

NATIONAL HEALTH SERVICE ACT 1977

THE PRIMARY MEDICAL SERVICES (OUT OF HOURS SERVICES) DIRECTIONS 2006

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

Citation, commencement and application

1.—(1) These Directions, which may be cited as the Primary Medical Services (Out of Hours Services) Directions 2006, shall come into force on 22 December 2006.

(2) These Directions are given to Primary Care Trusts in England and apply in relation to England.

(3) In these Directions—

“the Act” means the National Health Service Act 1977;

“core hours” means the period beginning at 8am and ending at 6.30pm on any day from Monday to Friday except Good Friday, Christmas Day or bank holidays;

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

“health care professional” has the same meaning as in section 28M of the Act(b);

“out of hours period” means—

(a) the period beginning at 6.30pm on any day from Monday to Thursday and ending at 8am on the following day,

(b) the period between 6.30pm on Friday and 8am on the following Monday, and

(c) Good Friday, Christmas Day and bank holidays;

“out of hours services” means services required to be provided in all or part of the out of hours period which would be essential services if provided by a provider of primary medical services in core hours;

“PMS contractor” means a person with whom a Primary Care Trust is entering or has entered into section 28C arrangements which require the provision by that person of primary medical services;

“primary medical services contractor” means—

(a) a GMS or PMS contractor; or

(a) 1977 c. 49. Section 17 was substituted by the Health Act 1999 (c.8) (“the 1999 Act”), section 12 and amended by the Health and Social Care Act 2001 (c.15), Schedule 5, paragraph 5 and the National Health Service Reform and Health Care Professions Act 2002 (c.17), Schedule 1, paragraph 7; section 18(3) was amended by the Health Authorities Act 1995 (c.17), section 3(8) and Schedule 1, paragraph 9(c) and the 1999 Act, section 12(4).

(b) Section 28M was inserted into the 1977 Act by section 172(1) of the Health and Social Care (Community Health and Standards) Act 2003 (c.43).

(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 16CC(2)(b) of the Act;

“primary medical services contract” means—

(a) a general medical services contract;

(b) section 28C arrangements which require the provision of primary medical services; or

(c) contractual arrangements for the provision of primary medical services under section 16CC(2)(b) of the Act (primary medical services);

“provider of primary medical services” means any person who is entering into or has entered into arrangements under—

(a) section 28Q of the Act;

(b) section 28C of the Act;

(c) section 16CC(2)(a) of the Act; or

(d) section 16CC(2)(b) of the Act

for the provision of primary medical services to registered patients; and

“registered patient” means—

(a) a person who is recorded by the Primary Care Trust as being on the list of patients of a provider of primary medical services; or

(b) a person whom a provider of primary medical services has accepted for inclusion on its list of patients, whether or not notification of that acceptance has been received by the Primary Care Trust and who has not been notified by the Primary Care Trust as having ceased to be on that list.

Review of out of hours provision

2.—(1) Each Primary Care Trust must review, at the earliest opportunity and in any event no later than 31st January 2007—

(a) the terms of all primary medical services contracts it has entered into and which remain in force under which the contractor provides out of hours services; and

(b) any arrangements under section 16CC(2)(a) of the Act under which the Primary Care Trust provides out of hours services.

3. In carrying out a review, the Primary Care Trust must in particular review the arrangements under which clinical notes of any consultation carried out by any health care professional performing services under the contract, or under the arrangements under section 16CC(2)(a), are to be recorded and made accessible for the use of—

(a) any other health care professional performing services under that contract or those arrangements; and

(b) any provider of primary medical services of which the person who is the subject of the consultation is a registered patient.

4. In reviewing the arrangements referred to in direction 3 the Primary Care Trust shall consider whether those arrangements are adequate to ensure that clinical notes of

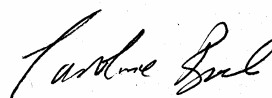
consultations are fully recorded and subsequently accessible for the use of those persons referred to in direction 3(a) and (b).

5. If the Primary Care Trust identifies any arrangements which are not, in its reasonable opinion, adequate to ensure that clinical notes of consultations are fully recorded and subsequently accessible for the use of those persons referred to in direction 3(a) and (b), it shall—

- (a) where the out of hours services are being provided under a primary medical services contract of a type referred to in direction 2(a), discuss and where possible agree with the contractor changes to the terms of the primary medical services contract, the aim of which is to require the contractor to have in place adequate arrangements in respect of recording and making accessible the clinical notes; and
- (b) where the Primary Care Trust is itself providing the out of hours services under arrangements under section 16CC(2)(a) of the Act, ensure that it puts in place adequate arrangements in respect of recording and making accessible the clinical notes.

6. Where the Primary Care Trust is not able to reach agreement with the contractor under direction 5(a) within a reasonable time, it shall vary the terms of the primary medical services contract without the agreement of the contractor so as to impose requirements that the Primary Care Trust reasonably considers necessary to ensure that clinical notes of consultations are fully recorded and are subsequently accessible for the use of those persons referred to in direction 3(a) and (b).

Signed by authority of the Secretary of State for Health



A member of the Senior Civil Service
Department of Health

20 December 2006