



Health and Social Care (Community Health and Standards) Act 2003

2003 CHAPTER 43

PART 4

DENTAL AND MEDICAL SERVICES

Primary dental services

170 Provision of primary dental services

In the 1977 Act, after section 16C insert—

“Functions of Primary Care Trusts and Local Health Boards

16CA Primary dental services

- (1) Each Primary Care Trust and Local Health Board must, to the extent that it considers necessary to meet all reasonable requirements, exercise its powers so as to provide primary dental services within its area, or secure their provision within its area.
- (2) A Primary Care Trust or Local Health Board may (in addition to any other power conferred on it) provide primary dental services itself (whether within or outside its area).
- (3) Each Primary Care Trust and Local Health Board must publish information about such matters as may be prescribed in relation to the primary dental services for which it makes provision under this Part.
- (4) A body on which functions are conferred under this section must co-operate with any other such body in the discharge of their respective functions relating to the provision of primary dental services under this Part.

- (5) Regulations may provide that services of a prescribed description are, or are not, to be regarded as primary dental services for the purposes of this Part.
- (6) Regulations under subsection (5) may in particular describe services by reference to the manner or circumstances in which they are provided.”

171 Dental public health

- (1) In the 1977 Act, after section 16CA (as inserted by section 170 above) insert—

“16CB Dental public health

- (1) A Primary Care Trust shall have such functions in relation to dental public health in England as may be prescribed.
 - (2) A Local Health Board shall have such functions in relation to dental public health in Wales as may be prescribed.
 - (3) The National Assembly for Wales shall have such functions in relation to dental public health in Wales as may be prescribed.
 - (4) The functions of a Primary Care Trust under this section may be discharged—
 - (a) by the Trust itself;
 - (b) by the Trust and one or more other Primary Care Trusts acting jointly; or
 - (c) by any other person or body in accordance with arrangements made by the Trust.
 - (5) The functions of a Local Health Board under this section may be discharged—
 - (a) by the Board itself;
 - (b) by the Board and one or more other Local Health Boards acting jointly; or
 - (c) by any other person or body in accordance with arrangements made by the Board.”
- (2) Section 5(1A) of the 1977 Act shall cease to have effect.

172 General dental services contracts

- (1) In the 1977 Act, after section 28J insert—

“General dental services contracts

28K General dental services contracts: introductory

- (1) A Primary Care Trust or Local Health Board may enter into a contract under which primary dental services are provided in accordance with the following provisions of this Part.
- (2) A contract under this section is called in this Act a “general dental services contract”.

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- (3) Subject to any provision made by or under this Part, a general dental services contract may make such provision as may be agreed between the Primary Care Trust or Local Health Board and the contractor in relation to—
 - (a) the services to be provided under the contract (which may include services which are not primary dental services),
 - (b) remuneration under the contract, and
 - (c) any other matters.
- (4) In this Part, “contractor”, in relation to a general dental services contract, means any person entering into the contract with the Primary Care Trust or Local Health Board.

28L Requirement to provide certain primary dental services

- (1) A general dental services contract must require the contractor or contractors to provide, for his or their patients, primary dental services of such descriptions as may be prescribed.
- (2) Regulations under subsection (1) may in particular describe services by reference to the manner or circumstances in which they are provided.

28M Persons eligible to enter into GDS contracts

- (1) A Primary Care Trust or Local Health Board may, subject to such conditions as may be prescribed, enter into a general dental services contract with—
 - (a) a dental practitioner;
 - (b) a dental corporation;
 - (c) two or more individuals practising in partnership where the conditions in subsection (2) are satisfied.
- (2) The conditions referred to in subsection (1)(c) in relation to a partnership are that—
 - (a) at least one partner is a dental practitioner, and
 - (b) any partner who is not a dental practitioner is either—
 - (i) an NHS employee,
 - (ii) a section 28C employee, section 17C employee or Article 15B employee,
 - (iii) a health care professional who is engaged in the provision of services under this Act, or
 - (iv) an individual falling within section 28D(1)(bc) above.
- (3) Regulations may make provision as to the effect, in relation to a general dental services contract entered into by individuals practising in partnership, of a change in the membership of the partnership.
- (4) In this section—

“dental corporation” means a body corporate which, in accordance with the provisions of Part 4 of the Dentists Act 1984, is entitled to carry on the business of dentistry;

“health care professional” means a person who is a member of a profession regulated by a body mentioned (at the time the contract

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in question is entered into) in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002; and

“NHS employee”, “section 28C employee”, “section 17C employee” and “Article 15B employee” have the same meanings as in section 28D above.

28N GDS contracts: payments

- (1) The appropriate authority may give directions as to payments to be made under general dental services contracts.
- (2) A general dental services contract must require payments to be made under the contract in accordance with directions for the time being in force under this section.
- (3) Without prejudice to the generality of the power under subsection (1), a direction under that subsection may—
 - (a) provide for payments to be made by reference to compliance with standards or the achievement of levels of performance;
 - (b) provide for payments to be made by reference to—
 - (i) any scheme or scale specified in the direction, or
 - (ii) a determination made by any person in accordance with factors specified in the direction;
 - (c) provide for the making of payments in respect of individual practitioners;
 - (d) provide that the whole or any part of a payment is subject to conditions (and may provide that payments are payable by a Primary Care Trust or Local Health Board only if it is satisfied as to certain conditions);
 - (e) make provision having effect from a date before the date of the direction, provided that, having regard to the direction as a whole, the provision is not detrimental to the persons to whose remuneration it relates.
- (4) Before giving a direction under subsection (1), the appropriate authority—
 - (a) must consult any body appearing to the authority to be representative of persons to whose remuneration the direction would relate, and
 - (b) may consult such other persons as the authority thinks appropriate.
- (5) Section 18(1) and (3)(b) above apply in relation to directions under this section.
- (6) References in this section to payments include fees, allowances, reimbursements, loans and repayments.
- (7) In this section “appropriate authority” means—
 - (a) the Secretary of State, in relation to a contract made by a Primary Care Trust;
 - (b) the National Assembly for Wales, in relation to a contract made by a Local Health Board.

28O GDS contracts: other required terms

- (1) A general dental services contract must contain such provision as may be prescribed (in addition to the provision required by the preceding provisions of this Part).
- (2) Regulations under subsection (1) may in particular make provision as to—
 - (a) the manner in which, and standards to which, services are to be provided;
 - (b) the persons who perform services;
 - (c) the persons to whom services are to be provided;
 - (d) the variation of contract terms (other than terms required by or under this Part);
 - (e) rights of entry and inspection (including inspection of clinical records and other documents);
 - (f) the circumstances in which, and the manner in which, the contract may be terminated;
 - (g) enforcement;
 - (h) the adjudication of disputes.
- (3) Regulations under subsection (2)(d) may make provision as to the circumstances in which a Primary Care Trust or Local Health Board may impose a variation of contract terms.
- (4) Regulations under subsection (1) must make provision as to the right of patients to choose the persons from whom they are to receive services.

28P GDS contracts: disputes and enforcement

- (1) Regulations may make provision for the resolution of disputes as to the terms of a proposed general dental services contract.
- (2) Regulations under subsection (1) may make provision—
 - (a) for the referral of the terms of the proposed contract to the Secretary of State or National Assembly for Wales; and
 - (b) for the Secretary of State or Assembly, or a person appointed by him or it, to determine the terms on which the contract may be entered into.
- (3) Regulations may make provision for a person or persons entering into a general dental services contract to be regarded as a health service body for any purposes of section 4 of the National Health Service and Community Care Act 1990, in circumstances where he or they so elect.
- (4) Regulations under subsection (3) may include provision as to the application of section 4 of that Act in cases where—
 - (a) persons practising in partnership elect to become a health service body; and
 - (b) there is a change in the membership of the partnership.
- (5) Where—

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- (a) by virtue of regulations under subsection (3), subsection (7) of section 4 of that Act applies in relation to a general dental services contract, and
- (b) a direction as to payments is made under that provision in relation to the contract,

the direction is to be enforceable in a county court (if the court so orders) as if it were a judgment or order of that court.”

- (2) Sections 35 and 36 of the 1977 Act (arrangements for general dental services) shall cease to have effect.

173 General dental services: transitional

- (1) The appropriate authority shall by order make transitional provision in respect of persons who, immediately before the coming into force of section 172, are providing services under section 35 of the 1977 Act (general dental services).
- (2) An order under this section may provide that, in such circumstances as the order may prescribe, a Primary Care Trust or Local Health Board must, if any such person so wishes, enter into a general dental services contract with him; and the order may make provision as to the terms of any such contract.
- (3) An order under this section may provide that, in such circumstances as the order may prescribe, a Primary Care Trust or Local Health Board must, if any such person so wishes, enter into a contract with him, containing such terms as the order may specify, for the provision of dental services.
- (4) An order under this section may make provision for the resolution of disputes in relation to any contract entered into, or proposed to be entered into, under subsection (2) or (3), including provision for the determination of disputes by the appropriate authority or a person appointed by the authority.
- (5) An order under this section may make provision in respect of a period beginning before the coming into force of the provision (or of section 172), provided that the provision is not as a whole detrimental to the remuneration of the persons to whom it relates.
- (6) In this section—
 - “appropriate authority” means—
 - (a) the Secretary of State, in relation to England; and
 - (b) the Assembly, in relation to Wales;
 - “general dental services contract” means a contract under section 28K of the 1977 Act (as inserted by section 172(1)).