

# NATIONAL HEALTH SERVICE ACT 1977

## Directions to Primary Care Trusts in relation to their functions relating to primary medical services

The Secretary of State for Health, in exercise of the powers conferred on him by sections 17 and 126(4) of the National Health Service Act 1977(a), hereby gives the following Directions:

### Commencement, application and interpretation

1.—(1) These Directions shall come into force on 19th April 2004.

(2) These Directions are given to Primary Care Trusts in England.

(3) In these Directions—

“the Act” means the National Health Service Act 1977;

“bank holiday” means any day that is specified or proclaimed as a bank holiday pursuant to section 1 of the Banking and Financial Dealings Act 1971(b);

“core hours” means the period beginning at 8am 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 under article 13 of the Transitional Order and “default contractor” shall be construed accordingly;

“doctor’s list” has the same meaning as in direction 1(2) of the Patient Lists Directions;

“essential services” means the services described in regulation 15(3), (5), (6), and (8) of the GMS Contract Regulations provided during core hours;

“GMS Contract Regulations” means the National Health Service (General Medical Services Contracts) Regulations 2004(c);

“list of patients” means—

(a) in relation to a general medical services contractor or a default contractor, the list prepared and maintained by the Primary Care Trust under the term of the general medical services contract which gives effect to paragraph 14 of Schedule 6 to the GMS Contract Regulations or under the equivalent term of the default contract, and

(b) in relation to a person providing services under a personal medical services agreement or a transitional agreement—

(i) the list prepared and maintained by the Primary Care Trust under the term of that agreement which gives effect to paragraph 13 of Schedule 5 to the Personal Medical Services Agreements Regulations, or

(ii) the doctor’s or pooled list required to be kept under direction 2 of the Patient Lists Directions;

“Local Medical Committee” means a committee recognised under section 45A of the Act;

---

(a) 1977 c.49; section 17 was substituted by the Health Act 1999 (c.8) (“the 1999 Act”), section 12 and amended by the Health and Social Care Act 2001 (c.15) (“the 2001 Act”), Schedule 5, paragraph 5 and the National Health Service Reform and Health Care Professions Act 2002 (c.17) (“the 2002 Act”), Schedule 1, paragraph 7; section 126(4) was amended by the National Health Service and Community Care Act 1990 (c.19), section 65(2), the 1999 Act, Schedule 4, paragraph 37(6), the 2001 Act, Schedule 5, paragraph 13, the 2002 Act, section 6(3)(c) and the Health and Social Care (Community Health and Standards) Act 2003 (c.43) (“the 2003 Act”), Schedule 11, paragraph 38.

(b) 1971 c.80.

(c) S.I. 2004/291.

“Patient Lists Directions” means the Directions to Primary Care Trusts concerning Patient Lists (Personal Medical Services) (Transitional Agreements) 2004 dated 30<sup>th</sup> March 2004(a);

“personal medical services agreement” means an agreement made under section 28C of the Act;

“Personal Medical Services Agreements Regulations” means the National Health Service (Personal Medical Services Agreements) Regulations 2004(b);

“PMS contractor” means a contractor as defined in regulation 2 of the Personal Medical Services Agreements Regulations;

“pooled list” has the same meaning as in direction 1(2) of the Patient Lists Directions;

“practice area” means the area specified in the general medical services contract, default contract or personal medical services agreement as respects which persons resident in it will generally be entitled to register with the provider of essential services or seek acceptance as a temporary resident;

“practice patients” means the patients included or to be included in the list of patients;

“practice premises” means the address or addresses specified in the general medical services contract, default contract, personal medical services agreement, transitional agreement or contractual arrangements under section 16CC(2) of the Act(c) as the one or ones at which services are to be provided under the contract;

“transitional agreement” means an agreement which is deemed under article 58 of the Transitional (No. 2) Order to have been made under section 28C of the Act and which has not been varied in accordance with article 59 of that Order;

“the Transitional Order” means the General Medical Services Transitional and Consequential Provisions Order 2004(d);

“the Transitional (No. 2) Order” means the General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004(e).

### **Assignment of general medical services contracts**

**2.—**(1) Where a Primary Care Trust has entered into a general medical services contract under which the practice area specified in the contract includes areas situated in the area of another Primary Care Trust or other Primary Care Trusts, the Primary Care Trust must—

- (a) on or before 1<sup>st</sup> March each year, review the general medical service contractor’s list of patients in order to establish whether the number of the practice patients living in the area of another Primary Care Trust exceeds the number of such patients living in its area by more than 5%;
- (b) if it does so establish, consider whether or not it would be more appropriate for the benefit of the contract to be assigned from 1<sup>st</sup> April of that year to the Primary Care Trust in which the larger or largest number of the practice patients live; and
- (c) if it considers that such an assignment would be appropriate, enter into discussions with that Primary Care Trust with a view to arranging such an assignment.

(2) As part of its consideration under paragraph (1)(b) above, the Primary Care Trust must consult the general medical services contractor whose contract is being considered for assignment and the Local Medical Committee (if any) for its area.

(3) Where a Primary Care Trust wishes to assign a general medical services contract to another Primary Care Trust under paragraph (1), that other Primary Care Trust must agree to the

---

(a) These directions can be found on the Department of Health’s website at [www.dh.gov.uk](http://www.dh.gov.uk) or a copy can be obtained by writing to the Department of Health, P.O. Box 777, London SE1 6XH.

(b) S.I. 2004/627.

(c) Section 16CC was inserted into the Act by section 174 of the 2003 Act.

(d) S.I. 2004/433.

(e) S.I. 2004/865.

assignment if it is satisfied that the number of practice patients for that general medical services contract living in its area—

- (a) is larger than the number of such patients living in the area of any other Primary Care Trust; and
- (b) exceeds the number of those living in the area of the assigning Primary Care Trust by more than 5%.

### **Assignment of personal medical services agreements**

3.—(1) Where a Primary Care Trust has entered into a personal medical services agreement (other than as a provider) under which the practice area specified in the agreement includes areas situated in the area of another Primary Care Trust or other Primary Care Trusts, the Primary Care Trust must—

- (a) on or before 1<sup>st</sup> March each year, review the PMS contractor's list of patients in order to establish whether the number of the practice patients living in the area of another Primary Care Trust exceeds the number of such patients living in its area by more than 5%;
- (b) if it does so establish, consider whether or not it would be more appropriate for the benefit of the agreement to be assigned from 1<sup>st</sup> April of that year to the Primary Care Trust in which the larger or largest number of the practice patients live; and
- (c) if it considers that such an assignment would be appropriate, enter into discussions with that Primary Care Trust with a view to arranging such an assignment.

(2) As part of its consideration under paragraph (1)(b) above, the Primary Care Trust must consult the person who is a party to the agreement with it which is being considered for assignment.

(3) Where a Primary Care Trust wishes to assign a personal medical services agreement to another Primary Care Trust under paragraph (1), that other Primary Care Trust must agree to the assignment if it is satisfied that the number of practice patients for that personal medical services agreement living in its area—

- (a) is larger than the number of such patients living in the area of any other Primary Care Trust; and
- (b) exceeds the number of those living in the area of the assigning Primary Care Trust by more than 5%.

### **Repeatable prescribing list**

4.—(1) A Primary Care Trust must prepare and maintain a list (to be called the repeatable prescribing list) which shall include the name of —

- (a) any general medical services contractor that is providing repeatable prescribing services under the term of its general medical services contract with that Primary Care Trust which gives effect to paragraph 40 of Schedule 6 to the GMS Contracts Regulations;
- (b) any default contractor that is providing such services under the equivalent term of its default contract with that Primary Care Trust;
- (c) any PMS contractor that is providing repeatable prescribing services under the term of its personal medical services agreement with that Primary Care Trust which gives effect to paragraph 39 of Schedule 5 to the PMS Agreements Regulations;
- (d) any party to a transitional agreement with that Primary Care Trust which includes the provision of repeatable prescribing services;
- (e) any contractor providing primary medical services under section 16CC(2)(b) of the Act that is providing repeatable prescribing services in accordance with the terms of the contract; and

- (f) any practice established by the Primary Care Trust for the purpose of providing primary medical services pursuant to section 16CC(2)(a) of the Act that is providing repeatable prescribing services.

(2) In this direction “repeatable prescribing services” means services which involve the prescribing of drugs, medicines or appliances on a repeatable prescription as defined in regulation 2(1) of the National Health Service (Pharmaceutical Services) Regulations 1992.

**Requirement to notify patients of the termination of general medical services contracts, personal medical services agreements, transitional agreements or other arrangements for the provision of essential services**

5.—(1) A Primary Care Trust must notify in writing—

- (a) the patients on the list of patients of a general medical services contractor or a default contractor of the termination of the general medical services contract or the default contract for any other reason, other than the termination of the default contract to enable the default contractor to enter into a general medical services contract;
- (b) the patients on the list of patients of a PMS contractor of the termination of the PMS agreement for any reason, other than to enable the PMS contractor to enter into a general medical services contract under regulation 19 of the Personal Medical Services Agreements Regulations;
- (c) the patients on the list of patients for a transitional agreement of the termination of that agreement for any reason, other than as a result of variation of that agreement in accordance with article 59 of the Transitional (No. 2) Order;
- (d) the patients on any list of patients kept by the Primary Care Trust for the purposes of the provision to them of the equivalent of essential services by the Primary Care Trust itself, pursuant to section 16CC(2)(a) of the Act, of the termination of that arrangement; and
- (e) the patients on any list of patients kept by the Primary Care Trust for the purposes of the provision to them of the equivalent of essential services under arrangements made under section 16CC(2)(b) of the Act, of the termination of those arrangements.

(2) Where, in a case in which the Primary Care Trust is obliged to give notice under paragraph (1), it has entered (or intends to enter) into a new general medical services contract or personal medical services agreement, or has made (or intends to make) other new arrangements under section 16CC(2) of the Act, whether on a temporary basis or not, for the provision of essential services (or their equivalent) to the patients referred to in that paragraph, it shall also notify the patient of—

- (a) the name of the person or persons who will be providing essential services (or their equivalent) under that general medical services contract, the personal medical services agreement or those other arrangements and the address of his, its or their practice premises; and
- (b) that his name will be deemed to be included in the list of patients kept by the Primary Care Trust for the purpose of that general medical services contract, personal medical services agreement or those other arrangements from a specified date and will be transferred to that list at the end of the period of 14 days beginning on that date unless, before the date on which the transfer is to occur, he gives notice in writing to the Primary Care Trust that he does not wish his name to be included in that list.

(3) Where paragraph (2) does not apply, the Primary Care Trust shall notify the patient in writing of the steps he can take to register elsewhere for the provision of essential services (or their equivalent).

**Assignment of patients**

6.—(1) Where a Primary Care Trust receives an application in writing from a person who meets the requirements in paragraph (2) for assignment to a provider of essential services (or their equivalent) it must, as soon as reasonably practicable—

- (a) assign the patient, in accordance with the terms of the contract or agreement, to—
    - (i) a default contractor,
    - (ii) a general medical services contractor, or
    - (iii) a PMS contractor;
  - (b) require a contractor to assign the person to a medical practitioner who performs personal medical services under a transitional agreement in accordance with article 64(1) of the Transitional (No. 2) Order; or
  - (c) otherwise make arrangements for the applicant to be provided with essential services (or their equivalent) in the area of the Primary Care Trust.
- (2) The requirements referred to in paragraph (1) are that the person—
- (a) is not registered elsewhere for the provision of essential services (or their equivalent) and has had refused an application for inclusion in—
    - (i) the list of patients of a general medical services contractor, a default contractor or a PMS contractor,
    - (ii) the doctor's list or pooled list of a party to a transitional agreement, or
    - (iii) a list of patients kept by the Primary Care Trust for the purpose of the provision of the equivalent of essential services to patients under section 16CC(2) of the Act;
  - (b) is registered elsewhere for the provision of essential services (or their equivalent), wishes to change his provider of essential services and has had refused an application referred to in sub-paragraph (a); or
  - (c) has applied to a provider of essential services or their equivalent to be accepted as a temporary resident and that application has been refused.
- (3) In deciding between the options listed in paragraph (1), the Primary Care Trust shall have regard to—
- (a) the respective distances between the person's residence and the possible providers of essential services (or their equivalent) in the part of the Primary Care Trust's area in question;
  - (b) the wishes and circumstances of the patient to be assigned;
  - (c) whether, during the six months ending on the date on which the application for assignment is received by the Primary Care Trust, the patient's name has been removed from the list of patients of any provider of essential services or their equivalent in that part of the area of the Primary Care Trust under—
    - (i) paragraph 9 of Schedule 2 to the National Health Service (General Medical Services) Regulations 1992(a),
    - (ii) the term of a general medical services contract which gives effect to paragraph 20 of Schedule 6 to the GMS Contract Regulations,
    - (iii) the equivalent term of a default contract,
    - (iv) the term of a personal medical services agreement which gives effect to paragraph 19 of Schedule 5 to the Personal Medical Services Agreements Regulations, or
    - (v) any equivalent provision relating to removal of patients included in—
      - (aa) a transitional agreement;
      - (bb) any directions relating to the provision of services by the Primary Care Trust itself under section 16CC(2)(a) of the Act; or
      - (cc) arrangements made under section 16CC(2)(b) of the Act;

---

(a) S.I. 1992/635; paragraph 9 was amended by S.I. 1994/633, 1998/682 and 2002/2469.

- (d) whether the patient's name has been removed from the list of patients of any provider of essential services or their equivalent in that part of the area of the Primary Care Trust under —
- (i) paragraph 9A of Schedule 2 to the National Health Service (General Medical Services) Regulations 1992(a),
  - (ii) the term of a general medical services contract which gives effect to paragraph 21 of Schedule 6 to the GMS Contract Regulations,
  - (iii) the equivalent term of a default contract,
  - (iv) the term of a personal medical services agreement which gives effect to paragraph 20 of Schedule 5 to the PMS Agreement Regulations, or
  - (v) any equivalent provision relating to removal of violent patients included in—
    - (aa) a transitional agreement;
    - (bb) any directions relating to the provision of services by the Primary Care Trust itself under section 16CC(2)(a) of the Act; or
    - (cc) arrangements made under section 16CC(2)(b) of the Act,
 and, if so, which provider of essential services (or their equivalent) has the most appropriate facilities to deal with such a patient; and
  - (e) such other matters as the Primary Care Trust considers to be relevant.

### **Terms of service for salaried general medical practitioners employed by Primary Care Trusts**

7.—(1) Where, on or after 19th April 2004, a Primary Care Trust offers employment to a general medical practitioner, it must offer that employment on terms which are no less favourable than those contained in the “Model terms and conditions of service for a salaried general practitioner employed by a Primary Care Trust” published by the British Medical Association and the NHS Confederation as item 1.4 of the supplementary documents to the new GMS contract 2003(b).

(2) This direction does not apply where a Primary Care Trust—

- (a) employs a general medical practitioner in its capacity as a provider of services under a personal medical services agreement; or
- (b) is providing primary medical services itself pursuant to section 16CC(2)(a) of the Act(c).

(3) In this direction, “general medical practitioner” has the same meaning as in regulation 2 of the Personal Medical Services Agreements Regulations.

### **Amendment of the Health Authority (Construction of References – Various Exceptions for Primary Care Trusts) Directions 2002**

8. In the Health Authority (Construction of References – Various Exceptions for Primary Care Trusts) Directions 2002, dated 30<sup>th</sup> September 2002(d), in direction 3 (construction of references in relation to pilot schemes), omit paragraph (2)(a) and (c) to (f).

(a) Paragraph 9A was inserted by S.I. 1994/633 and amended by S.I. 2002/2469.

(b) This document is published jointly by the General Practitioners Committee of the British Medical Association and the NHS Confederation. It is available on the Department of Health's website at [www.doh.gov.uk/gmscontract/supportingdocs.htm](http://www.doh.gov.uk/gmscontract/supportingdocs.htm) or a copy may be obtained by writing to the NHS Confederation, 1, Warwick Row, London SW1E 5ER.

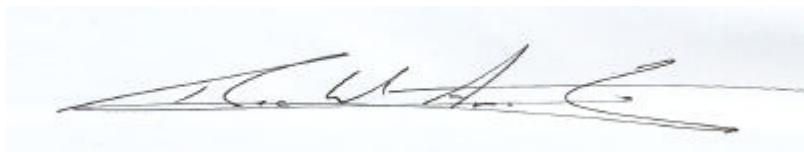
(c) Directions relating to the terms of service for salaried general medical practitioners employed in the provision of primary medical services pursuant to section 16CC(2)(a) of the Act will be included in separate directions given to Primary Care Trusts in relation to Primary Care Trust Medical Services.

(d) These Directions are available on the Department of Health's website at [www.dh.gov.uk/PublicationsandStatistics/Legislation](http://www.dh.gov.uk/PublicationsandStatistics/Legislation) or a copy can be obtained by writing to the Department of Health, P.O. Box 777, London SE1 6XH.

## Revocations

9. The following Directions are revoked to the extent specified—
- (a) Directions to Health Authorities and Health Boards concerning variation of proposals for pilot schemes (personal medical services) dated 3rd March 1998, the whole Directions insofar as they apply in relation to England;
  - (b) The Health Authority (Construction of References – Various Exceptions for Primary Care Trusts) Directions 2002 dated 30<sup>th</sup> September 2002, directions 4 and 5 and the Schedule;
  - (c) The Primary Care Trusts and Strategic Health Authorities Implementation of Pilot Schemes (Personal Medical Services) Directions 2003 dated 10<sup>th</sup> November 2003, the whole Directions;
  - (d) The Strategic Health Authorities and Primary Care Trusts Preparation of Proposals for Pilot Schemes (Personal Medical Services) Directions 2003 dated 17<sup>th</sup> March 2003, the whole Directions.

Signed by authority of the Secretary of State

A handwritten signature in black ink, appearing to be 'M. U. A.', written on a light blue background.

16th April 2004

Member of the Senior Civil Service,  
Department of Health.