

SCHEDULE 5

OTHER CONTRACTUAL TERMS

PART 6

COMPLAINTS

Complaints procedure

84.—(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, which shall comply with the requirements of paragraphs 85 to 88 and 90.

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

- (a) the complaints procedure,
- (b) the role of the Board and other bodies in relation to complaints about services under the contract.

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

Making of complaints

85. 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 –
 - (i) by either parent, or in the absence of both parents, the guardian or other adult who has care of the child,
 - (ii) by a person duly authorised by an authority looking after the child under the provisions of the Children (Northern Ireland) Order 1995(1); or
 - (iii) by a person duly authorised by a voluntary organisation by which the child is being accommodated under the provisions of that Order;
- (b) where the patient is incapable of making a complaint, by a relative or other adult who has an interest in his welfare.

86. Where a patient has died a complaint may be made by a relative or other adult who had an interest in his welfare or, where the patient falls within paragraph 85(a)(ii) or (iii), by the Trust or voluntary organisation.

Period for making complaints

87.—(1) Subject to sub-paragraph (2), the period for making a complaint is –

- (a) six months from the date on which the matter which is the subject of the complaint occurred; or
- (b) six months from 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.

(1) [S.I. 1995/755 \(N.I. 2\)](#)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(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 88(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 matter 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

88.—(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 three working days beginning with and including 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 and including 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 medical records, the person specified under 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, but such records must be kept separate from patients' medical records.

Co-operation with investigations

89.—(1) The contractor shall co-operate with –

- (a) any investigation of a complaint in relation to any matter reasonably connected with the provision of services under the contract undertaken by –
 - (i) the Board, and
 - (ii) the Northern Ireland Commissioner for Complaints; and
- (b) any investigation of a complaint by a health services body, 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, (in England and Wales and Scotland) an NHS Trust, an NHS foundation trust, a Strategic Health Authority, a Local Health Board, and a Health Board;

“local authority” means –

- (a) any of the bodies listed in section 1 of the Local Authority Social Services Act 1970⁽²⁾;
- (b) the Council of the Isles of Scilly, or
- (c) a council constituted under section 2 of the Local Government etc, (Scotland) Act 1994⁽³⁾.

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

- (a) answering questions reasonably put to the contractor by the Board;
- (b) providing any information relating to the complaint reasonably required by the Board ; 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 Board.

Provision of information about complaints

90. The contractor shall inform the Board, at such intervals as required, of the number of complaints it has received under the procedure established in accordance with this Part.

(2) 1970 c. 42; section 1 was amended by the Local Government Act 1972 (c. 70), section 195 and by the Local Government (Wales) Act 1994 (c. 19), Schedule 10, paragraph 7

(3) 1994 c. 39