
STATUTORY INSTRUMENTS

1996 No. 841

The National Health Service (General Dental Services) (Scotland) Amendment Regulations 1996

PART II

COMPLAINTS

Complaints

- 5.**—(1) Schedule 1 (terms of service for dentists) shall be amended as follows.
(2) After paragraph 31 (notices), there shall be inserted—

“Complaints

31A.—(1) Subject to sub-paragraph (2), a dentist shall establish and operate, in accordance with this paragraph, a procedure (in this paragraph and in paragraph 31B referred to as a “practice based complaints procedure”) to deal with any complaints made by or on behalf of his patients and former patients.

(2) The practice based complaints procedure to be established by a dentist may be such that it also deals with complaints made in relation to one or more other dentists.

(3) A practice based complaints procedure shall apply to complaints made in relation to any matter reasonably connected with the dentist’s provision of general dental services and within the responsibility or control of—

- (a) the dentist;
- (b) any other dentist either employed by him or engaged as a deputy;
- (c) a former partner of the dentist;
- (d) an employee of the dentist other than one falling within paragraph (b);

and in this paragraph and paragraph 31B, references to complaints are to complaints falling within this sub-paragraph.

- (4) A complaint may be made on behalf of a patient or former patient with his consent, or—
- (a) where the patient is a child under 16;
 - (i) by either parent, or in the absence of both parents, the guardian or other adult person who has care of the child; or
 - (ii) in the care of an authority under Part II of the Social Work (Scotland) Act 1968(1) or in the care of a voluntary organisation, by that authority or organisation; or

(1) 1968 c. 49; Part II of the Social Work (Scotland) Act 1968 was extended with modification by the Guardianship Act 1973 (c. 29), section 11(5).

- (b) where the patient is incapable of making a complaint, by a relative or other adult person who has an interest in his welfare.
- (5) Where a patient has died a complaint may be made by a relative or other adult person who had an interest in his welfare or, where the patient was as described in head (a)(ii) of sub-paragraph (4), by the authority or voluntary organisation.
- (6) A practice based complaints procedure shall comply with the following requirements:—
 - (a) the dentist shall specify a person (who need not be connected with the dentist's practice and who, in the case of an individual, may be specified by his job title) to be responsible for receiving and investigating all complaints;
 - (b) all complaints shall be—
 - (i) recorded in writing,
 - (ii) acknowledged, either orally or in writing, within the period of three days (excluding Saturdays, Sundays, Christmas Day, New Year's Day and other public or local holidays agreed with the Health Board) beginning with the day on which the complaint was received by the person specified in head (a), or where that is not possible, as soon as reasonably practicable, and
 - (iii) properly investigated;
 - (c) within the period of 10 days (excluding Saturdays, Sundays, Christmas Day, New Year's Day and other public or local holidays agreed with the Health Board) beginning with the day on which the complaint was received by the person specified in head (a), or where that is not possible, as soon as reasonably practicable, the complainant shall be given a written summary of the investigation and its conclusions;
 - (d) where the investigation of the complaint requires consideration of the patient's dental records, the person specified in head (a) shall inform the patient or person acting on his behalf if the investigation will involve disclosure of information contained in those records to a person other than the dentist or a partner, a deputy or an employee of the dentist; and
 - (e) the practice shall keep a record of all complaints and copies of all correspondence relating to complaints, but such records shall be kept separate from patients' dental records.
- (7) A dentist shall inform his patients about the practice based complaints procedure which he operates and give the name (or title) and address of the person specified in sub-paragraph (6) (a).

31B.—(1) A dentist shall cooperate with any investigation of a complaint by the Health Board in accordance with the procedures which it operates in accordance with directions given under section 2(5) of the Act(2), whether the investigation follows one under the practice based complaints procedure or not.

- (2) The cooperation required by sub-paragraph (1) includes—
 - (a) answering questions reasonably put to the dentist by the Health Board;
 - (b) providing any information relating to the complaint reasonably required by the Health Board; and
 - (c) attending any meeting to consider the complaint (if held at a reasonably accessible place and at a reasonable hour, and due notice has been given), if the dentist's presence at the meeting is reasonably required by the Health Board.

(2) Section 2(5) was amended by the National Health Service and Community Care Act 1990 (c. 19), Schedule 9, paragraph 19(1).

Returns

31C.—(1) A dentist whose name is in the dental list shall provide to the Health Board by 30th June each year a return stating the number of complaints received in accordance with paragraph 31A in respect of the period of 12 months ending on 31st March of that year.

(2) In the case of a dentist who practises in partnership with one or more other dentists whose names are included in the dental list, the information referred to in sub-paragraph (1) shall be provided in respect of the partnership as a whole instead of by each dentist in the partnership individually.”.