

## SCHEDULE 1

Regulation 18

### OTHER CONTRACTUAL TERMS

#### PART 1

##### Patients

###### Persons to whom mandatory services are to be provided

1.—(1) Subject to sub-paragraphs (3) to (5), the contractor shall provide mandatory services under the contract to any eligible person if a request is made for such services by—

- (a) an eligible person who requires the services; or
- (b) a person specified in sub-paragraph (2), on behalf of an eligible person who requires those services.

(2) For the purposes of sub-paragraph (1)(b), a request for services may be made—

- (a) on behalf of any child by—
  - (i) either parent;
  - (ii) a person duly authorised by a local authority to whose care the child has been committed under the Children Act 1989<sup>(1)</sup>; or
  - (iii) a person duly authorised by a voluntary organisation which is accommodating the child under the provisions of that Act; or
- (b) on behalf of any adult who is incapable of making such an application, or authorising such an application to be made on their behalf, by a relative or the primary carer of that person.

(3) The contractor shall—

- (a)
  - (i) satisfy itself that the person is an eligible person by asking for satisfactory evidence that person is eligible, unless the contractor, in cases other than where the patient is a person specified in regulation 3(1)(d) of the POS Regulations (person of limited resources), already has satisfactory evidence of that available to it, or
  - (ii) where the patient has been asked for, but not produced, satisfactory evidence that he is an eligible person, record that fact on the patient's sight test form;
- (b) subject to sub-paragraph (4), ensure that particulars of the patient and the approximate date of the last testing, if any, of his sight are inserted in a sight test form by the patient or on his behalf; and
- (c) satisfy itself that the testing of sight is necessary.

(4) If the requirements of sub-paragraph (3)(b) cannot be met, the contractor may, instead of satisfying itself that those requirements are met, satisfy itself that the person is an eligible person by referring to its own records or by measuring the power of the lenses of the person's existing optical appliance by means of a focimeter or other suitable means.

(5) The contractor shall only refuse to provide services under the contract to an eligible person if it has reasonable grounds for doing so, and those grounds cannot relate to a person's—

- (a) race, gender, social class, age, religion, sexual orientation, appearance, disability or medical or ophthalmic condition; or

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(1) 1989 c.41.

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- (b) decision or intended decision to accept or refuse private services in respect of himself or a family member.
- (6) If the contractor refuses to provide services under the contract on any ground other than that it is not satisfied that—
  - (a) under sub-paragraph (3)(a)(i), the person to whom it has refused to provide services is an eligible person; or
  - (b) under sub-paragraph (3)(c), the testing of sight is necessary,it shall keep a record of that refusal, specifying in that record its grounds for doing so.

## PART 2

### Provision of Services

#### **Mixing of services provided under the contract with private services**

2. A contractor shall not, with a view to obtaining the agreement of a patient to undergo services privately—
- (a) advise an eligible person that mandatory services are not available from the contractor under the contract; or
  - (b) seek to mislead the patient about the availability, quality and extent of the services under the contract.

#### **Premises, equipment and facilities**

- 3.—(1) The contractor shall ensure that the practice premises and equipment used for the provision of mandatory 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.
- (2) The obligation in sub-paragraph (1) includes providing proper and sufficient waiting-room accommodation for patients.
- (3) The contractor shall provide, in relation to all of the services to be provided under the contract, such other facilities as are necessary to enable it to properly perform that service.

#### **Telephone services**

- 4.—(1) The contractor shall not be a party to any contract or other arrangement under which the number for telephone services—
- (a) to be used by patients to contact the practice for any purpose related to the contract; or
  - (b) to be used by any other person to contact the 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 to the caller.
- (2) In this paragraph, “personal number” means a telephone number which starts with the number 070 followed by a further 8 digits.

#### **Safety of the Public**

- 5.—(1) —The contractor shall ensure that it has—

- (a) appropriate arrangements for infection control and decontamination; and
  - (b) regard to any relevant requirements of the MHRA or the Health and Safety Executive.
- (2) The contractor shall establish and operate arrangements applicable to all the persons specified in sub-paragraph (3).
- (3) The specified persons are—
- (a) any ophthalmic practitioner who performs services under the contract; and
  - (b) any other person employed by the contractor to perform or assist in the performance of services under the contract.
- (4) In sub-paragraph (2), “arrangements” means arrangements to ensure that—
- (a) effective measures of infection control are used;
  - (b) all legal requirements relating to health and safety in the workplace are satisfied; and
  - (c) any requirements of or recommendations by the MHRA are adhered to.

## PART 3

### Persons Who Perform Services

#### **Ophthalmic practitioners**

6. An optometrist or a registered medical practitioner may perform ophthalmic services under the contract provided—
- (a) he is included in an ophthalmic performers list; and
  - (b) his inclusion in that list is not subject to a suspension.

#### **Performers: registration and further requirements**

- 7.—(1) No person shall perform sight tests under the contract unless he is registered and his registration is not subject to a suspension.
- (2) Where—
- (a) the registration of an ophthalmic practitioner; or
  - (b) an ophthalmic practitioner’s inclusion in an ophthalmic performers list,
- is subject to conditions, the contractor shall ensure compliance with those conditions, in so far as they are relevant to the contract or the delivery of services under it.

#### **Conditions for employment: ophthalmic practitioners performing ophthalmic services**

- 8.—(1) A contractor shall not employ an ophthalmic practitioner to perform ophthalmic services under the contract unless—
- (a) that practitioner has provided it with his professional registration number and the name and address of the Primary Care Trust on whose ophthalmic performers list his name appears;
  - (b) it has checked that he meets the requirements in paragraphs 6 and 7 and has obtained and is satisfied with his clinical references; and
  - (c) it has taken reasonable steps to satisfy itself that he has the clinical experience and training necessary to enable him to properly perform primary ophthalmic services.
- (2) Where the employment of a person falling within sub-paragraph (1) is urgently needed and it is not possible for the contractor to obtain and satisfy itself as to the references in accordance

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with sub-paragraph (1)(b) before employing him, the ophthalmic practitioner may be employed on a temporary basis for a single period of up to 14 days whilst those references are obtained and considered, and for an additional period of a further 14 days if the contractor has good reason to believe the person supplying the references is ill, on holiday or otherwise temporarily unavailable.

(3) Where the contractor employs the same person on more than one occasion within a period of 6 months, it may rely on the references provided on the first occasion, provided that those references are not more than 12 months old.

**Conditions for employment: persons assisting in the provision of services under the contract**

9.—(1) Before employing any person to assist it in the provision of services under the contract, the contractor shall take reasonable care to satisfy itself that the person in question is both suitably qualified and competent to discharge the duties for which he is to be employed.

(2) When considering the competence and suitability of any person for the purpose of sub-paragraph (1), the contractor shall have regard in particular to that person's —

- (a) academic and vocational qualifications;
- (b) education and training; and
- (c) previous employment or work experience.

**Level of skill**

10. The contractor shall carry out its obligations under the contract with reasonable care and skill.

## PART 4

### Records, Information, Notifications, Name and Rights of Entry

**Patient records**

11.—(1) The contractor shall ensure that a full, accurate and contemporaneous record is kept in the patient record in respect of each patient to whom it provides services under the contract, giving appropriate details of sight testing.

- (2) The contractor shall retain all such records for a period of at least 7 years.
- (3) The patient record may be kept in electronic form.

**Confidentiality of personal data**

12. The contractor shall nominate a person with responsibility for practices and procedures relating to the confidentiality of personal data held by it.

**Patient information**

13. The contractor shall ensure that there is displayed in a prominent position in its practice premises, in a part to which patients have access—

- (a) a notice supplied or approved by the PCT, indicating the services available under the contract;
- (b) in respect of its arrangements under paragraph 5, a written statement relating to its commitment to the matters referred to in paragraph 5(4);

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- (c) a notice supplied or approved by the PCT, indicating to which descriptions of its patients a payment may be made under the Charges Regulations; and
- (d) information about the complaints procedure which it operates in accordance with Part 5 of this Schedule, giving the name and title of the person nominated by the contractor in accordance with paragraph 25(2)(a).

#### **Provision of and access to information: PCT**

14.—(1) The contractor shall, at the request of the PCT—

- (a) produce to the PCT or to a person authorised in writing by the PCT in such format, and at such intervals or within such period, as the PCT specifies; or
- (b) allow the PCT, or a person authorised in writing by it to access,

the information specified in paragraph (2).

(2) The information specified for the purposes of sub-paragraph (1) is—

- (a) any information which is reasonably required by the PCT for the purposes of, or in connection with, the contract; and
- (b) any other information which is reasonably required in connection with the PCT's functions,

and includes the contractor's patient records.

#### **Use of disqualified name**

15.—(1) Subject to sub-paragraph (2), a contractor shall not use in any manner whatsoever the name or part of the name or trading name, either alone or in combination with any other words or letters of, or used by, any person subject to a national disqualification or a contract disqualification order.

(2) Nothing in sub-paragraph (1) shall prevent a contractor other than a body corporate from using its own name or, being a body corporate, from using the name by which it is registered pursuant to the provisions of the Opticians Act.

#### **Notification to the PCT**

16.—(1) In addition to any requirements of notification elsewhere in the Regulations, the contractor shall notify the PCT, 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; or
- (b) any circumstances which give rise to the PCT's right to terminate the contract under Part 7 of this Schedule.

(2) The contractor shall, unless it is impracticable for it to do so, notify the PCT within 28 days of any occurrence requiring a change in the information about it published by the PCT in accordance with regulations made under section 115(5) (primary ophthalmic services).

(3) The contractor shall notify the PCT when an ophthalmic practitioner who is performing or will perform services under the contract (as the case may be)—

- (a) leaves the contractor, and the date upon which he left or is to leave; or
- (b) is or is to be employed by the contractor,

and the notification shall include the name of the ophthalmic practitioner who has left, or who has been or is to be employed, together with his professional registration number and the name and address of the Primary Care Trust in whose ophthalmic performers list he is included.

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**Notice provisions specific to a contract with a corporate body**

- 17.—(1) A contractor which is a corporate body shall notify the PCT forthwith when—
- (a) it passes a resolution or a court of competent jurisdiction makes an order that the contractor be wound up;
  - (b) circumstances arise which might entitle a creditor or a court to appoint a receiver, administrator or administrative receiver for the contractor;
  - (c) circumstances arise which would enable the court to make a winding up order in respect of the contractor;
  - (d) it is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (definition of inability to pay debts)<sup>(2)</sup>; or
  - (e) it has a new director, chief executive or secretary.
- (2) Where sub-paragraph (1)(e) applies, the notice shall—
- (a) confirm that the new director, chief executive or secretary meets the conditions imposed by regulation 4 (general conditions relating to all contracts);
  - (b) contain an application form in accordance with Schedule 3 in relation to that person.
- (3) Where the PCT is not satisfied that that person meets the conditions of regulation 4, it shall so notify the contractor and—
- (a) the contractor shall within 28 days remove that new secretary, director or chief executive, as the case maybe, and so notify the PCT; and
  - (b) if the contractor does not do so, the PCT shall terminate the contract in accordance with the provisions of paragraph 45.

**Notice provisions specific to a contract with two or more individuals practising in partnership**

- 18.—(1) A contractor which is a partnership shall notify the PCT forthwith when—
- (a) a partner leaves or informs his partners that he intends to leave the partnership, and the date upon which he left or will leave the partnership; or
  - (b) a new partner joins or proposes to join the partnership.
- (2) A notice under sub-paragraph (1)(b) shall—
- (a) state the date that the new partner joined or it is proposed he will join the partnership;
  - (b) state whether the new partner is an ophthalmic practitioner;
  - (c) confirm that the new partner meets the conditions imposed by regulation 4 (general conditions relating to all contracts);
  - (d) contain an application form in accordance with Schedule 3 from that new partner; and
  - (e) state whether the new partner is or is to be a general or a limited partner.
- (3) Where the PCT is not satisfied that a new partner meets the conditions of regulation 4, it shall so notify the contractor and—
- (a) the contractor shall within 28 days remove the new partner; and
  - (b) if the contractor does not do so, the PCT shall terminate the contract in accordance with the provisions of paragraph 45.

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(2) 1986 c. 45.

### **Entry and inspection by the PCT**

**19.**—(1) Subject to the conditions in sub-paragraph (2), the contractor shall allow persons authorised in writing by the PCT to enter and inspect the practice premises at any reasonable time.

(2) The conditions referred to in sub-paragraph (1) 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.

### **Entering and viewing under the Local Involvement Networks (Duty of Services-Providers to Allow Entry) Regulations 2008**

**20.** The contractor must comply with regulation 3 of the Local Involvement Networks (Duty of Services-Providers to Allow Entry) Regulations 2008<sup>(3)</sup> in so far as it applies to the contractor.

### **Other rights of entry and inspection**

**21.** The contractor shall allow any other person who has a legal right to enter and inspect the practice premises to do so.

## **PART 5**

### **Complaints**

#### **Complaints procedure**

**22.**—(1) The contractor shall establish and operate a complaints procedure to deal with any complaints in relation to any matter reasonably connected with the provision of services under the contract and that procedure shall comply with the requirements of paragraphs 23, 25 and 27.

(2) The contractor shall take reasonable steps to ensure that patients are aware of—

- (a) the complaints procedure;
- (b) the role of the PCT and other bodies in relation to complaints about services under the contract; and
- (c) their right to assistance with any complaint from independent advocacy services provided under section 248 (independent advocacy services).

(3) The contractor shall take reasonable steps to ensure that the complaints procedure is accessible to all patients.

#### **Making of complaints**

**23.**—(1) A complaint may be made by or, with his consent, on behalf of a patient or former patient, who is receiving or has received services under the contract, or—

- (a) where the patient is a child, by—
  - (i) a parent;

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(3) [S.I. 2008/915](#).

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- (ii) a person duly authorised by a local authority to whose care the child has been committed under the provisions of the Children Act 1989; or
  - (iii) a person duly authorised by a voluntary organisation by which is accommodating the child under the provisions of that Act; or
- (b) where the patient is incapable of making a complaint, by a relative or other adult person who has an interest in his welfare.
- (2) 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 falls within sub-paragraph (1)(a)(ii) or (iii), by the local authority or voluntary organisation.

### **Period for making complaints**

- 24.**—(1) Subject to sub-paragraph (2), the period for making a complaint is—
- (a) 6 months beginning with the date on which the matter which is the subject of the complaint occurred, or
  - (b) 6 months beginning with the date on which the matter which is the subject of the complaint comes to the complainant’s notice provided that the complaint is made no later than 12 months after the date on which the matter which is the subject of the complaint occurred.
- (2) Where a complaint is not made during the period specified in sub-paragraph (1), it shall be referred to the person nominated under paragraph 25(2)(a) and if he is of the opinion that—
- (a) having regard to all the circumstances of the case, it would have been unreasonable for the complainant to make the complaint within that period; and
  - (b) notwithstanding the time that has elapsed since the date on which the matter which is the subject of the complaint occurred, it is still possible to investigate the complaint properly,
- the complaint shall be treated as if it had been received during the period specified in sub-paragraph (1).

### **Further requirements for complaints procedures**

- 25.**—(1) A complaints procedure shall also comply with the requirements set out in sub-paragraphs (2) to (6).
- (2) The contractor must nominate—
- (a) a person (who need not be connected with the contractor and who, in the case of an individual, may be specified by his job title) to be responsible for the operation of the complaints procedure and the investigation of complaints; and
  - (b) a partner, or other senior person associated with the contractor, to be responsible for the effective management of the complaints procedure and for ensuring that action is taken in the light of the outcome of any investigation.
- (3) All complaints must be—
- (a) either made or recorded in writing;
  - (b) acknowledged in writing within the period of 3 working days beginning with the day on which the complaint was made or, where that is not possible, as soon as reasonably practicable; and
  - (c) properly investigated.
- (4) Within the period of 10 working days beginning with the day on which the complaint was received by the person specified under sub-paragraph (2)(a) or, where that is not possible, as soon



as reasonably practicable, the complainant must be given a written summary of the investigation and its conclusions.

(5) Where the investigation of the complaint requires consideration of the patient's ophthalmic records, the person specified in sub-paragraph (2)(a) must 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 contractor or an employee of the contractor.

(6) The contractor must keep a record of all complaints and copies of all correspondence relating to complaints for a period of at least two years from the date on which such complaints were made, but such records shall be kept separate from patients' ophthalmic records.

### **Co-operation with investigations**

**26.**—(1) The contractor shall co-operate with—

- (a) any investigation of a complaint in relation to any matter reasonably connected with the provision for services under the contract undertaken by—
  - (i) the PCT; and
  - (ii) the Commission for Healthcare Audit and Inspection; and
- (b) any investigation of a complaint by an NHS body or local authority which relates to a patient or former patient of the contractor.

(2) In sub-paragraph (1)—

“NHS body” means a Primary Care Trust, an NHS trust, an NHS foundation trust, a Strategic Health Authority, a Local Health Board, a Health Board, a Health and Social Services Board, a Health and Social Services Trust or a Health Board or Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978<sup>(4)</sup>; and

“local authority” means—

- (a) any of the bodies listed in section 1 of the Local Authority Social Services Act 1970<sup>(5)</sup>(local authority);
- (b) the Council of the Isles of Scilly; or
- (c) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994<sup>(6)</sup> (constitution of councils).

(3) The co-operation required by sub-paragraph (1) includes—

- (a) answering questions reasonably put to the contractor by the PCT;
- (b) providing any information relating to the complaint reasonably required by the PCT; 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 contractor's presence at the meeting is reasonably required by the PCT.

### **Provision of information**

**27.** The contractor shall inform the PCT, at such intervals as it shall agree with the PCT, of the number of complaints it has received under the procedure established in accordance with this Part.

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<sup>(4)</sup> 1978 c.29.

<sup>(5)</sup> 1970 c. 42; s. 1 was amended by the Local Government Act 1972 (c. 70), s. 170.

<sup>(6)</sup> 1994 c. 39.

## PART 6

### Dispute Resolution

#### **Local resolution of contract disputes**

**28.** In the case of any dispute arising out of or in connection with the contract, the contractor and the PCT must make every reasonable effort to communicate and co-operate with each other with a view to resolving the dispute, before referring the dispute for determination in accordance with the NHS dispute resolution procedure (or, where applicable, before commencing court proceedings).

#### **Dispute resolution: non-NHS contracts**

**29.—(1)** In the case of a contract which is not an NHS contract, any dispute arising out of or in connection with the contract, except disputes about matters dealt with under the complaints procedure pursuant to Part 5 of this Schedule, may be referred for consideration and determination to the Secretary of State, if—

- (a) the PCT so wishes and the contractor has agreed in writing; or
  - (b) the contractor so wishes (even if the PCT does not agree).
- (2) In the case of a dispute referred to the Secretary of State under sub-paragraph (1)—
- (a) the procedure to be followed is the NHS dispute resolution procedure; and
  - (b) the parties agree (or in a case to which sub-paragraph (1)(b) applies is deemed to agree) to be bound by any determination made by the adjudicator.

#### **NHS dispute resolution procedure**

**30.—(1)** The procedure specified in the following sub-paragraphs and paragraph 31 applies in the case of any dispute arising out of or in connection with the contract which is referred to the Secretary of State—

- (a) in accordance with section 9(6) (where the contract is an NHS contract); or
  - (b) in accordance with paragraph 29 (where the contract is not an NHS contract).
- (2) Any party wishing to refer a dispute as mentioned in sub-paragraph (1) shall send to the Secretary of State a written request for dispute resolution which shall 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 describing the nature and circumstances of the dispute.
- (3) Any party wishing to refer a dispute as mentioned in sub-paragraph (1) must send the request under sub-paragraph (2) within a period of 3 years beginning with the date on which the matter giving rise to the dispute happened or should reasonably have come to the attention of the party wishing to refer the dispute.
- (4) Where the dispute relates to a contract which is not an NHS contract, the Secretary of State may determine the matter himself or, if he considers it appropriate, appoint a person or persons to consider and determine it.
- (5) Before reaching a decision as to who should determine the dispute, either under sub-paragraph (4) or under section 9(8), the Secretary of State shall, within the period of 7 days, beginning with the date on which the matter was referred to him, send a written request to the parties to make in writing, within a specified period, any representations which they may wish to make about the matter.

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(6) The Secretary of State shall give, with the notice given under sub-paragraph (5), to the party other than the one which referred the matter to dispute resolution a copy of the written request for dispute resolution and any accompanying documents.

(7) The Secretary of State shall give a copy of any representations received from a party to the other party and shall in each case request (in writing) a party to whom a copy of the representations is given to make within a specified period any written observations which it wishes to make on those representations.

(8) Following receipt of any representations from the parties or, if earlier, at the end of the period for making such representations specified in the request sent under sub-paragraph (5) or (7), the Secretary of State shall, if he decides to appoint a person or persons to hear the dispute—

- (a) notify the parties of the name of the person or persons whom he has appointed; and
- (b) pass to the person or persons so appointed any documents received from the parties under sub-paragraphs (2), (5) or (7).

(9) For the purpose of assisting him in his consideration of the matter, the adjudicator may—

- (a) invite representatives of the parties to appear before him to make oral representations either together or, with the agreement of the parties, separately, and may in advance provide the parties with a list of matters or questions to which he wishes them to give special consideration; or
- (b) consult other persons whose expertise he considers will assist him in his consideration of the matter.

(10) Where the adjudicator consults another person under sub-paragraph (9)(b), he shall notify the parties accordingly and, where he considers that the interests of any party might be substantially affected by the result of the consultation, he shall give to the parties such opportunity as he considers reasonable in the circumstances to make observations on those results.

(11) In considering the matter, the adjudicator shall consider—

- (a) any written representations made in response to a request under sub-paragraph (5), but only if they are made within the specified period;
- (b) any written observations made in response to an invitation under sub-paragraph (7), but only if they are made within the specified period;
- (c) any oral representations made in response to an invitation under sub-paragraph (9)(a);
- (d) the results of any consultation under sub-paragraph (9)(b); and
- (e) any observations made in accordance with an opportunity given under sub-paragraph (10).

(12) In this paragraph, “specified period” means such period as the Secretary of State shall specify in the request, being not less than two, nor more than four, weeks beginning with the date on which the notice referred to is given, but the Secretary of State may, if he considers that there is good reason for doing so, extend any such period (even after it has expired) and, where he does so, a reference in this paragraph to the specified period is to the period as so extended.

(13) Subject to the other provisions of this paragraph and paragraph 31, the adjudicator shall have wide discretion in determining the procedure of the dispute resolution to ensure the just, expeditious, economical and final determination of the dispute.

### **Determination of dispute**

**31.—**(1) The adjudicator shall record his determination and the reasons for it, in writing and shall give notice of the determination (including a record of the reasons) to the parties.

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(2) In the case of a contract referred for determination in accordance with paragraph 30(1), section 9(12) and (13) shall apply as that subsection applies in the case of a contract referred for determination in accordance with section 9(6).

(3) In the case of a contract referred for determination in accordance with paragraph 29(1), section 122(5) (GOS contracts: disputes and enforcement) shall apply as that subsection applies in the case of a contract referred for determination in accordance with section 9.

### **Interpretation of Part 6**

**32.**—(1) In this Part, reference to 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.

(2) Any term of the contract that makes provision in respect of the requirements in this Part shall survive even where the contract has terminated.

## **PART 7**

### **Variation and Termination of Contracts**

#### **Variation of a contract: general**

**33.**—(1) Save as provided in sub-paragraph (2), no amendment or variation shall have effect unless it is in writing and signed by or on behalf of the PCT and the contractor.

(2) In addition to the specific provision made in paragraphs 34(6), 35(6) and 36(3), the PCT may vary the contract without the contractor's consent where it—

- (a) is reasonably satisfied that it is necessary to vary the contract so as to comply with the Act, any regulations made under the Act, or any direction given by the Secretary of State under the Act; and
- (b) notifies the contractor of the wording of the proposed variation and the date upon which that variation is to take effect,

and, where it is reasonably practicable to do so, the date that the proposed variation is to take effect shall be not less than 14 days after the date on which the notice under paragraph (b) is served on the contractor.

#### **Variation provisions specific to a contract with an individual**

**34.**—(1) If a contractor who is an individual proposes to practise in partnership with one or more persons during the existence of the contract, the contractor shall notify the PCT of—

- (a) the name of the person or persons with whom it proposes to practise in partnership; and
- (b) the date on which the contractor wishes to change its status as a contractor from that of an individual to that of a partnership, which shall be not less than 28 days after the date upon which it has served the notice on the PCT pursuant to this sub-paragraph.

(2) A notice under sub-paragraph (1) shall in respect of the person or each of the persons with whom the contractor is proposing to practise in partnership, and also in respect of itself as regards the matters specified in sub-paragraph (d)—

- (a) state whether he is an ophthalmic practitioner;
- (b) contain an application form completed in accordance with Schedule 3 from that person;
- (c) confirm that he is a person who satisfies the conditions imposed by regulation 4; and

(d) state whether or not it is to be a limited partnership, and if so, who is to be a limited and who is to be a general partner,  
and the notice shall be signed by the contractor and by the person, or each of the persons (as the case may be), with whom he is proposing to practise in partnership.

(3) The contractor shall ensure that any person who will practise in partnership with it is bound by the contract, whether by virtue of a partnership deed or otherwise.

(4) If the PCT is satisfied as to the accuracy of the matters specified in sub-paragraph (2) that are included in the notice and of the suitability of that person or persons, the PCT shall give notice to the contractor confirming that the contract shall continue with the partnership entered into by the contractor and its partners, from a date that the PCT specifies in that notice.

(5) Where it is reasonably practicable, the date specified by the PCT pursuant to sub-paragraph (4) shall be the date requested in the notice served by the contractor pursuant to sub-paragraph (1), or, where that date is not reasonably practicable, the date specified shall be a date after the requested date that is as close to the requested date as is reasonably practicable.

(6) Where a contractor has given notice to the PCT pursuant to sub-paragraph (1), the PCT—

- (a) 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 an individual to a partnership; and
- (b) if it does propose to so vary the contract, it shall include in the notice served on the contractor pursuant to sub-paragraph (4) the wording of the proposed variation and the date upon which that variation is to take effect.

**Variation provisions specific to a contract with two or more individuals practising in partnership changing to a contract with an individual**

**35.—**(1) Subject to sub-paragraph (4), where a contractor consists of two or more individuals practising in partnership, in the event that the partnership is terminated or dissolved, the contract shall only continue with one of the former partners if that partner is nominated in accordance with sub-paragraph (3) and provided that the requirements in sub-paragraphs (2) and (3) are met.

(2) A contractor shall notify the PCT at least 28 days in advance of the date on which the contractor proposes to change its status from that of a partnership to that of an individual.

(3) A notice under sub-paragraph (2) shall—

- (a) specify the date on which the contractor proposes to change its status from that of a partnership to that of an individual;
- (b) specify the name of the individual with whom the contract will continue, which must be one of the partners; and
- (c) be signed by all of the persons who are practising in partnership.

(4) If a partnership is terminated or dissolved because, in a partnership consisting of two individuals practising in partnership, one of the partners has died, sub-paragraphs (1) to (3) shall not apply and—

- (a) the contract shall continue with the individual who has not died; and
- (b) that individual shall in any event notify the PCT as soon as is reasonably practicable of that partner's death.

(5) When the PCT receives a notice pursuant to sub-paragraph (2) or (4)(b), it shall acknowledge in writing receipt of the notice, and in relation to a notice served pursuant to sub-paragraph (2), the PCT shall do so before the date specified pursuant to sub-paragraph (3)(a).

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(6) Where a contractor gives notice to the PCT pursuant to sub-paragraph (2) or (4)(b), the PCT 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 a partnership to an individual.

(7) If the PCT varies the contract pursuant to sub-paragraph (6), it shall notify the contractor of the wording of the proposed variation and the date upon which that variation is to take effect.

### **Variation provisions specific to a contract with two or more individuals practising in partnership increasing the number of partners**

**36.**—(1) Where a contractor has given notice under paragraph 18(1) that a new partner or partners has joined or proposes to join the partnership, if the PCT is satisfied as to the accuracy of the matters specified in paragraph 18(2) that are included in the notice and of the suitability of that person or persons, the PCT shall give notice to the contractor confirming that the contract shall continue with the partnership entered into by the contractor and its partners, from a date that the PCT specifies in that notice.

(2) Where it is reasonably practicable, the date specified by the PCT pursuant to sub-paragraph (1) shall be the date requested in the notice served by the contractor pursuant to paragraph 18 or, where that date is not reasonably practicable, the date specified shall be a date after the requested date that is as close to the requested date as is reasonably practicable.

- (3) Where a contractor has given notice to the PCT pursuant to sub-paragraph (1), the PCT—
- (a) may vary the contract, but only to the extent that it is satisfied is necessary to reflect the change in the partners; and
  - (b) if it does propose to so vary the contract, it shall include in the notice served on the contractor pursuant to sub-paragraph (1) the wording of the proposed variation and the date upon which that variation is to take effect.

### **Termination by agreement**

**37.** The PCT and the contractor may agree in writing to terminate the contract, and if the parties so agree, they shall agree the date upon which that termination should take effect and any further terms upon which the contract should be terminated.

### **Termination on the death of an individual contractor**

**38.**—(1) Where the contract is with an individual who dies, the contract shall terminate at the end of the period of 7 days after the date of death unless, before the end of that period—

- (a) subject to sub-paragraph (2), the PCT has agreed in writing with the contractor's personal representatives that the contract should continue for a further period, not exceeding 3 months, after the end of the period of 7 days; and
- (b) the contractor's personal representatives have notified the PCT that they are employing one or more ophthalmic practitioners to perform ophthalmic services under the contract throughout the period for which it continues.

(2) Where the PCT is of the opinion that another contractor may wish to enter into a contract in respect of the services which were provided by the deceased, the 3 month period referred to in sub-paragraph (1)(a) may be extended by a period not exceeding 6 months as may be agreed.

(3) Sub-paragraph (1) does not affect any other rights to terminate the agreement which the PCT may have under this Part of this Schedule.

### **Termination by the contractor**

**39.**—(1) A contractor may terminate the contract by serving notice on the PCT at any time.

(2) Where a contractor serves notice pursuant to sub-paragraph (1), the contract shall terminate on a date 3 months after the date on which the notice is served (“the termination date”), save that if the termination date is not the last calendar day of a month, the contract shall instead terminate on the last calendar day of the month in which the termination date falls.

(3) This paragraph and paragraph 40 are without prejudice to any other rights to terminate the contract that the contractor may have.

### **Late payment notices**

**40.**—(1) The contractor may notify (a “late payment notice”) the PCT if the PCT has failed to make any payments due to the contractor in accordance with a term of the contract that has the effect specified in regulation 15 (finance), and the contractor shall specify in the late payment notice the payments that the PCT has failed to make in accordance with that regulation.

(2) Subject to sub-paragraph (3), the contractor may, at least 28 days after having served a late payment notice, terminate the contract by a further notice if the PCT has still failed to make the payments that were due to the contractor and that were specified in the late payment notice served on the PCT pursuant to sub-paragraph (1).

(3) If, following receipt of a late payment notice, the PCT refers the matter to the NHS dispute resolution procedure within 28 days of the date upon which it is served with the late payment notice, and it notifies the contractor in writing that it has done so within that period of time, the contractor may not terminate the contract pursuant to sub-paragraph (2) until—

- (a) there has been a determination of the dispute pursuant to paragraph 30 and that determination permits the contractor to terminate the contract; or
- (b) the PCT ceases to pursue the NHS dispute resolution procedure,

whichever is the sooner.

### **Termination by the PCT: general**

**41.** The PCT may only terminate the contract in accordance with the provisions in paragraphs 17(3) or 18(3) or this Part of this Schedule.

### **Termination by the PCT: contractor’s inability to perform services**

**42.**—(1) Where a contractor is an individual who is an ophthalmic practitioner and ceases to be able to perform as an ophthalmic practitioner by virtue of a suspension specified in sub-paragraph (2), the PCT shall serve notice on the contractor terminating the contract forthwith unless—

- (a) the contractor is able to satisfy the PCT that it has in place adequate arrangements for the provision of ophthalmic services under the contract for so long as the suspension continues; and
- (b) the PCT is satisfied that the circumstances of the suspension are such that if the contract is not terminated forthwith—
  - (i) the safety of the contractor’s patients is not at serious risk; and
  - (ii) the PCT is not at risk of material financial loss.

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

- (a) suspension of the ophthalmic practitioner by his licensing body; or
- (b) suspension of the ophthalmic practitioner from an ophthalmic performers list.

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### **Termination by the PCT for the provision of untrue etc. information**

**43.** The PCT may serve notice on the contractor terminating the contract forthwith, or from such date as may be specified in the notice if, after the contract has been entered into, it comes to the attention of the PCT that written information—

- (a) provided to the PCT by the contractor before the contract was entered into;
- (b) provided to the PCT by the contractor pursuant to paragraph 17(2), 18(2) or 19(2); or
- (c) which should have been notified under paragraphs 16 to 18,

in relation to the conditions set out in regulation 4, the information as to suitability in Schedule 3 and compliance with those conditions or that information was, when given, untrue or inaccurate in a material respect or, in a case to which sub-paragraph (c) applies, the information that was not notified was material.

### **Termination by the PCT on grounds of suitability etc.**

**44.—(1)** The PCT shall serve notice on the contractor terminating the contract forthwith, or from such date as may be specified in the notice, if, in the case of a contract with—

- (a) an individual, that individual;
- (b) two or more individuals practising in partnership, any individual or the partnership; or
- (c) a corporate body—
  - (i) that body; or
  - (ii) any director, chief executive or secretary of that body,

falls within sub-paragraph (2) during the existence of the contract.

(2) A person falls within this sub-paragraph if—

- (a) it is the subject of a national disqualification or a contract disqualification order;
- (b) subject to sub-paragraph (3), it is 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;
- (c) subject to sub-paragraph (4), he has been dismissed (otherwise than by reason of redundancy) from any employment by a health service body unless, before the PCT has served a notice terminating the contract pursuant to this paragraph, he is employed by the health service body that dismissed him or by another health service body;
- (d) it is 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) respectively) unless its name has subsequently been included in such a list;
- (e) he has been convicted in the United Kingdom of—
  - (i) murder; or
  - (ii) a criminal offence other than murder and has been sentenced to a term of imprisonment of over 6 months;
- (f) subject to sub-paragraph (5), he has been convicted outside the United Kingdom of an offence, which would if committed in England and Wales constitute—
  - (i) murder; or
  - (ii) a criminal offence other than murder, and been sentenced to a term of imprisonment of over 6 months;
- (g) he 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 which



special provisions apply) or Schedule 1 to the Criminal Procedure (Scotland) Act 1995 (offences against children under the age of 17 years to which special provisions apply);

- (h) it has—
    - (i) been adjudged bankrupt or had sequestration of his estate awarded unless (in either case) he has been discharged or the bankruptcy order has been annulled;
    - (ii) been made the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986, unless that order has ceased to have effect or has been annulled;
    - (iii) made a composition or arrangement with, or granted a trust deed for, its creditors unless it has been discharged in respect of it; or
    - (iv) been wound up under Part IV of the Insolvency Act 1986;
  - (i) there is—
    - (i) an administrator, administrative receiver or receiver appointed in respect of it; or
    - (ii) an administration order made in respect of it under Schedule B1 to the Insolvency Act 1986;
  - (j) that person is a partnership and—
    - (i) a dissolution of the partnership is ordered by any competent court, tribunal or arbitrator; or
    - (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;
  - (k) he has been—
    - (i) removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated; or
    - (ii) removed under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (powers of the Court of Session to deal with management of charities), from being concerned in the management or control of any body;
  - (l) he is subject to a disqualification order under the Company Directors Disqualification Act 1986, the Companies (Northern Ireland) Order 1986 or to an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order); or
  - (m) he has refused to comply with a request by the PCT for him to be medically examined on the grounds that it is concerned that he 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 corporate body, the PCT is not satisfied that the contractor is taking adequate steps to deal with the matter.
- (3) A PCT shall not terminate the contract pursuant to sub-paragraph (2)(b) where the PCT is satisfied that the disqualification or suspension imposed by a licensing body outside the United Kingdom does not make the person unsuitable to be, as the case may be—
- (a) a contractor;
  - (b) in the case of a contract with two or more individuals practising in partnership, a partner; or
  - (c) in the case of a contract with a corporate body, a director, chief executive or secretary of that body.
- (4) A PCT shall not terminate the contract pursuant to sub-paragraph (2)(c)—

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- (a) until a period of at least 3 months has elapsed since the date of the dismissal of the person concerned; or
- (b) if during the period of time specified in paragraph (a), the person concerned brings proceedings in any competent tribunal or court in respect of his dismissal, until proceedings before that tribunal or court are concluded,

and the PCT may only terminate the contract at the end of the period specified in sub-paragraph (b) if there is no finding of unfair dismissal at the end of those proceedings.

(5) A PCT shall not terminate the contract pursuant to sub-paragraph (2)(f) where the PCT is satisfied that the conviction does not make the person unsuitable to be, as the case may be—

- (a) a contractor;
- (b) in the case of a contract with two or more individuals practising in partnership, a partner; or
- (c) in the case of a contract with a corporate body, a director, chief executive or secretary of that body.

#### **Immediate Termination by the PCT**

**45.** The PCT may serve notice on the contractor terminating the contract forthwith, or with effect from such date as may be specified in the notice, if—

- (a) the contractor has breached the contract and, as a result of that breach, the safety of the contractor’s patients is at risk if the contract is not terminated;
- (b) the contractor’s financial situation is such that the PCT considers that the PCT is at risk of material financial loss; or
- (c) the contractor has breached the contract and, in the judgment of the PCT, that breach is so significant that it is inappropriate that the contract should continue.

#### **Termination by the PCT: remedial notices and breach notices**

**46.—(1)** Where a contractor has breached the contract other than as specified in paragraphs 42 to 45 and the breach is capable of remedy, the PCT shall, before taking any action it is otherwise entitled to take by virtue of the contract, serve a notice on the contractor requiring it to remedy the breach (“remedial notice”).

(2) A remedial notice shall specify—

- (a) details of the breach;
- (b) the steps the contractor must take in order to remedy the breach to the satisfaction of the PCT; and
- (c) the period during which the steps must be taken (“the notice period”).

(3) The notice period shall, unless the PCT is satisfied that a shorter period is necessary to—

- (a) protect the safety of the contractor’s patients; or
- (b) protect itself from material financial loss,

be no less than 28 days from the date that notice is given.

(4) Where a PCT is satisfied that the contractor has not taken the required steps to remedy the breach by the end of the notice period, the PCT may terminate the contract with effect from such date as the PCT may specify in a further notice to the contractor.

(5) Where a contractor has breached the contract other than as specified in paragraphs 42 to 45 and the breach is not capable of remedy, the PCT may serve notice on the contractor requiring the contractor not to repeat the breach (“breach notice”).

(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 breach notice,

the PCT may serve notice on the contractor terminating the contract with effect from such date as may be specified in that notice.

(7) The PCT shall not exercise its right to terminate the contract under sub-paragraph (6) unless it is satisfied that the cumulative effect of the breaches is such that the PCT considers that to allow the contract to continue would be prejudicial to the efficiency of the services to be provided under the contract.

(8) If the contractor is in breach of any obligation and a breach notice or a remedial notice in respect of that breach has been given to the contractor, the PCT may withhold or deduct monies which would otherwise be payable under the contract in respect of that obligation which is subject of the breach.

### **Termination by the PCT: additional provisions**

**47.—**(1) If the PCT becomes aware that the contractor is carrying on any business which the PCT considers to be detrimental to the contractor’s performance of its obligations under the contract—

- (a) the PCT shall be entitled to give notice to the contractor requiring that it ceases carrying on that business before the end of a period of not less than 28 days beginning on the day on which the notice is given (“the notice period”); and
- (b) if the contractor has not satisfied the PCT that it has ceased carrying on that business by the end of the notice period, the PCT may, by a further notice, terminate the contract forthwith or from such date as may be specified in the notice.

(2) Where the contractor is—

- (a) an individual, who is a registered optometrist;
- (b) a partnership and one of the partners is a registered optometrist; or
- (c) a corporate body and it or a director, chief executive or the secretary of that body is a registered optometrist,

who is the subject of a direction pursuant to section 13F of the Opticians Act (powers of the fitness to practice committee)(7), or an order pursuant to section 13H (financial penalty order) of that Act, the PCT may, by notice, terminate the contract if it considers that as a consequence the contractor is no longer suitable to be a contractor.

(3) Where the contractor is two or more persons practising in partnership, the PCT shall be entitled to terminate the contract by notice on such date as may be specified in that notice where one or more partners have left the practice during the existence of the contract if, in its reasonable opinion, the PCT considers that the change in membership of the partnership is likely to have a serious adverse impact on the ability of the contractor or the PCT to perform its obligations under the contract.

(4) A notice given to the contractor pursuant to sub-paragraph (3) shall specify—

- (a) the date upon which the contract is to be terminated; and
- (b) the PCT’s reasons for considering that the change in the membership of the partnership is likely to have the serious adverse impact specified in sub-paragraph (3).

### **Contract sanctions**

**48.—**(1) In this paragraph and paragraph 49, “contract sanction” means—

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(7) Sections 13F and 13H were inserted by [S.I. 2005/848](#).

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- (a) termination of specified reciprocal obligations under the contract;
- (b) suspension of specified reciprocal obligations under the contract for a period of up to 6 months; or
- (c) withholding or deducting monies otherwise payable under the contract.

(2) Where the PCT is entitled to terminate the contract pursuant to this Part of this Schedule, it may instead impose any of the contract sanctions if it is reasonably satisfied that the contract sanction to be imposed is appropriate and proportionate to the circumstances giving rise to its entitlement to terminate the contract.

(3) If the PCT decides to impose a contract sanction, it must notify the contractor of the contract sanction that it proposes to impose, the date upon which that sanction will be imposed and provide in that notice an explanation of the effect of the imposition of that sanction.

(4) Subject to paragraph 49, the PCT shall not impose the contract sanction until at least 28 days after it has served notice on the contractor pursuant to sub-paragraph (3), unless the PCT is satisfied that it is necessary to do so in order to—

- (a) protect the safety of the contractor’s patients; or
- (b) protect itself from material financial loss.

(5) Where the PCT imposes a contract sanction, the PCT shall be entitled to charge the contractor the reasonable costs of additional administration that the PCT has incurred in order to impose, or as a result of imposing, the contract sanction.

#### **Contract sanctions and the NHS dispute resolution procedure**

**49.**—(1) If there is a dispute between the PCT and the contractor in relation to a contract sanction that the PCT is proposing to impose, subject to sub-paragraph (4), the PCT shall not impose the proposed contract sanction, except in the circumstances specified in sub-paragraph (2) or (3).

(2) If the contractor refers the dispute relating to the contract sanction to the NHS dispute resolution procedure within 28 days beginning on the date on which the PCT served notice on the contractor in accordance with paragraph 30(3) (or such longer period as may be agreed in writing with the PCT), and notifies the PCT that it has done so, the PCT shall not impose the contract sanction unless—

- (a) there has been a determination of the dispute pursuant to paragraph 33 and that determination permits the PCT to impose the contract sanction; or
- (b) the contractor ceases to pursue the NHS dispute resolution procedure,

whichever is the sooner.

(3) If the contractor does not invoke the NHS dispute resolution procedure within the time specified in sub-paragraph (2), the PCT shall be entitled to impose the contract sanction forthwith.

(4) If the PCT is satisfied that it is necessary to impose the contract sanction before the NHS dispute resolution procedure is concluded in order to—

- (a) protect the safety of the contractor’s patients; or
- (b) protect itself from material financial loss,

the PCT shall be entitled to impose the contract sanction forthwith, pending the outcome of that procedure.

#### **Termination and the NHS dispute resolution procedure**

**50.**—(1) Where the PCT is entitled to serve notice on the contractor terminating the contract pursuant to any provision of this Schedule, the PCT shall, in the notice served on the contractor

pursuant to those provisions, specify a date on which the contract terminates, that is not less than 28 days after the date on which the PCT has served that notice on the contractor, unless sub-paragraph (2) applies.

(2) This sub-paragraph applies if the PCT is satisfied that a period less than 28 days is necessary in order to—

- (a) protect the safety of the contractor’s patients;
- (b) protect itself from material financial loss; or
- (c) otherwise protect the interest of the public.

(3) In a case falling with sub-paragraph (1), where the exceptions in sub-paragraph (2) do not apply, where the contractor invokes the NHS dispute resolution procedure before the end of the period of notice referred to in sub-paragraph (1), and it notifies the PCT that it has done so, the contract shall not terminate at the end of the notice period, but instead shall only terminate in the circumstances specified in sub-paragraph (4).

(4) The contract shall only terminate if and when—

- (a) there has been a determination of the dispute pursuant to paragraph 31 and that determination permits the PCT to terminate the contact; or
- (b) the contractor ceases to pursue the NHS dispute resolution procedure,

whichever is the sooner.

(5) If the PCT is satisfied that it is necessary to terminate the contract before the NHS dispute resolution procedure is concluded in order to—

- (a) protect the safety of the contractor’s patients; or
- (b) protect itself from material financial loss,

sub-paragraphs (3) and (4) shall not apply and the PCT shall be entitled to confirm, by notice to be served on the contractor, that the contract will nevertheless terminate at the end of the period of the notice the PCT served pursuant to the provisions of this Part of this Schedule.

## PART 8

### Miscellaneous

#### **Insurance: negligent performance and public liability**

51.—(1) The contractor shall at all times hold adequate—

- (a) insurance against liability arising from negligent performance of clinical services under the contract; and
- (b) public liability insurance in relation to liabilities to third parties arising under or in connection with the contract which are not covered by the insurance referred to in (a).

(2) In this paragraph—

- (a) “insurance” means a contract of insurance or other arrangement made for the purpose of indemnifying the contractor; and
- (b) a contractor shall be regarded as holding insurance in relation to any of its employees if it is held by that employee in connection with clinical services which that employee provides under the contract.

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## **Gifts**

**52.**—(1) The contractor shall keep a register of gifts which are given to any of the persons specified in sub-paragraph (2) by or on behalf of—

- (a) a patient;
- (b) a relative of a patient; or
- (c) any person who provides or wishes to provide services to the contractor or its patients in connection with the contract,

and have, in its reasonable opinion, an individual value of more than £100.00.

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

- (a) the contractor;
- (b) where the contract is with two or more individuals practising in partnership, any partner;
- (c) where the contract is with a corporate body, a director, chief executive or secretary of that body;
- (d) any person employed by the contractor for the purposes of the contract;
- (e) any ophthalmic practitioner engaged by the contractor for the purposes of the contract;
- (f) any spouse or civil partner of a contractor (where the contractor is an individual) or of a person specified in paragraphs (b) to (e); or
- (g) any person whose relationship with the contractor (where the contractor is an individual) or with a person specified in paragraphs (b) to (e) has the characteristics of the relationship between husband and wife or civil partners.

(3) Sub-paragraph (1) does not require a gift to be registered 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) in a case falling within sub-paragraph (1)(c), the contractor is not aware that the donor wishes to provide services to the contractor.

(4) The contractor shall take reasonable steps to ensure that it is informed of gifts which fall within sub-paragraph (1) and which are given to any of the persons specified in sub-paragraph (2) (b) to (2)(g).

(5) The register referred to in sub-paragraph (1) shall 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, his 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.

(6) The contractor shall make the register available to the PCT on request.

## **Compliance with legislation and guidance**

**53.** The contractor shall—

- (a) comply with all relevant legislation; and

- (b) have regard to all relevant guidance issued by the PCT, the relevant Strategic Health Authority or the Secretary of State.

### **Third party rights**

- 54.** The contract shall not create any right enforceable by any person not a party to it.

### **Signing of documents**

**55.**—(1) In addition to any other requirement that may relate to the signing of documents whether in these Regulations or otherwise, the contractor shall ensure such documents include—

- (a) the name of anyone who signed the documents;
  - (b) if he is a member of a clinical profession, that fact, identifying the profession; and
  - (c) the name of the contractor on whose behalf it is signed.
- (2) The reference to documents in sub-paragraph (1) include—
- (a) forms that are required to be completed as a consequence of these Regulations, where such forms require a signature;
  - (b) any clinical document.