

# NATIONAL HEALTH SERVICE ACT 2006

## NATIONAL HEALTH SERVICE LITIGATION AUTHORITY (PRIMARY MEDICAL SERVICES – GENERAL PRACTICE SYSTEMS OF CHOICE PRIMARY CARE TRUST – PRACTICE AGREEMENT - DISPUTE RESOLUTION) DIRECTIONS 2008

The Secretary of State for Health makes the following Directions in exercise of the powers conferred by sections 7(1) and 8 of the National Health Service Act 2006(a).

### Citation, commencement and application

1.—(1) These Directions, which may be cited as the National Health Service Litigation Authority (Primary Medical Services – General Practice Systems of Choice Primary Care Trust – Practice Agreement - Dispute Resolution) Directions 2008, shall come into force on 8th August 2008.

(2) These Directions apply in relation to England.

### Interpretation

2. In these Directions—

“the Authority” means the National Health Service Litigation Authority established by article 2 of the National Health Service Litigation Authority (Establishment and Constitution) Order 1995(b);

“GMS contractor” means a person with whom a Primary Care Trust is entering or has entered into a general medical services contract(c);

“GPSoC” means General Practice Systems of Choice;

“GPSoC Compliant System” means a GP clinical IT system for use in a primary medical services provider’s practice under the terms of the GPSoC Framework Agreement;

“GPSoC Framework Agreement” means the agreements between the Secretary of State for Health and a selection of service providers for the provision of GPSoC Compliant Systems;

“GPSoC PCT - Practice Agreement” means an agreement between a primary medical services provider and a Primary Care Trust based on the standard PCT – Practice Agreement Terms Governing the Provision and Receipt of a GPSoC Compliant System and Managed IM&T Services document issued by NHS Connecting for Health in February 2008(d) (as amended from time to time) which contains the terms governing the provision and receipt as between those parties of a GPSoC Compliant System and Managed IM&T Services;

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(a) 2006 c.41.

(b) S.I. 1995/2800, as amended by S.I. 2002/2621 and 2005/503.

(c) See section 84(2) of the National Health Service Act 2006.

(d) <http://www.connectingforhealth.nhs.uk/systemsandservices/gpsupport/gpsoc/signing>

“IM&T Services” means Information Management and Technology Services;  
“PMS contractor” means a person with whom a Primary Care Trust is entering or has entered into section 92 arrangements<sup>(a)</sup> which require the provision by that person of primary medical services;

“primary medical services provider” means—

- (a) a GMS or PMS contractor; or
- (b) a person with whom a Primary Care Trust is making or has made contractual arrangements for the provision of primary medical services under section 83(2)(b) of the National Health Service Act 2006.

### **Functions exercisable by the Authority**

3. The functions of the Secretary of State under section 9(8) of the National Health Service Act 2006 (NHS contracts) in respect of any dispute referred to the Secretary of State in accordance with section 9(6) of that Act arising in respect of a GPSoC PCT - Practice Agreement shall be exercised on behalf of the Secretary of State by the Authority.

4. In exercising the functions of the Secretary of State pursuant to direction 3 the Authority shall comply with the following provisions of these directions.

### **Consideration of disputes referred**

5. On receipt of a reference of a dispute arising in respect of a GPSoC PCT - Practice Agreement, the Authority shall, within the period of 7 days beginning with the day upon which the matter is referred to the Authority, send a written request to both parties to the GPSoC PCT - Practice Agreement to make, in writing, within such period as may be specified by the Authority (being not less than two nor more than four weeks beginning with the date on which the written request is sent) any representations which they may wish to make about the matter under dispute.

6. The Authority shall give, with the written request sent in accordance with direction 5, to the party other than the one which referred the matter to dispute resolution, a copy of any document by which the matter was referred to dispute resolution.

7. The Authority shall give a copy of any representations received from any party to the other party and shall in each case request (in writing) the party to whom a copy of the representations is given to make, within such period as may be specified by the Authority (being not less than two nor more than four weeks beginning with the date on which the written request is sent) any written observations which it wishes to make on those representations.

8. Following receipt of any representations requested in accordance with direction 5, or of any observations requested in accordance with direction 7, or, if earlier, at the end of the period for making representations specified in any request sent in accordance with direction 5 or, if a request has been sent in accordance with direction 7, at the end of the period for making observations specified in such request, the

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(a) See section 92(8) of the National Health Service Act 2006.

Authority shall decide whether it will determine the matter itself or whether it will appoint a person to consider and determine it in accordance with regulations(a).

### **Appointment of a person to consider and determine a dispute in accordance with regulations**

**9.** If the Authority decides that it will appoint a person to consider and determine the matter in accordance with regulations it must—

- (a) inform the parties in writing of the name of the person whom it has appointed, and
- (b) pass to the person so appointed any documents by which the matter was originally referred, any documents received from the parties in response to a request sent in accordance with direction 5 and any documents received from the parties in response to a request sent in accordance with direction 7.

### **Determination of a dispute by the Authority**

**10.** If the Authority decides that it will determine the matter itself, it shall inform the parties accordingly.

**11.** If the Authority decides that it will determine the matter itself it may, if it considers that it would be assisted in its consideration of the matter by so doing, invite representatives of the parties to appear before it to make oral representations either together or, with the agreement of the parties, separately.

**12.** If the Authority decides to invite representatives of the parties to appear before it in accordance with direction 11, it may, if it considers that it would be assisted in its consideration of the matter by so doing, provide the parties in advance with a list of matters or questions to which it wishes them to give special consideration.

**13.** If the Authority decides it will determine the matter itself it may, if it considers that it would be assisted in its consideration of the matter by consulting some other person or persons with relevant expertise, consult such other person or persons.

**14.** If the Authority consults another person in accordance with direction 13 it shall notify the parties accordingly in writing and, where it considers that the interest of any party might be substantially affected by the results of the consultation, it shall give the parties such opportunity as it considers reasonable in the circumstances to make observations on those results.

**15.** In considering any matter referred for resolution, the Authority shall consider—

- (a) any written representations it has received in response to a request made in accordance with direction 5, but only if they are made within the specified period;
- (b) any written observations it has received in response to a request made in accordance with direction 7, but only if they are made within the specified period;

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(a) The National Health Service Contracts (Dispute Resolution) Regulations 1996 [S.I. 1996/623] apply to the consideration and determination of a matter by a person appointed under section 9(8) of the National Health Service Act 2006.

- (c) any oral representations made in response to an invitation issued in accordance with direction 11;
- (d) the results of any consultation undertaken in accordance with paragraph 13;
- (e) any observations made in accordance with an opportunity given in accordance with direction 14.

**16.** Subject to complying with the provisions of these directions, the Authority shall use its discretion in determining the procedure of the dispute resolution so as to ensure, as far as possible, the just, expeditious, economical and final determination of the dispute.

**17.** The Authority shall record its determination, and the reasons for it, in writing and shall give notice of the determination (including the record of the reasons) to the parties.

Signed by authority of the Secretary of State

A handwritten signature in cursive script, appearing to read 'Mark D. ...', is positioned below the text 'Signed by authority of the Secretary of State'.

A member of the Senior Civil Service  
Department of Health

6 August 2008