

## SCHEDULE 5

### OTHER CONTRACTUAL TERMS

#### PART 4

##### *Persons who perform services*

##### **Sub-contracting of out of hours service**

**63.**—(1) A contractor shall not, otherwise than in accordance with the written approval of the Health Board, sub-contract all or part of its duty to provide out of hours services to any person other than those listed in sub-paragraph (2) other than on a short-term occasional basis.

(2) The persons referred to in sub-paragraph (1) are—

- (a) a person who holds a general medical services contract with a Health Board which includes out of hours services;
- (b) a section 17C provider who is required to provide the equivalent of essential services to the provider's patients during all or part of the out of hours period;
- (c) a health care professional, not falling within paragraph (a) or (b), who is to provide the out of hours services personally under a contract for services; or
- (d) a group of medical practitioners, whether in partnership or not, who provide out of hours services for each other under informal rota arrangements.

(3) An application for approval under sub-paragraph (1) shall be made by the contractor in writing to the Health Board and shall state—

- (a) the name and address of the proposed sub-contractor;
- (b) the address of any premises used for the provision of services;
- (c) the duration of the proposed sub-contract;
- (d) the services to be covered by the arrangement; and
- (e) how it is proposed that the sub-contractor will meet the contractor's obligations under the contract in respect of the services covered by the arrangement.

(4) Within 7 days of receipt of an application under sub-paragraph (3), a Health Board may request such further information relating to the proposed arrangements as seem to it to be reasonable.

(5) Within 28 days of receipt of an application which meets the requirements specified in sub-paragraph (3) or the further information requested under sub-paragraph (4) (whichever is the later), the Health Board shall—

- (a) approve the application;
- (b) approve the application with conditions; or
- (c) refuse the application.

(6) The Health Board shall not refuse the application if it is satisfied that the proposed arrangement will, in respect of the services to be covered, enable the contractor to meet satisfactorily its obligations under the contract and will not—

- (a) put at serious risk the safety of the contractor's patients; or
- (b) put the Health Board at risk of material financial loss.

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

(7) The Health Board shall inform the contractor by notice in writing of its decision on the application and, where it refuses an application, it shall include in the notice a statement of the reasons for its refusal.

(8) Where a Health Board approves a sub-contract under this paragraph the parties to the contract shall be 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 whose address was notified to it under sub-paragraph (3)(b) and paragraph 94 (1) shall not apply.

(9) Sub-paragraphs (1) to (8) shall also apply in relation to any renewal or material variation of a sub-contract in relation to out of hours services.

(10) A contract with a sub-contractor must prohibit the sub-contractor from sub-contracting the out of hours services it has agreed with the contractor to provide.