
STATUTORY INSTRUMENTS

2013 No. 469

**The Functions of the National Health Service
Commissioning Board and the NHS Business Services
Authority (Awdurdod Gwasanaethau Busnes y GIG)
(Primary Dental Services) (England) Regulations 2013**

Functions of the Board exercisable by the Authority

2.—(1) The functions of the Board relating to primary dental services in England under the provisions specified in column 1 of the Schedule in respect of the matters indicated in column 2 of that Schedule are to be exercised by the Authority.

(2) The Authority must exercise the functions set out in column 3 of the Schedule which are ancillary, related or supplemental to the functions set out in column 2 of that Schedule.

(3) In the case of the function of the Board of making payments under directions under—

- (a) section 103(1) of the 2006 Act, as regards GDS Contracts, referred to in entry (a) of column 2, relating to entry 1 in column 1, of the Schedule; and
- (b) section 109(4) of the 2006 Act, as regards PDS Agreements, referred to in entry (a) of column 2, relating to entry 3 in column 1, of the Schedule,

the Board may only itself exercise the function where the Authority is unable to do so for reasons other than a failure by the Board to co-operate in a reasonable manner with it.

(4) In so far as these Regulations provide for the Authority to exercise a function under paragraph (1) of this regulation, and column 2 of the Schedule—

- (a) any act or omission of the Authority in the exercise of the function must be treated solely as an act or omission of the Board; and
- (b) any obligation, right or liability arising from the terms of the GDS Contract or PDS Agreement which gives rise to the functions specified in column 1 of the Schedule remain solely with the Board and must not transfer to the Authority notwithstanding that the function is exercisable or was exercised by the Authority.

(5) The contractor may not refuse to carry out any obligation or requirement, or claim for breach of contract under the terms of the GDS Contract or PDS Agreement, on the ground that the Board has failed to comply with a corresponding obligation or requirement under the terms of that Contract or Agreement, if the Authority has exercised the function which gave rise to those obligations or requirements.

(6) Except as provided in paragraph (7), where the Authority is given the function under these Regulations of receiving or being given access to records, forms, documents or information, or of requesting any records, forms, documents or information, the contractor must—

- (a) send or give access to such records, forms, documents or information to the Authority; and
- (b) upon sending or giving access to such records, forms, documents or information to the Authority, be treated as having complied with the terms of the GDS Contract or PDS Agreement which give rise to the obligation or requirement to do so.

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(7) Where the Board requests under the GDS Contract or PDS Agreement the contractor to send or give access to records, forms, documents or information under paragraph 35, 37 or 44 of Schedule 3 to the GDS Contracts Regulations, or paragraph 36, 38 or 44 of Schedule 3 to the PDS Agreements Regulations, the contractor must send or give access to such records, forms, documents or information to the Board notwithstanding the fact that it may have provided that record, form, document or information to the Authority or may be under an obligation to do so.