

SCHEDULE 3

OTHER CONTRACTUAL TERMS

PART 6

COMPLAINTS

[^{F1}Complaints received prior to 1 April 2011]

47.—(1) [^{F2}As regards complaints relating to any matter reasonably connected with the provision of services under the agreement which are received before 1 April 2011, the contractor must operate a complaints procedure] which will comply—

- (a) subject to sub-paragraph (b), with the requirements of paragraphs 48 to 50 and 52; or
- (b) in the case where the contractor is a Local Health Board, with any directions made under section 16BB(4) of the Act.

(2) The contractor will take reasonable steps to ensure that patients are aware of—

- (a) the complaints procedure;
- (b) the role of the Relevant Body and other bodies in relation to complaints about services under the agreement; and
- (c) their right to assistance with any complaint from independent advocacy services provided under section 19A of the Act⁽¹⁾ (independent advocacy services).

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

Textual Amendments

- F1** Sch. 3 para. 47 heading substituted (1.4.2011) by [The National Health Service \(Concerns, Complaints and Redress Arrangements\) \(Wales\) Regulations 2011 \(S.I. 2011/704\)](#), reg. 1(2), **Sch. 2 para. 5(2)(c)(i)**
- F2** Words in Sch. 3 para. 47(1) substituted (1.4.2011) by [The National Health Service \(Concerns, Complaints and Redress Arrangements\) \(Wales\) Regulations 2011 \(S.I. 2011/704\)](#), reg. 1(2), **Sch. 2 para. 5(2)(c)(ii)**

Commencement Information

- I1** Sch. 3 para. 47 in force at 1.3.2006, see [reg. 1\(1\)](#)

Making of complaints

48. A complaint may be made by or, with his or her consent, on behalf of a patient or former patient, who is receiving or has received services under the agreement, or—

- (a) where the patient is a child, by—
 - (i) either parent;
 - (ii) a person duly authorised by a local authority to whose care the child has been committed under the provisions of the Children Act 1989⁽²⁾; or

⁽¹⁾ Section 19A was inserted by the 2001 Act, section 12.

⁽²⁾ 1989 c. 41.

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- (iii) a person duly authorised by a voluntary organisation by which the child is being accommodated under the provisions of that Act; or
 - (b) where the patient is incapable of making a complaint, by a relative or other adult person who has an interest in his or her welfare.
- (2) Where a patient has died, a complaint may be made by a relative or other adult person who had an interest in his or her welfare or, where the patient falls within paragraph 48 (a)(ii) or (iii), by the authority or a voluntary organisation.

Commencement Information

I2 Sch. 3 para. 48 in force at 1.3.2006, see [reg. 1\(1\)](#)

Period for making complaints

- 49.**—(1) Subject to sub-paragraph (2), the period for making a complaint is—
- (a) six months beginning with the date on which the matter which is the subject of the complaint occurred; or
 - (b) six months beginning with 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 twelve months after the date on which the matter which is the subject of the complaint occurred.
- (2) Where a complaint is not made during the period specified in sub-paragraph (1), it will be referred to the person nominated under paragraph 50(2)(a) and if he or she 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 will be treated as if it had been received during the period specified in sub-paragraph (1).

Commencement Information

I3 Sch. 3 para. 49 in force at 1.3.2006, see [reg. 1\(1\)](#)

Further requirements for complaints procedures

- 50.**—(1) A complaints procedure will 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 or her job title) to be responsible for the operation of the complaints procedure and the investigation of complaints; and
 - (b) an individual who is a party to the agreement, 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—

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- (a) either made or recorded in writing;
- (b) acknowledged in writing within the period of three working days beginning with 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 ten working days beginning with 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 dental records, the person specified in sub-paragraph (2)(a) must inform the patient or person acting on his or her 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 for a period of at least two years from the date on which such complaints were made, but such records will be kept separate from the patients' dental records.

Commencement Information

I4 Sch. 3 para. 50 in force at 1.3.2006, see [reg. 1\(1\)](#)

Co-operation with investigations

51.—(1) The contractor (other than a Local Health Board) will co-operate with—

- (a) any investigation of a complaint [^{F3}or concern notified in accordance with the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011] in relation to any matter reasonably connected with the provision of services under the agreement undertaken by—
 - (i) the Relevant Body, and
 - ^{F4}(ii)
 - ^{F5}(iii) the Welsh Ministers; and
 - (iv) the Public Services Ombudsman for Wales;]
- (b) any investigation of a complaint [^{F3}or concern notified in accordance with the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011] by 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 Local Health Board, an NHS trust, an NHS foundation trust, [^{F6}[^{F7}an integrated care board], [^{F8}NHS England]], or an equivalent body constituted in Scotland or Northern Ireland;

“local authority” means—

- (a) any of the bodies listed in section 1 of the Local Authority Social Services Act 1970(3) (local authorities),

(3) 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.

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- (b) the Council of the Isles of Scilly, ^{F9}...
 - (c) a council constituted under section 2 of the Local Government etc, (Scotland) Act 1994(4) (constitution of councils) [^{F10}, or]
 - (d) [^{F11}the council of a county or county borough in Wales.]
- (3) The co-operation required by sub-paragraph (1) includes—
- (a) answering questions reasonably put to the contractor by the Relevant Body;
 - (b) providing any information relating to the complaint [^{F3}or concern notified in accordance with the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011] reasonably required by the Relevant Body; and
 - (c) attending any meeting to consider the complaint [^{F3}or concern notified in accordance with the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011] (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 Relevant Body.

Textual Amendments

- F3** Words in Sch. 3 para. 51 inserted (1.4.2011) by The National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011 (S.I. 2011/704), reg. 1(2), **Sch. 2 para. 5(2)(c)(iii)(aa)**
- F4** Sch. 3 para. 51(1)(a)(ii) omitted (1.4.2009) by virtue of The Health and Social Care Act 2008 (Commencement No.9, Consequential Amendments and Transitory, Transitional and Saving Provisions) Order 2009 (S.I. 2009/462), art. 1(4), **Sch. 5 para. 19(b)**
- F5** Sch. 3 para. 51(1)(a)(iii), (iv) substituted for (1.4.2011) by The National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011 (S.I. 2011/704), reg. 1(2), **Sch. 2 para. 5(2)(c)(iii)(bb)**
- F6** Words in Sch. 3 para. 51(2) substituted (1.4.2013) by The National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Saving Provisions) Order 2013 (S.I. 2013/235), art. 1(2), **Sch. 2 para. 95(4)(c)** (with Sch. 3 para. 13)
- F7** Words in Regulations substituted (1.7.2022) by The Health and Care Act 2022 (Consequential and Related Amendments and Transitional Provisions) Regulations 2022 (S.I. 2022/634), reg. 1(2), Sch. para. 1(1)(3) (with Sch. para. 1(2))
- F8** Words in Regulations substituted (6.11.2023) by The Health and Care Act 2022 (Further Consequential Amendments) (No. 2) Regulations 2023 (S.I. 2023/1071), reg. 1(1), **Sch. para. 1**
- F9** Word in Sch. 3 para. 51(2) omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) (Secondary Legislation) Regulations 2016 (S.I. 2016/211), reg. 1(2), **Sch. 3 para. 68(a)**
- F10** Word in Sch. 3 para. 51(2) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) (Secondary Legislation) Regulations 2016 (S.I. 2016/211), reg. 1(2), **Sch. 3 para. 68(b)**
- F11** Words in Sch. 3 para. 51(2) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) (Secondary Legislation) Regulations 2016 (S.I. 2016/211), reg. 1(2), **Sch. 3 para. 68(c)**

Commencement Information

- I5** Sch. 3 para. 51 in force at 1.3.2006, see **reg. 1(1)**

(4) 1994 c. 39.

Provision of information

52. The contractor (other than a Local Health Board) will inform the Relevant Body, at such intervals as the Relevant Body requires, of the number of complaints it has received under the procedure established in accordance with this Part.

Commencement Information

16 Sch. 3 para. 52 in force at 1.3.2006, see [reg. 1\(1\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006, PART 6.