

NATIONAL HEALTH SERVICE ACT 1977

DIRECTIONS TO PRIMARY CARE TRUSTS CONCERNING PATIENT LISTS (PERSONAL MEDICAL SERVICES) (TRANSITIONAL AGREEMENTS) 2004

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

Application, commencement and interpretation

1.—(1) These Directions, which may be cited as the Primary Care Trusts Concerning Patient Lists (Personal Medical Services) (Transitional Agreements) Directions 2004, are given to PCTs in England and shall come into force on 1st April 2004.

(2) In these Directions—

“the Choice Regulations” means the National Health Service (Choice of Medical Practitioner) Regulations 1998(**b**) as they had effect on 31st March 2004 as modified by article 63 of the Transitional and Consequential Provisions Order;

“contractor” has the meaning assigned to it in article 57 of the Transitional and Consequential Provisions Order;

“doctor” means, in relation to a particular transitional agreement, a doctor who performs PMS in connection with that agreement;

“doctor’s list” means a list of persons who have been accepted by or assigned to a doctor under the Choice Regulations or the Transitional and Consequential Provisions Order, otherwise than as temporary residents;

“essential services” has the meaning assigned to it in regulation 2 of the PMS Agreement Regulations;

“PCT” means a Primary Care Trust;

“PMS” means personal medical services within the meaning of section 1(8) of the National Health Service (Primary Care) Act 1997(**c**) prior to its repeal in relation to personal medical services;

“PMS Agreement Regulations” means the National Health Service (Personal Medical Services Agreements) Regulations 2004(**d**);

“pooled list” means a list of persons who have been accepted by a contractor for the provision of PMS, and who are not included in a doctor’s list;

“temporary resident” has the meaning assigned to it in the Choice Regulations;

(a) 1977 c.49. Section 17 was substituted by the Health Authorities Act 1995 (c.17), paragraph 8 of Schedule 1.

(b) S.I. 1998/668; amended by S.I. 1999/3179 and 2002/2469.

(c) 1997 c. 46.

(d) S.I. 2004/627.

“transitional agreement” has the meaning assigned to it in article 1(4) of the Transitional and Consequential Provisions Order;

“transitional agreement list of patients” means the list which is to be kept by a PCT under direction 2;

“Transitional and Consequential Provisions Order” means the General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004(a), and

other expressions have the meanings respectively assigned to them in the National Health Service (General Medical Services) Regulations 1992(b) as they had effect on 31st March 2004 as modified by article 62 of the Transitional and Consequential Provisions Order.

Transitional agreement lists of patients

2.—(1) A PCT shall in respect of a contractor prepare and keep up to date a transitional agreement list of patients and that list shall be made up of—

(a) a doctor’s list in respect of each doctor, who is, under a transitional agreement, to have such a list; and

(b) if, in accordance with a transitional agreement, there is to be a pooled list, that list.

(2) Subject to direction 5(2), where a person is accepted by—

(a) a doctor for inclusion in his list; or

(b) a contractor for inclusion in a pooled list,

the PCT shall include that person in the transitional agreement list of patients from the date on which it receives notification of acceptance from the doctor or, as the case may be, the contractor.

(3) Where a transitional agreement is varied pursuant to article 59 of the Transitional and Consequential Provisions Order, the names of the patients included in the transitional agreement list of patients shall be transferred to the first list of patients to be prepared by the Primary Care Trust pursuant to paragraph 13 of Schedule 5 to the PMS Agreement Regulations.

Removal from a transitional agreement list of patients at the request of the contractor

3.—(1) Where, in accordance with the terms of a transitional agreement, a contractor notifies the PCT in writing that he wishes to have any person removed from the transitional agreement list of patients, the PCT shall, subject to paragraph (2), remove that person—

(a) S.I. 2004/865.

(b) S.I. 1992/635, regulation 2(1) (to which there have been amendments which are not relevant to these Directions).

- (a) on the date on which the person is accepted by or assigned to a provider of essential services (or their equivalent) or doctor or is accepted for inclusion in a pooled list (where the list of the doctor or, as the case may be, the pooled list, does not form part of the transitional agreement list of patients in which the person was included immediately before acceptance or assignment); or
- (b) at the end of the period of eight days beginning with the day on which the PCT receives the notice,

whichever is the sooner.

(2) Where, at the date on which the removal would take effect under paragraph (1), a doctor is treating the person at intervals of less than seven days, the PCT shall remove that person—

- (a) at the end of the period of eight days beginning with the day on which the PCT receives notification from the contractor that the person no longer needs such treatment; or
- (b) on the date on which the person is accepted by or assigned to a provider of essential services (or their equivalent) or a doctor or accepted for inclusion in a pooled list (where the list of the doctor or, as the case may be, the pooled list, does not form part of the transitional agreement list of patients in which the person was included immediately before acceptance or assignment),

whichever is the sooner.

(3) Where, in a case of violence or threatened violence against a doctor, the contractor notifies the PCT, in accordance with the terms of a transitional agreement, that he wishes to have a person removed from the transitional agreement list of patients with immediate effect, the PCT shall remove that person from the list on receipt of that notification.

(4) In paragraphs (2) and (3), “doctor” includes a doctor who performs PMS in connection with a transitional agreement by virtue of being a person who is currently engaged in employment under section 10 of the Medical Act 1983^(a) in an approved medical practice^(b).

Removal from a transitional agreement list of patients by the PCT

4.—(1) Where a person on a transitional agreement list of patients has moved to an address outside the PCT’s area, or the address of that person is no longer known to the PCT, the PCT shall in writing—

- (a) give notice to the contractor that it intends, at the end of the period of six months beginning with the date of the notice, to remove the person from the transitional agreement list of patients; and

^(a) 1983 c.54.

^(b) See section 11(4) as amended by section 35 of the 1997 Act; the regulations made under this section are the Medical Act 1983 Approved Medical Practices and Conditions of Residence) and NHS (GMS) (Amendment) Regulations 1998 (S.I. 1998/1664).

- (b) at the end of that period, remove the person from the transitional agreement list of patients, unless within that period the contractor satisfies the PCT that he is responsible for providing PMS or primary medical services for that person.

(2) Where a PCT is satisfied that a person on a transitional agreement list of patients no longer resides at a place where the contractor is responsible for the provision of PMS for him, the PCT shall in writing—

- (a) inform that person and the contractor that the contractor is no longer responsible for providing PMS for him;
- (b) advise the person either to obtain the contractor's agreement to continue to provide PMS for him if his condition so requires, or to seek acceptance by a doctor (other than a doctor who is a doctor in relation to the transitional agreement in question) or another provider of essential services (or their equivalent); and
- (c) inform the person that if, at the end of the period of 30 days commencing on the date on which the letter of advice mentioned in sub-paragraph (b) is sent, he has not been accepted by a provider of essential services (or their equivalent) or a doctor, or applied to the PCT for assignment to a provider of essential services (or their equivalent), the PCT will remove him from the transitional agreement list of patients.

(3) If, at the expiration of the period of 30 days referred to in paragraph (2)(c), the person has not been accepted by a provider of essential services (or their equivalent) or a doctor, or applied to the PCT for assignment to a provider of essential services (or their equivalent) or a doctor, the PCT shall remove the patient from the transitional agreement list of patients and inform him and the contractor accordingly.

(4) Where a person on the transitional agreement list of patients dies, or is absent from the United Kingdom for a period of more than three months, the PCT shall remove him from the transitional agreement list of patients from the date on which the PCT first receives notification of the death, or that the absence has exceeded three months.

(5) Where a person on a transitional agreement list of patients—

- (a) leaves the United Kingdom with the intention of being away for a period of at least three months;
- (b) is in Her Majesty's forces; or
- (c) is serving a prison sentence of more than two years, or sentences totalling in the aggregate more than that period,

the PCT shall remove him from the transitional agreement list of patients from the date on which it first receives notification of the departure, enlistment or imprisonment.

(6) Where the PCT receives particulars of persons who are pupils at, or staff or residents of, a school or residential institution where a contractor is responsible for the provision of PMS, it shall remove from the transitional agreement list of patients any persons appearing

on that list as pupils at, or staff or residents of, the school or institution who are not shown in those particulars.

(7) Where the PCT has made a request to a school or residential institution to provide the particulars mentioned in paragraph (6) and has not received them, it may, after consulting the contractor, remove from the transitional list of patients any persons appearing on that list as pupils at, or staff or residents of, the school or institution.

(8) Any other removal of a person from a transitional agreement list of patients shall take effect from the date on which notice of removal is sent by the PCT to the contractor, or from such later date as may be specified in the notice.

Transfers of patients from lists

5.—(1) Paragraph (2) applies where a person who is included in a doctor's list or a pooled list—

- (a) transfers from a doctor's list to a pooled list or from a pooled list to a doctor's list and the list to which he has transferred does not form part of the transitional agreement list of patients in which the person was included immediately before the transfer;
- (b) has subsequently been registered with another provider of essential services (or their equivalent) in the area of the PCT; or
- (c) has subsequently been registered with another provider of essential services (or their equivalent) outside the area of the PCT and the PCT has received a notice to this effect from the PCT, (in Wales) Local Health Board, (in Scotland) Health Board or (in Northern Ireland) Health and Social Services Board who has registered him.

(2) The PCT shall give effect to a transfer to which paragraph (1) applies—

- (a) on the date on which it receives notification of the acceptance of the person by the doctor to whose list he has transferred or, in the case of a transfer to a pooled list, by the relevant contractor or in the case to which sub-paragraph (b) or (c) applies, with the new provider of essential services (or their equivalent); or
- (b) subject to the consent of the PCT, from such date, being not earlier than the date of that consent, as may be agreed between the contractor responsible for the list of pilot patients from which the person has transferred and the doctor or, as the case may be, the contractor or provider who has accepted the person.

(3) The PCT shall inform the contractor as soon as practicable of a transfer to which paragraph (1) applies (unless the list to which the person has transferred forms part of the transitional agreement list of patients in which the person was included immediately before the transfer).

Withdrawal from the list of a doctor or a pooled list

6.—(1) Where a PCT receives notice from any person that he no longer wishes to receive PMS from a doctor in whose list he is included, the PCT shall notify him and the relevant contractor that on a specified date, being 14 days after the day on which the notice was received by the PCT, the person's name will be removed from the doctor's list.

(2) Where a PCT receives notice from any person that he no longer wishes to be included in a pooled list, the PCT shall notify him and the relevant contractor that on a specified date, being 14 days after the day on which the notice was received by the PCT, the person's name will be removed from the pooled list.

Temporary Residents

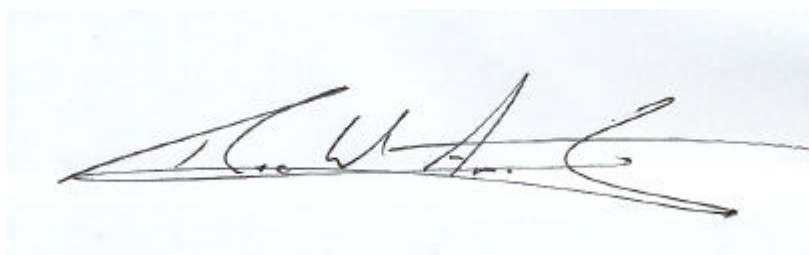
7. A person who is accepted as a temporary resident by a doctor under regulation 7 of the Choice Regulations, or by a contractor under a transitional agreement^(a) shall not be removed from the list of any doctor performing PMS, or any pooled list, in which his name is included, unless the PCT which is a party to the agreement under which that list is operated is satisfied, after due enquiry—

- (a) that the person's stay in the place of temporary residence has exceeded 3 months;
and
- (b) that he has not returned to his normal place of residence, or any other place within the area specified in the transitional agreement in question as the area in which services are to be provided under that agreement.

Revocations

8. The Directions to Primary Care Trusts Concerning Patient Lists (Personal Medical Services) 2003 given on 10th November 2003, are hereby revoked.

Signed by authority of the Secretary of State for Health



Department of Health
A member of the Senior Civil Service

30th March 2004
