

## SCHEDULE 3

### OTHER CONTRACTUAL TERMS

#### PART 4

#### PERSONS WHO PERFORM SERVICES

##### Dental practitioners

**21.**—(1) A dental practitioner<sup>(1)</sup> may perform dental services under the contract provided—

- (a) he is included in a dental performers list for a Primary Care Trust in England; and
- (b) his inclusion in that list is not subject to a suspension.

##### Dental care professionals

**22.**—(1) Prior to the coming into force of the first regulations under section 36A(2) of the Dentists Act<sup>(2)</sup> (professions complementary to dentistry)—

- (a) a dental hygienist; or
- (b) a dental therapist

may perform dental services under the contract provided he is enrolled in the appropriate register established in accordance with the Dental Auxiliaries Regulations 1986<sup>(3)</sup>.

(2) Upon the coming into force of the first regulations under section 36A(2) of the Dentists Act—

- (a) a dental hygienist;
- (b) a dental therapist; or
- (c) a professional or member of a class as specified in regulations made under section 36A(2) of the Dentists Act,

may perform dental services under the contract provided—

- (i) he is a dental care professional; and
- (ii) his registration in the dental care professional register established under section 36B<sup>(4)</sup> of the Dentists Act is not subject to a suspension.

##### Performers: further requirements

**23.**—(1) No health care professional or other person other than one to whom paragraph 22 applies shall perform clinical services under the contract unless he is appropriately registered with his relevant professional body and his registration is not subject to a suspension.

(2) Where—

- (a) the registration of a dental practitioner, dental care professional or other health care professional; or
- (b) a dental practitioner's inclusion in a dental performers list,

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(1) The term dental practitioner is defined in section 128 of the Act as a person registered in the dentists register under the Dentists Act.

(2) Section 36A was prospectively inserted into the Dentists Act by article 29 of the Dentists Act Order.

(3) S.I.1986/887; relevant amending instruments are S.I. 199/3460 and 2002/1671.

(4) Section 36B was prospectively inserted into the Dentists Act by article 29 of the Dentists Act Order.

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is subject to conditions, the contractor shall ensure compliance with those conditions in so far as they are relevant to the contract.

(3) No health care professional or other person shall perform any clinical services under the contract unless he has such clinical experience and training as are necessary to enable him properly to perform such services.

**Conditions for employment and engagement: dental practitioners performing dental services**

**24.—**(1) A contractor shall not employ or engage a dental practitioner to perform dental services under the contract unless—

- (a) that practitioner has provided it with the name and address of the Primary Care Trust on whose dental performers list his name appears; and
- (b) the contractor has checked that the practitioner meets the requirements in paragraph 21.

(2) Where the employment or engagement of a dental practitioner is urgently needed and it is not possible to check the matters referred to in paragraph 21 in accordance with sub-paragraph (1) (b) before employing or engaging him he may be employed or engaged on a temporary basis for a single period of up to 7 days whilst such checks are undertaken.

**Conditions for employment and engagement: persons performing dental services other than dental practitioners**

**25.—**(1) The contractor shall not employ or engage a dental care professional to perform dental services unless it has taken reasonable steps to satisfy itself that he has the clinical experience and training necessary to enable him to properly perform dental services and—

- (a) prior to the coming into force of the first regulations under section 36A(2) of the Dentists Act, the contractor has checked that his name is on the roll of the appropriate register established in accordance with the Dental Auxiliaries Regulations 1986; and
- (b) from the coming into force of the first regulations under section 36A(2) of the Dentists Act, the contractor has checked that—
  - (i) his name is included in the register of dental care professionals; and
  - (ii) his registration in the dental care professional register is not subject to a suspension.

(2) Where the employment or engagement of a person specified in sub-paragraph (1) is urgently needed and it is not possible to check his registration in accordance with sub-paragraph (1) (where it applies) before employing or engaging him, he may be employed or engaged on a temporary basis for a single period of up to 7 days whilst such checks are undertaken.

(3) When considering a person's experience and training for the purposes of sub-paragraph (1), the contractor shall have regard in particular to—

- (a) any post-graduate or post-registration qualification held by that person; and
- (b) any relevant training undertaken by him and any relevant clinical experience gained by him.

**Conditions for employment and engagement: all persons performing dental services**

**26.—**(1) The contractor shall not employ or engage a person to perform dental services under the contract unless—

- (a) that person has provided two clinical references that relate to two recent posts (which may include any current post) exercising the profession in which he seeks employment or engagement with the contractor which lasted for three months or more without a significant

break, or where this is not possible, that person has provided a full explanation and alternative referees; and

(b) the contractor has checked and is satisfied with the references.

(2) Where the employment or engagement of a person falling within sub-paragraph (1) is urgently needed and it is not possible for the contractor to obtain and check the references in accordance with sub-paragraph (1)(b) before employing or engaging him, he may be employed or engaged on a temporary basis for a single period of up to 14 days whilst his references are checked and considered, and for an additional period of a further 7 days if the contractor believes the person supplying those references is ill, on holiday or otherwise temporarily unavailable.

(3) Where the contractor employs or engages the same person on more than one occasion within a period of three months, it may rely on the references provided on the first occasion, provided that those references are not more than twelve months old.

### **Conditions for employment or engagement: persons assisting in the provision of services under the contract**

27.—(1) Before employing or engaging any person to assist it in the provision of services under the contract, the contractor shall take reasonable care to satisfy itself that the person in question is both suitably qualified and competent to discharge the duties for which he is to be employed or engaged.

(2) The duty imposed by sub-paragraph (1) is in addition to the duties imposed by paragraphs 24 to 26.

(3) When considering the competence and suitability of any person for the purpose of sub-paragraph (1), the contractor shall have regard in particular to—

- (a) that person's academic and vocational qualifications;
- (b) his education and training; and
- (c) his previous employment or work experience.

### **Training**

28. The contractor shall ensure that for any dental practitioner or dental care professional who is—

- (a) performing dental services under the contract; or
- (b) employed or engaged to assist in the performance of such services,

arrangements are in place for the purpose of maintaining and updating his skills and knowledge in relation to the services which he is performing or assisting in performing.

(2) The contractor shall afford to each employee reasonable opportunities to undertake appropriate training with a view to maintaining that employee's competence.

### **Level of skill**

29. The contractor shall carry out its obligations under the contract with reasonable care and skill.

### **Appraisal and assessment**

30. The contractor shall ensure that any dental practitioner performing services under the contract—

- (a) participates in the appraisal system (if any) provided by the Primary Care Trust unless he participates in the appraisal system provided by another health service body; and

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- (b) co-operates with an assessment by the NPSA when requested to do so by the Primary Care Trust.

**Sub-contracting of clinical matters**

**31.**—(1) The contractor shall not sub-contract any of its rights or duties under the contract to any person in relation to clinical matters unless—

- (a) it has taken reasonable steps to satisfy itself that—
  - (i) it is reasonable in all the circumstances; and
  - (ii) that the person is qualified and competent to provide the service; and
- (b) it is satisfied in accordance with paragraphs 81 and 82 that the sub-contractor holds adequate insurance.

(2) Where the contractor sub-contracts any of its rights or duties under the contract in relation to clinical matters, it shall—

- (a) inform the Primary Care Trust of the sub-contract as soon as is reasonably practicable; and
- (b) provide the Primary Care Trust with such information in relation to the sub-contract as it reasonably requests.

(3) Where the contractor sub-contracts clinical services in accordance with sub-paragraph (1), the parties to the contract shall be deemed to have agreed a variation to the agreement which has the effect of adding to the list of the contractor’s premises any premises which are to be used by the sub-contractor for the purpose of the sub-contract and paragraph 60 shall not apply.

(4) A contract with a sub-contractor must prohibit the sub-contractor from sub-contracting the clinical services it has agreed with the contractor to provide.