioner in accordance with clause 13.11.3.

13.11.1A. Subject to clause 13.11.1B, where the Contractor:

(a) accepts a person onto its list of patients; and

(b) subsequently becomes aware that the person has previously been removed from the list of patients of another provider of primary medical services in response to a request for removal under clause 13.11.1:

(i) because the person committed an act of violence against any of the persons specified in clause 13.11.2 (as read with clause 13.11.2A) or behaved in such a way that any of those persons feared for their safety; and

(ii) the other provider of primary medical services reported the incident to the police,

the Contractor may give notice to the Commissioner in accordance with clause 13.11.3 that it wants to have the person removed from its list of patients with immediate effect.

13.11.1B. The Contractor must not give notice to the Commissioner pursuant to clause 13.11.1A, where:

(a) a person mentioned in clause 13.11.1A was allocated to a Violent Patient Scheme to receive *primary medical services* under that scheme; and

(b) the provider of the Violent Patient Scheme discharged that person because they were not considered to pose a risk of violence; or

(c) that person successfully appealed their allocation to a Violent Patient Scheme.

13.11.2. The persons referred to in this clause are:

(a) if the Contract is with an individual medical practitioner, that individual;

(b) if the Contract is with a partnership, a partner in the partnership;

(c) if the Contract is with a company limited by shares, a person who is both a legal and beneficial owner of shares in that company;

(d) a member of the Contractor's staff;

(e) a person engaged by the Contractor to perform or assist in the performance of services under the Contract; or

(f) any other person present on the *practice premises* or in the place where services were provided to the person under the Contract.

13.11.2A. For the purposes of clause 13.11.1A, any reference to "the Contractor" in clause 13.11.2 is to be read as a reference to the other provider of primary medical services referred to in clause 13.11.1A, and clause 13.11.2 is to be construed accordingly.

13.11.2B. In sub-clause 13.11.1B "Violent Patient Scheme" means a scheme set up in accordance with the *Primary Medical Services (Directed Enhanced Services) Directions* to provide primary

medical services to those removed from a contractor's list of patients under clause 13.11.1.

13.11.3. Notice under clause 13.11.1 or 13.11.1A may be given by any means but, if not in writing, must subsequently be confirmed in writing before the end of a period of seven days beginning with the date on which notice was given.

13.11.4. The Commissioner must acknowledge in writing receipt of a request for removal from the Contractor under clause 13.11.1 or 13.11.1A.

13.11.5. A removal requested in accordance with clause 13.11.1 or 13.11.1A takes effect at the time at which the Contractor:

(a) makes a telephone call to the Commissioner; or

(b) sends or delivers the notice to the Commissioner.

13.11.6. Where, under clause 13.11 the Contractor has given notice to the Commissioner that it wants to have a person removed from its list of Classification: Official patients, the Contractor must inform that person of that fact unless:

(a) it is not reasonably practicable for the Contractor to do so; or

(b) the Contractor has reasonable grounds for believing that to do so would:

(i) be harmful to that person's physical or mental health; or

(ii) put the safety of any person specified in clause 13.11.2 at risk.

13.11.7. Where a person is removed from the *Contractor's list of patients* under clause 13.11, the Commissioner must give that person notice in writing of that removal.

13.11.8. The Contractor must record the removal from its list of patients under this clause 13.11 and the circumstances leading to that removal in the medical records of the person removed.

13.12. **Removals from the list of patients registered elsewhere**

13.12.1. The Commissioner must remove a person from the *Contractor's list of patients* if –

(a) the person has subsequently been registered with another provider of *essential services* (or their equivalent) in England; or

(b) the Commissioner has been given notice by a *Local Health Board*, a *Health Board* or a *Health and Social Services Board* that the person has subsequently been registered with a provider of *essential services* (or their equivalent) outside of England.

13.12.2. A removal in accordance with clause 13.12.1 takes effect:

(a) on the date on which the Commissioner is given notice of the person's registration with the new provider or**,**

(b) with the consent of the Commissioner, on such other date as has been agreed between the Contractor and the new provider.

13.12.3. The Commissioner must give notice in writing to the Contractor of any person removed from its list of patients under clause 13.12.1.

13.13. **Removals from the list of patients who have moved**

13.13.1. Subject to clause 13.13.2, where the Commissioner is satisfied, or is notified by the Contractor, that a person on the *Contractor's list of patients* has moved and no longer resides in the Contractor's *practice area*, the Commissioner must:

(a) inform both the person and the Contractor that the Contractor is no longer obliged to visit and treat that person;

(b) advise the person in writing either to obtain the Contractor's agreement to that person's continued inclusion on the *Contractor's list of patients* or to apply for registration with another provider of *essential services* (or their equivalent); and

(c) inform the person that if, after the end of the period of 30 days beginning with the date on which the advice mentioned in sub-clause (b) was given, that person has not acted in accordance with that advice and informed the Commissioner accordingly, that person will be removed from the *Contractor's list of patients*.

13.13.2. If, at the end of the period of 30 days mentioned in clause 13.13.1(c), the Commissioner has not been informed by the person of the action taken, the Commissioner must remove that person from the *Contractor's list of patients* and inform that person and the Contractor of that removal.

Removal from the list of patients whose address is unknown

13.13.3. Where the address of a person who is on the *Contractor's list of patients* is no longer known to the Commissioner, the Commissioner must:

(a) give notice in writing to the Contractor that it intends, at the end of the period of three months beginning with the date on which the notice was given, to remove the person from the *Contractor's list of patients*; and

(b) at the end of that period referred to in sub-clause 13.13.3(a), remove the person from the *Contractor's list of patients* unless, before the end of that period, the Contractor satisfies the Commissioner that the person is a

patient to whom it is still responsible for providing *essential services*.

13.14. **Removals from the list of patients absent from the United Kingdom etc**

13.14.1. The Commissioner must remove a person from the *Contractor's list of patients* where it receives notice to the effect that the person:

(a) intends to be away from the United Kingdom for a period of at least three months;

(b) is in the *armed forces of the Crown* (except in the case of a patient to whom clause 13.5A applies);

(c) is serving a term of imprisonment of more than two years or more than one term of imprisonment totalling, in the aggregate, more than two years;

(d) has been absent from the United Kingdom for a period of more than three months; or

(e) has died.

13.14.2. The removal of a person from the *Contractor's list of patients* under this clause 13.14 takes effect from:

(a) where sub-clauses 13.14.1(a) to 13.14.1(c) applies:

(i) the date of the person's departure, enlistment or imprisonment, or

(ii) the date on which the Commissioner first receives notice of the person's departure, enlistment or imprisonment,

whichever is the later; or

(b) where sub-clauses 13.14.1(d) and 13.14.1(e) applies the date on which the Commissioner is given notice of the person's absence or death.

13.14.3. The Commissioner must give notice in writing to the Contractor of the removal of any person from the *Contractor's list of patients* under clause 13.14.

13.15. **Removals from the list of patients accepted elsewhere as *temporary residents***

13.15.1. The Commissioner must remove a person from the *Contractor's list of patients* where the person has been accepted as a *temporary resident* by another contractor or other provider of *essential services* (or their equivalent) in any case where the Commissioner is satisfied, after due inquiry, that:

(a) the person's stay in the place of temporary residence has exceeded three months; and

(b) the person has not returned to their normal place of residence or to any other place within the Contractor's *practice area*.

13.15.2. The Commissioner must give notice in writing of the removal of a person from the *Contractor's list of patients* under clause 13.15:

(a) to the Contractor, and

(b) where practicable, to that person.

13.15.3. A notice given under clause 13.15.2 must inform the person of:

(a) that person's entitlement to make arrangements for the provision to that person of *essential services* (or their equivalent), including by the Contractor by which that person has been treated as a *temporary resident*; and

(b) the name, postal and electronic mail address and telephone number of the Commissioner.

13.16. **Removals from the list of pupils etc of a school**

13.16.1. Where the Contractor provides *essential services* under the Contract to persons on the grounds that they are pupils at**,** or staff or residents of**,** a school, the Commissioner must remove any person from the *Contractor's list of patients* who does not appear on the particulars provided by that school of persons who are pupils at**,** or staff or residents of**,** that school.

13.16.2. Where the Commissioner has requested a school to provide the particulars referred to in clause 13.16.1 and has not received those particulars, the Commissioner must consult the Contractor as to whether it should remove from the *Contractor's list of patients* any persons appearing in that list as pupils at, or staff or residents of, that school.

13.16.3. The Commissioner must give notice in writing to the Contractor of the removal of any person from the *Contractor's list of patients* under clause 13.16.

13.17. **Termination of responsibility for patients not registered with the Contractor**

13.17.1. Where the Contractor has:

(a) received an application for the provision of medical services other than *essential services*:

(i) from a person who is not included in the *Contractor's list of patients*,

(ii) from a person that the Contractor has not accepted as a *temporary resident*, or

(iii) made on behalf of a person referred to in sub-clause (i) or (ii), by a person specified in clause 13.5.4; and

(b) accepted the person making the application or on whose behalf the application is made as a patient for the provision of the service in question,

the Contractor's responsibility for that person terminates in the circumstances described in clause 13.17.2.

13.17.2. The circumstances described in this sub-clause are that:

(a) the Contractor is informed that the person no longer wishes the Contractor to be responsible for the provision of the service in question;

(b) in a case where the Contractor has reasonable grounds for terminating its responsibility to provide the service to the person which do not relate to the person's age, appearance, disability or medical condition, gender or gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sexual orientation or social class, the Contractor informs the person that it no longer wants to be responsible for providing that person with the service in question; or

(c) it comes to the Contractor's attention that the person:

(i) no longer resides in the area for which the Contractor has agreed to provide the service in question; or

(ii) is no longer included in the list of patients of another contractor to whose *registered patients* the Contractor has agreed to provide that service.

13.17.3. Where the Contractor wants to terminate its responsibility for a person under clause 13.17.2(b), the Contractor must give notice to that person of the termination and the reason for it.

13.17.4. The Contractor must keep a written record of terminations under clause 13.17 and of the reasons for those terminations and must make this record available to the Commissioner on request.

13.17.5. A termination under clause 13.17.2(b) takes effect:

(a) where the grounds for termination are those specified in clause 13.11.1, from the date on which the notice is given; or

(b) in any other case, 14 days after the date on which the notice is given.

13.17A **List of patients: Crown servants posted overseas and their family members**

13.17A.1 **Meaning of "qualifying person"**

13.17A.1.1 A person ("P") is a *qualifying person* for the purposes of clause 13.17A if:

(a) *P* is returning, or has returned, to the United Kingdom; and

(b) clause 13.17A.1.2, 13.17A.1.3, 13.17A.1.4 or 13.17A.1.5 applies to *P*.

13.17A.1.2 This clause applies to *P* if:

(a) *P* is a *civil servant* who is, or, immediately before their return to the United Kingdom, was, posted overseas; or

(b) where *P* is returning, or has returned, to the United Kingdom for more than three months, *P*:

(i) was a *civil servant* who was posted overseas; and

(ii) is returning, or has returned, to the United Kingdom (other than temporarily) for the first time since ceasing to be a *civil servant*.

13.17A.1.3 This clause applies to *P* if *P*:

(a) is a *relevant family member* of a person to whom clause 13.17A.1.2 applies ("*R"*); and

(b) is, or, immediately before their return to the United Kingdom, was, accompanying *R* on the posting mentioned in that clause 13.17A.1.2.

13.17A.1.4 This clause applies to *P* if *P*:

(a) is a *relevant family member* of a civil servant ("*C*") who:

(i) is posted overseas; or

(ii) where *C* is deceased, was at the time of their death posted overseas; and

(b) is, or, immediately before their return to the United Kingdom, was, accompanying *C* on the posting mentioned in sub-clause (a).

13.17A.1.5 This clause applies to *P* if:

(a) *P* is a *relevant family member* of a person (*"M"*) who;

(i) is a member of the armed forces of the Crown who is, or, immediately before their return to the United Kingdom, was, posted overseas;

(ii) where *M* is returning, or has returned, to the United Kingdom for more than three months:

(aa) was a member of the armed forces of the Crown who was posted overseas; and

(bb) is returning, or has returned, to the United Kingdom (other than temporarily) for the first time since ceasing to be a member of those forces; or

(iii) where *M* is deceased, was at the time of their death a member of the armed forces of the Crown posted overseas; and

(b) *P* is, or, immediately before their return to the United Kingdom, was, accompanying *M* on the posting mentioned in sub-clause (a).

13.17A.1.6 In this clause 13.17A.1:

"civil servant" means a person employed in the civil service of the State;

"Crown servant" means:

(a) a civil servant; or

(b) a member of the armed forces of the Crown.

13.17A.1.7 For the purposes of this clause 13.17A.1 *"relevant family member"*, in relation to a *Crown servant* (including a Crown servant who is deceased) (*"C"*), means:

(a) *C's* spouse or civil partner;

(b) a person whose relationship with *C* has the characteristics of a relationship between spouses or civil partners;

(c) *C's* former spouse or former civil partner;

(d) a person whose relationship with *C* had the characteristics of a relationship between spouses or civil partners but which has ended (for any reason);

(e) *C's* widow, widower or surviving civil partner;

(f) a *dependent child*.

13.17A.1.8 For the purposes of sub-clause 13.17A.1.7(f), a person is a "*dependent child*" of a *Crown servant* if they are a *child* of the *Crown servant* and:

(a) they:

(i) have not, or, when they departed the United Kingdom, had not, attained the *relevant age*; and

(ii) are, or, where the Crown servant is deceased, were, wholly or mainly financially dependent on the *Crown servant* whilst accompanying the *Crown servant* on their overseas posting; or

(b) they are, or, where the Crown servant is deceased, were, wholly or mainly financially dependent on the Crown servant because of a disability (within the meaning of section 6 of the Equality Act 2010).

13.17A.1.9 For the purposes of sub-clause 13.17A.1.8(a)(i) *"relevant age"*:

(a) in relation to a *child* of a civil servant, means the age of 21;

(b) in relation to a *child* of a member of the armed forces of the Crown, means the age of 25.

13.17A.2 Qualifying persons to be treated as previous patients of contractors

13.17A.2.1 For the purposes of clause 13.17A, a qualifying person ("P") is required to be treated as a previous *patient* of a Contractor if:

(a) where clause 13.17A.1.2 applies to *P*, *P* was removed from the Contractor's, or a *predecessor contractor's*, list of *patients* under clause 13.14.1(a) or (d) following the posting mentioned in clause 13.17A.1.2 or a previous overseas posting;

(b) where clause 13.17A.1.3 applies to *P*, *R* (within the meaning of that clause) was removed from the Contractor's, or a *predecessor contractor's*, list of *patients* under clause 13.14.1(a) or (d) following the posting mentioned in clause 13.17A.1.2 or a previous overseas posting;

(c) where clause 13.17A.1.4 applies to *P*, *C* (within the meaning of that clause) was removed from the Contractor's, or a *predecessor contractor's*, list of *patients* under clause 13.14.1(a) or (d) following the posting mentioned in clause 13.17A.1.4 or a previous overseas posting;

(d) where clause 13.17A.1.5 applies to *P*, *P* was removed from the Contractor's, or a *predecessor contractor's*, list of *patients* under clause 13.14.1(a) or (d) following *P* accompanying *M* (within the meaning of clause 13.17A.1.5) on the posting mentioned in clause 13.17A.1.5 or on a previous overseas posting.

13.17A.2.2 For the purposes of this clause *"predecessor contractor"*, in relation to a Contractor (*"A"*):

(a) where *A's* status as a Contractor is that of a partnership following a variation in accordance with clause 26.2, means the individual *medical practitioner* referred to in clause 26.2.1;

(b) where *A's* status as a Contractor is that of an individual *medical practitioner* following a variation in accordance with clause 26.3.10, means the partnership referred to in clause 26.3.1 or 26.3.3 (as the case may be);

(c) where otherwise than as set out in clause 13.17A.2.2(a) or (b), *A* assumes any of the obligations of another Contractor (*"B"*) to provide services originally provided by *B* under *B's* contract, means *B*.

13.17A.3 **General interpretation of clause 13.17A**

13.17A.3.1 In clause 13.17A:

"child" means:

(a) a natural child;

(b) an adopted child; or

(c) a step-child;

"planned return date" means the date on which a person intends to return to the United Kingdom;

"qualifying person" has the meaning given in clause 13.17A.1;

"relevant family member" has the meaning given in clause 13.17A.1.

13.17A.3.2 For the purposes of clause 13.17A, a Crown servant is posted overseas if:

(a) they are performing overseas (but not in Northern Ireland) the duties of a civil servant or member of the armed forces of the Crown (as the case may be); and

(b) they were, immediately before their posting or the first of consecutive postings, ordinarily resident in the United Kingdom.

13.17A.3.3 For the purposes of clause 13.17A, a relevant family member of a Crown servant who has not resided in the United Kingdom and is coming, or has come, to the United Kingdom for the first time is to be treated as if they:

(a) are returning, or have returned, to the United Kingdom; and

(b) departed the United Kingdom on the day on which they became a relevant family member of the Crown servant.

13.17A.3.4 For the purposes of clause 13.17A, a person is to be regarded as temporarily resident in a place if, when that person arrives in that place, they intend to stay for more than 24 hours but not for more than three months.

13.17A.4 **Crown servants and family members returning to the United Kingdom for more than three months: inclusion in list of original or successor practice**

13.17A.4.1 Subject to clause 13.17A.4.4, a Contractor must include a qualifying person ("P") in the Contractor's list of patients if:

(a) *P* is not registered as a *patient* with a provider of *primary medical services*;

(b) *P* is required to be treated as a previous *patient* of the Contractor;

(c) *P* is returning, or has returned, to the United Kingdom for a period of more than three months; and

(d) either:

(i) *P* makes an application for inclusion in the Contractor's list of *patients* (a *"list application"*); or

(ii) where *P* is a person to whom clause 13.17A.4.2 applies, a *list application* is made on their behalf by an *appropriate person*.

13.17A.4.2 This clause applies to a person if they:

(a) have not attained the age of 16 years; or

(b) lack the capacity to make a *list application* or to authorise a person to make such an application on their behalf.

13.17A.4.3 For the purposes of clause 13.17A.4.1 it does not matter whether the Contractor's list of *patients* is open or closed.

13.17A.4.4 A *list application*:

(a) may be made on or after the date which is one month before the *planned return date*; but

(b) must be made before the end of the period of three months beginning with the day on which the person returns to the United Kingdom.

13.17A.4.5 Clause 13.14.1(a) or (d) does not apply in respect of a *qualifying person* who is included in the Contractor's list of *patients* by virtue of clause 13.17A.4.1 before their return to the United Kingdom.

13.17A.4.6 Where a Contractor accepts a *list application*, the Contractor:

(a) must give notice in writing to the Commissioner of that acceptance (including the *planned return date*, where the application is made and accepted before that date) as soon as possible; but

(b) is not required to provide *primary medical services* to the *qualifying person* before they return to the United Kingdom.

13.17A.4.7 The Commissioner must, on receipt of a notice given under sub-clause 13.17A.4.6(a):

(a) include the *qualifying person* in the Contractor's list of *patients* from *the relevant date*; and

(b) give notice in writing to the *qualifying person* or the *appropriate person* (as the case may be) of the acceptance.

13.17A.4.8 For the purposes of clause 13.17A.4.7(a) *"the relevant date"* is:

(a) where the relevant *list application* is made after a person's return to the United Kingdom, the date on which the Commissioner receives the notice given under sub-clause 13.17A.4.7(a);

(b) where the relevant *list application* is made before a person's return to the United Kingdom, the later of:

(i) the planned return date; and

(ii) the date on which the Commissioner receives the notice given under sub-clause 13.17A.4.7(a).

13.17A.4.9 This clause 13.17A.4 is subject to clause 13.17A.8.

13.17A.5 Persons returning to the United Kingdom for three months or less: temporary registration with original or successor practice

13.17A.5.1 A Contractor must accept a *qualifying person* to whom clause 13.17A.5.2 applies ("P") as a temporary resident provided that the Contractor is satisfied that:

(a) if *P* is in the United Kingdom, *P* is not being provided with *essential services* (or their equivalent) under any other arrangement in the locality where *P* is temporarily residing; or

(b) if *P* is not yet in the United Kingdom, when *P* arrives in the United Kingdom, *P* will not be provided with *essential services* (or their equivalent) under any other arrangement in the locality where *P* will be temporarily residing.

13.17A.5.2 This clause applies to a *qualifying person* if:

(a) they are returning, or have returned, to the United Kingdom for a period of more than 24 hours but not more than three months;

(b) they are required to be treated as a previous *patient* of the Contractor; and

(c) either:

(i) they make an application to be accepted as a *temporary resident* by the Contractor (a *"temporary resident application"*); or

(ii) where they are a person to whom clause 13.17A.5.3 applies, a *temporary resident application* is made on their behalf by an *appropriate person*.

13.17A.5.3 This clause applies to a person if they:

(a) have not attained the age of 16 years; or

(b) lack the capacity to make a *temporary resident application* or to authorise a person to make such an application on their behalf.

13.17A.5.4 For the purposes of clause 13.17A.5.1 it does not matter whether the Contractor's list of *patients* is open or closed.

13.17A.5.5 A *temporary resident application* may be made on or after the date which falls one month before the planned return date.

13.17A.5.6 Where a Contractor accepts a *temporary resident application*, the Contractor's responsibility for the relevant *qualifying person* does not begin until the *relevant date*.

13.17A.5.7 Where a Contractor wants to terminate its responsibility for a *qualifying person* accepted by it as a temporary resident under this clause before the end of the *temporary residence period*:

(a) the Contractor must give notice, either orally or in writing, of that fact to the *qualifying person* or an *appropriate person* (as the case may be); and

(b) the Contractor's responsibility for the qualifying person is to cease seven days after the date on which the notice mentioned in sub-clause 13.17A.5.7(a) is given.

13.17A.5.8 The Contractor must give notice in writing to the Commissioner of its acceptance of a *qualifying person* as a *temporary resident*:

(a) at the end of the period of three months beginning with the *relevant date*; or

(b) if the Contractor's period of responsibility for that person as a *temporary resident* came to an end earlier than the end of the three month period referred to in clause 13.17A.5.8(a), at the end of that period.

13.17A.5.9 In this clause 13.17A.5:

"relevant date" means the later of:

(a) the date on which the Contractor accepts the *qualifying person* as a *temporary resident*; and

(b) the date on which the *qualifying person* returns to the United Kingdom;

"the temporary residence period", in relation to a *qualifying person*, means:

(a) the period of three months beginning with the *relevant date*; or

(b) such shorter period for which the Contractor agreed to accept that person as a temporary resident.

13.17A.5.10 Reserved.

13.17A.5.11 This clause 13.17A.5 is subject to clause 13.17A.8.

13.17A.6 Crown servants and family members returning to the United Kingdom for more than three months: inclusion in list of patients of a new practice

13.17A.6.1 A Contractor must, if the Contractor's list of *patients* is open, include a *qualifying person* ("P") in the Contractor's list of *patients* if:

(a) *P* is not registered as a *patient* with a provider of *primary medical services*;

(b) *P* is returning, or has returned, to the United Kingdom for a period of more than three months;

(c) *P* is not required to be treated as a previous *patient* of the Contractor; and

(d) either:

(i) *P* makes an application for inclusion in that list (a *"list application"*); or

(ii) where *P* is a person to whom clause 13.17A.6.2 applies, a *list application* is made on their behalf by an *appropriate person*.

13.17A.6.2 This clause applies to a person if they:

(a) have not attained the age of 16 years; or

(b) lack the capacity to make a list application or to authorise a person to make such an application on their behalf.

13.17A.6.3 A *list application* may be made during the period commencing one month prior to the planned return date and ending 24 hours prior to that date.

13.17A.6.4 Where a Contractor's list of *patients* is closed, the Contractor may, by virtue of this clause, accept a *list application* if the applicant is an immediate family member of a registered *patient*.

13.17A.6.5 Clause 13.14.1(a) or (d) does not apply in respect of a *qualifying person* who is included in the Contractor's list of *patients* by virtue of clause 13.17A.6.1 before their return to the United Kingdom.

13.17A.6.6 Where a Contractor accepts a *list application*, the Contractor:

(a) must give notice in writing to the Commissioner of that acceptance (including the *planned return date*) as soon as possible; but

(b) is not required to provide *primary medical services* to the qualifying person before they return to the United Kingdom.

13.17A.6.7 The Commissioner must, on receipt of a notice given under sub-clause 13.17A.6.6(a):

(a) include the *qualifying person* in the Contractor's list of *patients* from the *relevant date*; and

(b) give notice in writing to the *qualifying person* or the *appropriate person* (as the case may be) of the acceptance.

13.17A.6.8 For the purposes of sub-clause 13.17A.6.7(a) *"the relevant date"* is the later of:

(a) the date on which the Commissioner receives the notice given under sub-clause 13.17A.6.6(a); and

(b) the *planned return date*.

13.17A.6.9 This clause is subject to clause 13.17A.8.

13.17A.7. Crown servants and family members returning to the United Kingdom for three months or less: temporary registration with new practice

13.17A.7.1 A Contractor must, if the Contractor's list of *patients* is open, accept a *qualifying person* to whom clause 13.17A.7.2 applies ("P") as a temporary resident provided that the Contractor is satisfied that:

(a) if *P* is in the United Kingdom, *P* is not being provided with *essential services* (or their equivalent) under any other arrangement in the locality where *P* is temporarily residing; or

(b) if *P* is not yet in the United Kingdom, when *P* arrives in the United Kingdom, *P* will not be provided with *essential services* (or their equivalent) under any other arrangement in the locality where *P* will be temporarily residing.

13.17A.7.2 This clause applies to a *qualifying person* if:

(a) they are returning, or have returned, to the United Kingdom for a period of at least 24 hours but not more than three months;

(b) they are not required to be treated as a previous *patient* of the Contractor; and

(c) either:

(i) they make an application to be accepted as a *temporary resident* by the Contractor (a *"temporary resident application"*); or

(ii) where they are a person to whom clause 13.17A.7.3 applies, a temporary resident application is made on their behalf by an appropriate person.

13.17A.7.3 This clause applies to a person if they:

(a) have not attained the age of 16 years; or

(b) lack the capacity to make a *temporary resident application* or to authorise a person to make such an application on their behalf.

13.17A.7.4 A *temporary resident application* may be made on or after the date which falls one month before the *planned return date*.

13.17A.7.5 Where a Contractor accepts a *temporary resident application*, the Contractor's responsibility for the *relevant qualifying person* does not begin until the *relevant date*.

13.17A.7.6 Where a Contractor wants to terminate its responsibility for a *qualifying person* accepted by it as a *temporary resident* under this clause before the end of the *temporary residence period*:

(a) the Contractor must give notice, either orally or in writing, of that fact to the *qualifying person* or an *appropriate person* (as the case may be); and

(b) the Contractor's responsibility for the *qualifying person* is to cease seven days after the date on which the notice mentioned in sub-clause 13.17A.7.6(a) is given.

13.17A.7.7 The Contractor must give notice in writing to the Commissioner of its acceptance of the *qualifying person* as a *temporary resident*:

(a) at the end of the period of three months beginning with the *relevant date;* or

(b) if the Contractor's period of responsibility for that person as a *temporary resident* came to an end earlier than the end of the three month period referred to in sub-clause 13.17A.7.7(a), at the end of that period.

13.17A.7.8 In this clause:

"relevant date" means the later of:

(a) the date on which the Contractor accepts the *qualifying person* as a *temporary resident*; and

(b) the date on which the *qualifying person* returns to the United Kingdom;

"the temporary residence period", in relation to a *qualifying person*, means:

(a) the period of three months beginning with the *relevant date*; or

(b) such shorter period for which the Contractor agreed to accept that person as a temporary resident.

13.17A.7.9 Reserved.

13.17A.7.10 This clause 13.17A.7 is subject to clause 13.17A.8.

13.17A.8 **Refusal of an application under clauses 13.17A.4 to 13.17A.7**

13.17A.8.1 The Contractor may refuse a *list application*, or a *temporary residence application*, if (and only if) the Contractor has reasonable grounds for doing so which do not relate to the *qualifying person*'s age, appearance, disability or medical condition, gender or gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sexual orientation or social class.

13.17A.8.2 The reasonable grounds referred to in clause 13.17A.8.1 may, in the case of a *list application*, include the ground that the *qualifying person* will not, on or after the *planned return date*, live in, or does not intend to live in, either of the following areas:

(a) the Contractor's *practice area;* or

(b) the outer boundary area (the area referred to in clause 13.3).

13.17A.8.3 Where a Contractor refuses a *list application*, or *temporary resident application*, the Contractor must give a *refusal notice* to the *relevant person* before the end of the period of 14 days beginning with the date of the decision to refuse the application.

13.17A.8.4 For the purposes of clause 13.17A.8.3, the *"relevant person"* is:

(a) the applicant; or

(b) where the application was made on behalf of a person who has not attained the age of 16 years or a person who lacks capacity, the person who made the application on their behalf.

13.17A.8.5 The Contractor must:

(a) keep a written record of:

(i) the refusal of any *list application*; and

(ii) its reasons for that refusal; and

(b) make such records available to the Commissioner on request.

13.17A.8.6 In this clause 13.17A.8:

"list application" means an application under clause 13.17A.4 or 13.17A.6;

"refusal notice" means a notice which:

(a) is in writing; and

(b) includes the reasons for the decision to refuse the relevant application; and

"temporary residence application" means an application under clause 13.17A.5 or 13.17A.7.

13.18. Application for closure of list of patients

13.18.1. Where the Contractor wants to close its list of patients, the Contractor must send a written application to that effect ("the Application") to the Commissioner and the Application must include the following details:

(a) the options which the Contractor has considered, rejected or implemented in an attempt to alleviate the difficulties which the Contractor has encountered in respect of its *open* list and, if any of the options were implemented, the level of success in reducing or extinguishing such difficulties;

(b) details of any discussions between the Contractor and its patients and a summary of those discussions including whether or not, in the opinion of those patients, the list of patients should be *closed*;

(c) details of any discussions between the Contractor and the other contractors in the *practice area* and a summary of the opinion of the other contractors as to whether or not the list of patients should be *closed*;

(d) the period of time, being a period of not less than three months and not more than 12 months during which the Contractor wants its list of patients to be *closed*;

(e) any reasonable support from the Commissioner which the Contractor considers would enable its list of patients to remain *open* or would enable the period of the proposed closure to be minimised;

(f) any plans which the Contractor may have to alleviate the difficulties mentioned in the Application during the period of the proposed closure in order for that list to reopen at the end of that closure period without the existence of those difficulties; and

(g) any other information which the Contractor considers ought to be drawn to the attention of the Commissioner.

13.18.2. The Commissioner must:

(a) acknowledge receipt of the Application before the end of the period of seven days beginning with the date on which the Commissioner received the Application; and

(b) consider the Application and may request such other information from the Contractor as the Commissioner requires to enable it to determine the Application.

13.18.3. The Commissioner must enter into discussions with the Contractor concerning:

(a) the support which the Commissioner may give to the Contractor; or

(b) any changes which the Commissioner or the Contractor may make,

which would enable the Contractor to keep its list of patients *open*.

13.18.4. The Commissioner and Contractor must, throughout the period of the discussions referred to in clause 13.18.3 use reasonable endeavours to achieve the aim of keeping the *Contractor's list of patients open*.

13.18.5. The Commissioner or the Contractor may, at any stage during the discussions, invite the *Local Medical Committee* (if any) for the area in which the Contractor provides services under the Contract to attend any meetings arranged between the Commissioner and Contractor to discuss the Application.

13.18.6. The Commissioner may consult such persons as it appears to the Commissioner may be affected by the closure of the *Contractor's list of patients*, and if the Commissioner does so, it must provide to the Contractor a summary of the views expressed by those persons consulted in respect of the Application.

13.18.7. The Commissioner must enable the Contractor to consider and comment on all the information before the Commissioner makes a decision in respect of the Application.

13.18.8. A Contractor may withdraw the Application at any time before the Commissioner makes a decision in respect of that Application.

13.18.9. The Commissioner must, before the end of the period of 21 days beginning with the date on which the Application was received by the Commissioner (or within such longer period as the parties may agree), make a decision to:

(a) approve the Application and determine the date from which the closure of the Contractor's list is to take effect; or

(b) to reject the Application.

13.18.10. The Commissioner must give notice in writing to the Contractor of its decision to

(a) approve the Application in accordance with clause 13.19, or

(b) reject the Application in accordance with clause 13.20.

13.18.11. A Contractor may not submit more than one application to close its list of patients in any period of 12 months beginning with the date on which the Commissioner makes its decision on the Application unless:

(a) clause 13.20 applies; or

(b) there has been a change in the circumstances of the Contractor which affects its ability to deliver services under the Contract.

13.19. **Approval of an application to close a list of patients**

13.19.1. Where the Commissioner approves an application to close the *Contractor's list of patients*, the Commissioner must:

(a) Give notice in writing to the Contractor of its decision as soon as possible and the notice ("the closure notice") must include the details specified in clause 13.19.2; and

(b) at the same time as the Commissioner gives notice to the Contractor, send a copy of the closure notice to:

(i) the *Local Medical Committee* (if any) for the area in which the Contractor provides services under the Contract, and

(ii) any person who the Commissioner consulted in accordance with clause 13.18.6.

13.19.2. The closure notice must include:

(a) the period of time for which the *Contractor's list of patients* will be *closed* which must be:

(i) the period specified in the application; or

(ii) where the Commissioner and Contractor have agreed in writing a different period, that different period,

and in either case, the period must be not less than three months and not more than 12 months;

(b) the date on which the closure of the list of patients is to take effect ("the closure date"); and

(c) the date on which the list of patients is to re-open.

13.19.3. Subject to clause 13.21.11(b), a Contractor must close its list of patients with effect from the closure notice and the list of patients must remain *closed* for the duration of the closure period as specified in the closure notice.

13.20. **Rejection of an application to close a list of patients**

13.20.1. Where the Commissioner rejects an application to close the *Contractor's list of patients* it must:

(a) give notice in writing to the Contractor of its decision as soon as possible including the Commissioner's reasons for rejecting the application; and

(b) at the same time as it gives notice to the Contractor, send a copy of the notice to:

(i) the *Local Medical Committee* (if any) for the area in which the Contractor provides services under the Contract, and

(ii) any person who the Commissioner consulted in accordance with clause 13.18.6.

13.20.2. Subject to clause (b), if the Commissioner rejects an application from a Contractor to close a list of patients, the Contractor must not make a further application to close its list of patients until whichever is the later of:

(a) the end of the period of three months, beginning with the date on which the Commissioner's decision to reject the application was made; or

(b) in a case where a dispute arising from the Commissioner's decision to reject the application has been referred to the *NHS dispute resolution procedure*, the end of the period of three months, beginning with the date on which the final determination to reject the application was made in accordance with that procedure (or any court proceedings).

13.20.3. A Contractor may make a further application to close its list of patients where there has been a change in the circumstances of the Contractor which affects the Contractor's ability to deliver services under the Contract.

13.21. **Application for an extension of a closure period**

13.21.1. The Contractor may apply to extend the closure period by sending a written application ("the Application") to that effect to the Commissioner no later than eight weeks before the date on which the closure period is due to expire.

13.21.2. The application must include the following information:

(a) details of the options the Contractor has considered, rejected or implemented in an attempt to alleviate the difficulties which have been encountered during the closure period or which may be encountered when the closure period expires;

(b) the period of time during which the Contractor wants its list of patients to remain closed, (which extended period of desired closure must not be more than 12 months);

(c) details of any reasonable support from the Commissioner which the Contractor considers would enable the Contractor's list of patients to re-open or would enable the proposed extension of the closure period to be minimised;

(d) details of any plans which the Contractor may have to alleviate the difficulties mentioned in the application to extend the closure period in order for the list of patients to re-open at the end of the proposed extension of that period without the existence of those difficulties; and

(e) any other information which the Contractor considers ought to be drawn to the attention of the Commissioner.

13.21.3. The Commissioner must acknowledge receipt of the application before the end of the period of seven days beginning with the date on which the Commissioner received the application.

13.21.4. The Commissioner must consider the application and may request such other information from the Contractor as it requires in order to enable it to decide the application.

13.21.5. The Commissioner may enter into discussions with the Contractor concerning:

a) the support which the Commissioner may give to the Contractor; or any changes which the Commissioner or Contractor may make,

b) which would enable the Contractor to re-open its list of patients.

13.21.3. The Commissioner must acknowledge receipt of the application before the end of the period of seven days beginning with the date on which the Commissioner received the application.

13.21.3. The Commissioner must acknowledge receipt of the application before the end of the period of seven days beginning with the date on which the Commissioner received the application.

13.21.4. The Commissioner must consider the application and may request such other information from the Contractor as it requires in order to enable it to decide the application.

13.21.5. The Commissioner may enter into discussions with the Contractor concerning:

a) the support which the Commissioner may give to the Contractor; or

b) any changes which the Commissioner or Contractor may make, which would enable the Contractor to re-open its list of patients.

13.21.6. The Commissioner must determine the application before the end of the period of 14 days beginning with the date on which the Commissioner received that application (or before the end of such longer period as the parties may agree).

13.21.7. The Commissioner must give notice in writing to the Contractor of its decision to approve or reject the application to extend the closure period as soon as possible after making that decision.

13.21.8. Where the Commissioner approves an application, the Commissioner must:

(a) give notice in writing to the Contractor of its decision ("the extended closure notice") which must include the details referred to in clause 13.21.9; and

(b) at the same time as it gives notice in writing to the Contractor, send a copy of the extended closure notice to:

(i) the Local Medical Committee (if any) for the area in which the Contractor provides services under the Contract, and

(ii) any person who the Commissioner consulted in accordance with clause 13.18.6.

13.21.9. The extended closure notice must include:

(a) the period of time for which the *Contractor's list of patients* is to remain *closed* which must be:

(i) the period specified in the application; or

(ii) where the Commissioner and Contractor have agreed in writing a different period to the period specified in that application, that agreed period,

and in either case, the period ("the extended closure period"), must be not less than three months and not more than 12 months beginning with the date on which the extended closure notice is to take effect;

(b) the date on which the extended closure period is to take effect; and

(c) the date on which the *Contractor's list of patients* is to re-open.

13.21.10. Where the Commissioner rejects an application it must:

(a) Give notice in writing to the Contractor of its decision including its reasons for rejecting the application; and

(b) at the same time as it gives notice to the Contractor, send a copy of the notice to the *Local Medical Committee* (if any) for the area in which the Contractor provides services under the Contract.

13.21.11. Where an application is made in accordance with clauses 13.21.1 and 13.21.2, the *Contractor's list of patients* is to remain *closed* pending whichever is the later of:

(a) the determination by the Commissioner of that application; or

(b) in a case where a dispute arising from the Commissioner's decision to reject the application to extend the closure period has been referred to the *NHS dispute resolution procedure*, the Contractor ceasing to pursue that dispute through that procedure (or any court proceedings).

13.22. **Re-opening of list of patients**

13.22.1. The Contractor may re-open its list of patients before the expiry of the closure period if the Commissioner and Contractor agree that the Contractor should do so.

13.23. **Assignment of patients to lists: open lists**

13.23.1. Subject to clause 13.25, the Commissioner may:

(a) assign a new patient to the Contractor whose list of patients is *open*; and

(b) only assign a new patient to the Contractor whose list of patients is *closed* in the circumstances specified in clause 13.23.2.

13.23.2. The circumstances specified in this clause are where:

(a) the *assessment panel* has determined under paragraph 41(7) of Schedule 3 to *the Regulations* that new patients may be assigned to the Contractor, and that determination has not been overturned either by a determination of the Secretary of State under paragraph

42(13) of Schedule 3 to *the Regulations* or (where applicable) by a court; and

(b) the Commissioner has entered into discussions with the Contractor regarding the assignment of new patients if such discussions are required under clause 13.28.

13.24. **Application of clauses 13.23 to 13.28**

13.24.1. Clauses 13.23 to 13.28 apply in respect of the assignment by the Commissioner 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 in whose *integrated care board* area 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 in whose *integrated care board* area 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 Commissioner has been unable to contact that person.

13.24.2. In this clause 13.24, "list dispersal" means the allocation of patients from a *contractor's list of patients* by the Commissioner following termination of the contract or during the period set out in the notice of termination or agreement to terminate.

13.25. **Factors relevant to assignments**

13.25.1. When assigning a person as a new patient to a *Contractor's list of patients* under clause 13.23.1 the Commissioner 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 six months beginning with the date on which the

application for assignment is received by the Commissioner;

(d) whether, during the preceding period of six months beginning with the date on which the application for assignment is received by the Commissioner, the person has been removed from a list of patients on the grounds referred to in:

(i) clause 13.10 (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) clause 13.11 (relating to the removal from the contractor's list of patients of persons who are violent); or

(iii) the equivalent provisions to those clauses in relation to arrangements made under section 83(2) of the *2006 Act* or section 92 of the *2006 Act*;

(e) in a case to which clause (d)(ii) (or equivalent provisions as mentioned in clause (d)(iii)) apply), whether the Contractor has appropriate facilities to deal with such patients; and

(f) such other matters as the Commissioner considers relevant.

13.25A. **Assignment of patients from outside practice area**

13.25A.1 Where the Commissioner has assigned a person to the *Contractor's list of patients* in accordance with clauses 13.23 to 13.28, and that person resides outside the Contractor's *practice area*, clauses 28.1.3A , 28.1.4 and 28.1.5 are to apply as if the Contractor had accepted that *patient* onto its *list of patients* in accordance with clause 28.1.1 unless the Contractor chooses to include that person in its *list of patients* for its *practice area* on assignment by the Commissioner.

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

13.26.1. Where the Commissioner wants to assign a new patient to a contractor which has closed its list of patients, the Commissioner must prepare a proposal to be considered by the *assessment panel*.

13.26.2. The Commissioner must give notice in writing to:

(a) contractors, including those contractors who provide *primary medical services* under arrangements made under section 83(2) of the *2006 Act* or under section 92 of the

2006 Act (which relate to arrangements for the provision of primary medical services), which:

(i) have closed their list of patients; and

(ii) may, in the opinion of the Commissioner, 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 sub-clause (a) provide *essential services* (or their equivalent),

that it has referred the matter to the *assessment panel*.

13.26.3. The Commissioner must ensure that the *assessment panel* is appointed to consider and determine the proposal made under clause 13.26.1, and the composition of the *assessment panel* must be as described in clause 13.26.4.

13.26.4. The members of the *assessment panel* must be:

(a) a member of the Commissioner who is a director;

(b) a patient representative who is a member of the Local Health and Wellbeing Board or Local Healthwatch organisation; and

(c) a member of a *Local Medical Committee*, but not a member of the *Local Medical Committee* (if any) for the area in which the contractors who may be assigned patients as a consequence of the *assessment panel's* determination provide services.

13.26.5. In reaching its determination, the *assessment panel* must have regard to all relevant factors including:

(a) whether the Commissioner has attempted to secure the provision of *essential 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.

13.26.6. 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.

13.26.7. The *assessment panel* must:

(a) determine whether the Commissioner may assign new patients to a contractor which has a closed list of patients; and

(b) if it determines that the Commissioner may make such an assignment, determine, where there is more than

one contractor, the contractors to which patients may be assigned.

13.26.8. The *assessment panel* may determine that the Commissioner may assign new patients to contractors other than any of the contractors specified in its proposals under sub-clause 13.26.1, as long as the contractors were given notice in writing under sub-clause 13.26.2(a).

13.26.9. The *assessment panel's* determination must include its comments on the matters referred to in sub-clause 13.26.5, and notice in writing of that determination must be given to those contractors referred to in sub-clause 13.26.2(a).

13.27. **Assignments to closed lists: *NHS dispute resolution procedure* relating to determinations of the *assessment panel***

13.27.1. Where the *assessment panel* makes a determination under paragraph 41(7)(a) of Schedule 3 to *the Regulations* that the Commissioner may assign new patients to contractors which have *closed* their lists of patients, and the Contractor is specified in that determination, the Contractor may refer the matter to *the Secretary of State* to review the determination of the *assessment panel* pursuant to paragraph 42(2) to (17) of Schedule 3 to *the Regulations*.

13.27.2. Where, pursuant to clause 13.27.1 the Contractor wishes to refer the matter to *the Secretary of State* either by itself, or jointly with other contractors specified in the determination of the *assessment panel*, it must, either by itself or together with the other contractors, before the end of the period of seven days beginning with the date of the determination of the *assessment panel*, send to *the Secretary of State* 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 of the dispute.

13.27.3. Where a matter is referred to *the Secretary of State* in accordance with paragraph 42 of Schedule 3 to *the Regulations*, it must be reviewed in accordance with the procedure specified in that paragraph.

13.28. **Assignment to closed lists: assignments of patients by the Commissioner**

13.28.1. Before the Commissioner assigns a new patient to the Contractor, the Commissioner must, subject to clause 13.28.3:

(a) enter into discussions with the Contractor regarding the additional support that the Commissioner can offer the Contractor; and

(b) use its best endeavours to provide such support.

13.28.2. In the discussions referred to in clause 13.28.1, both parties must use reasonable endeavours to reach agreement.

13.28.3. The requirement in clause 13.28.1 to enter into discussions applies:

(a) to the first assignment of a patient to the 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 clause 13.28.1 took place.

14 PART 14

14.1 Prescribing and Dispensing[68]

14.1.1. The Contractor must comply with any directions given by *the Secretary of State* for the purposes of section 88 of the *2006 Act* as to the drugs, medicines or other substances which may or may not be ordered for patients in the provision of medical services under the Contract[69].

14.2. Prescribing

14.2.1. The Contractor must ensure that:

(a) any *prescription form* or *repeatable prescription* issued or created by a *prescriber*; and

(b) any *home oxygen order form* issued by a *health care professional*; and

(c) any *listed prescription items voucher* issued by a *prescriber* or any other person acting under the Contract,

complies as appropriate with the requirements in clauses 14.2.2 to 14.2.15, clauses 14.3.1 to 14.3.4 and clauses 14.5 to 14.8 and for which purposes, a reference to "drugs" includes contraceptive substances and a reference to "appliances" includes contraceptive appliances.

Prescribing software and supply shortages etc. of medicines

14.2.1A.1. This clause applies where:

(a) the *Secretary of State*, in the exercise of the *Secretary of State*'s obligations, duties or powers in respect of ensuring that adequate supplies of *English health service medicines* are available:

(i) has acquired information under Part 6 of the Health Service Products (Provision and Disclosure of Information) Regulations 2018 (information about price and availability of health service medicines) about a particular *English health service medicine*; and

(ii) authorises the disclosure of information derived from that information ("*relevant communications information*") to contractors for the purpose of ensuring, by the appropriate and effective management of:

(aa) a supply shortage of that particular *English health service medicine*; or

[68] This Part is required by *the Regulations* (see Part 8) and where indicated in the footnotes by *the 2006 Act.*

[69] This clause is required by section 88(1) of *the 2006 Act.* See also the ***Prescription of Drugs Regulations***.

(bb) the discontinuation of the production of that particular *English health service medicine*;

that adequate supplies of *English health service medicines* are available;

(b) the Contractor wishes to receive *relevant communications information* via the prescribing software that it has to support the issuing of prescriptions for *English health service medicines* (in addition to the other ways in which it may access that information); and

(c) there is a software programme available to the Contractor from its supplier of prescribing software ("*SPS*") that would enable that.

14.2.1A.2 Where clause 14.2.1A.1 applies, the Contractor must ensure that the arrangements it makes with a *SPS* to support the issuing of prescriptions for *English health service medicines*:

(a) include appropriate provision requiring the updating of the software to take account of *relevant communications information* about supply shortages of, or the discontinuation of the production of, particular *English health service medicines*; and

(b) are, as regards that inclusion, consistent with the authorisation referred to in clause 14.2.1A.1(a)(ii)

14.2.1A.3 The disclosure of *relevant communications information* by the *Secretary of State* or a person acting on the *Secretary of State's* behalf to a *SPS*, or by a *SPS* to a contractor in a manner that is consistent with the authorisation referred to in clause 14.2.1A.1(a)(ii), is not a disclosure of confidential or commercially sensitive information affected by section 264B(2)(b) of the *2006 Act* in a case where but for this clause it would be if the disclosure is:

(a) for the purpose of ensuring, by the appropriate and effective management by the *Secretary of State* (and persons acting on the *Secretary of State's* behalf) of:

(i) a supply shortage of the particular *English health service medicine* in question; or

(ii) the discontinuation of the production of the particular *English health service medicine* in question;

that adequate supplies of *English health service medicines* are available; and

(b) proportionate to that purpose.

14.2.1A.4 A disclosure of *relevant communications information* as mentioned in clause 14.2.1A.3 may be by way of permitting access to that information rather than proactive disclosure.

14.2.1A.5 A disclosure of *relevant communications information* that is as mentioned in clause 14.2.1A.3 is to be treated as neither constituting a breach of confidence nor prejudicing commercial interests in any case where, but for this clause, it would be so treated.

14.2.1A.6 Section 264B(3)(f) of the *2006 Act* applies to the Contractor in respect of *relevant communications information* received as part of the arrangements mentioned in clause 14.2.1A.2 as it would if the *Secretary of State* had disclosed that information to the Contractor directly instead of via an intermediary.

14.2.1A.7 A *SPS* must not disclose *relevant communications information*, other than as provided for in clause 14.2.1A.3, if it is confidential or commercially sensitive information that, when disclosed to a Contractor by the Secretary of State, is subject to the disclosure restriction in section 264B(2)(b) of the *2006 Act*.

14.2.2. Subject to clauses 14.2.3A, 14.2.4 and 14.2.5 and to clauses 14.6 to 14.7 a *prescriber* must order any drugs, medicines or appliances which are needed for the treatment of any patient who is receiving treatment under the Contract by:

(a) issuing to that patient a *non-electronic prescription form* or *non-electronic repeatable prescription* completed in accordance with clause 14.2.8; or

(b) creating and transmitting an *electronic prescription* in circumstances where clause 14.3.1 applies.

14.2.3. A *non-electronic prescription form, non-electronic repeatable prescription* or *electronic prescription* that is not for health service use must not be used in any circumstances other than those described in clause 14.2.2.

14.2.3A If, on a particular occasion when a drug, medicine or appliance is needed as mentioned in clause 14.2.2—

(a) the prescriber is able, without delay, to order the drug, medicine or appliance by means of an electronic prescription;

(b) the Electronic Prescription Service software that the prescriber would use for that purpose provides for the creation and transmission of electronic prescriptions without the need for a nominated dispenser; and

(c) none of the reasons for issuing a non-electronic prescription form or a non-electronic repeatable prescription given in clause 14.2.3B apply,

the prescriber must create and transmit an electronic prescription for that drug, medicine or appliance.

14.2.3B The reasons given in this clause are—

(a) although the prescriber is able to use the Electronic Prescription Service, the prescriber is not satisfied that—

(i) the access that the prescriber has to the Electronic Prescription Service is reliable, or

(ii) the Electronic Prescription Service is functioning reliably;

(b) the patient, or where appropriate the patient's *authorised person*, informs the prescriber that the patient wants the option of having the prescription dispensed elsewhere than in England;

(c) the patient, or where appropriate the patient's *authorised person*, insists on the patient being issued with a non-electronic prescription form or a non-electronic repeatable prescription for a particular prescription and in the professional judgment of the prescriber the welfare of the patient is likely to be in jeopardy unless a non-electronic prescription form or a non-electronic repeatable prescription is issued;

(d) the prescription is to be issued before the contractor's EPS phase 4 date or the contractor has no such date.

14.2.4. A *health care professional* must order any *home oxygen services* which are needed for the treatment of a patient who is receiving treatment under the Contract by issuing a *home oxygen order form*.

14.2.5. During an outbreak of an illness for which a *listed prescription item* may be used for treatment or for prophylaxis, if:

(a) *the Secretary of State* or *NHS England* has made arrangements for the distribution of a *listed prescription item* free of charge; and;

(b) that *listed prescription item* is needed for treatment or prophylaxis of any patient who is receiving treatment under the Contract,

a *prescriber* may, order that *listed prescription item* by using a *listed prescription items voucher* and must sign that *listed prescription items voucher* (with an *electronic signature*, if an electronic form is used) if one is used..

14.2.6. During an outbreak of an illness for which a *listed prescription item* may be used for treatment or for prophylaxis, if:

(a) *the Secretary of State* or *NHS England* has made arrangements for the distribution of a *listed prescription item* free of charge;

(b) those arrangements contain criteria set out in a protocol which enable persons who are not *prescribers* to identify the symptoms of, and whether there is a need for treatment of that *disease* or for prophylaxis;

(c) a person acting on behalf of the Contractor, who is not a *prescriber* but who is authorised by *NHS England* to order *listed prescription items*, has applied the criteria referred to in sub-clause (b) to a patient who is receiving treatment under the Contract; and

(d) having applied the criteria, that person has concluded that the *listed prescription item* is needed for treatment or prophylaxis of that patient,

the person may order that *listed prescription item* by using a *listed prescription items voucher* and must sign that *listed prescription item voucher* (with an *electronic signature*, if an electronic form is used) if one is used.

14.2.7. A *prescriber* may only order drugs, medicines or appliances on a *repeatable prescription* where the drugs, medicines or appliances are to be provided more than once.

14.2.7A.1 A prescriber must only order one prescription item on a *prescription form* or *repeatable prescription* that is used by the prescriber for ordering a *listed HRT prescription item.*

14.2.7A.2 For the purposes of clause 14.2.7A.1, "*listed HRT prescription item*" is to be construed in accordance with regulation 17A(1)(a) of the National Health Service (Charges for Drugs and Appliances) Regulations 2015, read with regulation 17A(7) of those Regulations.

14.2.8. In issuing any *non-electronic prescription form* or *non-electronic repeatable prescription* the *prescriber* must:

(a) sign the *prescription form* or *repeatable prescription* in ink in the *prescriber's* own handwriting and not by means of a stamp, with the *prescriber's* initials, or forenames, and surname; and

(b) only sign the prescription or *repeatable prescription* after particulars of the order have been inserted in the *prescription form* or *repeatable prescription*.

14.2.9. A *prescription form* or *repeatable prescription* must not refer to any previous *prescription form* or *repeatable prescription form*.

14.2.10. A separate *prescription form* or *repeatable prescription* must be used for each patient, except where a bulk prescription is issued for a school or institution under clauses 14.8.1 to 14.8.3.

14.2.11. A *home oxygen order form* must be signed by a *health care professional*.

14.2.12. Where a *prescriber* orders the drug buprenorphine or diazepam or a drug specified in Part 1 of Schedule 2 to the Misuse of Drugs Regulations 2001 (controlled drugs to which regulations 14, 15, 16, 18, 19, 20, 21, 23, 26 and 27 of those Regulations apply) for supply by instalments for treating addiction to any drug specified in that Schedule, the *prescriber* must:

(a) use only the *prescription form* provided specially for the purposes of supply by instalments;

(b) specify the number of instalments to be dispensed and the interval between each instalment; and

(c) order only such quantity of the drug as will provide treatment for a period not exceeding 14 days.

14.2.13. The *prescription form* provided specially for the purpose of supply by instalments must not be used for any purpose other than ordering drugs in accordance with clause 14.2.12.

14.2.14. In an urgent case, a *prescriber* may only request a *chemist* to dispense a drug or medicine before a *prescription form* or *repeatable prescription* is issued or created if:

(a) that drug or medicine is not a *Scheduled drug*;

(b) that drug is not a controlled drug within the meaning of Section 2 of the Misuse of Drugs Act 1971 (which relates to controlled drugs and their classification for the purposes of that Act), other than a drug which is for the time being specified in Part 1 of Schedule 4 (controlled drugs subject to the requirements of regulations 22, 23, 26 and 27) or Schedule 5 (controlled drugs excepted from the prohibition on importation, exportation and possession and subject to the requirements of regulations 24 and 26) to the Misuse of Drugs Regulations 2001; and

(c) the *prescriber* undertakes to:

(i) provide the *chemist*, within 72 hours, from the time of the request with a *non-electronic prescription form* or *non-electronic repeatable prescription* completed in accordance with clause 14.2.8; or

(ii) transmit to the *Electronic Prescription Service* within 72 hours from the time of the request an *electronic prescription*.

14.2.15. In an urgent case, a *prescriber* may only request a *chemist* to dispense an appliance before a *prescription form* or *repeatable prescription* is issued or created if:

(a) that appliance does not contain a *Scheduled drug* or a controlled drug within the meaning of the Misuse of Drugs Act 1971 (which relates to controlled drugs and their classification for the purposes of that Act), other than a drug which is for the time being specified in Schedule 5 to the Misuse of Drugs Regulations 2001 (controlled drugs excepted from the prohibition on importation, exportation and possession and subject to the requirements of regulations 24 and 26);

(b) if the appliance is a *restricted availability appliance*, the patient is a person, or it is for a purpose, specified in the *Drug Tariff*; and

(c) the *prescriber* undertakes to:

(i) provide the *chemist*, within 72 hours from the time of the request, with a *non-electronic prescription form* or a *non-electronic repeatable prescription* completed in accordance with clause 14.2.8, or

(ii) transmit by the *Electronic Prescription Service* within 72 hours from the time of the request an *electronic prescription.*

14.3. **Electronic prescriptions**

14.3.1. A *prescriber* may only order drugs, medicines or appliances by means of an *electronic prescription* if:

(a) the prescription is not:

(i) for a controlled drug within the meaning of section 2 of the Misuse of Drugs Act 1971 (which relates to controlled drugs and their classification for the purposes of that Act), other than a drug which is for the time being specified in Schedules 2 to 5 to the Misuse of Drugs Regulations 2001; or

(ii) a bulk prescription issued for a school or institution under clauses 14.8.1 to 14.8.3.

14.3.1A If a prescriber orders a drug, medicine or appliance by means of an electronic prescription, the prescriber must issue the patient with—

(a) subject to clause 14.3.1C, an EPS token; and

(b) if the patient, or where appropriate an *authorised person*, so requests, a written record of the prescription that has been created.

14.3.1B On and after the contractor's EPS phase 4 date, if the order is eligible for Electronic Prescription Service use, the prescriber must ascertain if the patient, or where appropriate the patient's *authorised person*, wants to have the electronic prescription dispensed by a nominated dispenser.

14.3.1C The prescriber must not issue the patient with an EPS token if the patient, or where appropriate the patient's *authorised person*, wants to have the electronic prescription dispensed by a nominated dispenser.

14.3.2. A *health care professional* may not order *home oxygen services* by means of an *electronic prescription*.

14.4. **Patient choice: pharmaceutical services**

14.4.1. If the Contractor is authorised to use the *Electronic Prescription Service* for its patients, it must, if a patient, or where appropriate the patient's *authorised person*, so requests, enter into the

particulars relating to that patient which are held in the Patient Demographic Service managed by *NHS England*,

(a) where the patient does not have a *nominated dispenser*, the *dispenser* chosen by that patient, or where appropriate the patient's *authorised person*; and

(b) where the patient does have a *nominated dispenser*:

(i) a replacement *dispenser*; or

(ii) a further *dispenser*,

chosen by the patient.

14.4.2. Clause 14.4.1(b)(ii) does not apply if the number of *nominated dispensers* would thereby exceed the maximum number permitted by the *Electronic Prescription Service*.

14.4.2A. The Contractor must, where the patient has a *nominated dispenser*, consult the patient, or the patient's *authorised person*, as to their choice of *dispenser* in respect of each order for drugs, medicines or appliances made by a *prescriber* under clauses 14.2.2 to 14.2.15.

14.4.3. The Contractor must not seek to persuade a patient, or a patient's *authorised person*, to nominate a *dispenser* recommended by the *prescriber* or the Contractor.

14.4.4. The Contractor must direct the patient, or the patient's *authorised person*, to the relevant information made available by the Commissioner about all chemists who are available in the patient's chosen area and who are able to provide the required service where:

(a) a patient does not have a *nominated dispenser*;

(b) a patient, or a patient's *authorised person*, asks the Contractor to recommend a chemist whom the patient or the patient's *authorised person* might nominate as the patient's *dispenser*; or

(c) the Contractor refers a patient to a pharmaceutical service.

14.5. **Repeatable prescribing services**

14.5.1. The Contractor may only provide *repeatable prescribing services* to any person on its list of patients if the Contractor:

(a) satisfies the conditions specified in clause 14.5.2; and

(b) has given notice in writing to the Commissioner of its intention to provide *repeatable prescribing services* in accordance with clauses 14.5.3 and 14.5.4.

14.5.2. The conditions specified in this clause are:

(a) the Contractor has access to computer systems and software which enable it to issue *non-electronic repeatable prescriptions* and *batch issues*; and

(b) the *practice premises* at which the *repeatable prescribing services* are to be provided are located in a Local Authority area in which there is also located the premises of at least one *chemist* who has undertaken to provide, or has entered into an arrangement to provide, *repeat dispensing services*.

14.5.3. The notice given under clause 14.5.1(b) must confirm that the Contractor:

(a) wants to provide *repeatable prescribing services*; and

(b) intends to begin providing those services from a specified date; and

(c) satisfies the conditions specified in clause 14.5.2.

14.5.4. The date specified by the Contractor under clause 14.5.3(b) must be at least ten days after the date on which the notice under clause 14.5.1(b) was given.

14.5.5. Nothing in clauses 14.5.1 to 14.5.8 requires the Contractor or *prescriber* to provide *repeatable prescribing services* to any person.

14.5.6. A *prescriber* may only provide *repeatable prescribing services* to a person on a particular occasion if:

(a) the person has agreed to receive such services on that occasion; and

(b) the *prescriber* considers that it is clinically appropriate to provide such services to that person on that occasion.

14.5.7. The Contractor may not provide *repeatable prescribing services* to any person on its list of patients to whom any person specified in clause 14.5.8 is authorised or required by the Commissioner in accordance with arrangements made under section 126 (arrangements for pharmaceutical services) and section 132 (persons authorised to provide pharmaceutical services) of the *2006 Act*.

14.5.8. The persons specified in this clause are:

(a) if the Contract is with an individual medical practitioner, that medical practitioner;

(b) if the Contract is with a partnership, any medical practitioner who is a partner in the partnership;

(c) if the Contract is with a company limited by shares, any medical practitioner who is a legal and beneficial shareholder in that company; or

(d) any medical practitioner employed or engaged by the Contractor.

14.5.9. A *prescriber* who issues a *non-electronic repeatable prescription* must at the same time issue the appropriate number of *batch issues*.

14.5.10. Where a *prescriber* wants to make a change to the type, quantity, strength or dosage of drugs, medicines or appliances ordered on a person's *repeatable prescription* the *prescriber* must:

(a) in the case of a *non-electronic repeatable prescription*:

(i) give notice to the person; and

(ii) make reasonable efforts to give notice to the *chemist* providing *repeat dispensing services* to the person,

that the original *repeatable prescription* should no longer be used to obtain or provide *repeat dispensing services* and make arrangements for a replacement *repeatable prescription* to be issued to the person; or

(b) in the case of an *electronic repeatable prescription*:

(i) arrange with the *Electronic Prescription Service* for the cancellation of the original *repeatable prescription*; and

(ii) create a replacement *electronic repeatable prescription* relating to that person and give notice to that person that this has been done.

14.5.11. Where a *prescriber* has created an *electronic repeatable prescription* for a person, the *prescriber* must. as soon as practicable, arrange with the *Electronic Prescription Service* for its cancellation if, before the expiry of that prescription:

(a) the *prescriber* considers that it is no longer safe or appropriate for the person to receive the drugs, medicines or appliances ordered on the person's *electronic repeatable prescription* or no longer safe and appropriate for the person to continue to receive *repeatable prescribing services*;

(b) the *prescriber* has issued the person with a *non-electronic repeatable prescription* in place of the *electronic repeatable prescription*; or

(c) it comes to the *prescriber's* notice that that person has been removed from the list of patients of the Contractor on whose behalf the prescription was issued.

14.5.12. Where a prescriber has cancelled an electronic repeatable prescription relating to a person in accordance with clause 14.5.11, the *prescriber* must give notice of the cancellation to the person as soon as possible.

14.5.13. A *prescriber* who has issued a *non-electronic repeatable prescription* in relation to a person must, as soon as possible, make reasonable efforts to give notice to the *chemist* that that *repeatable prescription* should no longer be used to provide *repeat dispensing*

services to that person, if, before the expiry of that *repeatable prescription*:

(a) the *prescriber* considers that it is no longer safe or appropriate for the person to receive the drugs, medicines or appliances ordered on the person's *repeatable prescription* or that it is no longer safe or appropriate or safe for the person to continue to receive *repeatable prescribing services*;

(b) the *prescriber* issues or creates a further *repeatable prescription* in respect of the person to replace the original *repeatable prescription* other than in the circumstances referred to in clause 14.5.10(a) (for example, because the person wants to obtain the drugs, medicines or appliances from a different *chemist*); or

(c) it comes to the *prescriber's* notice that the person has been removed from the list of patients of the Contractor on whose behalf the prescription was issued.

14.5.14. Where the circumstances in clause 14.5.13 apply in respect of a person, the *prescriber* must as soon as possible give notice to that person that their *repeatable prescription* should no longer be used to obtain *repeat dispensing services*.

14.5A. **Prescribing for electronic repeat dispensing**

14.5A.1 Subject to clauses 14.2.2 to 14.2.15, 14.3, 14.5.1 to 14.5.8 and 14.5.10(b) to 14.5.12, where a *prescriber* orders a drug, medicine or *appliance* by means of an *electronic repeatable prescription*, the *prescriber* must issue the prescription in a format appropriate for e*lectronic repeat dispensing* where it is clinically appropriate to do so for that *patient* on that occasion.

14.5A.2. In this clause 14.5A, *"electronic repeat dispensing"* means dispensing as part of *pharmaceutical services* or *local pharmaceutical services* which involves the provision of drugs, medicines or *appliances* in accordance with an *electronic repeatable prescription*.

14.6. **Restrictions on prescribing by medical practitioners**

14.6.1. A medical practitioner, in the course of treating a patient to whom the practitioner is providing treatment under the Contract, must comply with the following clauses.

14.6.2. The medical practitioner must not order on a *listed prescription items voucher*, *prescription form* or a *repeatable prescription* a drug, medicine or other substance specified in any directions given by *the Secretary of State* under section 88 of the *2006 Act* (GMS contracts: prescription of drugs etc) as being drugs, medicines or other substances which may not be ordered for patients in the provision of medical services under the Contract.

14.6.3. The medical practitioner must not order on a *listed prescription items voucher*, a *prescription form* or *repeatable prescription* a drug, medicine or other substance specified in any directions given by *the Secretary of State* under section 88 of the *2006 Act* (GMS

contracts: prescription of drugs etc) as being a drug, medicine or other substance which can only be ordered for specified patients and specified purposes unless:

(a) the patient is a person of the specified description;

(b) that drug, medicine or other substance is prescribed for that patient only for the specified purpose; and

(c) if the order is on a *prescription form*, the practitioner includes on the form:

(i) the reference "SLS"; or

(ii) if the order is under arrangements made by *the Secretary of State* or *NHS England* for the distribution of a *listed prescription item* free of charge, the reference "ACP".

14.6.4. The medical practitioner must not order on a *prescription form* or *repeatable prescription* a *restricted availability appliance* unless:

(a) the patient is a person, or it is for a purpose, specified in the *Drug Tariff*; and

(b) the practitioner includes on the *prescription form* the reference "SLS",

but may, subject to clause 19.1.1(b), prescribe such an appliance for that patient in the course of that treatment under a private arrangement.

14.6.5. The medical practitioner must not order on a *repeatable prescription* a controlled drug within the meaning of the Misuse of Drugs Act 1971(which relates to controlled drugs and their classification for the purposes of that Act), other than a drug which is for the time being specified in Schedule 4 (controlled drugs excepted from the prohibition on importation, exportation and possession and subject to the requirements of regulations 24 and 26) or Schedule 5 (controlled drugs excepted from the prohibition on importation, exportation and possession and subject to the requirements of regulations 24 and 26) to the Misuse of Drugs Regulations 2001.

14.6.6. Subject to clause 19.1.1(b) and to clause 14.6.7, nothing in the preceding clauses prevents a medical practitioner, in the course of treating a patient to whom clause 14.6 refers, from prescribing a drug, medicine or other substance or, as the case may be, a restricted availability appliance or a controlled drug within the meaning of section 2 of the Misuse of Drugs Act 1971 (which relates to controlled drugs and their classification for the purposes of that Act), for the treatment of that patient under a private arrangement.

14.6.7. Where, under clause 14.6.6, a drug, medicine or other substance is prescribed under a private arrangement, if the order is to be transmitted as an *electronic communication* to a *chemist* for the drug, medicine or appliance to be dispensed:

(a) if the order is not for a drug for the time being specified in Schedule 2 (controlled drugs subject to the requirements of regulations 14,

15, 16, 18, 19, 20, 21, 23, 26 and 27) or 3 (controlled drugs subject to the requirements of regulations 14, 15, 16, 18, 22, 23, 24, 26 and 27) to the Misuse of Drugs Regulations 2001, it may be transmitted by the *Electronic Prescription Service*; but

(b) if the order is for a drug for the time being specified in Schedule 2 (controlled drugs subject to the requirements of regulations 14, 15, 16, 18, 19, 20, 21, 23, 26 and 27) or 3 (controlled drugs subject to the requirements of regulations 14, 15, 16, 18, 22, 23, 24, 26 and 27) to the Misuse of Drugs Regulations 2001, it must be transmitted by the *Electronic Prescription Service*.

14.7. **Restrictions on prescribing by *supplementary prescribers***

14.7.1. Where the Contractor employs or engages a *supplementary prescriber* and that person's functions include prescribing, the Contractor must have arrangements in place to secure that a *supplementary prescriber* may only –

(a) issue or create a prescription for a *prescription only medicine*;

(b) administer a *prescription only medicine* for parenteral administration; or

(c) give directions for the administration of a *prescription only medicine* for parenteral administration,

as a *supplementary prescriber* under the conditions set out in clause 14.7.2.

14.7.2. The conditions referred to in this clause are that –

(a) the person satisfies the conditions set out in regulation 215 of the Human Medicines Regulations 2012 (prescribing and administration by supplementary prescribers), unless those conditions do not apply by virtue of any of the exemptions set out in the subsequent provisions of those Regulations;

(b) the medicine is not specified in any directions given by *the Secretary of State* in regulations under section 88 of the *2006 Act* (GMS contracts: prescription of drugs etc) as being a drug, medicine or other substance which may not be ordered for patients in the provision of medical services under the Contract;

(c) the medicine is not specified in any directions given by *the Secretary of State* under section 88 of the *2006 Act* (GMS contracts: prescription of drugs etc) as being a drug, medicine or other substance which can only be ordered for specified patients and specified purposes unless –

(i) the patient is a person of the specified description,

(ii) the medicine is prescribed for that patient only for the specified purposes, and

(iii) if the *supplementary prescriber* is issuing or creating a prescription on a *prescription form*, the *prescriber* includes on the form

(aa) the reference "SLS" or,

(bb) in the case of a *listed prescription item* ordered under arrangements made by *the Secretary of State* or *NHS England* for the item's distribution free of charge, the reference "ACP".

14.7.3. Where the functions of a *supplementary prescriber* include prescribing, the Contractor must have arrangements in place to secure that that person may only issue or create a prescription for –

(a) an appliance; or

(b) a medicine which is not a *prescription only medicine*,

as a *supplementary prescriber* under the conditions set out in clause 14.7.4.

14.7.4. The conditions referred to in this clause are that –

(a) the *supplementary prescriber* acts in accordance with a clinical management plan which is in effect at the time when that *prescriber* acts and which contains the following particulars –

(i) the name of the patient to whom the plan relates;

(ii) the illness or conditions which may be treated by the *supplementary prescriber*;

(iii) the date on which the plan is to take effect, and when it is to be reviewed by the medical practitioner or dentist who is a party to the plan;

(iv) reference to the class or description of medicines or types of appliances which may be prescribed or administered under the plan;

(v) any restrictions or limitations as to the strength or dose of any medicine which may be prescribed or administered under the plan, and any period of administration or use of any medicine or appliance which may be prescribed or administered under the plan;

(vi) relevant warnings about known sensitivities of the patient to, or known difficulties of the patient with, particular medicines or appliances;

(vii) the arrangements for notification of –

(aa) suspected or known adverse reactions to any medicine which may be prescribed or administered under the plan, and suspected or known adverse reactions to any other medicine taken at the same time

as any medicine prescribed or administered under the plan,

(bb) incidents occurring with the appliance which might lead, might have led or have led to the death or serious deterioration of state of health of the patient; and

(viii) the circumstances in which the *supplementary prescriber* should refer to, or seek the advice of, the medical practitioner or dentist who is a party to the plan;

(b) the *supplementary prescriber* has access to the health records of the patient to whom the plan relates which are used by any medical practitioner or dentist who is a party to the plan;

(c) if it is a prescription *for* a *prescription only medicine*, that *prescription only medicine* is not specified in any directions given by *the Secretary of State* under section 88 of the *2006 Act* (GMS contracts: prescription of drugs etc) as being a medicine which may not be ordered for patients in the provision of medical services under the Contract;

(d) if it is a prescription for a *prescription only medicine* which is not specified in any directions given by *the Secretary of State* under section 88 of the *2006 Act* (GMS contracts: prescription of drugs etc) as being a medicine which can only be ordered for specified patients and specified purposes unless –

(i) the patient is a person of the specified description,

(ii) the medicine is prescribed for that patient only for the specified purposes; and

(iii) when issuing or creating the prescription, the *supplementary prescriber* includes on the *prescription form* the reference “SLS”;

(e) if it is a prescription for an appliance, the appliance is listed in Part IX of the *Drug Tariff*; and

(f) if it is a prescription for a *restricted availability appliance* –

(i) the patient is a person of a description mentioned in the entry in Part IX of the *Drug Tariff* in respect of that appliance;

(ii) the appliance is prescribed only for the purposes specified in respect of that person in that entry; and

(iii) when issuing or creating the prescription, the *supplementary prescriber* includes on the *prescription form* the reference “SLS”.

14.7.5. In clause 14.7.4, "clinical management plan" means a written plan (which may be amended from time to time) relating to the treatment of an individual patient agreed by:

(a) the patient to whom the plan relates;

(b) the medical practitioner or dentist who is a party to the plan; and

(c) any *supplementary prescriber* who is to prescribe, give directions for administration or administer under the plan.

14.8. **Bulk prescribing**

14.8.1. A *prescriber* may use a single *non-electronic prescription form* where:

(a) the Contractor is responsible under the Contract for the treatment of ten or more persons in a school or other institution in which at least 20 persons normally reside; and

(b) a *prescriber* orders, for any two or more of those persons for whose treatment the Contractor is responsible, drugs, medicines or appliances to which this clause 14.8applies.

14.8.2. Where a *prescriber* uses a single *non-electronic prescription form* for the purpose mentioned in clause 14.8.1(b), the *prescriber* must (instead of entering on the form the names of the persons for whom the drugs, medicines or appliances are ordered) enter on the form:

(a) the name of the school or institution in which those persons reside; and

(b) the number of persons residing there for whose treatment the Contractor is responsible.

14.8.3. Clauses 14.8.1 and 14.8.2 apply to any drug, medicine or appliance which can be supplied as part of pharmaceutical services or *local pharmaceutical services* and which in the case of:

(a) a drug or medicine, is not a *prescription only medicine*; or

(b) an appliance, does not contain such a product.

14.9. **Excessive prescribing**

14.9.1. The Contractor must not prescribe drugs, medicines or appliances the cost or quantity of which, in relation to a patient, is, by reason of the character of the drug, medicine or appliance in question, in excess of that which was reasonably necessary for the proper treatment of the patient.

14.9.2. In considering whether a Contractor has breached its obligations under 14.9.1, the Commissioner must seek the views of the *Local Medical Committee* (if any) for the area in which the Contractor provides services under the Contract.

14.10. **Arrangements for Pharmaceutical Services**

14.10.1. Where the Contractor is a dispensing doctor within the meaning of the *Pharmaceutical Regulations*,[70] the provisions in Schedule 7 will apply.

14.11. **Provision of drugs, medicines and appliances for immediate treatment or personal administration**

14.11.1. Subject to clauses 14.11.2 and 14.11.3, the Contractor:

(a) must provide to a patient any drug, medicine or appliance, which is not a *Scheduled drug*, where such provision is needed for the immediate treatment of the patient before provision can otherwise be obtained; and

(b) may provide to a patient a drug, medicine or appliance, which is not being a *Scheduled drug*, which the Contractor personally administers or applies to the patient,

14.11.2. The Contractor must only provide a *restricted availability appliance* under clause 14.11.1 if it is for a person or a purpose specified in the *Drug Tariff*.

14.11.3. Nothing in clause 14.11.1 authorises a person to supply a *prescription only medicine* to a patient otherwise than in accordance with Part 3 of the Medicines Act 1968,[71] or any regulations or orders made under that Act.

15 PART 15[72]

15.1 Persons Who Perform Services

15.1. **Qualifications of performers**

15.1.1. A medical practitioner may only perform a clinical service under the Contract where that medical practitioner is not:

(a) prohibited from performing any such service by regulation 24 of the National Health Service (Performers Lists) (England) Regulations 2013;[73]

(b) suspended from the *medical performers list* or from the *Medical Register*; and

[70] See regulation 46(1) of the *Pharmaceutical Regulations.*
[71] Part 3 of the Medicines Act 1968 has largely been consolidated into Part 12 of the Human Medicines Regulations 2012, although some provisions in Part 3 remain in force.
[72] Except where footnotes indicate otherwise, this Part is required by *the Regulations* (see Part 7).
[73] S.I. 2013/335

(c) subject to interim suspension under section 41A of the Medical Act 1983.[74]

15.1.2. Reserved.

15.1.3. Reserved.

15.1.4. A *health care professional* (other than one to whom clause 15.1.1 applies) may not perform clinical services under the Contract unless:

(a) that person is registered with the professional body relevant to that person's profession; and

(b) that registration is not subject to a period of suspension.

15.1.5. Where the registration of a *health care professional* or, in the case of a medical practitioner, the inclusion in a *primary care list* is subject to conditions, the Contractor must ensure compliance with those conditions in so far as they are relevant to the Contract.

15.1.6. A *health care professional* may not perform any clinical services under the Contract unless that person has such clinical experience and training as are necessary to enable the person to properly perform such services.

15.2. **Conditions for employment and engagement**

15.2.1. Subject to clause 15.2.2, the Contractor may not employ or engage a medical practitioner unless the Contractor has checked that the practitioner meets the requirements of:

clause 15.1.1; and

clause 15.1.6.

15.2.2. Where:

(a) the employment or engagement of a medical practitioner is urgently needed; and

(b) it is not possible for the Contractor to check the matters referred to in clause 15.1.1 in accordance with clause 15.2.1(b) before employing or engaging the practitioner,

the Contractor may employ or engage the practitioner on a temporary basis for a single period of up to seven days whilst such checks are undertaken.

15.2.3. Reserved.

15.2.4. Subject to clause 15.2.5, a Contractor may not employ or engage a *health care professional* to perform clinical services under the Contract unless:

[74] 1983 c. 54; relevant amending instruments are S.I. 2000/1803, 2002/3135, 2006/1914 and 2015/794.

(a) the Contractor has checked that the *health care professional* meets the requirements of clause 15.1.4; and

(b) the Contractor has taken reasonable steps to satisfy itself that the *health care professional* meets the requirements in clause 15.1.6.

15.2.5. Where:

(a) the employment or engagement of a *health care professional* is urgently needed; and

(b) it is not possible for the Contractor to check that the *health care professional* meets the requirements referred to in clause 15.1.4 before employing or engaging the *health care professional*,

the Contractor may employ or engage the *health care professional* on a temporary basis for a single period of up to seven days whilst such checks are undertaken.

15.2.6. When considering a *health care professional's* experience and training pursuant to clause 15.2.4(b), the Contractor must, in particular, have regard to:

(a) any post-graduate or post-registration qualification held by the *health care professional*, and

(b) any relevant training undertaken, and any relevant clinical experience gained, by the *health care professional*.

15.2.7. The Contractor may not employ or engage a *health care professional* to perform clinical services under the Contract (other than an exempt medical practitioner to whom clause 15.1.3(d) applies unless:

(a) that person has provided two clinical references, relating to two recent posts (which may include any current post) as a *health care professional* which lasted for three months without a significant break, or where this is not possible, a full explanation and alternative referees; and

(b) the Contractor has checked and is satisfied with the references.

15.2.8. Where:

(a) the employment or engagement of a *health care professional* is urgently needed; and

(b) it is not possible for the Contractor to obtain and check the references in accordance with clause 15.2.7(b) before employing or engaging that *health care professional*,

the Contractor may employ or engage the *health care professional* on a temporary basis for a single period of up to 14 days whilst the references are checked and considered, and for an additional single period of a further seven days if the Contractor believes that

the person supplying those references is ill, on holiday or otherwise temporarily unavailable.

15.2.9. Where the Contractor employs or engages the same person on more than one occasion within a period of three months, the Contractor may rely on the references provided on the first occasion, provided that those references are not more than twelve months old.

15.2.10. The Contractor must, before employing or engaging any person to assist it in the provision of services under the Contract, take reasonable steps to satisfy itself that the person in question is both suitably qualified and competent to discharge the duties for which that person is to be employed or engaged.

15.2.11. When considering the competence and suitability of any person for the purpose of clause 15.2.10, the Contractor must have regard, in particular, to that person's:

(a) academic and vocational qualifications;

(b) education and training; and

(c) previous employment or work experience.

15.3. **Training**

15.3.1. The Contractor must ensure that for any *health care professional* who is:

(a) performing clinical services under the Contract; or

(b) employed or engaged to assist in the performance of such services,

there are in place arrangements for the purpose of maintaining and updating the skills and knowledge of that *health care professional* in relation to the services which that *health care professional* is performing or assisting in the performance of.

15.3.2. The Contractor must afford to each employee reasonable opportunities to undertake appropriate training with a view to maintaining that employee's competence.

15.4. **Terms and conditions**

15.4.1. The Contractor may only offer employment to a *general medical practitioner* on terms and conditions which are no less favourable than those contained in the document entitled "Model terms and conditions of service for a salaried general practitioner employed by a GMS practice" published by the British Medical Association and the NHS Confederation as item 1.2 of the supplementary documents to the new GMS contract 2003 (this document is available on the NHS Employers website at Model terms and conditions of service for a salaried general practitioner employed by a GMS practice ("Practice") (nhsemployers.org).

15.5. **Arrangements for *GP Specialty Registrars***

15.5.1. The Contractor may only employ a *GP Specialty Registrar* subject to the conditions specified in clause 15.5.2.

15.5.2. The conditions specified in this subclause are that the Contractor must not, by reason only of having employed or engaged a *GP Specialty Registrar*, reduce the total number of hours for which other medical practitioners perform *primary medical services* under the Contract or for which other staff assist those practitioners in the performance of those services.

15.5.3. Where the Contractor employs a *GP Specialty Registrar*, the Contractor must

(a) offer that *GP Specialty Registrar* terms of employment in accordance with such rates, and subject to such conditions, as are approved by *the Secretary of State* concerning the grants, fees, travelling and other allowances payable to *GP Specialty Registrars*; and

(b) take into account the guidance contained in the document entitled "A Reference Guide For Postgraduate Specialty Training in the UK".[75]

15.6. **Notification requirements in respect of relevant prescribers**

15.6.1. For the purposes of this clause 15.6**,** "a relevant prescriber" is:

(a) a *chiropodist or podiatrist independent prescriber*;

(b) an *independent nurse prescriber*;

(c) a *pharmacist independent prescriber*;

(d) a *physiotherapist independent prescriber*; and

(e) a *supplementary prescriber*.

15.6.2. The Contractor must give notice to the Commissioner where:

(a) a relevant prescriber is employed or engaged by the Contractor to perform functions which include prescribing;

(b) a relevant prescriber is a party to the Contract whose functions include prescribing; or

(c) the functions of a relevant prescriber whom the Contractor already employs or has already engaged are extended to include prescribing.

15.6.3. The notice under clause 15.6.2 must be given in writing to the Commissioner before the expiry of the period of seven days beginning with the date on which

[75] This guidance, last published in May 2014, is available at http://specialtytraining.hee.nhs.uk/files/2013/10/A-Reference-Guide-for-Postgraduate-Specialty-Training-in-the-UK.pdf. Hard copies are available from Health Education England, 1st Floor, Blenheim House, Duncombe Street, Leeds,
LS1 4PL

(a) the relevant prescriber was employed or engaged by the Contractor or, as the case may be, became a party to the Contract (unless, immediately before becoming such a party, clause 15.6.2(a) applied to that relevant prescriber); or

(b) the functions of the relevant prescriber were extended to include prescribing.

15.6.4. The Contractor must give notice to the Commissioner where:

(a) the Contractor ceases to employ or engage a relevant prescriber in the Contractor's *practice* whose functions include prescribing in the Contractor's *practice*;

(b) a relevant prescriber ceases to be a party to the Contract;

(c) the functions of a relevant prescriber employed or engaged by the Contractor in the Contractor's *practice* are changed so that they no longer include prescribing in the Contractor's *practice*; or

(d) the Contractor becomes aware that a relevant prescriber whom it employs or engages has been removed or suspended from the *relevant register*,

it must notify the Commissioner by the end of the second working day after the day on which the event occurred.

15.6.5. The notice under clause 15.6.4 must be given in writing to the Commissioner before the end of the second working day after the day on which an event described in sub-clauses 15.6.4(a) to 15.6.4(d) occurred in relation to the relevant prescriber.

15.6.6. The Contractor must provide the following information when it gives notice to the Commissioner in accordance with clause 15.6.2:

(a) the person's full name;

(b) the person's professional qualifications;

(c) the person's identifying number which appears in the *relevant register*;

(d) the date on which the person's entry in the *relevant register* was annotated to the effect that the person was qualified to order drugs, medicines and appliances for patients;

(e) the date on which:

(i) the person was employed or engaged (if applicable),

(ii) the person became a party to the Contract (if applicable), or

(iii) the functions of the person became to prescribe in its *practice*.

15.6.7. The Contractor must provide the following information when it gives notice to the Commissioner in accordance with clause 15.6.4:

(a) the person's full name;

(b) the person's professional qualifications;

(c) the person's identifying number which appears in the *relevant register*;

(d) the date on which:

(i) the person ceased to be employed or engaged in the Contractor's *practice*,

(ii) the person ceased to be a party to the Contract,

(iii) the functions of the person were changed so as to no longer include prescribing in the Contractor's *practice*, or

(iv) the person was removed or suspended from the *relevant register*.

15.7. **Signing of documents**

15.7.1. The Contractor must ensure:

(a) that the documents specified in clause 15.7.2 include:

(i) the clinical profession of the *health care professional* who signed the document; and

(ii) the name of the Contractor on whose behalf the document is signed; and

(b) that the documents specified in clause 15.7.3 include the clinical profession of the *health care professional* who signed the document.

15.7.2. The documents specified in this clause are:

(a) certificates issued in accordance with clause 17.1 unless regulations relating to particular certificates provide otherwise; and

(b) any other clinical documents, apart from:

(i) *home oxygen order forms*, and

(ii) those documents specified in clause 15.7.3.

15.7.3. The documents referred to in this clause are *batch issues*, *prescription forms* and *repeatable prescriptions.*

15.7.4. This clause 15.7 is in addition to any other requirements relating to the documents specified in clauses 15.7.2 and 15.7.3 whether in *the Regulations* or elsewhere.

15.8. **Appraisal and assessment**

15.8.1. The Contractor must ensure that any medical practitioner performing services under the Contract:

(a) participates in the appraisal system provided by the Commissioner, unless that medical practitioner participates in an appropriate appraisal system provided by another *health service body* or is an *armed forces GP*; and

(b) co-operates with the Commissioner in relation to the Commissioner's patient safety functions.

15.8.2. The Commissioner must provide an appraisal system for the purposes of clause 15.8.1(a) after consultation with the *Local Medical Committee* (if any) for the area in which the practitioner provides services under the Contract and such other persons as appear to it to be appropriate.

15.9. **Sub-contracting of clinical matters**

15.9.1. Subject to clause 15.9.2, the Contractor must not sub-contract any of its rights or duties under the Contract in relation to clinical matters to any person unless:

(a) in all cases, including those duties relating to out of hours services to which fall within clauses 15.10.1 to 15.10.15 it has taken reasonable steps to satisfy itself that:

(i) it is reasonable in all the circumstances to do so and

(ii) the person to whom any of those rights or duties are sub-contracted is qualified and competent to provide the service; and

(b) except in cases which fall within clauses 15.10.1 to 15.10.15, the Contractor has given notice in writing to the Commissioner of its intention to sub-contract as soon as reasonably practicable before the date on which the proposed sub-contract is intended to come into effect.

15.9.2. Clause 15.9.1(b) does not apply to a contract for services with a *health care professional* for the provision by that professional personally of clinical services.

15.9.3. A notice given under clause 15.9.1(b) must include:

(a) the name and address of the proposed sub-contractor;

(b) the duration of the proposed sub-contract;

(c) the services to be covered by the proposed sub-contract; and

(d) the address of any premises to be used as *practice premises* under the proposed sub-contract.

15.9.4. On receipt of a notice given under clause 15.9.1(b), the Commissioner may request such further information relating to the proposed subcontract as appears to it to be reasonable and the Contractor must supply such information to the Commissioner promptly.

15.9.5. The Contractor must not proceed with a sub-contract or, if the sub-contract has already taken effect, the Contractor must take steps to terminate it, where:

(a) the Commissioner gives notice in writing of its objection to the sub- contract on the grounds that the sub-contract would:

(i) put the safety of patients at serious risk, or

(ii) put the Commissioner at risk of material financial loss;

and notice is given by the Commissioner before the end of the period of 28 days beginning with the date on which the Commissioner received a notice from the Contractor under clause 15.9.1(b), or

(b) the sub-contractor would be unable to meet the Contractor's obligations under the Contract.

15.9.6. A notice given by the Commissioner under clause 15.9.5, must include a statement of the reasons for the Commissioner's objection.

15.9.7. Clauses 15.9.1 and 15.9.3 to 15.9.6 also apply in relation to any renewal or material variation of a sub-contract in relation to clinical matters.

15.9.8. Where the Commissioner does not give notice of an objection under clause 15.9.5, the parties to the Contract are deemed to have agreed to a variation of the Contract which has the effect of adding to the list of *practice premises* any premises the address of which was notified to the Commissioner under clause 15.9.3(d) and clause 26.1.1 does not apply.

15.9.9. Subject to clause 15.9.9A, a sub-contract entered into by the Contractor must prohibit the sub-contractor from sub-contracting the clinical services it has agreed with the Contractor to provide under the sub-contract.

15.9.9A. A sub-contract entered into by the Contractor may allow the sub-contractor to sub-contract clinical services the Contractor has agreed to provide under the Network Contract Directed Enhanced Service Scheme, pursuant to the *Primary Medical Services (Directed Enhanced Services) Directions*, provided the Contractor obtains the written approval of the Commissioner prior to the sub-contractor sub-contracting those services.

15.9.10. The Contractor must not sub-contract any of its rights or duties under the Contract in relation to the provision of *essential services* to a company or firm that is:

(a) wholly or partly owned by the Contractor, or by any former or current employee of, or partner or shareholder in, the Contractor;

(b) formed by or on behalf of the Contractor, or from which the Contractor derives or may derive a pecuniary benefit; or

(c) formed by or on behalf of a former or current employee of, or partner or shareholder in, the Contractor, or from which such a person derives or may derive a pecuniary benefit,

where that company or firm is or was formed wholly or partly for the purpose of avoiding the restrictions on the sale of the goodwill of a medical practice in section 259 of the *2006 Act* or any Regulations made wholly or partly under those provisions of the *2006 Act*.

15.10. **Sub-contracting of out of hours services**[76]

15.10.1. The Contractor must not sub-contract all or part of its duty to provide *out of hours services* under the Contract to a person other than those specified in clause 15.10.2 without the prior approval of the Commissioner.

15.10.2. The persons referred to in this clause are:

(a) a person who holds a *general medical services contract* with the Commissioner or *a default contract* with the Commissioner which includes *out of hours services*;

(b) a person who is a party to contractual arrangements made under article 15 of *the Transitional Order*;

(c) a *section 92 provider* who is required to provide the equivalent of *essential services* to its patients during all or part of the *out of hours period*;

(d) a *health care professional*, not falling within clause (a) to (c), who is to provide the *out of hours* services personally under a contract for services; or

(e) a group of medical practitioners, whether in partnership or not, who provide *out of hours services* for each other under informal rota arrangements.

[76] Clauses 15.10.1 to 15.10.15 only need to be included in the Contract if the Contractor is providing *out of hours services* under the Contract. Articles 21 and 22 of *the Transitional Order* are also relevant to these clauses.

15.10.3. An application for approval under clause 15.10.1 must be made by the Contractor in writing to the Commissioner and must state:

(a) the name and address of the proposed sub-contractor;

(b) the address of any premises to be used as *practice premises* under the sub-contract;

(c) the duration of the proposed sub-contract;

(d) the services to be covered by the sub-contract; and

(e) the manner in which the sub-contractor proposes to meet the Contractor's obligations under the Contract in respect of the services covered by the sub-contract.

15.10.4. The Commissioner may request such further information relating to arrangements under the proposed sub-contract as appears to it to be reasonable before the end of the period of seven days beginning with the date on which it received the application under clause 15.10.3.

15.10.5. Where the Commissioner receives an application which meets the requirements of clause 15.10.3 or receives any further information requested under clause 15.10.4 (whichever is the later), the Commissioner must before the end of the period of 28 days beginning with the date on which it received the application or that information (whichever is the latest):

(a) approve the application;

(b) approve the application with conditions; or

(c) refuse the application.

15.10.6. The Commissioner must not refuse the application if it is satisfied that the arrangements covered by the proposed sub-contract would, in respect of the services to be provided, enable the Contractor to satisfactorily meet its obligations under the Contract and would not:

(a) put the safety of the Contractor's patients at serious risk; or

(b) put the Commissioner at risk of material financial loss.

15.10.7. The Commissioner must give notice in writing to the Contractor of its decision on the application and, where it refuses an application, it must include in the notice a statement of the reasons for its refusal.

15.10.8. Where the Commissioner approves an application under clause 15.10.3 the parties to the Contract are deemed to have agreed a variation of the Contract which has the effect of adding to the list of *practice premises*, for the purposes of the provision of services in accordance with that application, any premises the address of which was notified to the Commissioner under clause 15.10.3(b) and, in these circumstances clause 26.1.1 does not apply.

15.10.9. Clauses 15.10.1 to 15.10.8 also apply in relation to any renewal or material variation of a sub-contract in relation to *out of hours services*.

15.10.10. A sub-contract entered into by the Contractor must prohibit the sub-contractor from sub-contracting the *out of hours services* that it has agreed with the Contractor to provide under the subcontract.

15.10.11. Subject to clause 15.10.14, where the Commissioner approves an application made under clause 15.10.3, the Commissioner may subsequently give notice in writing to the Contractor withdrawing or varying that approval from a date specified in the notice if it is no longer satisfied that the arrangements covered by the subcontract would enable the Contractor to satisfactorily meet its obligations under the Contract.

15.10.12. The date specified in the notice given under clause 15.10.11 may be such date as appears to the Commissioner to be reasonable in all the circumstances.

15.10.13. The notice given under clause 15.10.11 takes effect on whichever is the later of:

(a) the date specified in the notice; or

(b) in a case where a dispute arising in relation to the notice given by the Commissioner under clause 15.10.11 is referred to the *NHS dispute resolution procedure*, the date of the final determination of the dispute under that procedure (or any court proceedings) in favour of the Commissioner.

15.10.14. Where the Commissioner approves an application made under clause 15.10.3 the Commissioner may subsequently give notice in writing to the Contractor withdrawing or varying that approval with immediate effect if the Commissioner is:

(a) no longer satisfied that the arrangements covered by the sub-contract would enable the Contractor to satisfactorily meet its obligations under the Contract; and

(b) satisfied that the immediate withdrawal or variation of the approval is necessary to protect the safety of the Contractor's patients.

15.10.15. A notice served under clause 15.10.14 takes effect on the date on which it is received by the Contractor.

15.10.16. Clauses 15.10.11 to 15.10.15 do not affect any other remedies which the Commissioner may have under the Contract.

16 PART 16

16.1 Records, Information, Notification and Rights of Entry[77]

16.1. Patient records

16.1.1. In this part, "computerised records" means records created by way of entries on a computer.

16.1.2. The Contractor must keep adequate records of its attendance on and treatment of its patients and must do so:

(a) on forms supplied to it for the purpose by *NHS England*; or

(b) with the written consent of the Commissioner, by way of computerised records,

or in a combination of those two ways.

16.1.3. The Contractor must include in the records referred to in clause 16.1.2, clinical reports sent in accordance with clause 7.10 or from any other *health care professional* who has provided clinical services to a person on the *Contractor's list of patients*.

16.1.4. The consent of the Commissioner required by clause 16.1.2(b) may not be withheld or withdrawn provided the Commissioner is satisfied, and continues to be satisfied, that:

(a) the computer system upon which the Contractor proposes to keep the records meets the requirements set out in the *GPIT Operating Model*;

(b) the security measures, audit and system management functions incorporated into the computer system and compliant with the *GPIT Operating Model* have been enabled; and

(c) the Contractor is aware of, and has signed an undertaking that it will have regard to, the guidelines contained in "Digital Primary Care: Good Practice Guidelines for GP electronic patient records – (GPGv5)"[78], published on 20th September 2023.

16.1.5. Where the patient's records are computerised records, the Contractor must, as soon as possible following a request from the Commissioner, allow the Commissioner to access the information recorded on the computer system on which those records are held by means of the Classification: Official audit function referred to in clause 16.1.4(b) to the extent necessary for the Commissioner to confirm that the audit function is enabled and functioning correctly.

[77] Except where it is expressly indicated in a footnote that a particular clause is only required in certain types of GMS Contract, this section is required by *the Regulations:* see Part 10.

[78] These guidelines are available online at: https://www.england.nhs.uk/digital-gp-good-practice-guidance/. Hard copies are available from NHS England, Wellington House, 133-155 Wellington Road, London SE1 8UG.

16.1.6. Reserved.

16.1.7. Where a patient on the *Contractor's list of patients* has registered with another provider of *primary medical services* and the Contractor receives a request from that provider for the complete records relating to that patient, the Contractor must send to the Commissioner:

(a) the complete records, or any part of the records, sent via the *GP2GP facility* in accordance with clause 16.3 for which the Contractor does not receive confirmation of safe and effective transfer via that facility; and

(b) any part of the records held by the Contractor only in paper form.

16.1.8. Where a patient on a Contractor's list of patients:

(a) is removed from that list at that patient's request under clause 13.9, or by reason of the application of any of clause 13.10 to 13.16; and

(b) the Contractor has not received a request from another provider of medical services with which that patient has registered for the transfer of the complete records relating to that patient,

the Contractor must send a copy of those records to the Commissioner.

16.1.9. Where a Contractor's responsibility for a patient terminates in accordance with clause 13.17, the Contractor must send any records relating to that patient that it holds to:

(a) if known, the provider of *primary medical services* with which that patient is registered; or

(b) in all other cases, the Commissioner.

16.1.10. Where the Contractor's patient records are computerised records, the Contractor must not disable, or attempt to disable, either the security measures or the audit and system management functions referred to in clause 16.1.4(b).

16.1A **Record of ethnicity information**

16.1A.1 This clause applies if the Contractor, or a person acting on behalf of the Contractor, makes a request to a *patient* ("P") for *P* to disclose their ethnicity to the Contractor so that information can be recorded in *P*'s medical record (a *"relevant request"*).

16.1A.2 If *P*, or where *P* is a person to whom clause 16.1A.4 applies, an *appropriate person* acting on behalf of *P*, discloses *P*'s ethnicity in response to the *relevant request*, the Contractor must record *P's* ethnicity in *P's* medical record.

16.1A.3 If *P*, or where *P* is a person to whom clause 16.1A.4 applies, an *appropriate person* acting on behalf of *P*, indicates that they

would prefer not to disclose *P*'s ethnicity in response to the relevant request, the Contractor must record that response in *P's* medical record.

16.1A.4 This clause applies to a person if they:

(a) are a *child*; or

(b) lack the capacity to respond to the *relevant request*.

16.1A.5 Any information recorded in accordance with this clause may only be processed if the *processing* is necessary for *medical purposes*.

16.1A.6 Nothing in this clause authorises the *processing* of *personal data* in a manner inconsistent with any provision of the *data protection legislation*.

16.1A.7 In this clause 16.1A:

"data protection legislation", *"personal data"* and *"processing"* have the same meanings as in the Data Protection Act 2018; and

"medical purposes" has the meaning given for the purposes of section 251 of the *2006 Act*.

16.2. Summary Care Record

16.2.1. The Contractor must, in any case where there is a change to the information included in a patient's medical record, enable an automated upload of *summary information* to the *Summary Care Record*, when the change occurs, using approved systems provided to it by the Commissioner.

16.2A Enabling access to *patient records* through *GP Connect*[79]

16.2A.1. Where the Contractor holds a *patient's record* on its computerised clinical systems, the Contractor must ensure that its computerised clinical systems are configured to enable:

(a) *GP Connect Access Record HTML* and *GP Connect Access Record Structured*; and

(b) *GP Connect Update Record*.

16.2A.2 The Contractor must take all reasonable steps to ensure that the functionality referred to in sub-clause 16.2A.1. is operational at all times.

16.2A.3 In this clause:

"*GP Connect*" means the national service known as GP Connect provided by *NHS England* which facilitates interconnectivity between computerised clinical systems;

"*GP Connect Access Record HTML*" means the functionality within GP Connect that allows records to be viewed in Hypertext Markup

[79] Information about the service is available online at: www.digital.nhs.uk/services/gp-connect

Language by other users of GP Connect for the purpose of direct care to a *patient*;

"*GP Connect Access Record Structured*" means the functionality within GP Connect that allows records to be viewed in a structured and coded format that is machine readable by other users of GP Connect for the purpose of direct care to a *patient*;

"*GP Connect Update Record*" means the functionality within GP Connect that allows consultation summaries to be sent electronically to the contractor by other users of GP Connect for integration into the patient's record; and

"*patient's record*" means computerised records kept in relation to a *patient* in accordance with clause 16.1.2(b).

16.3. **Electronic transfer of patient records between GP practices**

16.3.1. The Contractor must use the facility known as "*GP2GP*" for the safe and effective transfer of any patient records:

(a) in a case where a new patient registers with the Contractor's *practice*, to the Contractor's *practice* from the practice of another provider of *primary medical services* (if any) with which the patient was previously registered; or

(b) in a case where the Contractor receives a request from another provider of *primary medical services* with which the patient has registered, in order to respond to that request.

16.3.2. The requirement in clause 16.3.1 does not apply in the case of a *temporary resident*.

16.3A **Transfer of patient records between GP practices: time limits**

16.3A.1 This clause applies where:

(a) a *patient* on a Contractor's list of *patients* has registered with another provider of *primary medical services;* and

(b) the Contractor receives a request from that provider for the complete records relating to that *patient*.

16.3A.2 The Contractor must, before the end of the period of 28 days beginning with the day on which it receives the request from the provider:

(a) send the complete records (other than any part of the records held only in paper form) to the provider via the *GP2GP facility* in accordance with clause 16.3; and

(b) send to the Commissioner in accordance with clause 16.1.7, the complete records, or any part of the records:

(i) for which the Contractor does not receive a *confirmation*; or

(ii) held only in paper form.

16.3A.3 In this clause:

"confirmation", in relation to records sent via the *GP2GP facility*, means confirmation of safe and effective transfer via that facility.

16.4. **Clinical correspondence: requirement for NHS number**

16.4.1. The Contractor must include the *NHS number* of a *registered patient* as the primary identifier in all *clinical correspondence* issued by the Contractor which relates to that patient.

16.4.2. The requirement in clause 16.4.1 does not apply where, in exceptional circumstances outside of the Contractor's control, it is not possible for the Contractor to ascertain the patient's *NHS number*.

16.4A. **Use of fax machines**

16.4A.1 Where the Contractor can transmit information by electronic means (other than facsimile transmission) securely and directly to a *relevant person*, the Contractor must not:

(a) transmit any information to that person by facsimile transmission, or

(b) agree to receive any information from that person by facsimile transmission.

16.4A.2 Clause 16.4A.1 does not apply to any information which relates solely to the provision of clinical services or treatment to a patient under a private arrangement.

16.4A.3 In this clause 16.4A, *"relevant person"* means:

(a) an NHS body;

(b) another health service provider;

(c) a *patient*; or

(d) a person acting on behalf of a *patient*.

16.5. **Patient Online Services: appointments and prescriptions**

16.5.1. The Contractor must promote and offer to its *registered patients* the facility for a patient to:

(a) book, view, amend, cancel and print appointments online;

(b) order repeat prescriptions for drugs, medicines or appliances online; and

(c) view and print a list of any drugs, medicines or appliances in respect of which the patient has a repeat prescription

in a manner which is capable of being electronically integrated with the computerised clinical systems of the Contractor's *practice* using appropriate systems authorised by *NHS England*.

16.5.2. The requirements in clause 16.5.1 do not apply where the Contractor does not have access to computer systems and software which would enable it to offer the online services described in that clause to its *registered patients.*

16.5.3. The Contractor must when complying with the requirements in clause 16.5.1(a):

(a) ensure that all of its *directly bookable appointments* are made available for online booking, whether or not those appointments are booked online, by telephone or in person, to include all appointments which must be made available for direct booking by NHS 111 in accordance with clause 7.9B; and

(b) consider whether it is necessary, in order to meet the needs of its registered patients, to increase the proportion of appointments which are available for its *registered patients* to book online and, if so, increase that number.

16.5.3A. In the case of appointments required to be made available for direct booking by NHS 111, in accordance with clause 7.9B, those appointments can be released to be booked by the Contractor's *registered patients* by any means in the two hour period within *core hours* prior to the appointment time, or such other period agreed pursuant to a *local arrangement*, if they have not been booked by NHS 111 prior to this time.

16.5.4. Reserved.

16.5.5. Reserved.

16.5.5A. Reserved.

16.5.5B. In this clause 16.5 *"local arrangement"* means an arrangement between the Contractor and the Commissioner as to the timeframe within which appointments not booked by NHS 111 can be released for booking by the Contractor's *registered patients*.

16.5.6. Reserved.

16.5.7. The Contractor must also promote and offer to its *registered patients* the facility referred to in clauses 16.5.1(a) and 16.5.1(b) on the home page (or equivalent) of its *practice website* or *online practice profile*.

16.5ZA. **Patient online services: provision of online access to coded information in medical record and prospective medical records**

16.5ZA.1 Where the Contractor holds the medical record of a *registered patient* ("P") on its computerised clinical systems, the Contractor must:

(a) provide *P* with the facility to access online information entered onto P's medical record on or after the *relevant date* (the "*prospective medical record*"); and

(b) promote and offer to *P*, in accordance with clause 16.5ZA.2, the facility to access online the information from *P*'s medical record held in coded form.

16.5ZA.2 For the purposes of clause 16.5ZA.1(b), the Contractor is taken to be:

(a) promoting the facility to *P* where *P* is encouraged to utilise the practice's digital services and to interact with the practice via online access;

(b) offering the facility to *P* where it is freely available to *P* if *P* shows interest in the facility or requests access in writing to their medical records held in coded form.

16.5ZA.3 Where a person ("R") applies to become a *registered patient* of the Contractor, the Contractor must, as part of the registration process:

(a) make information available to *R* about the practice's digital services and about how *R* may interact with the practice via online access; and

(b) inform *R* in writing that on becoming a *registered patient*, *R* will be provided with the facility to access *R*'s *prospective medical record* (unless *R* chooses not to be provided with that facility).

16.5ZA.4 The Contractor must configure its computerised clinical systems so as to allow its *registered patient*s the facility to access online information entered onto their medical record.

16.5ZA.5 In this clause 16.5ZA, "relevant date" means:

(a) if the Contractor has not provided *P* with the facility to access online *P*'s *prospective medical record* under this clause as in force immediately before 15 May 2023, the day on which the Contractor does provide the facility under clause 16.5ZA.1(a); or

(b) 31 October 2023;

whichever is the earlier.

16.5ZA.6 Where:

(a) the Contractor has not, before 15 May 2023, provided *P* with the facility to access online *P*'s *prospective medical record*; and

(b) *P* makes a request in writing to the Contractor on or after 15 May 2023 but before 31 October 2023, to be provided with that facility;

the Contractor must provide that facility to *P* by the end of *the compliance period* or by 31 October 2023, whichever is the earlier.

16.5ZA.7 Where:

(a) the Contractor has not, before 1 November 2023, for whatever reason, provided *P* with the facility to access online *P*'s *prospective medical record*; and

(b) *P* makes a request in writing to the Contractor on or after 31 October 2023 to be provided with that facility;

the Contractor must provide *P* with that facility by the end of *the compliance period*.

16.5ZA.8 Subject to clause 16.5ZA.9, the Contractor must not remove the facility of a *registered patient* to access online their medical record provided under:

(a) this clause 16.5ZA as in force immediately before 15 May 2023; or

(b) clause 16.5ZA.1.

16.5ZA.9 Nothing in this clause 16.5ZA requires the Contractor to provide *P* with the facility to access:

(a) online information entered onto the medical record where that information is *excepted information*;

(b) online information entered onto *P*'s *prospective medical record* where *P* has informed the Contractor that they do not, or no longer, wish to be provided with that facility; or

(c) information referred to in clause 16.5ZA.1(b) which the Contractor's computerised systems cannot separate from any free-text entry in *P*'s medical record.

16.5ZA.10 For the purposes of this clause 16.5ZA and clause 16.5ZB:

(a) "the compliance period" means the period specified in Article 12 of the *UK GDPR* for compliance with a request made in exercise of a right under Article 15 of the *UK GDPR*;

(b) information is "excepted information" if the Contractor would not be required to disclose it in response to a request made in exercise of a right under Article 15 of the *UK GDPR*.

16.5ZA.11 For the purposes of clause 16.5ZA.10, "UK GDPR" has the meaning given in section 3(10) of the Data Protection Act 2018[80].

16.5ZB **Patient online services: provision of online access to full digital medical record**

16.5ZB.1 A contractor must provide a *registered patient* (”P”) with the facility to access online relevant medical information if:

(a) its computerised clinical systems allow it to do so; and

(b) *P* requests, in writing, that it provide that facility.

16.5ZB.1A Where *P* makes a request under clause 16.5ZB.1(b), the Contractor must provide *P* with the facility by the end of *the compliance period*.

16.5ZB.1B The Contractor must configure its computerised clinical systems so as to allow its *registered patients* the facility to access online their *relevant medical information*.

[80] 2018 c. 12. Section 3(10) is amended, with effect from IP completion day, by S.I. 2019/419. "IP completion day" has the meaning given in section 39(1) of the European Union (Withdrawal Agreement) Act 2020 (c. 1).

16.5ZB.2 In this clause 16.5ZB *"relevant medical information"* means any information entered on *P*'s medical record other than:

(a) any information which *P* can access online via a facility provided in accordance with clause 16.5ZA.1, or

(b) any *excepted information* (see clauses 16.5ZA.7 and 16.5ZA.8).

16.5ZC **Patient online services: providing and updating personal or contact information**

16.5ZC.1 A Contractor must offer and promote to its registered *patients* a facility for providing their personal or contact information, or informing the Contractor of a change to that information, which meets the condition in clause 16.5ZC.2.

16.5ZC.2 A facility meets the condition in this clause if it enables:

(a) *P*; or

(b) where *P* is a person to whom clause 16.5ZC.3 applies, an *appropriate person* acting on behalf of *P*;

to provide the Contractor with, or inform it of any change to, *P's* personal or contact information in *P's* medical record, either online or by other electronic means.

16.5ZC.3 This clause applies to a person if they:

(a) are a *child*; or

(b) lack the capacity to provide the Contractor with their personal or contact information or to authorise a person to provide such information on their behalf.

16.5ZC.4 For the purposes of this clause, *P's* personal and contact information is:

(a) their name;

(b) their ethnicity;

(c) their address;

(d) their telephone number or mobile telephone number (if any); and

(e) their electronic mail address (if any).

16.5ZD **Patient online services: provision of an online consultation tool**

16.5ZD.1 A Contractor must offer and promote an *online consultation tool* to its registered *patients*.

16.5ZD.2 An "online consultation tool" is an online facility provided using appropriate software which satisfies the condition in clause 16.5ZD.2A and through which a patient, or an *appropriate person* acting on behalf of a person to whom clause 16.5ZD.4 applies, may make:

(a) a request for advice or information related to the patient's health, or

(b) a clinical or administrative request.

16.5ZD.2A The condition in this clause is that the online facility does not limit the number of requests using the *online consultation tool* that can be made during core hours or during any period of time within core hours.

16.5ZD.3 An *online consultation tool* may incorporate:

(a) any of the facilities which the Contractor is required to offer, promote or, as the case may be, provide under clauses 16 to 16.5ZC; or

(b) the communication method which the Contractor is required to offer and promote under clause 16.5ZE.

16.5ZD.4 This clause applies to a person if they:

(a) are a *child*; or

(b) lack the capacity to communicate with the Contractor through an online facility or to authorise a person to communicate with the Contractor through such a facility on their behalf.

16.5ZE **Secure electronic communications**

16.5ZE.1 A Contractor must:

(a) offer and promote to its registered *patients* a *relevant electronic communication method*; and

(b) use the *relevant electronic communication method* to communicate with:

(i) a registered *patient*; or

(ii) where the registered *patient* is a person to whom clause 16.5ZE.4 applies, an *appropriate person* acting on behalf of that *patient*.

16.5ZE.2 Sub-clause 16.5ZE.1(b) does not require the Contractor to use the *relevant electronic communication method* where:

(a) it would not be clinically appropriate to do so for the *patient* on that occasion; or

(b) it is otherwise not appropriate to the needs or circumstances of the *patient*.

16.5ZE.3 For the purposes of this clause, a *"relevant electronic communication method"* is a method of electronic communication which is provided using *appropriate software* and can be used:

(a) by the Contractor to respond, in writing in electronic form, to requests made through the *online consultation tool*; and

(b) by the Contractor and its registered *patients* or *appropriate persons* acting on behalf of registered *patients* (as the case may be) to otherwise communicate with each other in writing in electronic form.

16.5ZE.4 This clause applies to a person if they:

(a) are a *child*; or

(b) lack the capacity to communicate with the Contractor using the *relevant electronic communication method* or to authorise a person to do so on their behalf.

16.5ZF **Video consultations**

16.5ZF.1 A Contractor must offer and promote to its registered *patients* the facility of participating in their consultations with the Contractor by video conference using *appropriate software* (*"video consultations"*).

16.5ZF.2 But clause 16.5ZF.1 does not require the Contractor to offer a *patient* a *video consultation* where:

(a) it would not be clinically appropriate to do so for the *patient* on that occasion; or

(b) it is otherwise not appropriate to the needs or circumstances of the *patient*.

16.5ZF.3 The Contractor must not be party to a contract or other arrangement under which the software mentioned in clause 16.5ZF.1 is provided unless:

(a) it is satisfied that any software which a *patient* needs to participate in a video consultation with the Contractor's practice is available free of charge to the *patient*; and

(b) it has taken reasonable steps, having regard to the arrangement as a whole and disregarding the costs of any software, to satisfy itself that *patients* will not have to pay more to participate in *video consultations* with the Contractor's practice than they would to participate in a meeting by video conference with any other person in the Contractor's area.

16.5ZG. **Meaning of *"appropriate software"* for the purposes of clauses 16.5ZD, 16.5ZE and 16.5ZF**

16.5ZG.1 For the purposes of clauses 16.5ZD, 16.5ZE and 16.5ZF the software used for the purposes of providing a facility or method of communication (as the case may be) is appropriate if the software meets:

(a) the requirements in the *GPIT Operating Model* relevant to that software; or

(b) requirements which are equivalent in their effect to the relevant requirements in the *GPIT Operating Model.*

16.5A **Patient access to online services**

16.5A.1. This clause applies to any contractor which has less than ten per cent of its registered patients registered with the contractor's practice to use the online services which the contractor is required under clause 16.5 or clause 16.5ZA.1 or 16.5ZA.2 to promote, offer or, as the case may be, provide to its *registered patients* ("patient online services").

16.5A.2. A contractor to which this clause applies must agree a plan with the Commissioner aimed at increasing the percentage of the contractor's registered patients who are registered with the contractor's practice to use patient online services.

16.5B **Patient access: other availability of *directly bookable appointments***

16.5B.1 The Contractor must ensure that all of its *directly bookable appointments* are made available for booking by telephone or in person.

16.6. **Confidentiality of personal data**

16.6.1. The Contractor must nominate a person with responsibility for practices and procedures relating to the confidentiality of personal data held by it.

16.7. **Practice leaflet**

16.7.1. The Contractor must:

(a) compile a *practice leaflet* which must include the information specified in Schedule 3;

(b) review its *practice leaflet* at least once in every period of 12 months and make any amendments necessary to maintain its accuracy; and

(c) make available a copy of the leaflet, and any subsequent updates, to its patients and prospective patients.

16.7A. **Friends and Family Test**

16.7A.1 The Contractor must give all patients who use the Contractor's *practice* the opportunity to provide feedback about the service received from the *practice* through the *friends and family test*.

16.7A.2 The Contractor must:

16.7A.2.1 report the results of completed *friends and family tests* to the Commissioner; and

16.7A.2.2 publish the results of such completed Tests.

16.7B. **Use of NHS primary care logo**

16.7B.1. Where the Contractor chooses to apply the NHS primary care logo to signage, stationery, leaflets, posters, its *practice website* or to any other form of written representation relating to the primary care services it provides, it must have regard to guidance concerning use of the NHS primary care logo produced by *NHS England* (this guidance is available on *NHS England*'s website at: https://www.england.nhs.uk/nhsidentity/identity-guidelines/primary-care-logo/).

16.7C. **Marketing campaigns**

16.7C.1. The Contractor must participate in a manner reasonably requested by the Commissioner in up to 6 marketing campaigns in each *financial year*.

16.7D. **Advertising *private services***

16.7D.1. The Contractor must not advertise the provision of *private services*, either itself or through any other person, whether the Contractor provides the services itself or they are provided by another person, by any written or electronic means where the same are used to advertise the *primary medical services* it provides.

16.7E. **Requirement to have and maintain an online presence**

16.7E.1 The Contractor must have:

(a) a *practice website*, or
(b) an *online practice profile*.

16.7E.2 The Contractor must publish on its *practice website* or *online practice profile* (as the case may be) all the information which is required to be included in its *practice leaflet*.

16.7E.3 The Contractor must publish the information referred to in clause 16.7E.2 otherwise than by making its *practice leaflet* available for viewing or downloading.

16.7E.4 The Contractor must review the information available on its *practice website* or *online practice profile* at least once in every period of 12 months.

16.7E.5 The Contractor must make any amendments necessary to maintain the accuracy of the information on its *practice website* or *online practice profile* following:

(a) a review under clause 16.7E.4; or

(b) a change to:

(i) the address of any of the Contractor's *practice premises*;

(ii) the Contractor's telephone number;

(iii) the Contractor's electronic-mail address (if made available on its *practice website* or *online practice profile*); or

(iv) any other stated means by which a *patient* may contact the Contractor to book or amend an appointment, or to order repeat prescriptions for drugs, medicines or *appliances*.

16.7E.5A The Contractor must also ensure there are links on its *practice website* or *online practice profile* which direct people to:

(a) its *online consultation tool*;

(b) the symptom checker and self-care information available on the NHS website; and

(c) the General Practice Patient Guidance published on the *NHS England* website.[81]

16.7E.5B The links mentioned in clause 16.7E.5A must be displayed prominently on the home page (or equivalent) of its *practice website* or *online practice profile* (as the case may be).

16.7E.6 The requirements in this clause 16.7E.6 are in addition to those in clause 16.8A and clause 7.7B.8(a).

16.7E.7 In this Contract, "online practice profile" means a profile:

(a) which is on a website (other than the NHS website[82]), or an online platform, provided by another person for use by the Contractor; and

(b) through which the Contractor advertises the *primary medical services* it provides.

16.7F. **Requirement to maintain profile page on NHS website**

16.7F.1 The Contractor must review the information available on its profile page on the NHS website at least once in every period of 12 months.

16.7F.2 The Contractor must make any amendments necessary to maintain the accuracy of the information on its profile page on the NHS website following:

(a) a review under clause 16.7F.1; or

(b) a change to:

(i) the address of any of the Contractor's *practice premises*;

(ii) the Contractor's telephone number;

(iii) the contractor's electronic-mail address (if made available on its profile page); or

(iv) any other stated means by which a *patient* may contact the Contractor to book or amend an appointment, or to order repeat prescriptions for drugs, medicines or *appliances*.

[81] The guidance is available online at: https://www.england.nhs.uk/long-read/25-26-gp-contract-you-and-your-general-practice/ Hard copies are available from NHS England, Wellington House, 133-155 Wellington Road, London SE1 8UG

[82] The NHS website is available at: https://www.nhs.uk/.

16.8. **Provision of information**

16.8.1. Subject to clause 16.8.2, the Contractor must, at the request of the Commissioner, produce to the Commissioner or to a person authorised in writing by the Commissioner or allow it, or a person authorised in writing by it, to access, on request:

(a) any information which is reasonably required by the Commissioner for the purposes of or in connection with the Contract; and

(b) any other information which is reasonably required in connection with the Commissioner's functions.

16.8.2. The Contractor is not required to comply with any request made under clause 16.8.1 unless it has been made by the Commissioner in accordance with directions made by *the Secretary of State* under section 98A of the *2006 Act* (exercise of functions).

16.8.3. The Contractor must produce the information requested, or, as the case may be, allow the Commissioner access to such information:

(a) by such date as has been agreed as reasonable between the Contractor and the Commissioner; or

(b) in the absence of such agreement, before the end of the period of 28 days beginning with the date on which the request is made.

16.8A. **Publication of earnings information**

16.8A.1 The Contractor must publish each year on its *practice website* or *online practice profile* the information specified in clause 16.8A.2.

16.8A.2 The information specified in this clause is:

(a) the mean net earnings in respect of the previous *financial year* of:

(i) every general medical practitioner who was a party to the Contract for a period of at least six months during that *financial year*, and

(ii) every general medical practitioner who was employed or engaged by the Contractor to provide services under the Contract in the Contractor's *practice*, whether on a full-time or part-time basis, for a period of at least six months during that *financial year*; and

(b) the:

(i) total number of any general medical practitioners to whom the earnings information referred to in clause 16.8A.2(a) relates, and

(ii) (where applicable) the number of those practitioners who have been employed or engaged by the Contractor to provide services

under the Contract in the Contractor's *practice* on a full time or a part time basis, for a period of at least six months during the *financial year* in respect of which that information relates.

16.8A.3 The information specified in clause 35B.2 must be:

(a) published by the Contractor before the end of the *financial year* following the *financial year* to which that information relates; and

(b) made available by the Contractor in hard copy form on request.

16.8A.4 For the purposes of clause 16.8A, "mean net earnings" are to be calculated by reference to the earnings of a *general medical practitioner* that, in the opinion of the Commissioner, are attributable to the performance or provision by the practitioner under the contract of *primary medical services*, after having disregarded any expenses properly incurred in the course of performing or providing those services.

16.8AA **Disclosure of information about NHS earnings: Contractors and Sub-Contractors**

16.8AA.1 If the Contractor is an individual *medical practitioner*, the Contractor must comply with the *disclosure obligation* for each *relevant financial year* in which:

(a) they are a Contractor; and

(b) their *NHS earnings* exceed the *relevant threshold.*

16.8AA.2 If the Contractor is a partnership, each *partnership member* must comply with the *disclosure obligation* for each *relevant financial year* in which:

(a) the partnership is a Contractor; and

(b) the *partnership member's NHS earnings* exceed the *relevant threshold*.

16.8AA.3 In this clause 16.8AA:

(a) the "*disclosure obligation"*, in relation to a *relevant financial year*, is the requirement for an individual (*"I"*) to submit the following information for publication to *NHS England* by the *disclosure date*:

(i) *I's* name;

(ii) *I's* job title;

(iii) the details of each organisation from which *I* has derived *NHS earnings* in that financial year; and

(iv) the amount of *I's NHS earnings* for that financial year;

(b) *"relevant financial year"* means a financial year ending:

(i) on or after 31 March 2022; but

(ii) on or before 31 March 2024;

(c) *"relevant threshold"* means:

(i) Reserved;

(ii) Reserved;

(iii) for the financial year ending on 31 March 2022, £156,000;

(iv) for the financial year ending on 31 March 2023, £159,000;

(v) for the financial year ending on 31 March 2024, £163,000.

16.8AA.4 For the purposes of sub-clause 16.8AA.3(a) *"the disclosure date"*, in relation to a *relevant financial year*, is 30 April in the financial year which begins immediately after the end of the *next financial year*.

16.8AA.5 For the purposes of clause 16.8AA.4 *"the next financial year"*, in relation to a financial year ("*FY1"*), is the financial year which begins immediately after the end of *FY1.*

16.8AA.6 The Contractor must not sub-contract any of its obligations to provide clinical services under the Contract unless:

(a) where the *sub-contractor* is an individual, the sub-contract entered into by the Contractor requires the individual to comply with the *disclosure obligation* for each *relevant financial year* in which the individual's *NHS earnings* exceed the *relevant threshold*;

(b) where the *sub-contractor* is a partnership, the sub-contract entered into by the Contractor requires each *sub-contractor partnership member* to comply with the *disclosure obligation* for each *relevant financial year* in which the *sub-contractor partnership member*'s *NHS earnings* exceed the *relevant financial threshold*;

(c) in all cases, the sub-contract prohibits the *sub-contractor* (*"S"*) from sub-contracting, where permitted by clause 15.9.9A, any of the clinical services *S* has agreed with the Contractor to provide under the sub-contract unless:

(i) where the *sub-contractor* is an individual (*"I"*), the sub-contract entered into by *S* requires *I* to comply with the *disclosure obligation* for each financial year in which *I's NHS earnings* exceed the *relevant threshold*;

(ii) where the *sub-contractor* is a partnership, the sub-contract entered into by *S* requires each *sub-contractor partnership member* of that

partnership to comply with the *disclosure obligation* for each *relevant financial year* in which the *sub-contractor partnership member's NHS earnings* exceed the *relevant threshold*.

16.8AA.7 The Contractor must use reasonable endeavours to ensure that any *relevant sub-contract* is amended to contain the terms specified in clause 16.8AA.9.

16.8AA.8 For the purposes of clause 16.8AA.7 *"relevant sub-contract"* means a sub-contract:

(a) for the provision of any of the clinical services which the Contractor is required to provide under the Contract by any other person; and

(b) which is in force at the time when the term in clause 16.8AA.7 is incorporated into the Contract.

16.8AA.9 The terms are:

(a) a term which requires:

(i) the *sub-contractor* (*"S"*), where *S* is an individual; or

(ii) each *sub-contractor partnership member*, where *S* is a partnership;

to comply with the *disclosure obligation* for each *relevant financial year* in which the individual's, or as the case may be, *sub-contractor partnership member's NHS earnings* exceed the *relevant threshold;*

(b) a term which prevents *S* from sub-contracting obligations to provide clinical services under the contract, where permitted by clause 15.9.9A; unless:

(i) where the *sub-contractor* is an individual (*"I"*), the sub-contract entered into by *S* requires *I* to comply with the *disclosure obligation* in relation to each financial year in which *I's NHS earnings* exceed the *relevant threshold*;

(ii) where the *sub-contractor* is a partnership, the sub-contract entered into by *S* requires each *sub-contractor partnership member* of that partnership to comply with the *disclosure obligation* in relation to each *relevant financial year* in which the *sub-contractor partnership member's NHS earnings* exceed the *relevant threshold*; and

(c) a term which requires *S* to use reasonable endeavours to ensure that any sub-contract entered into before the term in clause 16.8AA.9(b) was incorporated into that sub-contract is amended to:

(i) include the term in clause 16.8AA.9(b)(i) in a sub-contract between *S* and *I*; and

(ii) include the term in clause 16.8AA.9(b)(ii) in a sub-contract between S and a partnership.

16.8AA.10 Nothing in clauses 16.8AA.6, 16.8AA.7, or 16.8AA.9 requires any individual to comply with the *disclosure obligation* for any *relevant financial year* which:

(a) ends before the individual or partnership (as the case may be) enters into a sub-contract with the Contractor or a *sub-contractor*;

(b) begins after the individual's, or, as the case may be, partnership's, sub-contract with the Contractor or *sub-contractor* has terminated.

16.8AA.11 In this clause 16.8AA:

"locum practitioner" has the meaning given in Schedule 15 to the National Health Service Pension Scheme Regulations 2015;

"NHS earnings" has the meaning given in clause 16.8AB;

"partnership member", in relation to a Contractor who is a partnership, means an individual who is a partner in that partnership;

"sub-contractor" means a person to whom any rights or duties under the contract in relation to clinical matters are, or have been, sub-contracted under clause 15.9, and includes an individual who is a *locum practitioner*;

"sub-contractor partnership member", in relation to a *sub-contractor* who is a partnership, means an individual who is a partner in that partnership.

16.8AB **Calculation of NHS earnings for the purposes of clauses 16.8AA and 16.8AC**

16.8AB.1 This clause sets out how an individual's NHS earnings are to be calculated for the purposes of clauses 16.8AA and 16.8AC.

16.8AB.2 An individual's NHS earnings for a *relevant financial year* are those earnings which constitute *relevant income* in respect of that financial year.

16.8AB.3 In this clause *"relevant income"*:

(a) in relation to an individual who is an *active member* of *the Scheme* and is a *medical practitioner* (other than a *locum practitioner*) or a *non-GP provider*, means income (including any form of remuneration and any salary, wages, fees, director's remuneration or dividends) which is practitioner income as determined under Schedule 10 to the *NHS Pension Scheme Regulations*, as modified in

accordance with clause 16.8AB.4, in respect of the financial year in question;

(b) in relation to a person ("P") who is an *active member* of *the Scheme* and a *locum practitioner*, means:

(i) any income which is *locum practitioner* income as determined under paragraph 7 of Schedule 10 to the *NHS Pension Scheme Regulations* in respect of the financial year in question; and

(ii) any income (including any other form of remuneration and salary, wages, fees, director's remuneration or dividends) received by *P* in the financial year in question from any organisation which would have been treated as practitioner income under Schedule 10 to the *NHS Pension Scheme Regulations*, as modified in accordance with 16.8AB.4, if *P* had been a *medical practitioner* but not a *locum practitioner*;

(ba) in relation to a *jobholder* who does not fall within clauses 16.8AB.3(a) or 16.8AB.3(b), means:

(i) any remuneration, salary, wages, fees, director's remuneration or dividends received in respect of the financial year in question under the *contract of engagement* and any other *contract of engagement* under which the *jobholder* provides services in respect of a contract or an agreement for primary medical services made under section 83(2) or 92 of the *2006 Act*; and

(ii) any other income which would be treated as practitioner income under Schedule 10 to the NHS Pension Scheme Regulations as modified in accordance with clause 16.8AB.4 in respect of the financial year in question if the *jobholder*:

(aa) were an *active member* of the *Scheme*, and

(bb) a *medical practitioner* or *non-GP provider*;

(c) in relation to any other person ("P"), means income (including any form of remuneration and any salary, wages, fees, director's remuneration or dividends) received by *P* in the financial year in question from any organisation which would have been treated as practitioner income under Schedule 10 to the NHS Pension Scheme Regulations, as modified in accordance with clause 16.8AB.4, if *P* had been:

(i) an *active member* of *the Scheme;* and

(ii) a *medical practitioner* or *non-GP provider*.

16.8AB.4 For the purposes of determining a person's *relevant income* under sub-clauses 16.8AB.3(a), (b)(ii) or (c), Schedule 10 to the *NHS Pensions Regulations* applies as if the following provisions of that Schedule were omitted:

(a) paragraph 2(1)(b) and the "and" immediately preceding it; and

(b) paragraph 3.

16.8AB.4A For the purposes of this clause 16.8AB, where the Contractor has sub-contracted any obligations under the Contract, any payments made:

(a) under the sub-contract; or

(b) under any sub-contract which the sub-contractor has entered into with another person, as permitted under clause 15.9.9A,

are to be treated as income derived from the Contract.

16.8AB.5 In this clause:

"the NHS Pension Scheme Regulations" means the National Health Service Pension Scheme Regulations 2015 and *"active member"* , *"locum practitioner"* , *"medical practitioner"* , *"member"* and *"non-GP provider"* have the meanings given for the purposes of those Regulations;

"relevant financial year" has the meaning given in clause 16.8AA; and

"the Scheme" means the National Health Service Pension Scheme established by the NHS Pension Scheme Regulations.

16.8AC **Disclosure of information about NHS earning: jobholders**

16.8AC.1 In this clause 16.8AC:

(a) *"disclosure obligation"* , *"relevant financial year"* , *"relevant threshold"*, *"the disclosure date"* and *"sub-contractor"* have the meanings given in clause 16.8AA;

(b) *"NHS earnings*" has the meaning given in clause 16.8AB.

16.8AC.2 In this clause 16.8AC and, where applicable, in clause 16.8AB:

(a) *"contract of engagement"* means a contract of employment or other agreement under which a *jobholder* is engaged;

(b) *"jobholder"* means:

(i) an individual employed by a *relevant person*;

(ii) an individual engaged by a *relevant person* under a contract for services to provide services which enable the *relevant person* to fulfil its obligations

under the Contract or sub-contract, as the case may be;

(iii) an individual engaged by a third party to provide clinical services;

(iv) where the *relevant person* is a company, a director or company secretary of that company;

(c) *"relevant person"* means:

(i) the Contractor;

(ii) a *sub-contractor*;

(iii) a person to whom the *sub-contractor* has sub-contracted obligations as permitted by clause 15.9.9A ("P");

(d) *"third party contract"* means a contract or other agreement under which a *relevant person* is provided with a *jobholder* to provide clinical services under the Contract or sub-contract, as the case may be, and which is between:

(i) the Contractor and a person other than a *jobholder* or *sub-contractor*;

(ii) a *sub-contractor* and a person other than a *jobholder*, the Contractor, or a person ("P") to whom the *sub-contractor* has sub-contracted obligations as permitted by clause 15.9.9A; or

(iii) *P* and a person other than a *jobholder* or *sub-contractor*;

(e) *"third party"* is to be construed in accordance with the definition of *"third party contract"*.

16.8AC.3 The Contractor shall not enter into a *contract of engagement* unless it requires the *jobholder* to comply with the *disclosure obligation* for each *relevant financial year* in which the *jobholder*'s *NHS earnings* exceed the *relevant threshold*.

16.8AC.4 The Contractor shall not sub-contract any of its obligations to provide clinical services under the Contract unless:

(a) the sub-contract entered into by the Contractor requires the *sub-contractor* ("*S*") to:

(i) include the term specified in clause 16.8AC.6 in any *contract of engagement S* enters into with a *jobholder* on or after entering into the sub-contract; and

(ii) use reasonable endeavours to include that term in any *contract of engagement* which *S* has entered into prior to entering into the sub-contract; and

(b) the sub-contract prevents *S* from sub-contracting to *P* any of the clinical services *S* has agreed with the Contractor to provide under the sub-contract unless the sub-contract *S* enters into with *P* includes the term specified in clause 16.8AC.5.

16.8AC.5 The term requires *P* to:

(a) include the term specified in clause 16.8AC.6 in any *contract of engagement* which *P* enters into with a *jobholder* on or after entering into the sub-contract with *S*; and

(b) use reasonable endeavours to include that term in any *contract of engagement* which *P* has entered into prior to entering into that sub-contract.

18.8AC.6 The term requires the *jobholder* to comply with the *disclosure obligation* for each *relevant financial year* in which the *jobholder*'s *NHS earnings* exceed the *relevant threshold*.

16.8AC.7 The Contractor shall use reasonable endeavours to ensure that any *contract of engagement*, which the Contractor entered into before the term in clause 16.8AC.3 is incorporated into the Contract, is amended to include the term specified in clause 16.8AC.6.

16.8AC.8 The Contractor shall use reasonable endeavours to ensure that any sub-contract, which the Contractor entered into before the term in clause 16.8AC.4 is incorporated into the Contract, is amended to include the terms specified in clause 16.8AC.9.

16.8AC.9 The terms are:

(a) a term which requires *S* to:

(i) include the term specified in clause 16.8AC.6 in any *contract of engagement S* enters into with a *jobholder* on or after the amendment of the sub-contract;

(ii) use reasonable endeavours to include the term specified in clause 16.8AC.6 in any *contract of engagement* which *S* entered into before the amendment of the sub-contract; and

(iii) use reasonable endeavours to include the term specified in clause 16.8AC.5 in any sub-contract which *S* has entered into with *P* before the amendment of the sub-contract pursuant to clause 16.8AC.8;

(b) a term which prevents *S* from sub-contracting to *P* obligations to provide clinical services under the Contract unless the sub-contract entered into by *S* includes the term specified in clause 16.8AC.5.

16.8AC.10 The Contractor shall use reasonable endeavours to include in a *third party contract* (whenever entered into) a term requiring the *third party* ("T"):

(a) to include the term specified in clause 16.8AC.6 in any *contract of engagement* which *T* enters into with a *jobholder* on or after entering into the contract with the Contractor;

(b) to use reasonable endeavours to include that term in any *contract of engagement* which *T* has entered into prior to entering into the contract with the Contractor.

18.8AC.11 The Contractor shall not sub-contract any of its obligations to provide clinical services under the Contract, unless the sub-contract requires *S* to use reasonable endeavours to:

(a) include in a *third party contract* (whenever entered into) a term requiring *T:*

(i) to include the term specified in clause 16.8AC.6 in any *contract of engagement* which *T* enters into with a *jobholder* on or after entering into the contract with *S*;

(ii) to use reasonable endeavours to include that term in any *contract of engagement* which *T* has entered into prior to entering into the contract with *S*; and

(b) include in any sub-contract between *S* and *P* a term requiring *P* to use reasonable endeavours to include in any *third party contract* (whenever entered into) the term specified in clause 16.8AC.12.

16.8AC.12 The term is one which requires *T*:

(a) to include the term specified in clause 16.8AC.6 in any *contract of engagement* which *T* enters into with a *jobholder* on or after entering into the contract with *P*;

(b) to use reasonable endeavours to include that term in any *contract of engagement* which *T* has entered into prior to entering into the contract with *P*.

16.8AC.13 Nothing in this clause 16.8AC requires a *jobholder* to comply with the *disclosure obligation* for any *relevant financial year* which:

(a) ends before the *jobholder* enters into a *contract of engagement*; or

(b) begins after the *jobholder*'s contract of engagement has terminated.

16.8B Reserved.

16.8C **National Diabetes Audit**

16.8C.1 The Contractor must record any data required by *NHS England* for the purposes of the National Diabetes Audit in accordance with clause 16.8C.2.

16.8C.2 The data referred to in clause 16.8C.1 must be appropriately coded by the Contractor and uploaded onto the Contractor's computerised clinical systems in line with the requirements of guidance published by NHS Employers for these purposes[83].

16.8C.3 The Contractor must ensure that the coded data is uploaded onto its computerised clinical systems and available for collection by *NHS England* at such intervals during each financial year as are notified to the Contractor by *NHS England*.

16.8D **Information relating to indicators no longer in the Quality and Outcomes Framework[84]**

16.8D.1 The Contractor must allow the extraction from the Contractor's computerised clinical systems by *NHS England* specified in the table set out at Schedule 4 to this Contract relating to clinical indicators which are no longer in the Quality and Outcomes Framework at such intervals during each financial year as are notified to the Contractor by *NHS England*.

16.8E **Information relating to alcohol related risk reduction and dementia diagnosis and treatment**

16.8E.1 The Contractor must allow the extraction by *NHS England* of the information[85] specified in:

16.8E.1.1 clause 16.8E.2 in relation to alcohol related risk reduction; and

16.8E.1.2 clause 16.8E.3 in relation to dementia diagnosis and treatment;

from the record that the Contractor is required to keep in respect of each registered patient under regulation 67 of *the Regulations* by such means, and at such intervals during each financial year, as are notified to the Contractor by *NHS England*.

[83] See section 2 of the guidance entitled "2017/18 General Medical Services (GMS) Contract" published by NHS Employers which is available at https://www.england.nhs.uk/gp/investment/gp-contract/..
[84] The Quality and Outcomes Framework (QOF) is provided for in the *GMS Statement of Financial Entitlements*. Participation by contractors in the QOF is voluntary. However, contractors which participate in the QOF are required to accomplish the specified tasks or achieve the specified outcomes which are included in the QOF as “indicators” in return for payments which are measured against their achievements in respect of particular indicators.
[85] See section 4 of the guidance entitled "2017/18 General Medical Services (GMS) Contract" published by NHS Employers which is available at http://www.nhsemployers.org/gms201718 or from NHS Employers, 2 Brewery Wharf, Kendall Street, Leeds, LS10 1JR.

16.8E.2 The information specified in this clause is information required in connection with the requirements under clause 7.7A.

16.8E.3 The information specified in this clause is information relating to any clinical interventions provided by the Contractor in the preceding 12 months in respect of a patient who is suffering from, or who is at risk of suffering from, dementia.

16.8F **NHS England Workforce Collection**

16.8F.1 The Contractor must record and submit any data required by *NHS England* for the purposes of the *NHS England* Workforce Collection (known as the "Workforce Minimum Data Set") in accordance with clause 16.8F.2.

16.8F.2 The data referred to in clause 16.8F.1 must be

(a) appropriately coded, reviewed and updated by the Contractor in line with agreed standards set out in guidance published by *NHS England*;

(b) submitted to *NHS England*:

(i) using the data entry module on the National Workforce Reporting Service [86], which is a facility provided by *NHS England* to the Contractor for this purpose; and

(ii) at such intervals during the *financial year* as are notified to the Contractor by *NHS England*.

16.8F.3 Reserved.

16.8G **Information relating to overseas visitors**

16.8G.1 The Contractor must:

16.8G.1.1 record the information specified in clause 16.8G.2 relating to overseas visitors, where that information has been provided to it by a newly registered patient on a form supplied to the Contractor by *NHS England* for this purpose; and

16.8G.1.2 where applicable in the case of a *patient*, record the fact that the *patient* is the holder of a document:

(a) which is:

[86] Available online at: https://digital.nhs.uk/data-and-information/areas-of-interest/workforce/national-workforce-reporting-service-nwrs. Hard copies are available from NHS England, Wellington House, 133-155 Wellington Road, London SE1 8UG

(i) a European Health Insurance Card;

(ii) an S1 Healthcare Certificate[87]; or

(iii) a document which, for the purposes of a listed healthcare arrangement as defined in regulation 1(3) of the Healthcare (European Economic Area and Switzerland Arrangements) (EU Exit) Regulations 2019, is treated as equivalent to a document referred to in sub-clause 16.8G.1.2(a)(i) (*"EHIC equivalent document"*) or clause 16.8G.1.2(a)(ii) (*"S1 equivalent document"*); and

(b) which has not been issued to or in respect of the patient by the United Kingdom.

16.8G.2 The information specified in this clause is:

16.8G.2.1 in the case of a patient who holds a European Health Insurance Card or *EHIC equivalent document* which has not been issued to the patient by the United Kingdom, the information contained on that card or document in respect of the patient; and

16.8G.2.2 in the case of a patient who holds a Provisional Replacement Certificate[88] issued in respect of the patient's European Health Insurance Card, the information contained on that certificate in respect of the patient.

16.8G.3 The information referred to in clause 16.8G.2 must be submitted by the Contractor to *NHS England*:

16.8G.3.1 electronically at nhsdigital.costrecovery@nhs.net; or

16.8G.3.2 by post in hard copy form to EHIC, PDS NBO, NHS Digital, Smedley Hydro, Trafalgar Road, Southport, Merseyside PR8 2HH.

16.8G.4 Where the patient is a holder of a S1 Healthcare Certificate or *S1 equivalent document*, the Contractor must send that certificate or

[87] An S1 Healthcare Certificate is issued to those who are posted abroad and who pay National Insurance Contributions in the United Kingdom or to people in receipt of UK exportable benefits (e.g. retirement pensions). Further information is available at: https://contactcentreservices.nhsbsa.nhs.uk/selfnhsukokb/AskUs_EHIC/template.do?name=S1+form+-+what+is+this+and+=how+do+I+obtain+one%253F&id=16477 or from NHS BSA, Stella House, Goldcrest Way, Newbury Riverside, Newcastle Upon Tyne, NE15 8NY.

[88] Further information about Provisional Replacement Certificates is available at: http://www.nhs.uk/NHSEngland/Healthcareabroad/EHIC/Pages/about-the-ehic.aspx or from NHS England, PO Box 16738, Redditch, B97 7PT.

document, or a copy of that certificate or document, to the NHS Business Services Authority:

16.8G.4.1 electronically to nhsbsa.faregistrationsohs@nhs.net; or

16.8G.4.2 by post in hard copy form to Cost Recovery, Overseas Healthcare Service, Bridge House, 152 Pilgrim Street, Newcastle Upon Tyne, NE1 6SN.

16.8H. ***MHRA* Central Alerting System**

16.8H.1. The Contractor must:

(a) provide to *the MHRA* on request, an electronic mail address which is registered to the Contractor's *practice*;

(b) monitor that address;

(c) if that address ceases to be registered to the *practice*, notify *the MHRA* immediately of its new electronic mail address; and

(d) provide to *the MHRA* on request, one or more mobile telephone numbers for use in the event that the contractor is unable to receive electronic mail.

16.8I **Collection of data relating to appointments in general practice**

16.8I.1 The Contractor must participate in the collection of anonymised data relating to appointments for its *registered patients* ("practice appointments data") in accordance with the "GP Appointments Data Collection in Support of Winter Pressures"[89] referred to in the Health and Social Care Information Centre (Establishment of Information Systems for NHS Services: General Practice Appointments Data Collection in Support of Winter Pressures) Directions 2017[90] (the functions of the Health and Social Care Information Centre under the Directions were transferred to *NHS England* by the Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023).

16.8I.2 The Contractor must ensure that all *practice appointments data* relating to the provision of *primary medical services* under its contract is

[89] Originally introduced in support of winter pressures and still referred to that way. NHS Digital: https://digital.nhs.uk/about-nhs-digital/corporate-information-and-documents/directions-and-data-provision-notices/data-provision-notices-dpns/gp-appointments-data-collection-in-support-of-winter-pressures-version-2. Hard copies can be obtained by post from NHS Digital, 1 Trevelyan Square, Boar Lane, Leeds S1 6AE.

[90] The Health and Social Care Information Centre (Establishment of Information Systems for NHS Services: General Practice Appointments Data Collection in Support of Winter Pressures) Directions 2017, which were signed on 15th September 2017, are made under section 254 of the Health and Social Care Act 2012 (c.7).See: https://digital.nhs.uk/about-nhs-digital/corporate-information-and-documents/directions-and-data-provision-notices/data-provision-notices-dpns/gp-appointments-data-collection-in-support-of-winter-pressures-version-2, or may be obtained by post from NHS Digital, 1 Trevelyan Square, Boar Lane, Leeds LS1 6AE.

recorded within the appointment book in accordance with the guidance entitled "More accurate General Practice data".[91]

16.8I.3 The Contractor must ensure that the *practice appointments data* is uploaded onto its computerised clinical systems and available for collection by *NHS England* at such intervals during each financial year as notified to the Contractor by *NHS England*.

16.8I.4 For the purposes of this regulation, "appointment book" means a capability provided by the contractor's computerised clinical systems and software supplier which supports the administration, scheduling, resourcing and reporting of appointments.".

16.8J **Collection of data relating to use of the online consultation tool and video consultations**

16.8J.1. The Contractor must make available to the Commissioner such information as is specified by the Commissioner that is available to the Contractor in connection with use of the *online consultation tool* under clause 16.5ZD and *video consultations* under clause 16.5ZF.

16.8J.2. The Contractor must make information available to the Commissioner under clause 16.8J.1 within such reasonable time frame as may be specified by the Commissioner.

16.8K. **Recording and reviewing patient safety events**

16.8K.1. The Contractor must register for, and maintain an account with, the *LFPSE Service* that has administrator rights.

16.8K.2. In this regulation, "LFPSE Service" refers to the centralised system provided by *NHS England* to record information and provide data and analysis about events involving patient safety.[92]

16.8L **NHS staff surveys**

16.8L.1. The Contractor must make available to the Commissioner such information as specified by the Commissioner in connection with staff surveys that relate to the Contractor's staff.

16.8L.2. The Contractor must make information available to the Commissioner under clause 16.8L.1 within such reasonable time frame as may be specified by the Commissioner.

[91] The guidance can be found at: https://www.england.nhs.uk/publication/more-accurate-general-practice-appointment-data-guidance/ or hard copies can be obtained by post from Primary Care Strategy and NHS Contracts Group, NHS England, Area 2D, Skipton House, 80 London Road, London SE1 6HL

[92] Information about the service is available online at: https://www.england.nhs.uk/patient-safety/patient-safety-insight/learning-from-patient-safety-events/learn-from-patient-safety-events-service/

16.8M **Information relating to the Lung Cancer Screening Programme**

16.8M.1. The Contractor must allow the extraction by NHS England, or by persons authorised by NHS England, of data reasonably required for the purpose of the *Lung Cancer Screening Programme*, from the record that the Contractor is required to keep under clause 16.1 by such means, and at such intervals, as are notified to the Contractor by NHS England.

16.8M.2. The Contractor must co-operate, in so far as is reasonable, with NHS England, or persons authorised by NHS England, in relation to data extractions under clause 16.8M.1.

16.8M.3. In this regulation, "Lung Cancer Screening Programme" means the national programme arranged by NHS England of lung health checks for the purpose of detecting and diagnosing lung cancer, for persons identified by NHS England as recommended for such checks.

16.9. **Inquiries about prescriptions and referrals**

16.9.1. The Contractor must, subject to clauses 16.9.2 and 16.9.3, sufficiently answer any inquiries whether oral or in writing from the Commissioner concerning:

(a) any *prescription form* or *repeatable prescription* issued or created by a *prescriber*;

(b) the considerations by reference to which *prescribers* issue such forms;

(c) the referral by or on behalf of the Contractor of any patient to any other services provided under the *2006 Act*; or

(d) the considerations by which the Contractor makes such referrals or provides for them to be made on its behalf.

16.9.2. An inquiry referred to in clause 16.9.1 may only be made for the purpose of obtaining information to assist the Commissioner to discharge its functions or of assisting the Contractor in the discharge of its obligations under the Contract.

16.9.3. The Contractor is not obliged to answer any inquiry referred to in clause 16.9.1 unless it is made:

(a) in the case of clause 16.9.1(a) or 16.9.1(b) by an appropriately qualified *health care professional*; or

(b) in the case of clause 16.9.1(c) or 16.9.1(d), by an appropriately qualified medical practitioner.

16.9.4. The appropriately qualified person referred to in clause 16.9.3 must:

(a) be appointed by the Commissioner in either case to assist it in the exercise of its functions under this clause 16.9 and

(b) produce, on request, written evidence of that person's authority from the Commissioner to make such an inquiry on the Commissioner's behalf.

16.10. **Provision of information to a *medical officer* etc.**

16.10.1. The Contractor must, if it is satisfied that the patient consents:

(a) supply in writing to a person specified in clause 16.10.2 (a "relevant person"), before the end of such reasonable period as that person may specify, such clinical information as a person mentioned in sub-clause 16.10.2(a) to 16.10.2(d) considers relevant about a patient to whom the Contractor or a person acting on behalf of the Contractor has issued or has refused to issue a medical certificate; and

(b) answer any inquiries by a relevant person about:

(i) a *prescription form* or medical certificate issued or created by, or on behalf of, the Contractor, or

(ii) any statement which the Contractor or a person acting on behalf of the Contractor has made in a report.

16.10.2. For the purposes of this clause 16.10, "a relevant person" is:

(a) a *medical officer*,

(b) a *nursing officer*,

(c) an *occupational therapist*,

(d) a *physiotherapist*, or

(e) an officer of the Department for Work and Pensions who is acting on behalf of, and at the direction of, any person specified in sub-clauses (a) to (d).

16.10.3. For the purpose of being satisfied that a patient consents, the Contractor may rely on an assurance in writing from a relevant person that the consent of the patient has been obtained, unless the Contractor has reason to believe that the patient does not consent.

16.11. **Annual return and review**

16.11.1. The Contractor must submit to the Commissioner an annual return relating to the Contract which must require the same categories of information by all persons who hold contracts with the Commissioner and make available to the Commissioner a *digital practice area map*, for approval by the Commissioner.

16.11.2. Subject to article 53 of the General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004, one such return may be requested by the Commissioner at any time during each financial year in relation to such period (not including any period covered by a previous annual return) as may be specified in the request: in this clause, "financial year" means the twelve months ending with 31st March.

16.11.3. The Contractor must submit the completed return and make available the *digital practice area map* to the Commissioner:

(a) by a date which has been agreed as reasonable between the Contractor and the Commissioner; or

(b) in the absence of such agreement, before the end of the period of 28 days beginning with the date on which the request was made.

16.11.4. Following receipt of the return referred to in clause 16.11.1, the Commissioner must arrange with the Contractor an annual review of its performance in relation to the Contract.

16.11.5. The Contractor or the Commissioner may, if desired, invite the *Local Medical Committee* (if any) for the area in which the Contractor provides services under the Contract to participate in the annual review.

16.11.6. The Commissioner must prepare a draft record of the review referred to in clause 16.11.4 for comment by the Contractor and, having regard to such comments, must produce a final written record of the review. The Commissioner must send a copy of the final record of the review to the Contractor.

16.12. **Notifications to the Commissioner**

16.12.1. In addition to any requirements to give notice elsewhere in the Contract, the Contractor must give notice in writing to the Commissioner, as soon as reasonably practicable, of:

(a) any serious incident that, in the reasonable opinion of the Contractor, affects or is likely to affect the Contractor's performance of its obligations under the Contract;

(b) any circumstances which give rise to the Commissioner's right to terminate the contract under clause 26.8, 26.9 or 26.10;

(c) any appointments system which the Contractor proposes to operate and the proposed discontinuance of any such system;

(d) any change in the address of a *registered patient* of which the Contractor is aware ; and

(e) the death of any patient of which the Contractor is aware.

16.12.2. The Contractor must give notice in writing to the Commissioner about any person, other than a *registered patient* or a person whom the Contractor has accepted as a *temporary resident* to whom the Contractor has provided *essential services* in the form of immediately necessary treatment as described in clauses 8.1.2(b)(iii) and 8.1.5.

16.12.3. The Contractor must give notice to the Commissioner under clause 16.12.2 before the end of the period of 28 days beginning with the date on which the services described in that clause were provided.

16.13. **Notice provision specific to a Contractor that is a company limited by shares**[93]

16.13.1. The Contractor must give notice in writing to the Commissioner as soon as:

(a) any share in the Contractor is transmitted or transferred (whether legally or beneficially) to another person on a date after the date on which the Contract has been entered into;

(b) a new director or secretary of the company is appointed;

(c) circumstances arise which may entitle a creditor or a court to appoint a receiver, administrator or administrative receiver in respect of the company;

(d) circumstances arise which would enable the court to make a winding up order in respect of the company;

(e) a company resolution is passed, or a court of competent jurisdiction makes an order that the company is to be wound up; or

(f) the Contractor is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (definition of inability to pay debts).

16.13.2. A notice under clause 16.13.1 must confirm that the new shareholder, or, as the case may be, the personal representative of a deceased shareholder:

(a) is:

(i) a medical practitioner; or

(ii) a person who satisfies the conditions specified in section 86(2)(b)(i) to (iv) of the *2006 Act*; and

[93] Clauses 16.13.1, 16.13.2 and 16.13.3 only need to be included in the Contract if the Contractor is a company limited by shares. If the Contractor is not a company limited by shares, these clauses can be deleted.

(b) meets the further conditions imposed on shareholders by virtue of regulations 5 and 6 of *the Regulations*.

16.13.3. A notice under clause 16.13.1(b) must confirm that the new director or, as the case may be, secretary meets the conditions imposed on directors and secretaries by virtue of regulation 6 of *the Regulations*.

16.14. **Notice provision specific to a Contractor that is a partnership**[94]

16.14.1. The Contractor must give notice in writing to the Commissioner forthwith when:

(a) any partner in the partnership:

(i) leaves the partnership; or

(ii) informs the other partners in the partnership that they intend to leave the partnership; or

(b) a new partner joins the partnership.

and a notice under clause 16.14.1(a) must confirm the date on which the partner left or proposes to leave the partnership.

16.14.2. A notice under clause 16.14.1(b) must:

(a) state the date on which the new partner joined the partnership;

(b) confirm that the new partner is:

(i) a medical practitioner; or

(ii) a person who satisfies the conditions specified in section 86(2)(b)(i) to (iv) of the *2006 Act*;

(c) confirm that the new partner meets the conditions imposed by regulations 5 and 6 of *the Regulations*; and

(d) state whether the new partner is a general or limited partner in the partnership.

16.15. **Notification of deaths**

16.15.1. The Contractor must give notice in writing to the Commissioner of the death on its *practice premises* of a patient no later than the end of the first working day after the day on which that death occurred.

16.15.2. The notice given under clause 16.5.1 must include:

(a) the patient's name;

[94] Clauses 16.14.1 and 16.14.2 only need to be included in the Contract if the Contractor is a partnership. If the Contractor is not a partnership, these clauses can be deleted.

(b) the patient's National Health Service number (where known);

(c) the date and place of the patient's death;

(d) a brief description of the circumstances (as known) surrounding the patient's death;

(e) the name of any medical practitioner or other person treating the patient while the patient was on the Contractor's *practice premises*; and

(f) the name (where known) of any other person who was present at the time of the patient's death.

16.16. **Notifications to patients following a variation of the Contract**

16.16.1. This clause 16.16 applies where the Contract is varied in accordance with Part 26 of this Contract and, as a result of that variation:

(a) there is to be a change in the range of services provided to the Contractor's *registered patients*; or

(b) patients who are on the *Contractor's list of patients* are to be removed from that list.

16.16.2. Where this clause 16.16 applies, the Commissioner must:

(a) give notice in writing to those patients of the variation and its effect; and

(b) inform those patients of the steps that they may take to:

(i) obtain the services in question elsewhere, or,

(ii) register elsewhere for the provision to them of *essential services* (or their equivalent).

16.17. **Entry and inspection by the Commissioner**

16.17.1. Subject to the conditions specified in clause 16.17.2, the Contractor must allow any person authorised in writing by the Commissioner to enter and inspect the Contractor's *practice premises* at any reasonable time.

16.17.2. The conditions specified in this clause are that:

(a) reasonable notice of the intended entry has been given;

(b) written evidence of the authority of the person seeking entry is produced to the Contractor on request; and

(c) entry is not made to any premises or part of the premises used as residential accommodation without the consent of the resident.

16.17.3. The Contractor, the Commissioner or a person authorised in writing by the Commissioner may, if it wishes to do so, invite the *Local Medical Committee* (if any) for the area in which the Contractor provides services under the Contract, to be present at any inspection of the Contractor's *practice premises* which takes place under this clause 16.17.

16.18. **Entry and Inspection by the *Care Quality Commission***

16.18.1. The Contractor must allow persons authorised by the *Care Quality Commission* to enter and inspect the Contractor's *practice premises* in accordance with section 62 of the Health and Social Care Act 2008 (entry and inspection).

16.19. **Entry and viewing by Local Healthwatch organisations**

16.19.1. The Contractor must comply with the requirement to allow an authorised representative to enter and view premises and observe the carrying-on of activities on those premises in accordance with regulations made under section 225 of the Local Government and Public Involvement Health Act 2007 (duties of services-providers to allow entry by Local Healthwatch organisations or contractors).

17 PART 17

17.1 Certificates[95]

17.1.1. Subject to clauses 17.1.2 and 17.1.3, the Contractor must issue any medical certificate of a description prescribed in column 1 of the table below under, or for the purposes of, the enactments specified in relation to that certificate in column 2 of the table below, if that certificate is reasonably required under, or for the purposes of, the enactments specified in that table.

17.1.2. A certificate referred to in clause 17.1.1 must be issued free of charge to a patient or to a patient's personal representatives.

17.1.3. A certificate must not be issued where, for the condition to which the certificate relates, the patient is:

(a) being attended by a medical practitioner who is not:

(i) employed or engaged by the Contractor,

(ii) if this Contract is with a partnership, one of the partners, or

(iii) if this Contract is with a company limited by shares, one of the persons legally or beneficially owning shares in the company; or

(b) not being treated by or under the supervision of a *health care professional*.

17.1.4. The exception in sub-clause 17.1.3(a) must not apply where the certificate is issued in accordance with regulation 2(1) of the Social Security (Medical Evidence) Regulations 1976 (which provides for the issue of a certificate as evidence of incapacity for work or limited capability for work) or regulation 2(1) of the Statutory Sick Pay (Medical Evidence) Regulations 1985 (which provides for the issue of medical information relating to incapacity for work).

LIST OF PRESCRIBED MEDICAL CERTIFICATES

Description of medical certificate	*Enactment under or for the purpose of which certificate required*
1. To support a claim or to obtain payment either personally or by proxy; to prove incapacity to work or for self-support for the purposes of an award by the Secretary of State; or to enable proxy to draw pensions etc.	Naval and Marine Pay and Pensions Act 1865 Air Force (Constitution) Act 1917 Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939

[95] This Part is required by *the Regulations* (see regulation 22 and Schedule 2).

	Personal Injuries (Emergency Provisions) Act 1939 Social Security Administration Act 1992 Social Security Contributions and Benefits Act 1992 Social Security Act 1998
2. Reserved.	
3. To secure registration of still-birth	Section 11 of the Births and Deaths Registration Act 1953 (special provision as to registration of still-birth)
4. To enable payment to be made to an institution or other person in case of mental disorder of persons entitled to payment from public funds.	Section 142 of the Mental Health Act 1983 (pay, pensions etc of mentally disordered persons)
5. To establish unfitness for jury service	Juries Act 1974
6. To support late application for reinstatement in civil employment or notification of non-availability to take up employment owing to sickness.	Reserve Forces (Safeguarding of Employment) Act 1985.
7. To enable a person to be registered as an absent voter on grounds of physical incapacity	Representation of the People Act 1985
8. To support applications for certificates conferring exemption from charges in respect of drugs, medicines and appliances.	National Health Service Act 2006
9. To support a claim by or on behalf of a severely mentally impaired person for exemption from liability to pay the Council Tax or eligibility for a discount in respect of the amount of Council Tax payable.	Local Government Finance Act 1992.

17.2 Patients who should not be tested for, or vaccinated against, coronavirus: confirmation of exemption

17.2.1 Subject to clause 17.2.6, the Contractor must respond to a valid exemption confirmation request if it is made at a relevant time.

17.2.2 An exemption confirmation request:

(a) is a request to confirm whether a *relevant patient* ("P"), for clinical reasons:

(i) should neither be tested for *coronavirus* nor vaccinated with an *authorised vaccine*; or

(ii) should not be vaccinated with an *authorised vaccine*; and

(b) is valid if it is made in accordance with the process approved by the Secretary of State.

17.2.2A A valid exemption confirmation request is made at a relevant time if, at the time the request is made to the Contractor:

(a) legislation in force in England requires a person or class of person to be vaccinated against coronavirus unless they can show that, for clinical reasons, they are exempt from vaccination with an authorised vaccine; or

(b) guidance issued by, or on behalf of, the Secretary of State provides that a person or class of person should be vaccinated against coronavirus unless they can show that, for clinical reasons, they are exempt from vaccination with an authorised vaccine.

17.2.3 An exemption confirmation request may be made by:

(a) *P*; or

(b) where *P* is a person to whom clause 17.2.4 applies, an *appropriate person* acting on behalf of *P*.

17.2.4 This clause applies to a person if they:

(a) are a *child*; or

(b) lack the capacity to make a request under clause 17.2.1.

17.2.5 The Contractor must respond to a valid exemption confirmation request made at a relevant time:

(a) free of charge to *P* or the *appropriate person*; and

(b) by recording its response on an information hub using a method approved by the *Secretary of State*.

17.2.6 The Contractor is not required to respond to a valid exemption confirmation request if:

(a) for the medical condition which may mean that *P* should neither be tested for *coronavirus* nor vaccinated with an *authorised vaccine*, or should not be vaccinated with an *authorised vaccine*, *P* is being attended by a medical practitioner who is not:

(i) engaged or employed by the Contractor;

(ii) where the Contractor is two or more persons practising in partnership, one of those persons; or

(iii) where the Contractor is a company limited by shares, one of the persons legally or beneficially owning shares in that company; and

(b) that medical condition is not one to which clause 17.2.7 applies.

17.2.7 This clause applies to a medical condition if no person with that condition should be:

(a) tested for *coronavirus* or vaccinated with an *authorised vaccine*; or

(b) vaccinated with an *authorised vaccine*.

17.2.8 In this clause:

"authorised vaccine" means a *medicinal product*:

(a) authorised for supply in the United Kingdom in accordance with a *marketing authorisation*; or

(b) authorised by the *licensing authority* on a temporary basis under regulation 174 of the Human Medicines Regulations 2012 (supply in response to spread of pathogenic agents etc), for vaccination against *coronavirus*;

"coronavirus" means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);

"licensing authority", "*marketing authorisation"* and "*medicinal product"* have the meanings given in the Human Medicines Regulations 2012 (see regulations 6, 8 and 2, respectively, of those Regulations);

"relevant patient" means:

(a) a *registered patient*; or

(b) a *temporary resident*.

18 PART 18[96]

18.1 Payment under the Contract

18.1.1. The Commissioner and the Contractor shall make any payments under the Contract promptly and in accordance with both the terms of the Contract (including, for the avoidance of doubt, any payment due pursuant to clause 18.1.2), and any other conditions relating to payment contained in directions given by *the Secretary of State* under section 87 of the *2006 Act*, subject to any right the Commissioner may have to set off against an amount payable to the Contractor under the Contract any amount that:

(a) is owed by the Contractor to the Commissioner under the Contract; or

(b) the Commissioner may withhold from the Contractor in accordance with the terms of the Contract or any other applicable provisions contained in directions given by *the Secretary of State* under section 87 of the *2006 Act*.

18.1.2. [Subject to clause 18.1.3][97] The Commissioner shall make payments to the Contractor in such amount and in such manner as specified in any directions given by the *Secretary of State* for the time being in force under section 87 or 98A of the *2006 Act.* Where, pursuant to directions made under section 87 or 98A of the *2006 Act*, the Commissioner is required to make a payment to the Contractor under the Contract but subject to conditions, those conditions must be a term of the Contract.

18.1.3. [Payments to be made to the Contractor (and any relevant conditions to be met by the Contractor in relation to such payments) in respect of services where payments, or the amount of any such payments, are not specified in directions pursuant to clause 18.1.2, are set out in Schedule 6 to this Contract.][98]

18.2. [Payment provisions specific to a Contractor entering into the Contract following a *default contract* with the Commissioner[99]

18.2.1. As a condition of entering into the Contract, the Contractor has surrendered all rights to further payments under the *default contract* to which the Contractor and the Commissioner were parties prior to entering into the Contract, and the Contractor

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[96] Part 18 is required by regulation 23 of *the Regulations* and section 87(2) of *the 2006 Act.*

[97] The words in square brackets only need to be included if clause 18.1.3 is to be included.

[98] Clause 18.1.3 needs to be included if, pursuant to the Contract (Parts 9, 10 or 12), the Contractor is providing:-

- *minor surgery* that is not funded by the *global sum* or *out of hours services;* and/or
- *enhanced services*

and in either case, the payments to be made in respect of such services, and the conditions upon which payment is to be made, are not specified in Directions made under section 87 or 98A of *the 2006 Act.* It will also need to be included if there are any other payments to be made where the detail of such payments is not specified in directions, for example payments in respect of premises.

[99] *See* article 10 of the National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Saving Provisions) Order 2013 (S.I. 2013/235).

acknowledges that any such rights were extinguished when the Contractor entered into the Contract.

18.2.2. For the purposes of payment under the Contract, the Contract shall be treated as if it commenced on 1st April 2004.

18.2.3. Any payment that has been made under the *default contract* to which the Contractor and the Commissioner were parties prior to entering into the Contract, that could have been made if the Contractor had entered into the Contract on or before 31st March 2004:

(a) as a payment on account under the Contract, shall be treated as a payment on account under the Contract (and for these purposes any payment of one twelfth of a final *global sum* equivalent under that *default contract* shall be treated as a payment on account in respect of a payable *global sum* monthly payment);

(b) as a payment under the Contract, shall be treated as a payment under the Contract,

and accordingly any condition that attaches, or is to be attached, to such a payment when made under the Contract, by virtue of the *GMS Statement of Financial Entitlements* or any other relevant Directions given by *the Secretary of State*, is attached to that payment.

18.2.4. Any other payment that has been made under the *default contract* to which the Contractor and the Commissioner were parties prior to entering into the Contract, shall be set off, equitably, against any payment for equivalent services provided under the Contract.][100]

18.3. **Payment provisions specific to a Contractor entering into the Contract where the Commissioner has previously made payments to the Contractor under article 41(1) of *the Transitional Order***

18.3.1. As a condition of entering into the Contract, the Contractor has surrendered all rights to further payments from the Commissioner under article 41(1) of *the Transitional Order*, and the Contractor acknowledges that any such rights were extinguished when the Contractor entered into the Contract.

18.3.2. For the purposes of payment under the Contract, the Contract shall be treated as if it commenced on 1st April 2004.

18.3.3. Any payment that has been made under article 41(1) of *the Transitional Order* that could have been made:

(a) as a payment on account under the Contract, shall be treated as a payment on account under the Contract (and for these purposes any payment of one twelfth of a final *global sum* equivalent under article 41(1) shall be treated

[100] Clauses 18.2.1 to 18.2.4 are required by article 40 of *the Transitional Order* only where the Contractor has been a party to a *default contract* with NHS England and the Contract takes effect immediately after the *default contract* ceases to have effect.

as a payment on account in respect of a payable *global sum* monthly payment);

(b) as a payment under the Contract, shall be treated as a payment under the Contract,

and accordingly any condition that attaches, or is to be attached, to such a payment when made under the Contract, by virtue of the *GMS Statement of Financial Entitlements*, the National Health Service (General Medical Services – Premises Costs) (England) Directions 2013, or any other relevant Directions given by *the Secretary of State*, is attached to that payment.][101]

[101] Clauses 18.3.1 to 18.3.3 are required by article 41(2) of *the Transitional Order* only where payments have been made to the Contractor by NHS England pursuant to article 41(1) of *the Transitional Order* prior to the Contract being entered into. *See also* article 10 of the National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Saving Provisions) Order 2013 (S.I. 2013/235).

19 PART 19[102]

19.1 Fees and Charges

19.1.1. The Contractor must not, either itself or through any other person, demand or accept from any of its patients a fee or other remuneration for its own benefit or for the benefit of another person in respect of:

(a) the provision of any treatment whether under the Contract or otherwise, or

(b) a prescription or *repeatable prescription* for any drug, medicine or appliance,

except in the circumstances set out in clause 19.1.2.

19.1.2. The Contractor may demand or accept (directly or indirectly) a fee or other remuneration:

(a) from a statutory body for services rendered for the purposes of that body's statutory functions;

(b) from a body, employer or school for:

(i) a routine medical examination of persons for whose welfare the body, employer or school is responsible, or

(ii) an examination of such persons for the purpose of advising the body, employer or school of any administrative action they might take;

(c) for treatment which is not *primary medical services* or is otherwise required under the Contract and which is given:

(i) at accommodation made available with the provisions of paragraph 11 of Schedule 6 to the *2006 Act* (accommodation and services for private patients), or

(ii) in a registered nursing home which is not providing services under that Act,

if, in either case, the person administering the treatment is serving on the staff of a hospital providing services under the *2006 Act* as a specialist providing treatment of the kind the patient requires and if, within seven days of giving the treatment, the Contractor or the person giving the treatment supplies the Commissioner, on a form provided by the Commissioner for that purpose, with such information as the Commissioner may require;

[102] This Part is required by *the Regulations* (see regulation 24 and Schedule 5).

(d) under section 158 of the Road Traffic Act 1988 (payment for emergency treatment of traffic casualties);

(e) when the Contractor treats a patient under clause 19.1.3, in which case the Contractor is entitled to demand and accept a reasonable fee (recoverable in certain circumstances under clause 19.1.4) for any treatment given, if the Contractor gives the patient a receipt;

(f) for attending and examining (but not otherwise treating) a patient:

(i) at a police station, at the patient's request, in connection with possible criminal proceedings against the patient;

(ii) for the purpose of creating a medical report or certificate at the request of a commercial, educational or not-for-profit organisation; or

(iii) for the purpose of creating a medical report required in connection with an actual or potential claim for compensation by the patient;

(g) for treatment consisting of an immunisation for which no remuneration is payable by the Commissioner and which is requested in connection with travel abroad;

(h) for prescribing or providing drugs, medicines or appliances (including a collection of such drugs, medicines or appliances in the form of a travel kit) which a patient requires to have in their possession solely in anticipation of the onset of an ailment or occurrence of an injury while that patient is outside of the United Kingdom but for which that patient is not requiring treatment when the drug, medicine or appliance is prescribed;

(i) for a medical examination:

(i) to enable a decision to be made whether or not it is inadvisable on medical grounds for a person to wear a seat belt, or

(ii) for the purpose of creating a report

(aa) relating to a road traffic accident or criminal assault; or

(bb) that offers an opinion as to whether the patient is fit to travel;

(j) for testing the sight of a person to whom none of paragraphs (a), (b), (c), (d) or (e) of section 115(2) of the *2006 Act* applies (including by reason of regulations under section 115(7) of that Act);

(k) where the Contractor is authorised or required in accordance with arrangements made with *NHS England* under section 126 of the *2006 Act* (arrangements for pharmaceutical services) and in accordance with regulations made under section 129 of the *2006 Act* (regulations as to pharmaceutical services) to provide drugs, medicines or appliances to a patient and provides for that patient, otherwise than by way of *dispensing services*, any *Scheduled drug*;

(l) for prescribing or providing drugs for malaria chemoprophylaxis; and

(m) for responding to an exemption confirmation request as defined in clause 17.2.2(a), if that request is not one which the Contractor is required to respond to in accordance with clause 17.2.

19.1.2A. The Contractor must not, either itself or through any other person, demand or accept from any of its patients a fee or other remuneration for its own benefit or for the benefit of another person, for the completion, in relation to the patient's mental health, of:

(a) a mental health evidence form; or

(b) any examination of the patient or of the patient's medical record in order to complete the form;

the purpose of which is to assist creditors in deciding what action to take where the debtor has a mental health problem.

19.1.2B. The Contractor must not, either itself or through any other person, demand or accept from anyone who is not a patient of the Contractor, a fee or other remuneration for its own benefit or for the benefit of another person, for either of the following services provided on *practice premises* to which clause 7.14.1B applies, unless those services are provided outside of *core hours*:

(a) for treatment consisting of an immunisation for which the Contractor receives no remuneration from the Commissioner when provided to its patients and which is requested in connection with travel abroad; or

(b) for prescribing or providing drugs or medicines for malaria chemoprophylaxis.

19.1.3. Subject to the provision for repayment contained in clause 19.1.4, where:

(a) a person:

(i) applies to the Contractor for the provision of *essential services*; and

(ii) claims to be on the *Contractor's list of patients*, and

(b) the Contractor has reasonable doubts about that person's claim,

the Contractor must give any necessary treatment to that person and may demand and accept from that person a reasonable fee in accordance with clause 19.1.2(e).

19.1.4. Where:

(a) a person from whom the Contractor has received a fee under clause 19.1.2(e) applies to the Commissioner for a refund within 14 days from the date of payment of the fee (or within such longer period not exceeding one month as the Commissioner may allow if it is satisfied that the failure to apply within 14 days was reasonable), and

(b) the Commissioner is satisfied that the person was on the *Contractor's list of patients* when the treatment was given,

the Commissioner may recover the amount of the fee from the Contractor, by deduction from the Contractor's remuneration or otherwise, and must pay that amount to the person who paid the fee.

19.1.5. Part 19 shall survive the expiry or termination of the Contract to the extent that it prohibits the Contractor from, either itself or through any other person, demanding or accepting from any patient of its a fee or other remuneration for its own or another's benefit:

(a) for the provision of any treatment, whether under the Contract or otherwise, that was provided during the existence of the Contract; or

(b) for any prescription or repeat prescription for any drug, medicine or appliance, that was provided during the existence of the Contract[103].

[103] This clause is not mandatory but it is recommended.

20 PART 20[104]

20.1 Clinical Governance

20.1.1. The Contractor must have in place an effective *system of clinical governance* which includes appropriate standard operating procedures in relation to the management and use of controlled drugs. The Contractor must nominate a person who is to have responsibility for ensuring the effective operation of the *system of clinical governance*. The person nominated must be a person who performs or manages services under the Contract.

20.1.2. The Contractor must co-operate with *NHS England* in the discharge of any of *NHS England*'s obligations or the obligations of *NHS England*'s accountable officers under the Controlled Drugs (Supervision and Management of Use) Regulations 2013.

20.1.3. In this clause 20.1, "controlled drugs" has the meaning given in section 2 of the Misuse of Drugs Act 1971 (which relates to controlled drugs and their classification for the purposes of that Act).

20.2. Duty as to Education and Training

20.2.1. The Contractor must co-operate with-:

(a) the *Secretary of State* in the discharge of the *Secretary of State* 's duty under section 1F of the *2006 Act*, or

(b) *NHS England* where *NHS England* is discharging the *Secretary of State*'s duty under section 1F of the *2006 Act*, by virtue of its functions under section 97(1) of the

[104] This Part is required by *the Regulations* (see regulations 87 and 90).

Care Act 2014 (planning education and training for health care workers etc.).

21 PART 21[105]

21.1 Insurance

21.1.1. The Contractor must at all times have in force in relation to it an indemnity arrangement which provides appropriate cover.

21.1.2. The Contractor may not sub-contract its obligations to provide clinical services under the Contract unless it is satisfied that the sub-contractor has in force in relation to it an indemnity arrangement which provides appropriate cover.

21.1.3. For the purposes of clauses 21.1.1 to 21.1.2:

(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) the Contractor is to be regarded as holding insurance if that insurance is held by 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.

[105] This Part is required by *the Regulations* (see regulations 91 and **92).**

21.1.4. 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 clause 21.1.1.

22 PART 22[106]

22.1 Gifts

22.1.1. The Contractor must keep a register of gifts which:

(a) are given to any of the persons specified in clause 22.1.2 by, or on behalf of:

(i) a patient;

(ii) a relative of a patient; or

(iii) any person who provided or would like to provide services to the Contractor or its patients in connection with the Contract; and

(b) have, in the Contractor's reasonable opinion, an individual value of more than £100.00.

22.1.2. The persons referred to in clause 22.1.1 are:

(a) the Contractor;

(b) if the Contractor is a partnership, any partner in the partnership;

(c) if the Contractor is a company, any person both legally and beneficially owning a share in the company, or a director or secretary of the company;

(d) any person employed by the Contractor for the purposes of the Contract;

(e) any *general medical practitioner* engaged by the Contractor for the purposes of the Contract;

(f) any spouse or civil partner of the Contractor (if the Contractor is an individual medical practitioner) or of a person specified in sub-clauses (b) to (e); or

(g) any person whose relationship with the Contractor (where the Contractor is an individual medical practitioner) or with a person specified in sub-clauses (b) to (e) has the characteristics of the relationship between spouses.

22.1.3. Clause 22.1.1 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 would like to provide services to the Contractor or its patients.

106 This Part is mandatory: see regulation *93 of the Regulations.*

22.1.4. The Contractor must take reasonable steps to ensure that it is informed of gifts which fall within clause 22.1.1 and which are given to the persons specified in clauses 22.1.2(b) to 22.1.2(g).

22.1.5. The register referred to in clause 22.1.1 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.

22.1.6. The Contractor must make the register available to the Commissioner on request.

23 PART 23[107]

23.1 Compliance with Legislation and Guidance

23.1.1. The Contractor must comply with all relevant legislation and have regard to all relevant guidance issued by *NHS England* or the *Secretary of State* or local authorities in respect of the exercise of their functions under the *2006 Act*.

[107] This Part is required by *the Regulations* (see regulation 94).

24 PART 24[108]

24.1 Complaints

24.1. **Complaints procedure**

24.1.1. The Contractor must establish and operate a complaints procedure to deal with any complaints made in relation to any matter reasonably connected with the provision of services under the Contract.

24.1.2. The complaints procedure must comply with the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

24.2. **Co-operation with investigations**

24.2.1. The Contractor must co-operate with:

(a) the investigation of any complaint made in relation to a matter that is reasonably connected with the provision of services under the Contract by:

(i) *NHS England*;

(ii) the Commissioner; or

(iii) the Health Service Commissioner; and

(b) the investigation of any complaint made by an NHS body or local authority which relates to a patient or former patient of the Contractor.

24.2.2. In the previous clause 24.2.1:

"NHS body" means:

(a) In relation to England, *NHS England*, an *integrated care board*; and
(b) In relation to England and Wales, Scotland and Northern Ireland, an NHS trust, an NHS foundation trust, a *Local Health Board*, a *Health Board*, a *Health and Social Services Board* or a *Health and Social Services Trust*;

"local authority" means:

(a) a local authority within the meaning of any of the bodies listed in section 1 of the Local Authority Social Services Act 1970 (local authorities);

(b) the Council of the Isles of Scilly;

(c) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (constitution of councils); or

[108] This Part is required by *the Regulations:* see Part 11.

(d) the council of a county or county borough in Wales; and

"Health Service Commissioner" means the person appointed Health Service Commissioner for England in accordance with section 1 of, and Schedule 1 to, the Health Service Commissioners Act 1993 (The Commissioner).

24.2.3. For the purposes of clause 24.2.1, co-operation includes:

(a) answering any questions which are reasonably put to the Contractor by the Commissioner;

(b) providing any information relating to the complaint which is reasonably required by the Commissioner; and

(c) attending any meeting held to consider the complaint (if held at a reasonably accessible place and at a reasonable hour, and if due notice has been given) if the Contractor's presence at the meeting is reasonably required by the Commissioner.

24.2.4. Part 24 of this Contract shall survive the expiry or termination of the Contract insofar as it relates to any complaint or investigation reasonably connected with the provision of services under the Contract before it terminated[109].

[109] This clause is not mandatory but it is recommended to ensure that the Contractor is still under an obligation to comply with the investigation of a complaint or with any relevant investigation where the Contract has terminated or expired.

25 PART 25[110]

25.1 Dispute Resolution

25.1. **Local resolution of contract disputes**

25.1.1. The Contractor and the Commissioner must make reasonable efforts to communicate and cooperate with each other with a view to resolving any dispute, which arises out of or in connection with the Contract before referring the dispute for determination in accordance with the *NHS dispute resolution procedure* (or, where applicable, before commencing court proceedings).

25.1.2. The Contractor or the Commissioner may invite the *Local Medical Committee* (if any) for the area in which the Contractor is providing services under the Contract to participate in discussions which take place by virtue of clause 25.1.1.

25.1.3. Clause 25.1.1 does not apply to a dispute relating to the assignment of patients to a closed list which falls to be determined under the *NHS dispute resolution procedure* by virtue of paragraph 42(1) of Schedule 3 of *the Regulations* where it is not practicable for the parties to attempt local resolution before the expiry of the period of seven days specified in paragraph 42(4) of that Schedule.

25.2. **Dispute resolution: non-NHS Contracts[111]**

25.2.1. Any dispute arising out of or in connection with the Contract, except matters dealt with under the complaints procedure set out in clauses 24.1.1 to 24.2.4 of this Contract, may be referred for consideration and determination to *the Secretary of State*, if:

(a) if it relates to a period when the Contractor was treated as a *health service body*, by the Contractor or by the Commissioner; or

(b) in any other case, by the Contractor or, if the Contractor agrees in writing, by the Commissioner.

25.2.2. Where a dispute is referred to *the Secretary of State* under clause 25.2.1, the procedure to be followed is the *NHS dispute resolution procedure*, and the parties agree to be bound by a determination made by the *adjudicator*.

25.3. **NHS dispute resolution procedure**

[110] Except where specifically indicated in the footnotes, this Part is required by *the Regulations* (see Part 12).

[111] These clauses are mandatory terms only if the contract is not an *NHS contract.* Otherwise, the clauses should be deleted from the Contract.

25.3.1. The *NHS dispute resolution procedure* applies to a dispute arising out of, or in connection with, the Contract which is referred to *the Secretary of State* in accordance with [section 9(6) of the *2006 Act* / clause 25.2.1 above][112], and the Commissioner and the Contractor shall participate in the *NHS dispute resolution procedure* as set out in regulations 83 and 84 of *the Regulations*.

25.3.2. The *NHS dispute resolution procedure* does not apply where the Contractor refers a matter for determination in accordance with clause 13.27.1, and in such a case the procedure specified in paragraph 42 of Schedule 3 to *the Regulations* applies instead.

25.3.3. Where a party wants to refer a dispute for determination under the procedure specified in clause 25.3, it must send to *the Secretary of State* 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; and

(c) a brief statement of the nature of and circumstances giving rise to, the dispute.

25.3.4. Where a party wants to refer a dispute, it must send a request under clause 25.3.3 to *the Secretary of State* before the end of the period of three years beginning with the date on which the matter giving rise to the dispute occurred or should reasonably have come to the attention of that party.

25.3.5. In clauses 25.1.1 to 25.3.4 any dispute arising out of or in connection with the Contract includes any dispute arising out of or in connection with the termination of the Contract.

25.3.6. Part 25 shall survive the expiry or termination of the Contract.

[112] If the contract is an *NHS contract,* the parties must select the phrase "section 9(5) and (6) of *the 2006 Act".* If the contract is not an *NHS contract,* the parties must select the phrase "clause 25.2.1 above".

26 PART 26[113]

26.1 Variation and Termination of the Contract

26.1. **Variation of the Contract: general**

26.1.1. Subject to Part 11 of the Contract (opts outs of *minor surgery* and *out of hours services*), clauses 10.2.8, 10.2.9, 15.9.8, and 15.10.8 and this Part (variation and termination of the Contract), a variation of, or amendment to, the Contract is not effective unless it is made in writing and signed by or on behalf of the Commissioner and the Contractor.

26.1.2. The Commissioner may vary the Contract without the Contractor's consent where:

(a) it is reasonably satisfied that the variation is necessary in order to comply with *the 2006 Act* or any direction given by *the Secretary of State* under or by virtue of *the 2006 Act*; and

(b) it gives notice in writing to the Contractor of the wording of the proposed variation and the date on which that variation is to take effect.

26.1.3. The date on which the proposed variation referred to in clause 26.1.2(b) is to take effect must, unless it is not reasonably practicable, be a date which falls at least 14 days after the date on which the notice under that clause is given to the Contractor.

26.2. **Variation provisions specific to a contract with an individual medical practitioner[114]**

26.2.1. Where the Contractor is an individual medical practitioner and proposes to practise in partnership with one or more persons, the Contractor must give notice in writing to the Commissioner of:

(a) the name of the person or persons with whom the Contractor proposes to practise in partnership;

(b) the date on which the Contractor would like to change its status as a Contractor from that of an individual medical practitioner to that of a partnership, which must be at least 28 days after the date on which the Contractor gives notice to the Commissioner under this clause.

26.2.2. Notice given under clause 26.2.1 must:

(a) in respect of each person with whom the Contractor is proposing to practise in partnership confirm that the person:

[113] Except where it is indicated in a footnote that a particular provision is only required in certain types of contract, this Part is required by *the Regulations:* see Part 8.
[114] If the Contractor is not an individual medical practitioner, then this clause does not need to be included.

(i) is either:

(aa) a medical practitioner; or

(bb) a person who satisfies the conditions specified in section 86(2)(b)(i) to (iv) of the *2006 Act* (persons eligible to enter into GMS Contracts); and

(ii) satisfies the conditions imposed by regulations 5 and 6 of *the Regulations*; and

(b) state whether the partnership is to be a general partnership or a *limited partnership*, and give the names of the limited partners and the general partners in the partnership,

and the notice must be signed by the individual medical practitioner and by the person, or each of the persons, with whom the practitioner is proposing to practise in partnership.

26.2.3. The Contractor must ensure that any person with whom it is to practise in partnership is bound by the Contract, whether by virtue of a partnership deed or otherwise.

26.2.4. If the Commissioner is satisfied as to the accuracy of the matters specified in a notice given under clause 26.2.1, the Commissioner must give notice in writing to the Contractor confirming that the Contract is to continue with the partnership entered into by the Contractor and its partners, from a date that the Commissioner specifies in the notice.

26.2.5. The date to be specified by the Commissioner under clause 26.2.4 is:

(a) the date requested in the notice given by the Contractor under clause 26.2.1; or,

(b) where that date is not reasonably practicable, a date that is as close as is reasonably practicable to the requested date.

26.2.6. Where the Contractor has given notice to the Commissioner under clause 26.2.1, the Commissioner may vary the Contract but only to the extent that the Commissioner is satisfied is necessary to reflect the change in the status of the Contractor from that of an individual medical practitioner to a partnership. If the Commissioner proposes to vary the Contract, it must include in the notice given to the Contractor pursuant to clause 26.2.4 the wording of the proposed variation and the date upon which that variation is to take effect.

26.3. **Variation provisions specific to a contract with a Partnership[115]**

[115] If the Contractor is not a partnership, then this clause does not need to be included.

26.3.1. Subject to clause 26.3.3, where the Contractor consists of two or more persons practising in partnership, and that partnership is terminated or dissolved, the Contract may only continue with one or more of the former partners if the conditions in clause 26.3.1A are satisfied.

26.3.1A. The conditions are:

(a) that partner is, or those partners are, named in a notice given under clause 26.3.2;

(b) where one partner is named, that partner is a medical practitioner who satisfies the condition in regulation 5(1)(a) of *the Regulations*;

(c) where more than one partner is named:

(i) each of those partners is either a medical practitioner or a person who satisfies the conditions specified in section 86(2)(b) of *the 2006 Act* (persons eligible to enter into GMS contracts); and

(ii) the new partnership satisfies the conditions imposed by regulations 5 and 6 of *the Regulations*; and

(d) the requirements in clauses 26.3.2 and 26.3.2A are met.

26.3.2. The Contractor must give notice in writing to the Commissioner of:

(a) the intention to change its status from that of a partnership to that of an individual medical practitioner; or

(b) the intention to change the composition of the partnership.

26.3.2A. A notice given under clause 26.3.2 must:

(a) specify the date on which the Contractor would like to change its status or composition, which must be at least 28 days after the date on which the Contractor gives notice to the Commissioner under clause 26.3.2;

(b) specify:

(i) where notice is given under clause 26.3.2(a) the name of the medical practitioner with whom the Contract is to continue;

(ii) where notice is given under clause 26.3.2(b) the name and contact details of the partners with whom the Contract is to continue; and

(c) be signed by each partner in the partnership.

26.3.3. Where the Contractor consists of two persons practising in partnership and the partnership is terminated or dissolved

because one of the partners has died, the remaining partner in the partnership must give notice in writing to the Commissioner of that death as soon as is reasonably practicable and, in that case clause 26.3.4 and clause 26.3.5 apply.

26.3.4. If the remaining partner in the partnership is a *general medical practitioner*, the Contract is to continue with that *general medical practitioner*.

26.3.5. If the remaining partner in the partnership is not a general medical practitioner, the Commissioner:

(a) must enter into discussions with that partner and use reasonable endeavours to reach an agreement to enable the provision of clinical services to continue under the Contract;

(b) may, if it considers it appropriate, consult the *Local Medical Committee* (if any) for the area in which the partnership was providing clinical services under the Contract or such other person as the Commissioner considers necessary;

(c) may, if it considers it appropriate to enable the provision of clinical services under the Contract to continue, offer the remaining partner reasonable support; and

(d) must give notice to the remaining partner in the partnership if agreement has been reached in accordance with clause 26.3.6 or, in the event that agreement cannot be reached, in accordance with clause 26.3.7.

26.3.6. If the Commissioner reaches an agreement, the Commissioner must give notice in writing on the remaining partner in the partnership confirming:

(a) the terms upon which the Commissioner agrees to the Contract continuing with that partner including the period, as specified by the Commissioner, during which the Contract is to continue ("the interim period") and such period must not exceed six months;

(b) that the partner agrees to the employment or engagement of a *general medical practitioner* for the interim period to assist in the provision of clinical services under the Contract; and

(c) the support, if any, which the Commissioner is to provide to enable the provision of clinical services under the Contract to continue during the interim period.

26.3.7. If:

(a) the remaining partner in the partnership does not wish to employ or engage a medical practitioner;

(b) an agreement in accordance with clause 26.3.5 cannot be reached; or

(c) the remaining partner in the partnership would like to withdraw from the agreed arrangements at any stage during the interim period,

the Commissioner must give notice in writing to that partner terminating the Contract with immediate effect.

26.3.8. If, at the end of the interim period, the Contractor has not entered into partnership with a general medical practitioner who is not a limited partner in the partnership, the Commissioner must give notice in writing to the Contractor terminating the Contract with immediate effect.

26.3.9. When the Contractor gives notice to the Commissioner pursuant to clause 26.3.2 or 26.3.3, the Commissioner must:

(a) acknowledge receipt of the notice in writing; and

(b) in relation to a notice given under clause 26.3.2, acknowledge receipt of the notice before the date specified in accordance with clause 26.3.2(a).

26.3.10. Where the Contractor gives notice to the Commissioner under clause 26.3.2 or 26.3.3, the Commissioner may vary the Contract but only to the extent that it is satisfied is necessary to reflect the change in status of the Contractor from that of a partnership to an individual medical practitioner. If the Commissioner varies the Contract, the Commissioner must give notice in writing to the Contractor of the wording of the proposed variation and the date upon which that variation is to take effect or the change in composition of the partnership.

26.3.11. In clauses 26.3.4, 26.3.6, and 26.3.8, “general medical practitioner” has the same meaning as in regulation 5(2) of the Regulations.

26.3.12. Clauses 26.3.5 to 26.3.7 do not affect any other remedies which the Commissioner may have under the Contract to vary or terminate the Contract.

26.3A. **Variation of the Contract: *integrated care provider contracts***

26.3A.1 Schedule 8 applies in relation to the variation of the Contract in circumstances where the Contractor wishes to perform or provide *primary medical services* under an *integrated care provider contract* as described in Schedule 8.

26.4. **Termination by agreement**

26.4.1. The Commissioner and the Contractor may agree in writing to terminate the Contract, and if the parties so agree, they must agree the date upon which that termination is to take effect and any further terms upon which the Contract is to be terminated.

26.5. **Termination on the death of an individual medical practitioner**[116]

26.5.1. Where the Contractor is an individual medical practitioner and the Contractor dies, the Contract terminates at the end of the period of seven days beginning with the date of the Contractor's death unless, before the end of that period, clause 26.5.2 applies.

26.5.2. This clause 26.5.2 applies where:

(a) the Commissioner agrees in writing with the Contractor's personal representatives that the Contract is to continue for a further period not exceeding 28 days, from the end of the period of seven days; and

(b) the Contractor's personal representatives confirm in writing to the Commissioner that they wish to employ or engage one or more *general medical practitioners* to assist in the continuation of the provision of clinical services under the Contract and after discussion with the Commissioner:

(i) the Commissioner agrees to provide reasonable support which would enable the provision of clinical services under the Contract to continue;

(ii) the Commissioner and the Contractor's personal representatives agree the terms on which the provision of clinical services can continue;

(iii) the Commissioner and the Contractor's personal representatives agree the period during which clinical services must be provided being a period of not more than 28 days beginning on the day after the end of the period of seven days referred to in clause 26.5.1.

26.5.3. Clause 26.5.1 does not affect any other rights to terminate the Contract which the Contractor may have under clauses 26.9.1 to 26.13.8.

26.6. **Termination by the Contractor**

26.6.1. The Contractor may terminate the Contract at any time by giving notice in writing to the Commissioner.

26.6.2. [Where the Contractor gives notice to the Commissioner under clause 26.6.1, the Contract terminates six months after the date on which the notice was given ("the termination date"), unless the termination date does not fall on the last calendar day of a month, in which case the Contract terminates instead on the last calendar day of the month in which the termination date falls.][117]

[116] If the Contractor is not an individual medical practitioner, then this clause does not need to be included.
[117] This clause should be included where the Contractor is a partnership or a limited company. Where the Contractor is an individual medical practitioner, this clause should be deleted.

26.6.3. [Where the Contractor gives notice to the Commissioner under clause 26.6.1, the Contract terminates three months after the date on which the notice was given ("the termination date"), unless the termination date does not fall on the last calendar day of a month, in which case the Contract terminates instead on the last calendar day of the month in which the termination date falls.][118]

26.6.4. The Contractor may give notice in writing ("late payment notice") to the Commissioner if the Commissioner has failed to make payments due to the Contractor in accordance with Part 18 of this Contract. The Contractor must specify in the late payment notice the payments that the Commissioner has failed to make in accordance with Part 18 of the Contract.

26.6.5. Subject to clause 26.6.6, the Contractor may, at least 28 days after the date on which a late payment notice under clause 26.6.4 was given, terminate the Contract by giving a further written notice to the Commissioner in the event of the Commissioner's continuing failure to make payments that are due to the Contractor as specified in the late payment notice.

26.6.6. Clause 26.6.7 applies if, following receipt of a late payment notice, the Commissioner:

(a) refers the matter to the *NHS dispute resolution procedure* before the end of a period of 28 days beginning with the date on which the Commissioner received the late payment notice, and

(b) gives notice in writing to the Contractor that it has done so before the end of that period.

26.6.7. Where this clause 26.6.7 applies, the Contractor may not terminate the Contract under clause 26.6.5 until:

(i) there has been a final determination of the dispute under the *NHS dispute resolution procedure* (or by a court) and that determination permits the Contractor to terminate the Contract; or

(ii) the Commissioner ceases to pursue the *NHS dispute resolution procedure*,

whichever is the earlier.103

26.6.8. Clauses 26.6.1 to 26.6.6 are without prejudice to any other rights to terminate the Contract that the Contractor may have.

26.7. **Termination by the Commissioner: general**

26.7.1. The Contract may only be terminated by the Commissioner in accordance with the provisions of Part 26 of this Contract.

[118] This clause should be included where the Contractor is an individual medical practitioner. Where the Contractor is a partnership or a limited company, this clause should be deleted.

26.8. **Termination by the Commissioner for breach of conditions in regulation 5 of the Regulations**

26.8.1. Subject to clause 26.8.2, the Commissioner must give notice in writing to the Contractor terminating the Contract with immediate effect, where, in any case, the Contractor is an individual medical practitioner, and ceased to be a general medical practitioner.

26.8.2. Where the Contractor who is an individual medical practitioner has ceased to satisfy the condition specified in regulation 5(1)(a) of *the Regulations* by reason of a suspension of the type described in clause 26.8.7, the Commissioner is not required to give notice to the Contractor under clause 26.8.1 unless:

(a) the Contractor is unable to satisfy the Commissioner that it has in place adequate arrangements for the provision of clinical services under the Contract for so long as the suspension continues; or

(b) the Commissioner is satisfied that the circumstances of the suspension are such that if the Contract is not terminated with immediate effect:

(i) the safety of the Contractor's patients would be at serious risk; or

(ii) the Commissioner would be at risk of material financial loss.

26.8.3. Clause 26.8.4 applies where:

(a) except in a case to which clause 26.3.3 applies, the Contractor consists of two or more persons practising in partnership, and the condition specified in regulation 5(1)(b) of *the Regulations* is no longer satisfied; or

(b) the Contractor is a company limited by shares, and the condition specified in regulation 5(1)(c) of *the Regulations* is no longer satisfied.

26.8.4. Where this clause applies, the Commissioner must:

(a) give notice in writing to the Contractor terminating the Contract with immediate effect; or

(b) give notice in writing to the Contractor confirming that the Commissioner is prepared to allow the Contract to continue, for a period specified by the Commissioner in accordance with clause 26.8.5 (the "interim period").

26.8.5. The period specified by the Commissioner under clause 26.8.4(b) must not exceed:

(a) six months; or

(b) where the failure of the Contractor to continue to satisfy the condition in regulation 5(1)(b) or 5(1)(c) of *the Regulations*, is by reason of a suspension described in

clause 26.8.7, the period for which that suspension continues.

26.8.6. The Commissioner must, during the interim period and with the consent of the Contractor, employ or supply the Contractor with one or more *general medical practitioners* for the interim period to assist the Contractor in the provision of clinical services under the Contract.

26.8.7. The suspensions referred to in this clause are suspension:

(a) by a Fitness to Practise Panel under:

(i) section 35D of the Medical Act 1983 (functions of a fitness to practise panel) in a health case, other than an indefinite suspension under section 35D(6) of that Act; or

(ii) section 38(1) of the Medical Act 1983 (power to order immediate suspension etc. after a finding of impairment of fitness to practise) ; or

(b) by a Fitness to Practise Panel or an Interim Orders Panel under section 41A of the Medical Act 1983 (interim orders).

26.8.8. In clause 26.8.7(a)(i), “health case” has the meaning given in section 35E(4) of the Medical Act 1983.

26.8.9. Before deciding which of the options in clause 26.8.4 to pursue, the Commissioner must, if it is reasonably practicable to do so, consult the *Local Medical Committee* (if any) for the area in which the Contractor provides services under the Contract.

26.8.10. If the Contractor does not, in accordance with clause 26.8.6, consent to the Commissioner employing or supplying a *general medical practitioner* during the interim period, the Commissioner must give notice in writing to the Contractor terminating the Contract with immediate effect.

26.8.11. If, at the end of the interim period clauses 26.8.3(a) or 26.8.3(b) continues to apply to the Contractor, the Commissioner must give notice in writing to the Contractor terminating the Contract with immediate effect.

26.8.12. In clause 26.8,

(a) “health case” has the meaning given in section 35E(4) of the Medical Act 1983 (provisions supplementary to section 35D); and

(b) “general medical practitioner” has the same meaning as in regulation 5(2) of *the Regulations*.

26.9. **Termination by the Commissioner for provision of untrue etc information**

26.9.1. The Commissioner may give notice in writing to the Contractor terminating the Contract with immediate effect, or from such date as may be specified by the Commissioner in the notice where clause 26.9.2 applies.

26.9.2. This clause applies if, after this Contract was entered into, it has come to the Commissioner's attention that written information:

(a) provided to the Commissioner by the Contractor before the Contract was entered into; or

(b) included in a notice given to the Commissioner by the Contractor under clauses 16.13.1(a), 16.13.1(b) or 16.14.1,

relating to the conditions set out in regulations 5 and 6 of *the Regulations* (and compliance with those conditions) was, when given, untrue or inaccurate in a material respect.

26.10. **Other grounds for termination by the Commissioner**

26.10.1. The Commissioner may give notice in writing to the Contractor terminating the Contract with immediate effect, or from such date as may be specified in the notice if clause 26.10.3 applies to the Contractor:

(a) during the existence of the Contract; or

(b) if later, on or after the date on which a notice in respect of the Contractor's compliance with the condition in regulation 6 of *the Regulations* was given under clauses 16.13.1(a), 16.13.1(b) or 16.14.1.

26.10.2. Clause 26.10.3 applies where:

(a) where the Contract is with a *general medical practitioner*, to that *general medical practitioner*;

(b) where the Contract is with two or more persons practising in partnership, any partner in the partnership; and

(c) where the Contract is with a company limited by shares,

(i) the company,

(ii) any person both legally and beneficially owning a share in the company, or

(iii) any director or secretary of the company,

26.10.3. This clause applies if:

(a) the Contractor does not satisfy the conditions prescribed in sections 86(2)(b) or 86(3)(b) of the *2006 Act*;

(b) the Contractor is the subject of a *national disqualification*;

(c) subject to clause 26.10.5, the Contractor has been disqualified or suspended (other than by an interim suspension order or direction pending an investigation or a suspension on the grounds of ill-health) from practising by any *licensing body* anywhere in the world;

(d) subject to clause 26.10.6, the Contractor has been dismissed (otherwise than by reason of redundancy) from any employment by a *health service body* unless before the Commissioner has given notice terminating the Contract under this clause, the Contractor is employed by the *health service body* from which the Contractor was dismissed or by another *health service body*;

(e) the Contractor has been removed from, or refused admission to, a *primary care list* by reason of inefficiency, fraud or unsuitability (within the meaning of section 151(2), (3) and (4) of the *2006 Act* respectively) unless the Contractor's name has subsequently been included in such a list;

(f) the Contractor has been convicted in the United Kingdom of murder;

(g) the Contractor has been convicted in the United Kingdom of a criminal offence other than murder, and has been sentenced to a term of imprisonment of longer than six months;

(h) subject to clause 26.10.7, the Contractor has been convicted elsewhere of an offence which would, if it were committed in England and Wales constitute murder, and

(i) the offence was committed on or after 14th December 2001, and

(ii) the Contractor was sentenced to a term of imprisonment of longer than six months;

(i) the Contractor has been convicted of an offence, referred to in Schedule 1 to the Children and Young Persons Act 1933 (offences against children and young persons, with respect to special provisions of this Act apply), or in Schedule 1 to the Criminal Procedure (Scotland) Act 1995 (offences against children under the age of 17 years to which special provisions apply);

(j) the Contractor has at any time been included in:

(i) any barred list within the meaning of the Safeguarding Vulnerable Groups Act 2006, or

(ii) any barred list within the meaning of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (barred lists),

unless the Contractor was removed from the list either on the grounds that it was not appropriate for the Contractor to have been included in it or as the result of a successful appeal;

(k) The Contractor has, within the period of five years before the signing of the Contract been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commission, the Charity Commission for Northern Ireland or the High Court, and that order was made on the grounds of misconduct or mismanagement in the administration of a charity for which the Contractor was responsible or to which the Contractor was privy, or which was contributed to or facilitated by, the Contractor's conduct;

(l) the Contractor has, within the period of five years before the signing of the Contract or commencement of the Contract (whichever is the earlier), been removed from being concerned with the management or control of a body in any case where removal was by virtue of section 34(5)(e) of the Charities and Trustee Investment (Scotland) Act 2005 (powers of Court of Session), or

(m) the Contractor:

(i) has been made bankrupt and has not been discharged from the bankruptcy or the bankruptcy order has not been annulled,

(ii) has had sequestration of the Contractor's estate awarded and has not been discharged from the sequestration;

(n) the Contractor is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986 (bankruptcy restrictions order and undertaking) or Schedule 2A to the Insolvency (Northern Ireland) Order 1989 (bankruptcy restrictions order and undertaking) or sections 56A to 56K of the Bankruptcy (Scotland) Act 1985 (bankruptcy restrictions order, interim bankruptcy restrictions order and bankruptcy restrictions undertaking), unless the Contractor has been discharged from that order or that order has been annulled,

(o) the Contractor:

(i) is subject to a moratorium period under a debt relief order under Part VIIA of the Insolvency Act 1986 (debt relief orders) applies, or

(ii) is the subject of a debt relief restrictions order or an interim debt relief restrictions order under Schedule 4ZB to that Act (debt relief restrictions orders and undertakings), unless that order has ceased to have effect or has been annulled;

(p) the Contractor has made a composition agreement or arrangement with, or a trust deed has been granted for, the Contractor's creditors and the Contractor has not been discharged in respect of it,

(q) the Contractor is a company which has been wound up under Part IV of the Insolvency Act 1986 (winding up of companies registered under the Companies Acts);

(r) the Contractor has had an administrator, administrative receiver or receiver appointed in respect of it, or

(s) the Contractor has had an administration order made in respect of the Contractor under Schedule B1 to the Insolvency Act 1986 (administration);

(t) the Contractor is a partnership and:

(i) a dissolution of the partnership is ordered by any competent court, tribunal or arbitrator,

(ii) an event happens that makes it unlawful for the business of the partnership to continue, or for members of the partnership to carry on in partnership; or

(iii) the partnership has dissolved in circumstances where sub-clause 26.10.3(t)(i) and clause 26.3.3 do not apply and none of the former members of the partnership has been named in a notice given under clause 26.3.2 to continue the contract in accordance with clause 26.3.1;

(u) the Contractor is subject to:

(i) a disqualification order under section 1 of the Company Directors Disqualification Act 1986 (disqualification orders: general) or a disqualification undertaking under section 1A of that Act (disqualification undertakings: general),

(ii) a disqualification order or disqualification undertaking under article 3 (disqualification orders) or article 4 (disqualification undertakings: general) of the Company Directors Disqualification (Northern Ireland) Order 2002, or

(iii) a disqualification under section 429(2) of the Insolvency Act 1986;

(v) the Contractor has refused to comply with a request by the Commissioner for the Contractor to be medically examined because the Commissioner is concerned that the Contractor is incapable of adequately providing services under the Contract and, in a case where the Contract is with two or more individuals practising in partnership or with a company, the Commissioner is satisfied that the Contractor is taking adequate steps to deal with the matter; or

(w) the Contractor's registration with the *Care Quality Commission*[119] has been cancelled in accordance with section 17(1) of the Health and Social Care Act 2008,[120] and that cancellation is the final decision of the *Care Quality Commission*, or, where an appeal has been launched, is the outcome of that appeal.

26.10.4. The Commissioner must not terminate the Contract under clause 26.10.3(c) where the Commissioner is satisfied that the disqualification or suspension imposed by a *licensing body* outside the United Kingdom does not make the person unsuitable to be:

(a) a contractor,

(b) a partner, in the case of a contract with two or more persons practising in a partnership; or

(c) in the case of a contract with a company limited by shares:

(i) a person legally and beneficially holding a share in the company, or

(ii) a director or secretary of the company, as the case may be.

26.10.5. The Commissioner may not terminate the Contract under clause 26.10.3(d):

(a) until a period of at least three months has elapsed since the date of the dismissal of the person concerned; or

(b) if, during the period specified in 26.10.5(a), the person concerned brings proceedings in any competent tribunal or court in respect of the person's dismissal, until proceedings before that tribunal or court are concluded,

and the Commissioner may only terminate the Contract at the end of the period specified clause 26.10.5(b) if there is no finding of unfair dismissal at the end of those proceedings.

[119] The Care Quality Commission is a body corporate established by section 1 of the Health and Social Care Act 2008 (c.14).
[120] The Health and Social Care Act 2008 (c. 14). Section 17 has been amended by 2018/195.

26.10.6. [Where the Commissioner has entered into the Contract:

(a) following a *default contract* with the Contractor; or

(b) pursuant to an entitlement on the part of the Contractor under Part 2 of *the Transitional Order*, after 31st March 2004 other than following a *default contract*, clause 26.10.1 shall apply as if it enabled the Commissioner to serve notice of termination on the Contractor on the grounds of a person falling within clause 26.10.3(d) at any time after 31st March 2004.][121]

26.10.7. The Commissioner must not terminate the Contract under clause 26.10.3(h) where the Commissioner is satisfied that the conviction does not make the person unsuitable to be:

(a) a contractor,

(b) a partner, in the case of a contract with two or more persons practising in partnership; or

(c) in the case of a contract with a company limited by shares:

(i) a person both legally and beneficially holding a share in the company, or

(ii) a director or secretary of the company, as

the case may be.

26.11. **Termination by the Commissioner where patients' safety is seriously at risk or where there is risk of material financial loss to the Commissioner**

26.11.1. The Commissioner may give notice in writing to the Contractor terminating the Contract with immediate effect or with effect from such date as may be specified in the notice if:

(a) the Contractor has breached a term of the Contract and, as a result of that breach, the safety of the Contractor's patients would be at serious risk if the Contract is not terminated; or

(b) the Commissioner considers that the Contractor's financial situation is such that the Commissioner considers that the Commissioner would be at risk of material financial loss.

26.12. **Termination by the Commissioner for unlawful sub-contracting**

26.12.1. This clause 26.12 applies if the Contractor breaches the condition specified in clause 15.9.10 and it comes to the Commissioner's attention that the Contractor has done so.

26.12.2. Where clause 26.12 applies, the Commissioner must give notice in writing to the Contractor:

[121] This clause only needs to be included if the Contractor falls within 26.10.6(a) or 26.10.6(b). If not, this clause can be deleted.

(a) terminating the Contract with immediate effect; or

(b) instructing the Contractor to terminate with immediate effect the sub-contracting arrangements that give rise to the breach, and, if the Contractor fails to comply with that instruction, the Commissioner must give notice in writing to the Contractor terminating the Contract with immediate effect.

26.13. **Termination by the Commissioner: remedial notices and breach notices**

26.13.1. Where the Contractor's breach of the Contract is not one to which clauses 26.8.1 to 26.12.2(b) apply and that breach is capable of remedy, the Commissioner must, before taking any action it is otherwise entitled to take by virtue of the Contract, give notice in writing to the Contractor requiring it to remedy the breach (a "remedial notice").

26.13.2. A remedial notice must specify:

(a) details of the breach;

(b) the steps that the Contractor must take to the satisfaction of the Commissioner in order to remedy the breach; and

(c) the period during which those steps must be taken (the "notice period").

26.13.3. The notice period must not be less than a period of 28 days beginning with the date that notice is given unless the Commissioner is satisfied that a shorter period is necessary to protect:

(a) the safety of the Contractor's patients, or

(b) itself from material financial loss.

26.13.4. Where the Commissioner is satisfied that the Contractor has not taken the required steps to remedy the breach by the end of the notice period, the Commissioner may give a further notice in writing to the Contractor terminating the Contract with effect from such date as the Commissioner specifies in the notice.

26.13.5. Where the Contractor's breach of the Contract is not one to which any of clauses 26.8.1 to 26.12.2(b) apply and the breach is not capable of remedy, the Commissioner may give notice in writing to the Contractor requiring the Contractor not to repeat the breach (a "breach notice").

26.13.6. If, following a breach notice or a remedial notice, the Contractor:

(a) repeats the breach that was the subject of the breach notice or the remedial notice; or

(b) otherwise breaches the Contract resulting in either a remedial notice or a further breach notice,

the Commissioner may give notice in writing to the Contractor terminating the Contract with effect from such date as the Commissioner specifies in the notice.

26.13.7. The Commissioner may not exercise its right to terminate the Contract under clause 26.13.6 unless the Commissioner is satisfied that the cumulative effect of the breaches is such that to allow the Contract to continue would prejudice the efficiency of the services to be provided under the Contract.

26.13.8. If the Contractor is in breach of any obligation under the Contract and a breach notice or a remedial notice in respect of the default giving rise to the breach has been given to the Contractor, the Commissioner may withhold or deduct monies which would otherwise be payable under the Contract in respect of the obligation which is the subject matter of the default.

26.14. **Termination by the Commissioner: additional provisions specific to Contracts with companies limited by shares**[122]

26.14.1. If the Commissioner becomes aware that the Contractor which is a company limited by shares is carrying on any business which the Commissioner considers to be detrimental to the Contractor's performance of its obligations under the Contract:

(a) the Commissioner may give notice in writing to the Contractor requiring it to cease carrying on that business before the end of a period of at least 28 days beginning with the date on which the notice is given ("the notice period"); and

(b) if the Contractor has not satisfied the Commissioner that it has ceased carrying on that business by the end of the notice period, the Commissioner may give a further notice in writing to the Contractor terminating the Contract with immediate effect or from such date as may be specified in the notice.

26.15. **Termination by the Commissioner: additional provisions specific to Contracts with two or more individuals practising in partnership**[123]

26.15.1. Where the Contractor is two or more persons practising in partnership and one or more persons has or have left the partnership during the existence of the Contract, the Commissioner may give notice in writing to the Contractor terminating the Contract on such date as may be specified in the notice if, in the Commissioner's reasonable opinion, the change in membership of the partnership is likely to have a serious adverse impact on the ability of the Contractor or the Commissioner to perform its obligations under the Contract.

[122] If the Contractor is not a company limited by shares, this clause should be deleted.
[123] If the Contractor is not two or more individuals practising in partnership, this clause should be deleted.

26.15.2. A notice given to the Contractor pursuant to clause 26.15.1 must specify:

(a) the date upon which the Contract is to terminate; and

(b) the Commissioner's reasons for considering that the change in the membership of the partnership is likely to have a serious adverse impact on the ability of the Contractor or the Commissioner to perform its obligations under the Contract.

26.16. **Contract sanctions**

26.16.1. In clauses 26.16 and 26.17, "contract sanction" means:

(a) termination of specified reciprocal obligations under the Contract;

(b) suspension of specified reciprocal obligations under the Contract for a period of up to six months; or

(c) withholding or deducting monies otherwise payable under the Contract.

26.16.2. Where the Commissioner is entitled to terminate the Contract under clauses 26.9.1 to 26.11.1, 26.13.4, 26.13.6 and 26.14.1 to 26.15.2, it may instead impose any of the contract sanctions if the Commissioner is reasonably satisfied that the contract sanction to be imposed is appropriate and proportionate to the circumstances giving rise to the Commissioner's entitlement to terminate the Contract.

26.16.3. The Commissioner may not, under clause 26.16.2, impose any contract sanction that has the effect of terminating or suspending any obligation to provide, or any obligation that relates to, *essential services*.

26.16.4. If the Commissioner decides to impose a contract sanction, the Commissioner must

(a) give notice in writing to the Contractor of the contract sanction that it proposes to impose and the date upon which that sanction is to be imposed and

(b) include in the notice an explanation of the effect of the imposition of the sanction.

26.16.5. Subject to clauses 26.17.1 to 26.17.5 the Commissioner may not impose the contract sanction until the end of a period of at least 28 days beginning with the date on which the Commissioner gives notice to the Contractor under clause 26.16.4 unless the Commissioner is satisfied that it is necessary to do so in order to protect:

(a) the safety of the Contractor's patients, or

(b) itself from material financial loss.

26.16.6. Where the Commissioner may impose a contract sanction, the Commissioner may charge the Contractor the reasonable costs of any additional administration that the Commissioner has incurred in order to impose, or as a result of imposing, the contract sanction.

26.17. **Contract sanctions and the *NHS dispute resolution procedure***

26.17.1. If there is a dispute between the Commissioner and the Contractor in relation to a contract sanction that the Commissioner is proposing to impose, the Commissioner may not, subject to clause 26.17.5, impose the contract sanction except in the circumstances specified in clause 26.17.3(a) or 26.17.3(b).

26.17.2. The circumstances specified in this clause are if the Contractor:

(a) refers the dispute relating to the contract sanction to the *NHS dispute resolution procedure* before the end of a period of 28 days beginning with the date on which the Contractor was given notice in accordance with clause 26.16.4 (or such longer period as may be agreed in writing with the Commissioner), and

26.17.3. Where the circumstances specified in clause 26.17.2 apply, the Commissioner may not impose the contract sanction unless:

(a) there has been a final determination of the dispute in accordance with regulation 83 of *the Regulations* (or by a court) and that determination permits the Commissioner to impose the contract sanction; or

(b) the Contractor ceases to pursue the NHS dispute resolution procedure,

whichever is the sooner.

26.17.4. If the Contractor does not invoke the *NHS dispute resolution procedure* before the end of the period specified in clause 26.17.2, the Commissioner may impose the contract sanction with immediate effect.

26.17.5. If the Commissioner is satisfied that it is necessary to impose the contract sanction before *the NHS dispute resolution procedure* is concluded in order to protect:

(a) the safety of the Contractor's patients or

(b) itself from material financial loss,

the Commissioner shall be entitled to impose the contract sanction with immediate effect, pending the outcome of that procedure (or any court proceedings).

26.18. **Termination and the *NHS dispute resolution procedure***

26.18.1. Where the Commissioner is entitled to give notice in writing to the Contractor terminating the contract under clauses 26.9.1 to 26.11.1, 26.13.4, 26.13.6 and 26.15.1, the Commissioner must, in

the notice given to the Contractor under those clauses, specify a date on which the Contract terminates that is at least 28 days after the date on which the Commissioner gives notice to the Contractor, unless clause 26.18.2 applies.

26.18.2. This clause applies if the Commissioner is satisfied that a period less than 28 days is necessary in order to protect

(a) the safety of the Contractor's patients or

(b) protect itself from material financial loss.

26.18.3. Where:

(a) clause 26.18.1 applies but the exceptions in clause 26.18.2 do not apply, and

(b) the Contractor invokes the *NHS dispute resolution procedure* before the end of the notice period referred to in clause 26.18.1, and gives notice in writing to the Commissioner that it has done so,

the Contract does not terminate at the end of the notice period but instead only terminates in the circumstances specified in clause 26.18.4.

26.18.4. The circumstances described in this clause for the termination of the Contract are if and when:

(a) there has been a final determination of the dispute under the *NHS dispute resolution procedure*, (or by a court) and that determination permits the Commissioner to terminate the Contract or

(b) the Contractor ceases to pursue the *NHS dispute resolution procedure*

whichever is the earlier.

26.18.5. If the Commissioner is satisfied that it is necessary to terminate the Contract before the *NHS dispute resolution procedure* is (or any court proceedings are) concluded in order to protect:

(a) the safety of the Contractor's patients or

(b) itself from material financial loss,

clauses 26.18.3 and 26.18.4 do not apply and the Commissioner may confirm, by giving notice in writing to the Contractor, that the Contract will nevertheless terminate at the end of the period of the notice given under clauses 26.9.1, 26.10.1, 26.11.1, 26.13.4, 26.13.6, 26.14.1 and 26.15.1 to 26.15.2.

26.19. **Consultation with the *Local Medical Committee***

26.19.1. If the Commissioner is considering:

(a) terminating the Contract under clauses 26.9.1, 26.10.1 to 26.10.7, 26.11.1, 26.13.4, 26.13.6, 26.14.1 or 26.15.1 to 26.15.2,

(b) whether a remedial notice or a breach notice under clause 26.13 should be given in writing to the Contractor; or

(c) imposing a contract sanction,

the Commissioner must, if it is reasonably practicable to do so, consult the *Local Medical Committee* (if any) for the area in which the Contractor is providing services under the Contract before it terminates the Contract or imposes a contract sanction.

26.19.2. Whether or not the *Local Medical Committee* has been consulted pursuant to clause 26.19.1, if the Commissioner imposes a contract sanction on the Contractor or terminates the Contract in accordance with this Part, it must, as soon as reasonably practicable, give notice in writing to the *Local Medical Committee* of the contract sanction imposed or of the termination of the Contract (as the case may be). The obligation to notify the *Local Medical Committee* of the matters set out in this clause will survive the termination of the Contract.

26.20. **Consequences of termination**[124]

26.20.1. The termination of the Contract, for whatever reason, is without prejudice to the accrued rights of either party under the Contract.

26.20.2. On the termination of the Contract for any reason, the Contractor must:

(a) subject to the requirements of this clause, cease performing any work or carrying out any obligations under the Contract;

(b) co-operate with the Commissioner to enable any outstanding matters under the Contract to be dealt with or concluded in a satisfactory manner;

(c) co-operate with the Commissioner to enable the Contractor's patients to be transferred to one or more other contractors or providers of *essential services* (or their equivalent), which must include:

(i) providing reasonable information about individual patients, and

(ii) delivering patient records,

[124] The parties are required to make suitable provision for arrangements on the termination of the Contract, including the consequences (whether financially or otherwise) of the Contract ending, subject to any specific requirements of the Regulations: see regulation 31 of the Regulations. Subject to this requirement, the parties could draft their own provisions dealing with the consequences of termination.

to such other appropriate person or persons as the Commissioner specifies;

(d) deliver up to the Commissioner all property belonging to the Commissioner including all documents, forms, computer hardware and software, drugs, appliances or medical equipment which may be in the Contractor's possession or control.

26.20.3. Subject to clauses 26.20.4 to 26.20.6 the Commissioner's obligation to make payments to the Contractor in accordance with the Contract shall cease on the date of termination of the Contract.

26.20.4. On termination of the Contract or termination of any obligations under the Contract for any reason, the Commissioner must perform a reconciliation of the payments made by the Commissioner to the Contractor and the value of the work undertaken by the Contractor under the Contract. The Commissioner must serve the Contractor with written details of the reconciliation as soon as reasonably practicable, and in any event no later than 28 days after the termination of the Contract.

26.20.5. If the Contractor disputes the accuracy of the reconciliation, the Contractor may refer the dispute to the *NHS dispute resolution procedure* in accordance with the terms of the Contract within 28 days beginning on the date on which the Commissioner served the Contractor with written details of the reconciliation. The parties shall be bound by the determination of the dispute.

26.20.6. Each party shall pay the other any monies due within three months of the date on which the Commissioner served the Contractor with written details of the reconciliation, or the conclusion of the *NHS dispute resolution procedure*, as the case may be.

26.20.7. The obligations contained in clauses 26.20.1 to 26.20.6 shall continue to apply notwithstanding the termination of the Contract.

26.21 Variation, suspension and enforcement of Contract terms in relation to pandemics etc

26.21.1. In this Contract, "core hours" means the period beginning at 8.00am and ending at 6.30pm on any day from Monday to Friday in circumstances where, in order to assist in the management of a serious or potentially serious risk to human health arising as a consequence of a disease being, or in anticipation of a disease being imminently:

(a) pandemic; and

(b) a serious risk or potentially a serious risk to human health;

NHS England with the agreement of the *Secretary of State* has made an announcement to the effect that the core hours of contractors in the area specified in the announcement (which include the Contractor) are to

include Good Friday and *bank holidays* in the circumstances specified, and for the duration of the period specified, in the announcement.

26.21.2. In this Contract, in the circumstances described in clause 26.21.1, ”out of hours period means:

(a) the period beginning at 6.30pm on any day from Monday to Friday and ending at 8.00am on the following day; and

(b) the period beginning at 6.30pm on Friday and ending at 8.00am on the following Monday.

26.21.3. In this Contract, where reference is made to an announcement or advice of *NHS England* that relates to a disease being, or in anticipation of a disease being imminently:

(a) pandemic; and

(b) a serious risk or potentially serious risk to human health;

it is to that announcement or advice, which may be withdrawn at any time, as amended from time to time.

26.21.4. Any term that is part of the Contract as a consequence of action taken under Part 5 the Regulations, or by agreement between the parties or by virtue of regulation 47(2) of the *Pharmaceutical Regulations* is temporarily not part of the Contract, in the particular circumstances mentioned in clause 26.21.4(c)(ii) and during the period mentioned in clause 26.21.4(c)(iii), in the following circumstances:

(a) as a consequence of a disease being, or in anticipation of a disease being imminently:

(i) pandemic; and

(ii) a serious risk or potentially a serious risk to human health;

NHS England with the agreement of *the Secretary of State* has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;

(b) the prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;

(c) as part of the announcement, *NHS England* with the agreement of *the Secretary of State* has issued advice to the effect that contractors are not to comply with a specified type of term of general medical services contracts:

(i) in the area to which the announcement relates;

(ii) in the particular circumstances specified in the announcement; and

(iii) during the period specified in the announcement; and

(d) the Contractor is situated in the area to which the announcement relates and compliance with the term (it being of the specified type) would, but for the effect of this clause, be a requirement of the Contract.

26.21.5. The Commissioner must not take enforcement action, as provided for in the Contract, in respect of a breach of a term of the Contract in the following circumstances:

(a) as a consequence of a disease being, or in anticipation of a disease being imminently:

(i) pandemic; and

(ii) a serious risk or potentially a serious risk to human health;

NHS England with the agreement of *the Secretary of State* has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;

(b) the prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;

(c) as part of the announcement, *NHS England* with the agreement of *the Secretary of State* has issued advice to the effect that contractors need not comply with a specified type of term of general medical services contracts:

(i) in the area to which the announcement relates,

(ii) in the particular circumstances specified in the announcement, and

(iii) during the period specified in the announcement; and

(d) the Contractor:

(i) is situated in the area to which the announcement relates, and

(ii) has not complied with the term (it being of the specified type) in the particular circumstances mentioned in clause 26.21.5(c)(ii) and during the period mentioned in clause 26.21.5(c)(iii).

27 PART 27

27.1 Non-Survival of Terms[125]

27.1.1. Unless expressly provided, no term of this Contract shall survive expiry or termination of this Contract. Express provision is made in relation to:

(a) clauses 16.1.6 and 16.1.7 (patient records);

(b) Part 19 (fees and charges), to the extent specified in clause 19.1.5;

(c) Part 24 (complaints);

(d) Part 25 (dispute resolution procedures);

(e) clause 26.19.2 (notifications to the *Local Medical Committee*);

(f) clauses 26.20.1 to 26.20.6 (consequences of termination); and

(g) clauses 27.3.1 and 27.3.2 (governing law and jurisdiction).

27.2. Entire Agreement[126]

27.2.1. Subject to Part 11 (opts outs of *minor surgery* and *out of hours services*), clauses 15.9.8 and 15.10.8 and any variations made in accordance with Part 26, this Contract constitutes the entire agreement between the parties with respect to its subject matter.

27.2.2. The Contract supersedes any prior agreements, negotiations, promises, conditions or representations, whether written or oral, and the parties confirm that they did not enter into the Contract on the basis of any representations that are not expressly incorporated into the Contract. However, nothing in this Contract purports to exclude liability on the part of either party for fraudulent misrepresentation.

27.3. Governing Law and Jurisdiction[1270]

27.3.1. This Contract shall be governed by and construed in accordance with English law.

27.3.2. Without prejudice to the dispute resolution procedures contained in this Contract, in relation to any legal action or proceedings to enforce this Contract or arising out of or in connection with this Contract, each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

27.3.3. Clauses 27.3.1 and 27.3.2 shall continue to apply notwithstanding the termination of the Contract.

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[125] This clause is not required by *the Regulations,* but is recommended.
[126] This clause is not required by *the Regulations,* but is recommended.
[127] This clause is not required by *the Regulations,* but is recommended.

27.4. **Waiver, Delay or Failure to Exercise Rights**[128]

27.4.1. The failure or delay by either party to enforce any one or more of the terms or conditions of this Contract shall not operate as a waiver of them, or of the right at any time subsequently to enforce all terms and conditions of this Contract.

27.5. **Force Majeure**[129]

27.5.1. Neither party shall be responsible to the other for any failure or delay in performance of its obligations and duties under this Contract which is caused by circumstances or events beyond the reasonable control of a party. However, the affected party must promptly on the occurrence of such circumstances or events:

(a) inform the other party in writing of such circumstances or events and of what obligation or duty they have delayed or prevented being performed; and

(b) take all action within its power to comply with the terms of this Contract as fully and promptly as possible.

27.5.2. Unless the affected party takes such steps, clause 27.5.1 shall not have the effect of absolving it from its obligations under this Contract. For the avoidance of doubt, any actions or omissions of either party's personnel or any failures of either party's systems, procedures, premises or equipment shall not be deemed to be circumstances or events beyond the reasonable control of the relevant party for the purposes of this clause, unless the cause of failure was beyond reasonable control.

27.5.3. If the affected party is delayed or prevented from performing its obligations and duties under the Contract for a continuous period of 3 months, then either party may terminate this Contract by notice in writing within such period as is reasonable in the circumstances (which shall be no shorter than 28 days).

27.5.4. The termination shall not take effect at the end of the notice period if the affected party is able to resume performance of its obligations and duties under the Contract within the period of notice specified in accordance with clause 27.5.3 above, or if the other party otherwise consents.

27.6. **Severance**[130]

27.6.1. Subject to clauses 27.6.2 and 27.6.3, if any term of this Contract, other than a *mandatory term*, is held to be invalid, illegal or unenforceable by any court, tribunal or other competent authority, such term shall, to the extent required, be deemed to be deleted from this Contract and shall not affect the validity, lawfulness or enforceability of any other terms of the Contract.

[128] This clause is not required by *the Regulations,* but is recommended.
[129] This clause is not required by *the Regulations,* but is recommended.
[130] This clause is not required by *the Regulations,* but is recommended.

27.6.2. If, in the reasonable opinion of either party, the effect of such a deletion is to undermine the purpose of the Contract or materially prejudice the position of either party, the parties shall negotiate in good faith in order to agree a suitable alternative term to replace the deleted term or a suitable amendment to the Contract.

27.6.3. If the parties are unable to reach agreement as to the suitable alternative term or amendment within a reasonable period of commencement of the negotiations, then the parties may refer the dispute for determination in accordance with the *NHS dispute resolution procedure* set out in clauses 25.3.1 to 25.3.6.

27.7. **Service of Notice**[131]

27.7.1. Save as otherwise specified in this Contract or where the context otherwise requires, any notice or other information required or authorised by this Contract to be given by either party to the other party must be in writing and may be served:

(a) personally;

(b) by post, or in the case of any notice served pursuant to Part 26, registered or recorded delivery post;

(c) by telex, or facsimile transmission (the latter confirmed by telex or post);

(d) unless the context otherwise requires and except in clause 26.1.1, electronic mail; or

(e) by any other means which the Commissioner specifies by notice to the Contractor.

27.7.2. Any notice or other information shall be sent to the address specified in the Contract or such other address as the Commissioner or the Contractor has notified to the other.

27.7.3. Any notice or other information shall be deemed to have been served or given:

(a) if it was served personally, at the time of service;

(b) if it was served by post, two *working days* after it was posted; and

(c) if it was served by telex, electronic mail or facsimile transmission, if sent during *normal hours* then at the time of transmission and if sent outside *normal hours* then on the following *working day*.

27.7.4. Where notice or other information is not given or sent in accordance with clauses 27.7.1 to 27.7.3, such notice or other information is invalid unless the person receiving it elects, in writing, to treat it as valid.

[131] This clause is not required by *the Regulations,* but is recommended.

28 PART 28

28.1 Registered patients from outside practice area: Variation of contractual terms

28.1.1. The Contractor may accept onto its list of patients a person who resides outside of the Contractor's *practice area* in accordance with clauses 13.5.1 to 13.5.7. Where the Contractor accepts any such person in accordance with this clause 28.1.1, clauses 28.1.2 to 28.1.5 shall apply.

28.1.2. Subject to clauses 28.1.4 and 28.1.5, the terms of the Contract specified in clause 28.1.3 are varied so as to require the Contractor to provide to a person accepted under clause 28.1.1 any services which the Contractor is required to provide to its *registered patients* under the Contract as if the person resided within the Contractor's *practice area.*

28.1.3. The terms of the Contract specified are:

(a) clauses 8.1.1 to 8.1.8 (*essential services*);

(b) clauses 8.1 and 9.1 (arrangements for access to services during core hours)

(c) where the Contractor provides *out of hours services* in accordance with the terms of the Contract specified in Part 10, the terms of Part 10;

(d) clause 7.5.1 (attendance at *practice premises*);

(e) clause 7.6.1(a) (attendance outside *practice premises*);

(f) clause 13.7.2 (refusal of application for inclusion in the *list of patients*).

28.1.3A Where, under clause 28.1.1, a Contractor accepts onto its *list of patients* a person who resides outside of the Contractor's *practice area* and the Contractor subsequently considers that it is not clinically appropriate or practical to continue to provide that patient with services in accordance with the terms specified in clause 28.1.3, or to comply with those terms, clause 13.10 (which relates to the removal of a patient from the list at the Contractor's request) is deemed modified in relation to that patient so that:

(a) in clause 13.10.1, the reference to the patient's disability or medical condition is removed; and

(b) clause 13.10.4 applies as if, after clause 13.10.4(a), there were inserted the following paragraph:

"(aa) the reason for the removal is that the Contractor considers that it is not clinically appropriate or practical to continue to provide services under the Contract to the patient which do not include the provision of such services at the patient's home address".

28.1.4. The Contractor and the Commissioner are (for such period of time as a person registered under clause 28.1.1 remains so registered) released, in relation to that person, from all obligations, rights and liabilities relating to the terms contained in clause 28.1.3 (including any right to enforce those terms) where, in the opinion of the Contractor, it is not clinically appropriate or practical:

(a) to provide the services or access to such services in accordance with those terms: or

(b) to comply with those terms.

28.1.5. The Contractor must give notice in writing to a person where the Contractor is minded to accept that person onto its list of patients in accordance with clause 28.1.1 that the Contractor is under no obligation to provide:

(a) *essential services* if, at the time treatment is required, it is not clinically appropriate or practical to provide *primary medical services* given the particular circumstances of the patient;

(b) *out of hours services* if, at the time treatment is required, it is not clinically appropriate or practical to provide such services given the particular circumstances of the patient; or

(c) *minor surgery* to the patient if it is not clinically appropriate or practical to provide that service given the particular circumstances of the patient.

28.2. **Savings in respect of the Patient Choice Extension Scheme**

28.2.1. Where, before 1 April 2014:

(a) a patient is included in the *Contractor's list of patients* pursuant to arrangements entered into by the Contractor and the Commissioner under the Patient Choice Extension Scheme; and

(b) the terms of the Contractor's contract were varied pursuant to the provisions of regulation 26B of the Regulations as it had effect immediately before that date,

the patient may remain on the *Contractor's list of patients* and any variation to the Contractor's contract which exempts the Contractor from any obligations or liabilities under those arrangements continues to operate for such period as the patient remains so registered.

28.2.2. Paragraph (6) of regulation 26B of the Regulations, as it had effect immediately before 1 April 2014, continues to have effect in relation to a contract where, before that date, the Contractor entered into arrangements with the Commissioner under the Patient Choice Extension Scheme.

SCHEDULE 1[132]
(Individual)

Part 1

The Commissioner whose name, address, telephone number, fax number and email address (if any)[133] is:

Part 2

The Contractor is a medical practitioner whose name, address, telephone number, fax number (if any) and email address (if any)[116] is:

If there is any change to the addresses and contact details specified in Part 1 or Part 2 of this Schedule, the party whose details have changed must give notice in writing to the other party as soon as is reasonably practicable.

[132] Please use this form of Schedule if the Contractor is an individual medical practitioner.
[133] Please provide the address to which official correspondence and notices should be sent.

SCHEDULE 1[134]
(Partnership)

Part 1
The Commissioner whose name, address, telephone number, fax number and email address (if any) is:

Part 2

The Contractor is a [limited][135] partnership under the name of [ ] carrying on business at [address of place of business]

The telephone number, fax number (if any) and email address (if any) of the Contractor are as follows:-

[*insert details here*]

If there is any change to the addresses and contact details specified in Part 1 or Part 2 of this Schedule, the party whose details have changed must give notice in writing to the other party as soon as is reasonably practicable.

[134] Please use this form of Schedule if the Contractor is a general or *limited partnership.*
[135] Please delete if this is not applicable. Regulation 13(b)(i) of *the Regulations* requires that the Contract specify in the case of a partnership whether or not it is a *limited partnership.*

The names of the partners at the date of signature of this Contract are:

	GENERAL / LIMITED[136]
	GENERAL / LIMITED
	GENERAL / LIMITED
	GENERAL / LIMITED
	GENERAL / LIMITED
	GENERAL / LIMITED

The Contract is made with the partnership as it is from time to time constituted and shall continue to subsist notwithstanding:

(1) the retirement, death or expulsion of any one or more partners; and/or

(2) the addition of any one or more partners.[137]

The Contractor shall ensure that any person who becomes a member of the partnership after the Contract has come into force is bound automatically by the Contract whether by virtue of a partnership deed or otherwise.

[136] Please delete whichever is not applicable. Regulation 13(b)(ii) requires that the Contract specify in the case of a partnership the names of the partners and, in the case of a *limited partnership,* their status as a general or limited partner.
[137] This provision is required by Regulation 15 of *the Regulations.*

SCHEDULE 1[138]
(Company)

Part 1

The Commissioner whose name, address, telephone number, fax number and email address (if any) is:

Part 2

The Contractor is a company limited by shares whose name and registered office is:

The address to which official correspondence and notices may be sent is, and the contact telephone number, fax number (if any) and email address (if any) is:

If there is any change to the addresses and contact details specified in Part 1 or Part 2 of this Schedule, the party whose details have changed must give notice in writing to the other party as soon as is reasonably practicable.

[138] Please use this form of Schedule if the Contractor is a company limited by shares.

SCHEDULE 2
Signatures of the Parties to the Agreement

Signed by

For and on behalf of the Commissioner

Signed by

In the presence of

[The Contract must be signed by a person with power to bind the Contractor. If the Contractor is a partnership, it is recommended that all of the partners comprising the partnership at the date the Contract is signed (whether those partners are general partners or limited partners) sign the Contract]

SCHEDULE 3
Information to be included in Practice Leaflets

A *practice leaflet* must include:

1. The name of the Contractor.
2. The address of each of the Contractor's *practice premises*.
3. The Contractor's telephone and fax numbers and the address of its website or the address at which its *online practice profile* is available.
4. In the case of a Contract with a partnership:
   (a) whether or not it is a *limited partnership*; and
   (b) the names of all the partners and, in the case of a *limited partnership*, their status as a general or limited partner.
5. In the case of a Contract with a company:
   (a) the names of the directors, the company secretary and the shareholders of that company; and
   (b) the address of the company's registered office.
6. The full name of each person performing services under the Contract.
7. The professional qualifications of each *health care professional* providing services under the Contract.
8. Whether the Contractor undertakes the teaching or training of *health care professionals* or persons intending to become *health care professionals*.
9. The Contractor's *practice area*, including the area known as the outer boundary area, by reference to an image of the *practice area*, a written description of the *practice area* or a *digital practice area map*.
10. The access arrangements which the Contractor's *practice premises* has for providing services to disabled patients and, if none, the alternative arrangements for providing services to such patients.
11. How to register as a patient.
12. The right of patients to express a preference of practitioner in accordance with clause 13.8 and the means of expressing such a preference.
13. The services available under the Contract.
14. The opening hours of the *practice premises* and all means of contacting the Contractor throughout the *core hours* as required by clause 7.5.
15. The criteria for home visits and the method of obtaining such visits.
16. The consultations available to patients under clauses 7.8.1 and 7.8.2, and 7.9.1 and 7.9.2.
17. The arrangements for services in the *out of hours period* and how the patient may contact such services.

18. If services during the *out of hours period* are not provided by the Contractor, the fact that the Commissioner is responsible for commissioning of those services.

19. The method by which patients may obtain repeat prescriptions.

20. If the Contractor offers *repeatable prescribing services*, the arrangements for providing such services.

21. If the Contractor is a dispensing contractor the arrangements for dispensing prescriptions.

22. How patients may make a complaint or comment on the provision of services.

23. The rights and responsibilities of the patient, including keeping appointments.

24. The action that may be taken under clause 13.11 where a patient is violent or abusive to the Contractor, the Contractor's staff, persons present on the *practice premises* or in the place where treatment is provided under the Contract.

25. Details of who has access to patient information (including information from which the identity of the individual can be ascertained) and the patient's rights in relation to disclosure of such information.

26. The full name, postal and electronic email address and telephone number of the Commissioner.

27. Information about the assignment by the Contractor to its new and existing patients of an *accountable GP* in accordance with clause 7.7B.

28. Information about the assignment by the Contractor to its patients aged 75 and over of an *accountable GP* under clause 7.9.

SCHEDULE 4
Quality and Outcomes Framework – Indicators no longer in the Quality and Outcomes Framework

Indicator ID	***Indicator Description***
CHD003	The percentage of patients with coronary heart disease whose last measured cholesterol (measured in the preceding 12 months) is 5 mmol/l or less
CKD002	The percentage of patients on the CKD register in whom the last blood pressure reading (measured in the preceding 12 months) is 140/85 mmHg or less
CKD004	The percentage of patients on the CKD register whose notes have a record of a urine albumin: creatinine ratio (or protein: creatinine ratio) test in the preceding 12 months
NM84	The percentage of patients on the CKD register with hypertension and proteinuria who are currently treated with renin-angiotensin system antagonists
CVD-PP002	The percentage of patients diagnosed with hypertension (diagnosed after or on 1st April 2009) who are given lifestyle advice in the preceding 12 months for: smoking cessation, safe alcohol consumption and healthy diet
DM005	The percentage of patients with diabetes, on the register, who have a record of an albumin: creatinine ratio test in the preceding 12 months
DMO11	The percentage of patients with diabetes, on the register, who have a record of retinal screening in the preceding 12 months
EP002	The percentage of patients 18 or over on drug treatment for epilepsy who have been seizure free for the last 12 months recorded in the preceding 12 months
EP003	The percentage of women aged 18 or over and who have not attained the age of 55 who are taking antiepileptic drugs who have a record of information and counselling about contraception, conception and pregnancy in the preceding 12 months
LD002	The percentage of patients on the learning disability register with Down's syndrome aged 18 or over who have a record of blood TSH in the preceding 12 months
MH004	The percentage of patients aged 40 or over with schizophrenia, bipolar affective disorder and other psychoses who have a record of total cholesterol: hdl ratio in the preceding 12 months
MH007	The percentage of patients with schizophrenia, bipolar affective disorder and other psychoses who have a record of alcohol consumption in the preceding 12 months
MH008	The percentage of women aged 25 or over and who have not attained the age of 65 with schizophrenia, bipolar affective disorder and other psychoses whose notes record that a cervical screening test has been performed in the preceding 5 years
PAD002	The percentage of patients with peripheral arterial disease in whom the last blood pressure reading (measured in the preceding 12 months) is 150/90 mmHg or less

PAD003	The percentage of patients with peripheral arterial disease in whom the last measured total cholesterol (measured in the preceding 12 months) is 5 mmol/l or less
PAD004	The percentage of patients with peripheral arterial disease with a record in the preceding 12 months that aspirin or an alternative anti-platelet is being taken
RA003	The percentage of patients with rheumatoid arthritis aged 30 or over and who have not attained the age of 85 who have had a cardiovascular risk assessment using a CVD risk assessment tool adjusted for RA in the preceding 12 months
RA004	The percentage of patients aged 50 or over and who have not attained the age of 91 with rheumatoid arthritis who have had an assessment of fracture risk using a risk assessment toll adjusted for RA in the preceding 24 months
SMOK001	The percentage of patients aged 15 or over whose notes record smoking status in the preceding 24 months
STIA005	The percentage of patients with a stroke shown to be non-haemorrhagic, or a history of TIA whose last measured total cholesterol (measured in the preceding 12 months) is 5 mmol/l or less
THY001	The contractor establishes and maintains a register of patients with hypothyroidism who are currently treated with levothyroxine
THY002	The percentage of patients with hypothyroidism, on the register, with thyroid function tests recorded in the preceding 12 months"

SCHEDULE 5
Plan for Improvement of Premises

SCHEDULE 6
Payment Schedule

SCHEDULE 7[139]
Dispensing Doctors

Arrangements for Pharmaceutical services

1. The Contractor undertakes to provide pharmaceutical services in accordance with such provisions as are appropriate affecting the Contractor's rights and obligations that:

   (a) are included in the *Pharmaceutical Regulations*;

   (b) are contained in the terms set out in paragraphs 5 to 31;

   (c) are contained in paragraphs 3 and 4;

   (d) were imposed, in relation to the ***dispensing doctor's*** ability to provide pharmaceutical services, by virtue of regulation 20(2) of the National Health Service (Pharmaceutical Services) Regulations 2005 (imposition of conditions) (S.I. 2005/641);

   (e) are included in Part 19 of this Contract; and

   (f) are:

      (i) included in regulations under section 225 of the Local Government and Public Involvement in Health Act 2007 (duties of services-providers to allow entry by Local Healthwatch organisations or contractors), and

      (ii) made for the purpose of imposing on a services-provider (within the meaning of that section) a duty to allow authorised representatives (within the meaning of that section) to enter and view, and observe the carrying-on of activities on, premises owned or controlled by the services-provider.

2. The terms set out in bold italics in this Schedule have the same meaning as in the *Pharmaceutical Regulations*.

Dispensing doctor lists

3. Where a Contractor is listed in a ***dispensing doctor list***:

   (a) the Contractor must notify *NHS England* of the matters referred to in paragraph 4; and

   (b) as part of the listing of the Contractor in its ***dispensing doctor list,*** *NHS England* must include the names of any ***general practitioner*** notified under paragraph 4(a), unless *NHS England* has received a further notification in respect of that ***general practitioner*** under paragraph 4(b).

4. The matters referred to in paragraph 3(a) are:

   (a) any ***general practitioner*** who performs *primary medical services* on behalf of the Contractor and whom the Contractor anticipates will provide pharmaceutical services on the behalf of the Contractor; and

[139] Clause 14.10.1 applies the provisions in this Schedule to contractors who are ***dispensing doctors.***

(b) for a ***general practitioner*** about whom *NHS England* has been notified under paragraph (a), when the Contractor no longer anticipates that the ***general practitioner*** will provide pharmaceutical services on behalf of the Contractor.

Persons duly authorised to dispense on behalf of *dispensing doctors*

5. Where paragraphs 6 to 31 impose a requirement on a ***dispensing doctor*** in respect of an activity which that ***dispensing doctor*** has duly authorised another person to undertake, if that other person undertakes that activity instead of the ***dispensing doctor***:

(a) that other person must comply with that requirement; and

(b) the ***dispensing doctor*** must secure compliance with that requirement by that other person.

6. Where reference is made in paragraph 5 and paragraphs 7 to 31 to the ***dispensing doctor***:

(a) being the subject of an activity, and in fact a person duly authorised by the ***dispensing doctor*** is the subject of that activity; or

(b) forming a view, and in fact a person duly authorised by the ***dispensing doctor*** is to form that view,

that reference is to be construed as referring, as appropriate, to that duly authorised person.

7. References in paragraphs 5 to 31 to a ***dispensing doctor*** are to be construed in accordance with paragraphs 5 and 6.

Dispensing of drugs and *appliances* by another *prescriber*

8. In paragraphs 9 and 10, "signed" includes signature with a ***prescriber's advanced electronic signature***.

9. Subject to paragraphs 10 to 31, where:

(a) any person presents to a ***dispensing doctor*** a ***non-electronic prescription form*** which contains

(i) an order for drugs, not being ***Scheduled drugs***, or for ***appliances***, not being ***restricted availability appliances***, signed by a ***prescriber*** other than the ***dispensing doctor***;

(ii) an order for drugs specified in Schedule 2 to the *Prescription of Drugs Regulations* (drugs, medicines and other substances that may be ordered only in certain circumstances), signed by a ***prescriber*** other than the ***dispensing doctor***, and including the reference "SLS";

(iii) an order for ***restricted availability appliances***, signed by a ***prescriber*** other than the ***dispensing doctors*** and including the reference "SLS"; or

(b) subject to paragraph 11, the ***dispensing doctor*** receives as a ***nominated dispensing contractor*** from the *Electronic Prescription*

Service an ***electronic prescription form*** which contains an order of a kind specified in paragraphs (a)(i) to (a)(iii) and:

(i) any person requests the provision of drugs or ***appliances*** in accordance with that prescription; or

(ii) the ***dispensing doctor*** has previously arranged with the patient that the ***dispensing doctor*** will dispense that prescription on receipt; or

(iii) any person presents the ***dispensing doctor*** with an EPS token that relates to an order of a kind specified in paragraphs 9(a)(i) – (iii) and requests the provision of drugs or appliances in accordance with the related ***electronic prescription form*;**

and the ***dispensing doctor*** is authorised or required by virtue of Part 8 of the *Pharmaceutical Regulations* to provide the drugs or ***appliances*** so ordered, the ***dispensing doctor*** must, with reasonable promptness, provide the drugs so ordered, and such of the ***appliances*** so ordered as the ***dispensing doctor*** supplies in the normal course of business.

10. Subject to paragraphs 11 to 31, where:

(a) any person presents to the ***dispensing doctor*** a ***non-electronic repeatable prescription*** which contains:

(i) an order for drugs, not being ***Scheduled drugs*** or controlled drugs within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedule 4 or 5 to the Misuse of Drugs Regulations 2001 (S.I. 2001/3998) (which relate to controlled drugs excepted from certain prohibitions under those regulations), signed by a ***prescriber*** other than the ***dispensing doctor***;

(ii) an order for a drug specified in Schedule 2 to the *Prescription of Drugs Regulations*, not being a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedule 4 or 5 to the Misuse of Drugs Regulations 2001, signed by a ***prescriber*** other than the ***dispensing doctor*** and including the reference “SLS”;

(iii) an order for ***appliances***, not being ***restricted availability appliances***, signed by a ***prescriber*** other than the ***dispensing doctor***; or

(iv) an order for a ***restricted availability appliance***, signed by a ***prescriber*** other than the ***dispensing doctor*** and including the reference “SLS”,

and also presents an associated ***batch issue***;

(b) the ***dispensing doctor*** receives as a ***nominated dispensing contractor*** an ***electronic repeatable prescription*** from the

Electronic Prescription Service which contains an order of a kind specified in sub-paragraphs (a)(i) to (a)(iv) and:

(i) any person requests the provision of drugs or ***appliances*** in accordance with that ***repeatable prescription***; or

(ii) the ***dispensing doctor*** has previously arranged with the patient that the ***dispensing doctor*** will dispense that ***repeatable prescription*** on receipt; or

(c) any person presents the ***dispensing doctor*** with an EPS token that relates to an order of a kind specified in paragraph 10(a)(i) – (iv) and requests the provision of drugs or appliances in accordance with the related ***electronic prescription form***;

and the ***dispensing doctor*** is authorised or required by virtue of Part 8 of the *Pharmaceutical Regulations* to provide the drugs or ***appliances*** so ordered, the ***dispensing doctor*** must, with reasonable promptness, provide the drugs so ordered, and such of the ***appliances*** so ordered as the ***dispensing doctor*** supplies in the normal course of business.

11. The ***dispensing doctor*** must not provide under an ***electronic prescription form*** a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedules 2 to 5 to the Misuse of Drugs Regulations 2001.

12. For the purposes of paragraphs 8 to 11, a ***non-electronic repeatable prescription*** for drugs or ***appliances*** shall be taken to be presented even if the person who wishes to obtain the drugs or ***appliances*** does not present that prescription, where:

(a) the ***dispensing doctor*** has that prescription in their possession; and

(b) that person presents, or the ***dispensing doctor*** has in their possession, an associated ***batch issue***.

13. Drugs and ***appliances*** provided under paragraphs 8 to 12 must be provided in a suitable container.

Dispensing of drugs and *appliances* ordered by the *dispensing doctor*

14. In the circumstances where paragraphs 8 to 13 do not apply and subject to paragraphs 15 to 31, where the ***dispensing doctor*** is authorised or required by virtue of Part 8 of the *Pharmaceutical Regulations* to provide a drug or ***appliance*** to a person:

(a) the ***dispensing doctor*** must record any order for the provision of any drugs or ***appliances*** which are needed for the treatment of the patient, before the drugs or ***appliances*** are dispensed (unless it is personally administered):

(i) on a ***prescription form*** completed in accordance with clause 14.2.2 to clause 14.2.15;

(ii) if clause 14.3 applies, on an ***electronic prescription form***; or

(iii) in the case of a personally administered vaccine in respect of which the ***NHS BSA*** does not require an individual ***prescription form*** in order to process payment, on the form provided by the ***NHS BSA*** for the purposes of claiming payments for administering that vaccine (as well, potentially, as claiming other payments), and in the manner required by the ***NHS BSA*** (which may be part of an aggregate total);

(b) the ***dispensing doctor*** must provide those drugs or ***appliances*** in a suitable container (unless it is personally administered);

(c) the ***dispensing doctor*** must provide for the patient a drug specified in Schedule 2 to the *Prescription of Drugs Regulations* (drugs, medicines and other substances that may be ordered only in certain circumstances) only where clause 14.6.3 is satisfied; and

(d) the ***dispensing doctor*** must provide for the patient a ***restricted availability appliance*** only if the patient is a person, or it is for a purpose, specified in the *Drug Tariff*.

Supply in accordance with a Serious Shortage Protocol ("*SSP*")

14A This sub-paragraph applies where, in relation to an order for a drug or an ***appliance*** on a ***prescription form*** or a repeatable prescription:

(a) a ***SSP*** has effect in respect of:

(i) the requested drug or ***appliance***; or

(ii) drugs or ***appliances*** of a specified description, and the requested drug or ***appliance*** is of that description.

(b) Where sub-paragraph (a) applies and the ***dispensing doctor*** provides a different product or quantity of product to the product or quantity of product ordered on the ***prescription form*** or repeatable prescription, in accordance with the ***SSP***:

(i) the ***dispensing doctor*** must endorse the prescription or the associated ***batch issue*** accordingly (if the manner for making the endorsement is provided for in the *Drug Tariff*, in the manner provided for in the *Drug Tariff*); and

(ii) the prescription or associated ***batch issue*** as thus endorsed is treated as being the prescription for product reimbursement purposes (even though the supply is not in pursuance of that prescription).

(c) Where the ***dispensing doctor*** provides a drug or ***appliance*** under this paragraph, the ***dispensing doctor*** must include in the dispensing label on the packaging of the product, for the patient's benefit, information to the effect that the product is being supplied in accordance with a ***SSP***, identifying the particular ***SSP***.

Supply in accordance with a Pandemic Treatment Protocol ("*PTP*") or a Pandemic Treatment Patient Group Direction ("*PTPGD*")

14B (a) Subject to the following provisions of this Schedule, where:

(i) a ***dispensing doctor*** receives, via a secure service approved by *NHS England* for this purpose, an electronic message that amounts to an order for the supply of a drug in accordance with a ***PTP*** or a ***PTPGD***; and

(ii) a person who is entitled to be supplied with that drug by the ***dispensing doctor*** (Part 8 of the *Pharmaceutical Regulations* and this Schedule having that effect) in pursuance of that order requests the provision of the drug in accordance with that order;

the ***dispensing doctor*** must, with reasonable promptness, provide the drug so ordered.

(aa) Where the ***dispensing doctor*** considers:

(i) on the basis of a request for the supply of a drug in accordance with a ***PTP*** or a ***PTPGD*** that has been approved by *NHS England* as a basis for supply as part of pharmaceutical services;

(ii) having made the appropriate checks; and

(iii) having regard to what is reasonable and appropriate,

that a person is entitled to be supplied with the drug by the ***dispensing doctor*** (Part 8 of the *Pharmaceutical Regulations* and this Schedule having that effect) in accordance with the ***PTP*** or ***PTPGD*** as part of pharmaceutical services, the ***dispensing doctor*** must, with reasonable promptness, provide the drug requested.

(b) If a person requesting the provision of the drug asks the ***dispensing doctor*** to do so:

(i) the ***dispensing doctor*** must give an estimate of the time when the drug will be ready; and

(ii) if they are not ready by then, the ***dispensing doctor*** must give a revised estimate of the time when they will be ready (until they are ready).

(c) Where the ***dispensing doctor*** provides a drug under sub-paragraph (a) or (aa), the ***dispensing doctor*** must include a dispensing label on the packaging of the product and include in the label (in addition to the particulars required or permitted by Part 1 of Schedule 26 to the *Human Medicines Regulations 2012*), for the patient's benefit, information to the effect that the product is being supplied in accordance with a ***PTP*** or a ***PTPGD***, identifying the particular ***PTP*** or ***PTPGD***.

(d) Sub-paragraph (a) does not apply where arrangements are in place for the provision of the drug ordered pursuant to the ***PTP*** or ***PTPGD*** as part of a ***directed service*** which includes arrangements for the provision of such a drug ordered in accordance with such a ***PTP*** or ***PTPGD***.

(e) Sub-paragraph (aa) does not apply where arrangements are in place for the provision of the drug requested in accordance with the ***PTP*** or ***PTPGD*** as part of a ***directed service*** which includes arrangements for the provision of such a drug requested in accordance with such a ***PTP*** or ***PTPGD***.

Supply in accordance with a Listed Prescription Items Voucher ("*LPIV*")

14C (a) Subject to the following provisions of this Schedule, where:

(i) the ***dispensing doctor*** receives a ***LPIV***; and

(ii) a person who is entitled to be supplied by the ***dispensing doctor*** (Part 8 of the *Pharmaceutical Regulations* and this Schedule having that effect) with a prescription item ordered on the ***LPIV*** requests the provision of the item in accordance with that ***LPIV***, the ***dispensing doctor*** must, with reasonable promptness, provide the prescription item so ordered.

(b) If a person who is entitled as mentioned in sub-paragraph (a)(ii) asks the ***dispensing doctor*** to do so:

(i) the ***dispensing doctor*** must give an estimate of the time when the prescription item will be ready; and

(ii) if they are not ready by then, the ***dispensing doctor*** must give a revised estimate of the time when the item will be ready (until it is ready).

(c) Sub-paragraph (a) does not apply where arrangements are in place for the provision of the item ordered on the ***LPIV*** as part of ***a directed service*** which includes arrangements for the provision of such an item ordered on such a ***LPIV***.

Preliminary matters before providing ordered drugs or *appliances*

15. Before providing any drugs or ***appliances*** in accordance with paragraph 14 or 14A, or in the circumstances set out in paragraph 17:

(a) a ***dispensing doctor*** must ask any person who makes, or duly completes, a declaration, as or on behalf of the person named on the prescription form or repeatable prescription, that the patient does not have to pay the charges specified in regulation 4(1) of the *Charges Regulations* (supply of drugs and appliances by doctors) by virtue of either:

(i) entitlement to exemption under regulation 10(1) of the *Charges Regulations* (exemptions), or

(ii) entitlement to remission of charges under regulation 5 of the *Remission of Charges Regulations* (entitlement to full remission and payment),

to produce satisfactory evidence of such entitlement, unless the declaration is in respect of entitlement to exemption by virtue of regulation 10 of the *Charges Regulations* or in respect of entitlement to remission by virtue of regulation 5 of the *Remission of Charges Regulations*, and at the time of the declaration the ***dispensing doctor*** has such evidence available to them;

(b) in any case where no satisfactory evidence, as required by sub-paragraph (a), is produced to the ***dispensing doctor***, the ***dispensing doctor*** must ensure before the drugs or ***appliances*** are provided that the person who was asked to produce that evidence is advised, in appropriate terms, that checks are routinely undertaken to ascertain entitlement to:

(i) exemption under the *Charges Regulations*; or

(ii) remission of charges under the *Remission of Charges Regulations*,

where such entitlement has been claimed, as part of the arrangements for preventing or detecting fraud or error in relation to such claims;

(c) if in the case of a ***non-electronic prescription form*** or ***non-electronic repeatable prescription***, no satisfactory evidence, as required by sub-paragraph (a), is produced to the ***dispensing doctor,*** the ***dispensing doctor*** must endorse the form on which the declaration is made to that effect; and

(d) in the case of an ***electronic prescription***, the ***dispensing doctor*** must ensure that the following information is duly entered into the records managed by *NHS England* that are accessible as part of the Electronic Prescription Service (if either it is not already recorded in those records or a check, known as a real time exemption check, has not produced satisfactory evidence as mentioned in sub-paragraph (a)):

(i) in a case where the exemption from or remission of charges is claimed for all or some of the items included in the prescription, a record of:

(aa) the exemption category specified in regulation 10(1) of the *Charges Regulations* or the ground for remission under regulation 5 of the *Remission of Charges Regulations* which it is claimed applies to the case; and

(bb) whether or not satisfactory evidence was produced to the ***dispensing doctor*** as required by sub-paragraph 15(a);

(ii) in any case where a charge is due, confirmation that the relevant charge was paid; and

(iii) in the case of a prescription for or including contraceptive substances, confirmation that no charge was payable in respect of those substances.

Sub-contracting aspects of dispensing under "hub and spoke" arrangements

15ZA.

(1) For the purposes of clauses 15.9 to 15.10.16 of this Contract, core dispensing functions are clinical matters (whether or not they would be considered as such but for this sub-paragraph) and accordingly, the specific requirements in this Schedule in respect of sub-contracting those functions are in addition to the general requirements in those clauses in respect of sub-contracting them.

(2) For the purposes of this paragraph and paragraph 15ZB, "core dispensing functions" means the assembly or part-assembly of any prescription item (including bagging and the application of dispensing labels) with a view to the supply of that prescription item in accordance with a prescription, an ***SSP***, a ***LPIV***, a ***PTP*** or a ***PTPGD***.

(3) A ***dispensing doctor*** (and by extension a provider of primary medical services as mentioned in regulation 47(2)(b) of the *Pharmaceutical Regulations*) must not sub-contract the performance of any of its core dispensing functions, but this does not apply to:

(a) a contract for services between the ***dispensing doctor*** and a health care professional (for example, a locum), or a provider of locums, for performance by that professional, or by locums provided by that provider of locums, personally of core dispensing functions at the ***dispensing doctor***'s listed dispensing premises; or

(b) the performance of any of the ***dispensing doctor***'s core dispensing functions under valid hub and spoke arrangements.

(4) For the purposes of this paragraph and paragraphs 15ZB and 15ZC, "hub and spoke arrangements" are arrangements between the ***dispensing doctor*** and a retail pharmacy business:

(a) are for the purpose of the retail pharmacy business supporting the ***dispensing doctor*** with regard to the fulfilment of orders:

(i) submitted to the ***dispensing doctor*** on prescription forms or ***LPIV***s, or

(ii) for the provision of prescription items by the ***dispensing doctor*** in accordance with ***PTP***s or ***PTPGDs***; and

(b) provide for the assembly or part-assembly of those orders (including in accordance with an ***SSP***) at premises of the retail pharmacy business with a view to the supply of the prescription items at or from the listed dispensing premises of the ***dispensing doctor*** to or for the use of the patients for whom they were ordered.

(5) For the hub and spoke arrangements to be valid for the purposes of this paragraph and paragraphs 15ZB and 15ZC, any prior notification that the ***dispensing doctor*** is required to give to NHS England or an ICB before the commencement of arrangements by virtue of which the ***dispensing doctor*** sub-contracts the core dispensing functions must include the following particulars:

(a) the name, pharmacy premises address and General Pharmaceutical Council premises registration number of the retail pharmacy business;

(b) the duration of the proposed arrangements;

(c) a description of the core dispensing functions to be covered by arrangements; and

(d) a description of the manner in which the retail pharmacy business proposes to meet the ***dispensing doctor***'s obligations under the terms of service in respect of the core dispensing functions to be covered by the arrangements.

(6) For the hub and spoke arrangements to be valid for purposes of this paragraph and paragraphs 15ZB and 15ZC, if the ***dispensing doctor*** is not otherwise (apart from by virtue of this sub-paragraph) required to give prior notification to NHS England or an ICB before the commencement of the sub-contracting of clinical services such as core dispensing functions:

(a) it must give that prior notice in the case of hub and spoke arrangements, and in a manner that puts NHS England or an ICB

for its location on reasonable notice of the commencement of the arrangements; and

(b) the notification that it does give must include the particulars specified in sub-paragraph (5)(a) to (d).

(7) For the hub and spoke arrangements to be valid for the purposes of this paragraph and paragraphs 15ZB and 15ZC, they must have the following features:

(a) they must provide, and ensure, that any prescription item that is assembled or part-assembled under the arrangements is supplied to or for the use of the patient for whom it is dispensed at or from the listed dispensing premises of the ***dispensing doctor*** (and so the arrangements must not allow the retail pharmacy business to fulfil the order directly);

(b) in the case of an order for a medicine on a prescription form or ***LPIV***, they must ensure that what is done, in the course of fulfilling the order, is done in a manner that ensures compliance with the requirements that are to be complied with for the supply from the retail pharmacy business to the ***dispensing doctor*** of the medicine to be treated as, or as part of, a retail sale in accordance with regulation 222A(2)(a) of the Human Medicines Regulations 2012[140] (assembly or part-assembly as part of "hub and spoke" dispensing arrangements between different businesses);

(c) in the case of orders for prescription items that are not orders for medicines on a prescription form or a ***LPIV*** ("non-regulation-222A orders"):

(i) they must relate to fulfilling both orders for medicines on prescription forms and non-regulation-222A orders, and accordingly the ***dispensing doctor*** cannot only sub-contract to the retail pharmacy business core dispensing functions in respect of non-regulation-222A orders, and

(ii) they must ensure that what is done, in the course of fulfilling the non-regulation-222A order, is done in a manner that would ensure compliance with the requirements that would need to be complied with for the

[140] Inserted by S.I. 2025/758.

supply from the retail pharmacy business to the ***dispensing doctor*** of the prescription item, if it were instead of a medicine ordered on a prescription form or a ***LPIV***, to be treated as, or as part of, a retail sale in accordance with regulation 222A(2)(a) of the Human Medicines Regulations 2012;

(d) they must provide, and ensure, that the retail pharmacy business does not sub-contract any of the core dispensing functions that the retail pharmacy business performs on behalf of the ***dispensing doctor***;

(e) they must provide for the discontinuation of the arrangements, as set out in paragraph 15ZB (in addition to any patient safety or commercial grounds the ***dispensing doctor*** or the retail pharmacy business may have for discontinuing the arrangements); and

(f) they must not be or have become invalid by virtue of paragraph 15ZB.

(8) If the ***dispensing doctor*** has hub and spoke arrangements in place, the ***dispensing doctor*** must also have in place business continuity arrangements which ensure that the ***dispensing doctor*** is able to meet all the ***dispensing doctor***'s obligations to provide dispensing services in the event of any temporary or permanent discontinuation or disruption of the hub and spoke arrangements.

(9) The ***dispensing doctor*** must give notice in writing to NHS England of any:

(a) temporary discontinuation of hub and spoke arrangements that amounts to a suspension of those arrangements; or

(b) permanent discontinuation of hub and spoke arrangements,

either before that discontinuation occurs or as soon as is reasonably practicable after it occurs, unless it is in response to a notice of objection from NHS England.

Objection to and termination of hub and spoke arrangements

15ZB.

(1) NHS England may at any time request from the ***dispensing doctor*** (as defined in paragraph 15ZA(3)) information relating to hub and spoke arrangements that is relevant to the termination criteria (whether or not the arrangements have commenced), and if NHS England makes such a request, the ***dispensing doctor*** must supply the requested information to NHS England promptly.

(2) For the purposes of this paragraph, the termination criteria are:

(a) the hub and spoke arrangements do not have the features required by paragraph 15ZA(7), including where they have had them but they have lapsed;

(b) the hub and spoke arrangements have the features required by paragraph 15ZA(7) but there has been a breach of those requirements;

(c) the hub and spoke arrangements put the safety of any persons to whom the ***dispensing doctor*** provides pharmaceutical services at serious risk;

(d) the hub and spoke arrangements put NHS England at risk of material financial loss;

(e) the hub and spoke arrangements have led to the ***dispensing doctor*** repeatedly breaching the ***dispensing doctor***'s terms of service, or to the ***dispensing doctor*** breaching its terms of service in circumstances where the ***dispensing doctor*** is likely to continue to do so repeatedly;

(f) The retail pharmacy business's (as defined in paragraph 15ZA(4)) fitness to carry out core dispensing functions is impaired; or

(g) in the opinion of NHS England, there are reasonable grounds for believing one or more of the termination criteria in paragraphs (a) to (f) are established.

(3) NHS England may, after the commencement of hub and spoke arrangements, issue a notice of objection to the arrangements, based on one or more of the termination criteria, and if it does so:

(a) those arrangements become invalid on the termination date specified in the notice of objection; and

(b) The ***dispensing doctor*** must discontinue the arrangements on or by the date specified in the notice for their termination.

(4) NHS England may withdraw a notice of objection issued under sub-paragraph (3), which has the effect of the arrangements to which the notice related no longer being invalid.

(5) NHS England must, in a notice of objection, give its reasons for issuing the notice.

(6) Subject to sub-paragraph (7), before issuing a notice of objection, NHS England must make every reasonable effort to communicate and co-operate with the ***dispensing doctor*** with a view to resolving the matter without the notice being issued.

(7) Sub-paragraph (6) does not apply where NHS England is satisfied:

(a) its concerns relate to a matter that has already been the subject of dispute resolution between NHS England and the ***dispensing doctor*** and there are no new issues of substance to delay issuing the notice; or

(b) that it is appropriate to proceed immediately to issuing a notice:

(i) to protect the safety of any persons to whom the ***dispensing doctor*** may provide pharmaceutical services, or

(ii) to protect NHS England from material financial loss.

(8) After issuing a notice of objection, unless:

(a) it was delayed by virtue of sub-paragraph (6); or

(b) NHS England is satisfied its concerns related to a matter that has already been the subject of dispute resolution between NHS England and the ***dispensing doctor*** and there are no new issues of substance to be resolved,

NHS England must, where requested to do so by the ***dispensing doctor***, make every reasonable effort to communicate and co-operate with the ***dispensing doctor*** with a view to resolving the matter in a manner that may lead to the notice of objection being withdrawn.

Hub and spoke arrangements: sharing of "relevant data" between different businesses

15ZC.

(1) This paragraph applies to "relevant data", which is data that relates to a patient and which is shared for the purpose of fulfilling an order under hub and spoke arrangements (as defined in paragraph 15ZA(4)) which is a non-regulation-222A order (as defined in paragraph 15ZA(7)(c)).

(2) For the purposes of section 8(c) (lawfulness of processing: public interest etc) of, and paragraph 2(2)(a), (c) and (d) of Schedule 1 (special categories of personal data etc – health or social care purpose) to, the Data Protection Act 2018[141], sub-paragraph (3) applies to the processing of any relevant data:

(a) by the ***dispensing doctor*** or the retail pharmacy business (as defined in paragraph 15ZA(3) and (4)) which relates to a patient; and

(b) which is necessary for the purposes of:

(i) fulfilling an order of a type mentioned in paragraph 15ZA(4)(a) under valid hub and spoke arrangements, or

(ii) discharging any related professional obligations to the patient (including obligations relating to the keeping of records).

(3) That processing is:

(a) necessary for the performance of a task carried out in the public interest; and

(b) if the data is personal data concerning health, necessary for the purposes of preventative medicine, medical diagnosis or for the provision of health care or treatment.

(4) Any person (X) who:

(a) is employed or engaged by the ***dispensing doctor*** or the retail pharmacy business; and

(b) in the course of being so employed or engaged is required to undertake the processing of data described in sub-paragraph (2),

owes a duty of confidentiality in respect of that data (whether or not they would do so but for this sub-paragraph).

[141] 2018 c. 12. Section 8 has been amended by the Data (Use and Access) Act 2025 (c. 18), section 70(7), and S.I. 2019/419. Paragraph 2 of Schedule 1 has been amended by S.I. 2019/419.

(5) The duty under paragraph (4):

(a) is a duty of confidentiality which, if not owed by a health care professional, is owed under an enactment or rule of law for the purposes of section 11(1)(b) of the Data Protection Act 2018[142] (special categories of personal data etc: supplementary); and

(b) is such that, if the processing is necessary for the purposes described in sub-paragraph (2)(b), X is able, lawfully, to process that data by virtue of this paragraph.

(6) For the purposes of sub-paragraph (2)(b)(ii), a professional obligation to a patient is to be regarded as such notwithstanding that discharging the obligation may:

(a) also be an obligation that arises in some other way (for example, arising from a duty of care); or

(b) be done by a person who is not a health care professional.

(7) Sub-paragraphs (2) and (3) do not apply where, in reliance or purported reliance on valid hub and spoke arrangements, a person processes any data which relates to a patient but, in the course of the doing of anything that relates to the fulfilling of the order to which that data relates, there is a breach of:

(a) the requirements to be fulfilled if what is done is to be treated as part of valid hub and spoke arrangements; or

(b) a duty of confidentiality owed in respect of the data by a health care professional or under an enactment or rule of law as mentioned in sub-paragraph (5)(a).

(8) Words and expressions used in both:

(a) sub-paragraphs (1) to (7); and

(b) Parts 1 and 2 (preliminary and general processing) of, and paragraphs 2(2)(a), (c) and (d) of Schedule 1 to, the Data Protection Act 2018,

bear the meanings they bear in those provisions of the Data Protection Act 2018.

[142] Section 11 has been amended by S.I. 2019/419

16. Not used.

16A. For the purposes of paragraph 15, satisfactory evidence includes evidence derived from a check, known as a real time exemption check, of electronic records that are managed by ***NHS BSA*** for the purposes (amongst other purposes) of providing advice, assistance and support to patients or their representatives in respect of whether a charge is payable under the *Charges Regulations*.

16B. If the ***dispensing doctor*** dispenses an electronic prescription, the ***dispensing doctor*** must send the form duly completed by or on behalf of the patient, if one is required under regulations 4(2)(b) or (3A) of the *Charges Regulations* in respect of that electronic prescription (which may be the associated EPS token), to the ***NHS BSA***.

Checks and records in the case of supply in accordance with a *SSP*

16C. In a case involving providing drugs or ***appliances*** in accordance with paragraph 14A, the references in paragraph 15 to a ***prescription form*** or ***repeatable prescription*** are to be construed as references to the prescription for product reimbursement purposes, as mentioned in paragraph 14A(b)(ii).

Provision of *Scheduled drugs*

17. The ***dispensing doctor*** must only provide for a patient any ***Scheduled drug*** if:

(a) it is ordered as specified in paragraph 18 or 20; or

(b) in the case of a drug specified in Schedule 2 to the *Prescription of Drugs Regulations* (drugs, medicines and other substances that may be ordered only in certain circumstances), it is ordered in the circumstances prescribed in that Schedule.

18. A ***Scheduled drug*** that is a drug with an appropriate ***non-propriety name*** may be provided in response to an order on a ***prescription form*** or ***repeatable prescription*** for a drug ("the prescribed drug") that is not a ***Scheduled drug*** but which has the same ***non-proprietary name*** as the ***Scheduled drug*** if:

(a) the prescribed drug is ordered by that ***non-proprietary name*** or by its formula; and

(b) the prescribed drug has the same specification as the ***Scheduled drug*** (so the ***Scheduled drug*** may be dispensed generically).

19. If a ***Scheduled drug*** is a combination of more than one drug, it can only be ordered as specified in paragraph 18 if the combination has an appropriate ***non-proprietary name***, whether or not the drugs in the combination each have such names.

20. Nothing in paragraphs 5 to 19 and paragraphs 21 to 31 prevents the ***dispensing doctor*** from providing, otherwise than under pharmaceutical services, a ***Scheduled drug*** or a ***restricted availability appliance*** for a patient.

Refusal to provide drugs or *appliances* ordered

21. The ***dispensing doctor*** may refuse to provide the drugs or ***appliances*** ordered on a ***prescription form*** or ***repeatable prescription*** where:

(a) the ***dispensing doctor*** reasonably believes that it is not a genuine order or valid request for the person named on the ***prescription form*** or the ***repeatable prescription*** (for example because the ***dispensing doctor*** reasonably believes it has been stolen or forged);

(b) it appears to the ***dispensing doctor*** that there is an error on the ***prescription form*** or on the ***repeatable prescription*** or, in the case of a ***non-electronic repeatable prescription***, its associated ***batch issue*** (including a clinical error made by the ***prescriber***) or that, in the circumstances, providing the drugs or ***appliances*** would be contrary to the ***dispensing doctor's*** clinical judgement; or

(c) where the ***prescription form*** or ***repeatable prescription*** is incomplete because it does not include the information relating to the identification of the ***prescriber*** that *NHS England* (or the person exercising its functions) requires in order to perform its functions relating to:

(i) the remuneration of persons providing pharmaceutical services, and

(ii) any apportionment of, or any arrangements for recharging in respect of, that remuneration,

unless the ***dispensing doctor*** (or the person who employs or engages the ***dispensing doctor***) is to receive no pharmaceutical remuneration of any kind in respect of the drug or ***appliance***.

21A. The ***dispensing doctor*** may refuse to provide a drug or appliance ordered on an electronic prescription if the access that the ***dispensing doctor*** has to the Electronic Prescription Service is not such as to enable the ***dispensing doctor*** to dispense that prescription promptly (or at all).

22. The ***dispensing doctor*** must refuse to provide drugs or ***appliances*** ordered on a ***repeatable prescription*** where:

(a) the ***dispensing doctor*** has no record of that prescription;

(b) the ***dispensing doctor*** does not, in the case of a ***non-electronic repeatable prescription***, have any associated ***batch issue*** and it is not presented to the ***dispensing doctor***;

(c) it is not signed by a ***prescriber***;

(d) to do so would not be in accordance with any intervals specified in the prescription;

(e) it would be the first time a drug or **appliance** had been provided pursuant to the prescription and the prescription was signed (whether electronically or otherwise) more than 6 months previously;

(f) the ***repeatable prescription*** was signed (whether electronically or otherwise) more than one year previously;

(g) the expiry date on the ***repeatable prescription*** has passed; or

(h) the ***dispensing doctor*** has been informed by the ***prescriber*** that the prescription is no longer required.

23. Where a patient requests the supply of drugs or ***appliances*** ordered on a ***repeatable prescription*** (other than on the first occasion that the patient makes such a request), the ***dispensing doctor*** must only provide the drugs or ***appliances*** ordered if the ***dispensing doctor*** is satisfied that the patient to whom the prescription relates:

(a) is taking or using, and is likely to continue to take or use, the drug or ***appliance*** appropriately; and

(b) is not suffering from any side effects of the treatment which indicates the need or desirability of reviewing the patient's treatment,

and that the conditions in paragraph 24 are also satisfied.

24. The conditions referred to in paragraph 23 with which the dispensing doctor must be satisfied are:

(a) that the medication regimen of the patient to whom the prescription relates has not altered in a way which indicates the need or desirability of reviewing the patient's treatment; and

(b) there have been no changes to the health of the patient to whom the prescription relates which indicate the need or desirability of reviewing the patient's treatment.

24A. The ***dispensing doctor*** must refuse to provide a drug or ***appliance*** ordered on a ***prescription form*** or a ***repeatable prescription*** where:

(a) a ***SSP*** has effect in respect of:

(i) the requested drug or ***appliance***; or

(ii) drugs or ***appliances*** of a specified description, and the requested drug or ***appliance*** is of that description; and

(b) alternative provision has already taken place in accordance with the ***SSP***.

24B. The ***dispensing doctor*** may refuse to fulfil an order or a request for a drug that is or is purportedly in accordance with a ***LPIV***, a ***PTP*** or a ***PTPGD*** where:

(a) The ***dispensing doctor*** reasonably believes it is not a genuine order for the person who requests, or on whose behalf is requested, the provision of the drug;

(b) providing it would be contrary to the ***dispensing doctor's*** clinical judgement;

(c) the ***dispensing doctor*** or other persons are subjected to or threatened with violence by the person who requests the provision of the drug, or by any person accompanying that person; or

(d) the person who requests the provision of the drug, or any person accompanying that person, commits or threatens to commit a criminal offence.

24C. The ***dispensing doctor*** must refuse to provide, pursuant to a ***LPIV***, a ***PTP*** or a ***PTPGD***, an order or a request for a drug that is or is purportedly in accordance with the ***LPIV***, the ***PTP*** or ***PTPGD*** where the ***dispensing doctor*** is not satisfied that it is in accordance with the ***LPIV***, the ***PTP*** or ***PTPGD***.

24D. The ***dispensing doctor*** may refuse to provide a prescription item ordered on a ***prescription form*** or ***repeatable prescription*** where:

(a) more than one prescription item has been ordered on the ***prescription form*** or ***repeatable prescription;***

(b) at least one of those prescription items is a ***listed HRT prescription item*** and at least one of those prescription items is not; and

(c) the person named on the ***prescription form*** or ***repeatable prescription*** is claiming entitlement to exemption under regulation 10(1)(j) of the *Charges Regulations (exemptions)* in respect of any of those prescription items which is a ***listed HRT prescription item***.

For the purposes of this paragraph, "listed HRT prescription item" is to be construed in accordance with regulation 17A(1)(a) of the *National Health Service (Charges for Drugs and Appliances) Regulations 2015*, read with regulation 17A(7) of those *Regulations*.

Dispensing doctors issuing _prescription forms_ which may be presented to an _NHS chemist_

25. Notwithstanding the existence of arrangements under which the ***dispensing doctor*** is to provide pharmaceutical services to a patient, if the ***dispensing doctor*** determines that the patient requires a drug or ***appliance*** that is available on prescription at or from an ***NHS chemist***:

(a) the ***dispensing doctor*** may with the agreement of the patient issue; or

(b) if the patient so requests, the ***dispensing doctor*** must not unreasonably refrain from issuing,

a ***prescription form*** that the patient may present to any ***NHS chemist*** instead of the ***dispensing doctor*** supplying that drug or ***appliance*** to the patient.

Home delivery service while a disease is or in anticipation of a disease being imminently pandemic etc.

25A. (a) Before dispensing any item on a ***prescription form*** or supplying it in accordance with a ***SSP***, the ***dispensing doctor*** must provide a home delivery option to eligible patients in respect of the item where, as a consequence of a disease being or in anticipation of a disease being imminently:

(i) pandemic; and

(ii) a serious risk or potentially a serious risk to human health;

NHS England with the agreement of the Secretary of State has made an announcement to the effect that, in order to assist in the management of the serious risk or potentially serious risk to human health, eligible patients are advised to stay away from listed dispensing premises in the area specified, in the circumstances specified and for the duration of the period specified in the announcement.

(b) If the ***dispensing doctor's*** listed dispensing premises are in the area specified in the announcement, during the period when, in the circumstances specified in the announcement, eligible patients need to stay away from the ***dispensing doctor's*** premises, the ***dispensing doctor*** must ascertain from:

(i) an eligible patient:

(aa) who has contacted the ***dispensing doctor*** about the home delivery of prescription items; or

(bb) who is a person whom the ***dispensing doctor*** considered, on the basis of the nature of an item on a ***prescription form***, might be an eligible person and accordingly, in the ordinary exercise of professional skill and judgement, made the appropriate checks and determined that they were; or

(ii) a person who may make an application for pharmaceutical services on behalf of that eligible patient (a "duly authorised person") who has contacted the ***dispensing doctor*** about the home delivery of prescription items;

whether or not the item could be supplied by a duly authorised person, and if it could, then supplying the item via a duly authorised person is the home delivery option which the ***dispensing doctor*** must provide.

(c) Where paragraph (b) does not apply, if the ***dispensing doctor's*** listed dispensing premises are in the area specified in the announcement, during the period when, in the circumstances specified in the announcement, eligible patients need to stay away from ***dispensing doctor's*** premises, the home delivery option that P must provide must comprise:

(i) the ***dispensing doctor*** delivering the item to the eligible patient's home or to an alternative address agreed with the patient or a duly authorised person (for example, a care home where the patient is temporarily residing);

(ii) the ***dispensing doctor*** arranging for an item dispensed by the ***dispensing doctor*** to be delivered by another ***dispensing doctor***, or by an ***NHS pharmacist*** or an ***LPS contractor***, to the eligible patient's home or to an alternative address agreed with the patient or a duly authorised person; or

(iii) if the ***dispensing doctor*** is unable to deliver the item or arrange for its delivery by another ***dispensing doctor***, or by an ***NHS***

pharmacist or by an ***LPS contractor***, the ***dispensing doctor*** arranging for the dispensing or supply of the item by another ***dispensing doctor***, or by an ***NHS pharmacist*** or an ***LPS contractor***, who would be able to deliver the dispensed item to the eligible patient's home or to an alternative address agreed with the patient or a duly authorised person.

(d) Paragraph (a) does not apply where the eligible patient or a duly authorised person is already at the ***dispensing doctor's*** listed dispensing premises for the purposes of receiving dispensing services.

(e) Notwithstanding the foregoing provisions of this Schedule, in any case of a supply in accordance with a home delivery option, if but for this sub-paragraph that supply would need to be made with reasonable promptness, the ***dispensing doctor*** may instead, in the exercise of professional skill and judgment, make the supply within a reasonable timescale.

(f) For the purposes of paragraphs 25A and 25AA, an "LPS contractor" means a person who is an ***LPS chemist*** by virtue of being a party to an ***LPS scheme*** which is not an ***LPS pilot scheme***.

Home delivery of notified items while a disease is or in anticipation of a disease being imminently pandemic etc.

25AA (a) Before dispensing a notified item on a ***prescription form*** or supplying it in accordance with an ***SSP***, a ***PTP*** or a ***PTPGD***, the ***dispensing doctor*** must provide a home delivery option to eligible patients in respect of that item.

(b) For the purposes of this paragraph, a "notified item" is an item that, as a consequence of a disease being or in anticipation of a disease being imminently:

(i) pandemic; and

(ii) a serious risk or potentially a serious risk to human health,

is the subject of an announcement made by NHE England, with the agreement of the Secretary of State, to the effect that, in order to assist in the management of the serious risk or potentially serious risk to human health, eligible patients are entitled to be provided with a home delivery option in respect of that item, if it is supplied to them as part of pharmaceutical services.

(c) Where the ***dispensing doctor*** is to, or may be required to, dispense a notified item on a ***prescription form*** or supply it in accordance with an ***SSP***, a ***PTP*** or a ***PTPGD***, the ***dispensing doctor*** must ascertain from:

(i) an eligible patient:

(aa) who has contacted the ***dispensing doctor*** about the home delivery of a notified item, or

(bb) who is a person whom the ***dispensing doctor*** considered, on the basis of an order or request for a notifiable item, might be an eligible person and accordingly, in the ordinary exercise of professional skill and judgement, made the appropriate checks and determined that they were; or

(ii) a person who may make an application for pharmaceutical services on behalf of that eligible patient (a "duly authorised person") who has contacted the ***dispensing doctor*** about the home delivery of a notified item, whether or not the item could be supplied via a duly authorised person, and if it could, then supplying the item via a duly authorised person is the home delivery option which the ***dispensing doctor*** must provide.

(d) Where paragraph (c) does not apply, the home delivery option that the ***dispensing doctor*** must provide must comprise:

(i) the ***dispensing doctor*** delivering the item to the eligible patient's home or to an alternative address agreed with the patient or a duly authorised person (for example, a care home where the patient is temporarily residing);

(ii) the ***dispensing doctor*** arranging for an item dispensed by the ***dispensing doctor*** to be delivered by another ***dispensing doctor***, or by an ***NHS pharmacist*** or an ***LPS contractor***, to the eligible patient's home or to an alternative address agreed with the patient or a duly authorised person; or

(iii) if the ***dispensing doctor*** is unable to deliver the item or arrange for its delivery by another dispensing doctor, or by an ***NHS pharmacist*** or an ***LPS contractor***, the ***dispensing doctor*** arranging for the dispensing or supply of the item by another ***dispensing doctor***, or by an ***NHS pharmacist*** or an ***LPS contractor***, who would be able to deliver the item to the eligible patient's home or to an alternative address agreed with the patient or a duly authorised person.

(e) Paragraph (a) does not apply where the eligible patient or a duly authorised person is already at the ***dispensing doctor's*** listed dispensing premises for the purposes of being supplied with the notifiable item.

(f) Notwithstanding the foregoing provisions of this Schedule, in any case of a supply in accordance with a home delivery option, if but for this sub-paragraph that supply would need to be made with reasonable promptness, the ***dispensing doctor*** may instead, in the exercise of professional skill and judgment, make the supply within a reasonable timescale.

Complaints procedures

26. The complaints procedure established in accordance with Part 24 is also to apply in relation to a complaint about any matter reasonably connected with the provision of pharmaceutical services by the Contractor or individual.

Inspections and access to information

27. In addition to the requirements relating to inspections and access to information in Part 16, the ***dispensing doctor*** must allow persons authorised in writing by *NHS England* to enter and inspect any premises the ***dispensing doctor*** uses for the provision of pharmaceutical services at any reasonable time, for the purposes of:

(a) ascertaining whether or not the ***dispensing doctor*** is complying with the requirements of paragraphs 5 to 31;

(b) auditing, monitoring and analysing:

(i) the provision made by the ***dispensing doctor***, in the course of providing pharmaceutical services, for patient care and treatment; and

(ii) the management by the ***dispensing doctor*** of the pharmaceutical services the ***dispensing doctor*** provides,

where the conditions in paragraph 28 are satisfied.

28. The conditions referred to in paragraph 27 are that:

(a) reasonable notice of the intended entry has been given;

(b) the *Local Medical Committee* for the area where the premises are situated have been invited to be present at the inspection, where this is requested by the ***dispensing doctor****;*

(c) the person authorised in writing carries written evidence of their authorisation, which they must produce on request; and

(d) the person authorised in writing does not enter any part of the premises used solely as residential accommodation without the consent of the resident.

29. The ***dispensing doctor*** must, at the request of *NHS England* or the person authorised in writing, allow *NHS England* or that authorised person access to any information which either reasonably requires:

(a) for the purposes mentioned in paragraph 27; or

(b) in the case of *NHS England*, in connection with its functions that relate to pharmaceutical services.

Voluntary closure of premises

30. Where the ***dispensing doctor*** wishes:

(a) to withdraw from a ***dispensing doctor list***; or

(b) except in the circumstances described in paragraph 31, for particular listed dispensing premises no longer to be listed in relation to the ***dispensing doctor***,

the ***dispensing doctor*** must notify *NHS England* of that wish at least 3 months in advance of the date on which pharmaceutical services are no longer to be provided, unless it is impracticable for the ***dispensing doctor*** to do so, in which case the ***dispensing doctor*** must notify *NHS England* as soon as it is practicable.

31. If particular listed dispensing premises no longer need to be listed in relation to the ***dispensing doctor*** as a consequence of a relocation application under regulation 55 of the *Pharmaceutical Regulations,* before the date on which the ***dispensing doctor*** commences the provision of pharmaceutical services at or from the new premises, the ***dispensing doctor*** must give notice to *NHS England* of when, before that date, the ***dispensing doctor*** is to cease to provide pharmaceutical services at or from the existing premises.

SCHEDULE 8

Suspension and reactivation of the Contract

1. Interpretation

In this Schedule—

"*integrated care provider*" means a person, other than a person specified in paragraph 3(3), who is party to an *integrated care provider contract*;

"*integrated care provider contract*" has the meaning given in paragraph 3.

2. Right to suspend the Contract

(1) Where the Contractor wishes to perform or provide *primary medical services* under an *integrated care provider contract*, the Contractor must give notice in writing to the Commissioner of that intention in accordance with paragraph 4 and the Commissioner must agree to suspend the operation of the Contract in accordance with the requirements of, and subject to the conditions set out in, this Schedule.

(2) The Commissioner must not suspend the Contract until—

(a) the Contractor has informed the Commissioner of the date on which the Contractor intends to begin performing or, as the case may be, providing *primary medical services* under an *integrated care provider contract*; and

(b) the Commissioner has given notice in writing to each person on the Contractor's list of *registered patients* that:

(i) the Contractor intends to perform or, as the case may be, provide *primary medical services* under an *integrated care provider contract* with effect from that date; and

(ii) the person will be transferred on to the list of registered service users of the *integrated care provider* on that date unless the person decides to register with another provider of *primary medical services* before that date.

(3) Where the Commissioner suspends the operation of the Contract, the Contractor is released from any obligation to provide *primary medical services* under the Contract to the Contractor's list of *registered patients* from the date on which that suspension takes effect.

3. *Integrated care provider contracts*

(1) For the purposes of this Schedule, an "*integrated care provider contract*" is a contract entered into on or after 1st April 2019 which satisfies the following sub-paragraphs.

(2) An *integrated care provider contract* must be between—

(a) one or more of the persons specified in sub-paragraph (3); and

(b) a person who is a provider of services specified in sub-paragraph (5).

(3) The persons specified in this sub-paragraph are—

(a) *NHS England*;

(b) one or more *integrated care boards*; or

(c) one or more local authorities in England.

(4) An *integrated care provider contract* must—:

(a) relate to the provision of two or more of the services specified in sub-paragraph (5); and

(b) not be a contract to which sub-paragraph (6) applies.

(5) The services specified in this sub-paragraph are—

(a) *primary medical services*;

(b) *secondary care services*;

(c) *public health services*; and

(d) *adult social care services*,

and include such services where they are provided under arrangements entered into by an NHS body or a local authority in England by virtue of section 75 of *the 2006 Act*.

(6) This sub-paragraph applies to a contract for the provision of *primary medical services* to which directions given by *the Secretary of State* under section 98A of *the 2006 Act* relating to the provision of alternative provider medical services under section 83(2) of *the 2006 Act apply*.

(7) In this paragraph—

"*adult social care services*" means services provided pursuant to the exercise of the adult social services functions of a local authority in England;

"*adult social services functions*" means social services functions within the meaning of section 1A of the Local Authority and Social Services Act 1970 so far as relating to persons aged 18 or over, excluding any function to which Chapter 4 of Part 8 of the Education and Inspections Act 2006 applies;

"*primary medical services*" means services which *NHS England* considers it appropriate to secure the provision of under section 83(2) of *the 2006 Act*;

"*public health functions*" means:

(a) the public health functions of *the Secretary of State* under the following provisions of *the 2006 Act*:

(i) section 2A;

(ii) section 2B;

(iii) paragraphs 8 and 12 of Schedule 1;

(b) the public health functions of a local authority in England under the following provisions of *the 2006 Act*, and any regulations made under these provisions—:

(i) section 2B;

(ii) section 111; or

(iii) paragraphs 1 to 7B or 13 of Schedule 1;

(c) the public health functions of *the Secretary of State* that a local authority in England is required to exercise by virtue of regulations made under section 6C(1) of *the 2006 Act*; or

(d) the public health functions of *the Secretary of State* where they are exercised by *NHS England*, an *integrated care board* or a local authority in England where those bodies are acting pursuant to arrangements made under section 7A or 7B of *the 2006 Act*;

"*public health services*" are services which are provided pursuant to the exercise of *public health functions*;

"*secondary care services*" means—

(a) such services, accommodation or facilities as an *integrated care board* considers it appropriate to make arrangements for the provision of under or by virtue of section 3 or 3A of *the 2006 Act*; or

(b) such services or facilities as *NHS England* is required by *the Secretary of State* to arrange by virtue of regulations made under section 3B of *the 2006 Act*.

(8) For the purposes of this paragraph, any of the following is a local authority in England:

(a) a county council;

(b) a county borough council;

(c) a district council;

(d) a London borough council;

(e) the Common Council of the City of London;

(f) the Council of the Isles of Scilly.

4. Notice of intention to suspend the Contract

A notice under paragraph 2(1) must:

(a) state that the Contractor wishes to suspend the Contract and specify the date on which the Contractor would like the proposed suspension to take effect which must be a date which:

(i) falls at least one month after the date on which the notice was given, and

(ii) immediately precedes the date on which the Contractor intends to begin performing or, as the case may be, providing *primary medical services* under the relevant *integrated care provider contract*;

(b) give the name of each person who is a party to the Contract who intends to perform or, as the case may be, provide *primary medical services* under an *integrated care provider contract*; and

(c) confirm that the Contractor has agreed, as appropriate, to the suspension of the Contract.

5. Suspension of the Contract: general

(1) Subject to sub-paragraph (2), the suspension of the Contract is effective for a minimum period of two years beginning with the date on which that suspension takes effect which must be:

(a) the date specified in the notice given under paragraph 2(1); or

(b) such later date as the Commissioner may approve in the circumstances of a particular case.

(2) The suspension of the Contract is effective for a period of less than two years beginning with the date on which that suspension takes effect under sub-paragraph (1) only in a case where the relevant *integrated care provider contract* terminates or expires or is varied as described in paragraph 9(1) before the end of that period.

(3) Where the Commissioner suspends the Contract, the Contractor may not receive payments from the Commissioner in respect of any period during which the Contract is suspended.

(4) The Commissioner must, before the end of the period of—:

(a) three months beginning with the date on which the suspension of the Contract takes effect; or

(b) such longer period as may be agreed between the Commissioner and the Contractor in the circumstances of a particular case,

pay the Contractor any outstanding payments owed to the Contractor in respect of the provision of *primary medical services* by the Contractor under the Contract in accordance with the terms of directions given by the Secretary of State under section 87 *the 2006 Act*.

6. Notice of intention to reactivate the Contract

(1) A notice under paragraph 7(1) must be given to the Commissioner by the Contractor at least six months before the date on which the proposed reactivation of the Contract is to take effect.

(2) A notice under paragraph 7(1) must:

(a) state that the Contractor wishes to reactivate the Contract and specify the date on which the Contractor would like the proposed reactivation to take effect which must be a date which:

(i) falls at least six months after the date on which the notice was given, and

(ii) immediately follows the date on which the Contractor intends to cease performing, or as the case may be, providing *primary medical services* under the relevant *integrated care provider contract*;

(b) give the name of each person who is a party to the Contract who intends to resume the provision of *primary medical services* under the contract; and

(c) confirm that the Contractor has agreed, as appropriate, to the reactivation of the contract.

7. Right to reactivate the Contract

(1) The Commissioner must reactivate the Contract under this paragraph where the Contractor has given notice in writing to the Commissioner in accordance with paragraph 6 of the intention to reactivate the contract in accordance with the requirements of, and subject to the conditions set out in, this Schedule.

(2) The Commissioner must only reactivate a contract under this paragraph with effect from:

(a) the date which falls on the second anniversary of the date on which the suspension of that Contract took effect; or

(b) subsequently, on a date which falls every two years after the date specified in paragraph (a) during the duration of the *integrated care provider contract*.

8. Reactivation of the Contract: general

(1) The reactivation of the Contract is effective on the date which falls immediately after the date on which the Contractor ceases performing or, as the case may be, providing *primary medical services* under an *integrated care provider contract* which must be:

(a) the date specified in the notice given under paragraph 7(1); or

(b) such later date as the Commissioner may approve in the circumstances of a particular case.

(2) The Commissioner must not reactivate a contract unless the conditions specified in sub-paragraph (3) are met.

(3) The conditions specified in this sub-paragraph are that—

(a) the Contractor remains eligible to hold the Contract in accordance with the conditions set out in regulations 5 and 6 of the Regulations at the date on which the reactivation of the contract is to take effect; and

(b) the Commissioner is satisfied that, during the period in which the Contract was suspended, the Contractor has not acted or failed to act in a manner that gives rise to the Commissioner's right to terminate the contract under any of the provisions of Part 26 of the Contract.

(4) Where the reactivation of the Contract is intended to take effect on the second anniversary of the date on which the suspension of the Contract took effect, the Commissioner must notify in writing each person who resides in the Contractor's former *practice area* and who was on the list of registered service users of the *integrated care provider* that:

(a) the Contractor intends to resume the provision of *primary medical services* under the Contract in respect of people who reside in the Contractor's former *practice area* from the date specified in the notice; and

(b) if the person was on the Contractor's list of *registered patients* immediately prior to the date on which the suspension of the Contract took effect, the person will transfer onto the Contractor's list of *registered patients* from the date specified in the notice unless the person decides to remain registered with the *integrated care provider* or registers with another provider of *primary medical services* before that date.

(5) Where the reactivation of the Contract is intended to take effect after the second anniversary of the date on which the suspension of that contract took effect, the Commissioner must notify in writing each person who resides in the Contractor's

former practice area and who was on the list of registered service users of the *integrated care provider* that:

(a) the Contractor intends to resume the provision of *primary medical services* under the Contract in respect of people who reside in the Contractor's former *practice area* from the date specified in the notice; and

(b) the person will remain on the list of registered service users of the *integrated care provider* from the date specified in the notice unless the person decides to register with the Contractor or with another provider of *primary medical services* before that date.

(6) Where the Contract is reactivated by the Commissioner, the terms of the Contract which are to apply are those terms which are effective at the date on which the reactivation takes effect subject to any variation of those terms which may be agreed between the Contractor and the Commissioner.

9. Termination, expiry or variation of an *integrated care provider contract*

(1) Where, at any time, an *integrated care provider contract* terminates or expires or is varied so that it no longer requires the *integrated care provider* to provide *primary medical services* in respect of people who reside in the Contractor's former *practice area*:

(a) the Commissioner must, subject to the conditions specified in paragraph 8(3), reactivate the Contract with effect from the date which falls immediately after the date on which the *integrated care provider contract* terminated or, as the case may be, expired or was varied; and

(b) the Contractor must, with effect from that date, resume the provision of *primary medical services* under the Contract to people who reside in the Contractor's former *practice area*.

(2) Where an *integrated care provider contract* terminates or expires or is varied as described in sub-paragraph (1), the Commissioner must notify in writing each person who resides in the Contractor's former *practice area* and who was on the list of registered service users of the *integrated care provider* immediately before the date on which the *integrated care provider contract* terminated or, as the case may be, expired or was varied that:

(a) the Contractor has resumed providing *primary medical services* under the Contract from a specified date in respect of people who reside in the Contractor's former *practice area*; and

(b) the person will transfer onto the Contractor's list of *registered patients* from the date specified unless the person decides to register with another provider of *primary medical services* before that date.