
WELSH STATUTORY INSTRUMENTS

2006 No. 946

**The General Dental Services and Personal Dental Services
Transitional and Consequential Provisions (Wales) Order 2006**

PART 3

**TRANSITIONAL PROVISIONS IN RESPECT OF PERSONAL
DENTAL SERVICES PROVIDED BEFORE 1 APRIL 2006**

Interpretation of Part 3

19. In this Part—

“relevant pilot scheme provider” means a person or persons, other than a Local Health Board, who provided personal dental services under a pilot scheme agreement and who was a party or parties to that agreement; and

“succeeding contractor” means the contractor which is a party to—

- (a) the general dental services contract which the relevant pilot scheme provider has entered into as a consequence of article 6 of the Transitional Order; or
- (b) the personal dental services agreement which the relevant pilot scheme provider has entered into as a consequence of article 14 of the Transitional Order.

Applications for personal dental services

20. Where, before 1 April 2006—

- (a) a person has made an application to a relevant dental practitioner to receive personal dental services⁽¹⁾ in accordance with regulation 2(1) of the National Health Service (Choice of Dental Practitioner) Regulations 1998⁽²⁾; and
- (b) that application has not been finally determined before that date,

that application will be treated as a request made to the succeeding contractor for services under the term of the agreement giving effect to paragraph 1 of Schedule 3 to the PDS Agreements Regulations or under the term of the contract giving effect to paragraph 1 of Schedule 3 to the GDS Contracts Regulations.

Investigation of outstanding complaints

21. –

(1) Subject to paragraph (2), where before 1 April 2006 a complaint had been made in accordance with the provisions in the pilot scheme agreement which give effect to the procedure set out in the PDS Directions, that complaint must, from 1 April 2006 be investigated or continue to be

(1) “Personal dental services” has the meaning given to it in section 28C(7) of the 1977 Act prior to its repeal by 2003 Act.

(2) [S.I. 1998/2222](#).

investigated by the succeeding contractor in accordance with the terms of the pilot scheme agreement as it had effect on 31 March 2006.

(2) In a case where there is no succeeding contractor, the complaint must be investigated by the Local Health Board in whose area the personal dental services were provided.

(3) Where a complaint falls to be investigated by a Local Health Board as a consequence of paragraph (2), the investigation will be carried out in accordance with the Directions to Local Health Boards on dealing with complaints about Family Health Service Practitioners.

Complaints relating to personal dental services made after 31 March 2006

22. –

(1) Subject to paragraph (2), the complaints procedure established and operated by a succeeding contractor—

- (a) under the terms of its personal dental services agreement which gives effect to paragraph 47 of Schedule 3 to the PDS Agreements Regulations; or
- (b) under the terms of its general dental services contract which gives effect to paragraph 47 of Schedule 3 to the GDS Contracts Regulations,

will apply to any complaint which a patient or former patient of the relevant pilot scheme provider to whom it is a succeeding contractor could have made (but did not make) on or before 31 March 2006 under the pilot scheme agreement as it applies to complaints made by a patient or former patient of the succeeding contractor in relation to any matter reasonably connected with the provision of services under the agreement or, as the case may be, the contract.

(2) In a case where there is no succeeding contractor, the complaint must be investigated by the Local Health Board in whose area the personal dental services were provided.

(3) Where a complaint falls to be investigated by a Local Health Board as a consequence of paragraph (2), the investigation will be carried out in accordance with the Directions to Local Health Boards on dealing with complaints about Family Health Service Practitioners.

Patient information leaflet

23. –

(1) This article applies where a relevant pilot scheme provider had produced a pilot leaflet in accordance with the terms in the pilot scheme agreement which give effect to the requirements in the PDS Directions and that leaflet was, on 31 March 2006, available to patients.

(2) Subject to paragraph (3), the patient information leaflet made available to patients on or after 1 April 2006 by the succeeding contractor need not, until 1 August 2006, include all the information specified in the terms of—

- (a) the personal dental services agreement which give effect to Schedule 4 to the PDS Agreements Regulations; or
- (b) the general dental services contract which give effect to Schedule 4 to the GDS Contracts Regulations.

(3) The succeeding contractor must from the date of the commencement of services under the personal dental services agreement or the general dental services contract make available to patients in written form the information specified in paragraph (4) together with the pilot leaflet referred to in paragraph (1).

(4) The information referred to in paragraph (3) is information regarding—

- (a) the services available under the personal dental services agreement or the general dental services contract;

- (b) the normal surgery days and hours of the practice;
- (c) the arrangement for dental services for the days and hours that fall outside normal surgery days and hours (whether or not provided by the contractor) and how the patient may contact such services;
- (d) if the services referred to in sub-paragraph (c) are not provided by the contractor, the fact that the Local Health Board referred to in sub-paragraph (g) is responsible for commissioning the services;
- (e) the telephone number of NHS Direct and details of NHS Direct online;
- (f) how patients may make a complaint or comment on the provision of services; and
- (g) the name, postal and website address and telephone number of the Local Health Board with whom the contractor is a party to the agreement or contract.

Overpayments under a pilot scheme

24. –

(1) Where, on or before 31 March 2006, a pilot scheme provider has admitted an overpayment drawn to its attention by the Local Health Board or the Board but the overpayment, or any part of it, had not been recovered, the amount overpaid, or any part of it not recovered before 31 March 2006, will be recoverable by the Local Health Board in accordance with the arrangements for the recovery of overpayments provided for in the pilot scheme agreement as it had effect on 31 March 2006, and—

- (a) the terms of the pilot scheme agreement will apply for the purposes of the recovery of such an overpayment; and
- (b) the amount of the overpayment will be treated as a debt owed by that pilot scheme provider to the Local Health Board.

(2) Where the Local Health Board considers that a payment had been made to a pilot scheme provider under the terms of the pilot scheme agreement when it was not due and that alleged overpayment has not been drawn to the pilot scheme provider's attention by the Board or the Local Health Board on or before 31 March 2006, that Local Health Board may draw the overpayment to the attention of the pilot scheme provider by notice, and—

- (a) where the overpayment is admitted by the pilot scheme provider, the Local Health Board may recover the amount overpaid from it as a civil debt; and
- (b) where the overpayment is not admitted by the pilot scheme provider, the arrangements for the recovery of disputed overpayments as provided for in the pilot scheme agreement as it had effect on 31 March 2006 will continue to apply in respect of the recovery of the amount of the possible overpayment.

(3) Where, before 1 April 2006, a Local Health Board has drawn a possible overpayment to the attention of the pilot scheme provider and the overpayment has not been admitted by the pilot scheme provider, the arrangements for the recovery of disputed overpayments as provided for in the pilot scheme agreement as it had effect on 31 March 2006 will continue to apply in respect of the recovery of the amount of the possible overpayment.

(4) For the purposes of the application of this article, a reference to the Board in a pilot scheme agreement will be read as including a reference to the NHS Business Services Authority.

(5) This article is without prejudice to any arrangement for the recovery of dental charges set out in directions under sections 28E(3A) and 28N of the 1977 Act.

Remuneration of pilot scheme providers

25. –

(1) Subject to paragraphs (2) and (3), claims for remuneration under the terms of a pilot scheme agreement may still be made and acceded to in accordance with a pilot scheme agreement, where a pilot scheme provider is entitled to a payment—

- (a) under the agreement; or
- (b) as a consequence of the termination of the agreement,

and the claim is made or deemed to have been made within any period stipulated in the pilot scheme agreement as being the period during which a claim for payment is to be made.

(2) In a case where no period is specified for the making of a claim for payment in the pilot scheme agreement or a claim is made outside the specified period, the Local Health Board with which the pilot scheme provider was a party to the agreement (or, where appropriate, the NHS Business Services Authority acting on its behalf) may agree to determine such claims for a period up to six months from the date on which the circumstances which gave rise to the claim first arose.

(3) This article is without prejudice to any arrangements for the recovery of dental charges set out in directions under sections 28E(3A) and 28N of the 1977 Act.

Violent patients

26. Where—

- (a) on or before 31 March 2006, a pilot patient (within the meaning of direction 2 of the PDS Directions) has committed an act of violence in the circumstances specified in the pilot scheme agreement which give effect to direction 8(2)(a) of the PDS Directions;
- (b) the pilot scheme provider has notified the Local Health Board that he or she wishes the provision of personal dental services for that pilot patient to be terminated immediately; and
- (c) the Local Health Board has not informed the person concerned on or before 31 March 2006 that the pilot scheme provider wishes the provision of personal dental services for that pilot patient to be terminated,

the Local Health Board will take such steps to inform that person that the relevant pilot scheme provider does not wish to provide, on or after 1 April 2006, primary dental services to that person under the personal dental services agreement or the general dental services contract.

Repair or replacement of restorations

27. Where—

- (a) on or before 31 March 2006, a restoration is provided in the course of performing personal dental services by a relevant pilot scheme provider; and
- (b) on or after 1 April 2006, the restoration requires repair or replacement which that provider would have been required to repair or replace under the terms in the pilot scheme agreement which gave effect to direction 11 of the PDS Directions,

the succeeding contractor will repair or replace the restoration in accordance with the terms of the personal dental services agreement which give effect to paragraph 12 of Schedule 3 to the PDS Agreements Regulations or the terms of the general dental services contract which give effect to paragraph 11 of Schedule 3 to the GDS Contracts Regulations.

Provision of information

28. –

(1) Where—

- (a) a course of treatment is completed by a pilot scheme provider on or before 31 March 2006; and
- (b) the period in which the information in respect of that course of treatment is to be submitted to the Board has not expired on 1 April 2006,

the period in which that information is to be submitted and the manner of submission of that information is the period and manner which is specified in the terms of the pilot scheme agreement which give effect to paragraph 12 of Schedule 1 to the PDS Directions.

(2) Where paragraph (1) applies, the succeeding contractor will provide such information as is reasonably required—

- (a) as may have been requested by the Board on or before 31 March 2006, to the NHS Business Services Authority; or
- (b) as requested by the NHS Business Services Authority on or after 1 April 2006.

(3) For the purposes of the application of paragraphs (1) and (2), any reference to the Board in a pilot scheme agreement will be read as including a reference to the NHS Business Services Authority.

Records

29. A pilot scheme provider will continue to keep records in respect of services provided under the pilot scheme agreement in accordance with the terms of that agreement and such terms will continue to apply to such records until 1 April 2008.

Disputes

30. –

(1) Where a dispute in respect of a pilot scheme agreement is pending on 31 March 2006 under the NHS dispute resolution procedure or a procedure specified in the terms of the pilot scheme agreement that gives effect to direction 19 of, and Schedule 3 to, the PDS Directions, the adjudicator will proceed to determine the dispute in accordance with the dispute resolution procedure that had effect on 31 March 2006 in respect of that dispute.

(2) In this article, the expression “adjudicator” means—

- (a) in the case of a pilot scheme agreement that gives effect to the procedure specified in Schedule 3 to the PDS Directions, the person appointed by the National Assembly for Wales; and
- (b) in the case of a pilot scheme provider who is a health service body, the National Assembly for Wales or a person appointed by the National Assembly for Wales under section 4(5) of the National Health Service and Community Care Act 1990(3).

(3) 1990 c. 19.