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## DIRECTIONS

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### NATIONAL HEALTH SERVICE, ENGLAND

#### The Primary Medical Services (Directed Enhanced Services) (No. 3) Directions 2021

The Secretary of State for Health and Social Care, in exercise of the powers conferred by sections 98A(3), 272(7) and (8) and 273(1) of the National Health Service Act 2006(a), gives the following Directions.

#### Citation, commencement, extent and application

1.—(1) These Directions may be cited as the Primary Medical Services (Directed Enhanced Services) (No. 3) Directions 2021 and come into force immediately after they are signed.

(2) These Directions are given to the Board.

(3) These Directions extend to England and Wales.

(4) These Directions apply in relation to England only.

#### Interpretation

2. In these Directions—

“the Act” means the National Health Service Act 2006;

“general practitioner” means a medical practitioner whose name is included in the medical performers list prepared and maintained by the Board in accordance with regulation 3(1)(a) of the National Health Service (Performers Lists) (England) Regulations 2013(b);

“GMS contract” means a general medical services contract(c);

“GMS contractor” means a person with whom the Board is entering, or has entered into, a GMS contract;

“PMS agreement” means a section 92 arrangement(d) with a person which requires the provision by that person of primary medical services;

“PMS contractor” means a person with whom the Board is entering, or has entered into, a PMS agreement;

“practice” means the business operated by a primary medical services contractor for the purpose of delivering services under the primary medical services contract;

“primary care network” means a network of primary medical services contractors and other providers of services which has been approved by the Board, serving an identified geographical area;

“primary medical services” means medical services to which the provisions of Part 4 of the Act (medical services) apply;

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(a) 2006 c. 41. Section 98A of the National Health Service Act 2006 (“the Act”) was inserted by section 49(1) of the Health and Social Care Act 2012 (c. 7) (“the 2012 Act”). By virtue of section 271(1) of the Act, the powers conferred by these sections are exercisable by the Secretary of State only in relation to England.

(b) S.I. 2013/335; relevant amending instruments are S.I. 2013/1869, 2015/362, 1862, 2017/960, 2019/248, 2020/411, 2021/30.

(c) See section 84 of the Act.

(d) For the definition of “section 92 arrangement” see section 92(8) of the Act. Section 92 was amended by section 55(1) of, and paragraph 36 of Schedule 4 to, the 2012 Act.

“primary medical services contract” means—

- (a) a GMS contract;
- (b) a PMS agreement; or
- (c) contractual arrangements for the provision of primary medical services under section 83(2) of the Act<sup>(a)</sup> (primary medical services);

“primary medical services contractor” means—

- (a) a GMS or PMS contractor; or
- (b) a person with whom the Board is making, or has made, contractual arrangements for the provision of primary medical services under section 83(2) of the Act;

“registered patient” means—

- (a) a person recorded by the Board as being on a primary medical services contractor’s list of patients; or
- (b) a person whom a primary medical services contractor has accepted for inclusion on its list of patients whether or not notification of that acceptance has been received by the Board and who has not been notified by the Board as having ceased to be on that list; and

“Statement of Financial Entitlements” means the General Medical Services Statement of Financial Entitlements (No. 2) Directions 2021<sup>(b)</sup>.

### **Establishment etc. of directed enhanced services schemes**

**3.**—(1) To the extent it has not already done so for the financial year ending on 31st March 2022, the Board must, in exercising its functions under section 83(1) of the Act, establish, operate and, as appropriate, revise the following schemes—

- (a) a Network Contract Directed Enhanced Service Scheme, to integrate care by the formation and continued operation of primary care networks in order to deliver care in a more personalised way;
- (b) a Learning Disabilities Health Check Scheme, to encourage primary medical services contractors to—
  - (i) identify registered patients aged 14 and over who are known to the local authority social services department primarily because of their learning disabilities; and
  - (ii) offer and provide such patients with an annual health check;
- (c) a Violent Patients Scheme, to ensure that there are sufficient arrangements in place to provide primary medical services to patients who have been subject to immediate removal from a patient list of a primary medical services contractor because of an act or threat of violence; and
- (d) a Minor Surgery Scheme, to ensure that a wide range of minor surgical procedures are made available as part of the primary medical services provided throughout England.

(2) The Board must not enter into arrangements with a primary medical services contractor as part of one of the schemes mentioned in paragraph (1) unless the Board is satisfied that the contractor—

- (a) is capable of meeting its obligations under those arrangements (including under any agreed plan); and
- (b) in particular, has the necessary facilities, equipment and properly trained and qualified general practitioners, health care professionals and staff to perform those obligations.

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(a) Section 83 is amended by section 55(1) of, and paragraph 30 of Schedule 4 to, the 2012 Act.

(b) The General Medical Services Statement of Financial Entitlements (No. 2) Directions 2021 replace the General Medical Services Statement of Financial Entitlements Directions 2021, and come into force on 1st October 2021. Copies of the aforementioned Directions are available at: <https://www.gov.uk/government/publications/nhs-primary-medical-services-directions-2013> or a hard copy from the Primary Care team, Department of Health and Social Care, 4<sup>th</sup> Floor, 39 Victoria Street, London SW1H 0EU.

## Network Contract Directed Enhanced Service Scheme

4.—(1) As part of the Network Contract Directed Enhanced Service Scheme (referred to in this direction as “the Scheme”), the Board will have—

- (a) offered to each primary medical services contractor (referred to in this Direction as a “contractor”) an opportunity to enter into, during the relevant period, arrangements under the Scheme in accordance with the Board’s Network Contract Directed Enhanced Services Specification<sup>(a)</sup> (referred to in this Direction as the “Specification”);
- (b) offered to contractors who wish to enter into arrangements under the Scheme but who are not part of a previously approved primary care network, an opportunity to apply to register, during the relevant period, a new primary care network; and
- (c) allowed contractors to apply to alter the membership of a new primary care network or previously approved primary care network during the relevant period.

(2) The Board may only approve the registration of a new primary care network, or approve the continued registration of a previously approved primary care network, where each contractor forming part of the primary care network has—

- (a) signed a Network Agreement<sup>(b)</sup> in accordance with the Specification;
- (b) agreed upon and nominated one contractor to receive payments from the Board on their behalf, to be known as the “nominated payee”;
- (c) put in place suitable arrangements to enable the sharing of data to support the delivery of services and business administration, prior to the start of any service delivery under the Scheme, in accordance with the Network Agreement and the Specification; and
- (d) complied with any additional applicable requirement in the Specification.

(3) Where the Board is satisfied there are exceptional circumstances it may allow—

- (a) a contractor to enter into arrangements under the Scheme outside of the relevant period;
- (b) contractors to apply to the Board to approve the registration of a new primary care network outside of the relevant period; or
- (c) contractors to apply to the Board to alter the membership of a new primary care network or previously approved primary care network outside of the relevant period.

(4) The arrangements that the Board enters into with a contractor under the Scheme must include—

- (a) a requirement that contractor A agrees to alter the membership of the primary care network, of which it is a member, to include contractor B notified by the Board, in circumstances where the Board has first sought to engage with a local medical committee;
- (b) details of the contractor’s obligations under the Scheme in accordance with the Specification;
- (c) a requirement that the contractor is accountable, on a collective basis with the other contractors that are members of the same primary care network, for complying with any obligations which are specified to be those of the primary care network in the Specification;
- (d) details of the consequences of any breach of the contractor’s obligations under the Scheme and of any obligations specified to be those of the primary care network in the Specification;
- (e) details as to the monitoring of the arrangements by the Board;

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(a) The Network Contract Directed Enhanced Service Contract Specification was published on 31 March 2021. It was updated on 30 September 2021 and 20 December 2021. The updated version is available at <https://www.england.nhs.uk/publication/network-contract-des-specification-2021-22> and hard copies are available from the Primary Care Strategy and NHS Contracts team, NHS England, Area 2D, Skipton House, 80 London Road, London, SE1 6LH.

(b) See paragraph 2.2.7 of the Specification.

- (f) a requirement that the contractor provides the Board with such information as the Board may reasonably request for the purposes of monitoring the contractor's performance of its obligations under the arrangements;
- (g) details of the arrangements for the provision of information to the Board by the contractor; and
- (h) the payment arrangements for the contractor.

(5) The Board must, if necessary, vary the contractor's primary medical services contract so that the Scheme comprises part of the contractor's contract or agreement and the arrangements under the Scheme are conditions of the contract or agreement.

(6) In this direction—

- (a) "local medical committee" means a committee recognised by the Board under section 97 of the Act<sup>(a)</sup>;
- (b) "member" or "membership" refers to Core Network Practice<sup>(b)</sup> members which are contractors with responsibility for meeting the obligations specified to be those of the primary care network in the Specification;
- (c) "new primary care network" means a network of primary medical services contractors and other providers of services serving an identified geographical area;
- (d) "previously approved primary care network" means a primary care network approved in the period beginning with 1st July 2019 and ending with 31st March 2021; and
- (e) "relevant period" means the period beginning with 1st April 2021 and ending with 30th April 2021.

### **Learning Disabilities Health Check Scheme**

5.—(1) As part of its Learning Disabilities Health Check Scheme (referred to in this direction as "the LDHC Scheme"), the Board will have before 30th April 2021 offered to—

- (a) each GMS contractor which entered into a GMS contract before 1st April 2020 and which subsisted on 1st April 2021; and
- (b) each PMS contractor for which it holds a list of registered patients, which entered into a PMS agreement before 1st April 2020 and which subsisted on 1st April 2021;

an opportunity to enter into arrangements under the LDHC Scheme in respect of the financial year ending on 31st March 2022.

(2) Subject to paragraph (3), to the extent it has not already done so for the financial year ending on 31st March 2022, the Board must offer to—

- (a) each GMS contractor which enters into a GMS contract on or after 1st April 2021; and
- (b) each PMS contractor for which it holds a list of registered patients and which enters into a PMS agreement on or after 1st April 2021,

an opportunity, after that date, to enter into the arrangements under the LDHC Scheme for the remainder of the financial year.

(3) The Board must only enter into an arrangement under the LDHC Scheme after 31st December 2021 if—

- (a) two or more GMS contracts or PMS agreements (under at least one of which arrangements under the LDHC Scheme referred to in paragraph (1) had previously been entered into) merge and—
  - (i) as a result, two or more patient lists are combined, resulting in either a new or varied GMS contract or PMS agreement; and

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(a) Section 97 was amended by paragraph 41 of Schedule 4(4) to the Health and Social Care Act 2012 (c. 7).

(b) See paragraph 2.2.8 of the Specification.

- (ii) the contractor who is a party to such a new or varied contract or agreement wishes to enter into new arrangements referred to in paragraph (1); or
- (b) a GMS contract or PMS agreement (under which arrangements under the LDHC Scheme referred to in paragraph (1) had previously been entered into) splits and—
  - (i) as a result, the contractor’s patient list is divided between two or more GMS or PMS contractors, resulting in either new or varied GMS contracts or PMS agreements, or a combination of both; and
  - (ii) a contractor who is a party to such a new or varied contract or agreement wishes to enter into a new arrangement as referred to in paragraph (1).

(4) If the Board enters into a new arrangement under the LDHC Scheme, it must do so before the expiry of the period of 28 days beginning with the date of the merger or the split as the case may be.

(5) The Board must—

- (a) consider any proposals put forward by a GMS or PMS contractor which wishes to enter into arrangements under the LDHC Scheme referred to in paragraphs (1) and (2) with a view to agreeing them;
- (b) not delay any such consideration unreasonably; and
- (c) not withhold its agreement unreasonably.

(6) The Board may consider and reach a decision in respect of entering into any arrangements under the LDHC Scheme if a GMS or PMS contractor has failed to provide written proposals in response to the Board’s offer to enter into such arrangements within 42 days beginning with the date of the offer.

(7) The arrangements that the Board enters into with a GMS or PMS contractor as part of the LDHC Scheme must include—

- (a) a requirement that the contractor compile a “health check learning disabilities register” from the coded information held on a registered patient’s medical record for the purpose of identifying those of its registered patients aged 14 years or over with learning disabilities who are to be invited for an annual health check under the arrangement;
- (b) a requirement that the contractor review any learning disabilities register it has already set up under Quality and Outcomes Framework(a) arrangements under its contract or agreement and ensure that such learning disabilities register includes all those registered patients that have been identified for inclusion in the health check learning disabilities register;
- (c) a requirement that the contractor takes reasonable steps to keep the health check learning disabilities register up to date throughout the period of the arrangement by removing and adding registered patients as appropriate;
- (d) a requirement that the contractor provides the Board with such information as the Board may reasonably require to demonstrate that it has robust systems in place to maintain such register accurately;
- (e) a requirement that the contractor must offer an annual health check to each patient on its health check learning disabilities register;
- (f) a requirement that, if the patient consents, or if a person consents on a patient’s behalf, the health check provided under the arrangement is to involve any carer, support worker or other person considered appropriate by either the patient, the person consenting on behalf of the patient or the contractor;

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(a) The Quality and Outcomes Framework is a voluntary reward and incentive programme provided for in Part 2 of the General Medical Services Statement of Financial Entitlements (No. 2) Directions 2021, given by the Secretary of State under sections 87, 272(7) and (8), and 273(1) of the Act. Copies are available at: <https://www.gov.uk/government/publications/nhs-primary-medical-services-directions-2013>.

- (g) a requirement that any health check provided under the arrangement must, as a minimum, include—
  - (i) a review of the patient’s physical and mental health that includes—
    - (aa) the provision of relevant health promotion advice;
    - (bb) a chronic illness and system enquiry;
    - (cc) a physical examination;
    - (dd) a consideration of whether the patient suffers from epilepsy;
    - (ee) a consideration of the patient’s behaviour and mental health; and
    - (ff) a specific syndrome check;
  - (ii) the production of a health action plan for all patients with a learning disability who are aged 14 years and over;
  - (iii) a check on the appropriateness of any prescribed medicines;
  - (iv) a review of coordination arrangements with secondary care; and
  - (v) where appropriate, a review of any transitional arrangements which took place on the patient attaining the age of 18;
- (h) a requirement that in carrying out any health check provided under the arrangements the contractor must use—
  - (i) the “Cardiff” health check protocol<sup>(a)</sup> or a similar protocol agreed with the Board; or
  - (ii) the “National Electronic Health Check (Learning Disabilities) Template”<sup>(b)</sup>;
- (i) a requirement that, before undertaking any health check under the arrangements, the contractor must arrange a training session, if it has not already done so, for its staff which meets the following requirements—
  - (i) the training session must be attended by such members of the contractor’s staff as are agreed between the contractor and the Board, which must include as a minimum—
    - (aa) the lead general practitioner and the lead practice nurse; and
    - (bb) either the practice manager or the senior receptionist, if the contractor’s staff include staff with those designations, or where the contractor’s staff does not include staff with those designations, either of the members of the contractor’s staff who have analogous roles;
  - (ii) the training session must consist of a multi-professional education session approved by the Board; and
  - (iii) the training session must include instruction on overcoming any attitudinal barriers of the staff with a view to improving their communication with patients with learning disabilities;
- (j) a requirement that the contractor makes relevant entries in the patient’s medical record, including any refusal to take up the offer of a health check;
- (k) a requirement that, before 30th April 2022, the contractor informs the Board, in writing (to include by way of electronic mail), of the number of registered patients on the health check learning disabilities register who have received a health check undertaken by the contractor under the arrangement referred to in paragraph (1) in respect of the twelve month period ending on 31st March 2022;

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(a) This is also known as the Welsh health check and can be found at <https://www.ncmh.info/resources/online-tools/learning-disability-health-check-forms/>. Hard copies of the protocol are available from the Primary Care team, Department of Health and Social Care, 4<sup>th</sup> Floor, 39 Victoria Street, SW1H 0EU.

(b) The “National Electronic Health Check (Learning Disabilities) Template” is an interactive code-based tool which has been available on GP IT systems from 1st April 2017. The purpose of the tool is to help GPs assess the health needs of those with learning disabilities in a systematic way and to generate a Health Check Action Plan which is tailored towards the needs of individual patients. Further information with respect to the template can be found at <https://www.england.nhs.uk/learning-disabilities/improving-health/annual-health-checks/> and obtained from NHS England, PO Box 16738, Redditch, B97 7PT.

- (l) details of the arrangements for the provision of information by the Board and by the contractor in addition to any information the contractor is required to provide in accordance with sub-paragraph (k);
- (m) details as to the monitoring of the arrangements by the Board; and
- (n) in the case of PMS contractors, the amount of the payments to be made to the contractor for meeting its obligations under the arrangements, and in determining the appropriate level of those payments the Board must have regard to the amounts of payments under Section 8 (Learning Disabilities Health Check Scheme for the period 1st April 2021 to 31st March 2022) of the Statement of Financial Entitlements.

(8) The Board must, if necessary, vary the contractor's GMS contract or PMS agreement so that the LDHC Scheme comprises part of the contractor's contract or agreement and the arrangements under the LDHC Scheme are conditions of the contract or agreement.

(9) In this direction—

- (a) “chronic illness and system enquiry” means a check of respiratory, cardiovascular and other functions in the body which may not currently present as being subject to chronic illness or disease; and
- (b) “a specific syndrome check” means a bodily check for syndromes known to cause learning disabilities which are associated with increased morbidity.

### **Violent Patients Scheme**

6.—(1) The Board must consult the local medical committee (if any) for the area in which a primary medical services contractor which wishes to enter into arrangements in respect of a Violent Patients Scheme (referred to in this direction as “the Scheme”) provides primary medical services about any proposals it has to establish or revise the Scheme.

(2) Where the Board enters into arrangements under the Scheme, the Board must—

- (a) as part of those arrangements, make provision for the payment arrangements for the contractor agreeing and meeting its obligations under the Scheme in respect of each financial year to which those arrangements relate; and
- (b) if necessary, vary the primary medical services contractor's contract or agreement so that the Scheme comprises part of the contractor's contract or agreement and the arrangements under the Scheme are conditions of the contract or agreement.

(3) In this direction “local medical committee” has the same meaning as given in direction 4(6)(b).

### **Minor Surgery Scheme**

7.—(1) As part of its Minor Surgery Scheme (referred to in this Direction as “the Scheme”), the Board may enter into arrangements with any primary medical services contractor.

(2) Where the Board enters into arrangements under the Scheme, those arrangements must, in respect of each financial year to which those arrangements relate, include—

- (a) which minor surgical procedures are to be undertaken by the contractor and for which category of patients, and for these purposes, the minor surgical procedures that may be undertaken are any minor surgical procedures that the Board considers the contractor competent to provide, which may include—
  - (i) injections for muscles, tendons and joints;
  - (ii) invasive procedures, including incisions and excisions; and
  - (iii) injections for varicose veins and piles;
- (b) a requirement that the contractor takes all reasonable steps to provide suitable information to patients, in respect of whom they are contracted to provide minor surgical procedures, about those procedures;
- (c) a requirement that the contractor—

- (i) obtains written consent to the surgical procedure before it is carried out (where a person consents on a patient's behalf, that person's relationship to the patient must be recorded on the consent form); and
- (ii) takes all reasonable steps to ensure that the consent form is included in the lifelong medical records held by the patient's general practitioner;
- (d) a requirement that the contractor ensures that all tissue removed by surgical procedures is sent for histological examination, unless the contractor considers there are clinically acceptable reasons for not doing so;
- (e) a requirement that the contractor ensures that any health care professional who is involved in performing or assisting in any surgical procedure has—
  - (i) any necessary experience, skills and training with regard to that procedure; and
  - (ii) resuscitation skills;
- (f) a requirement that the contractor ensures that it has appropriate arrangements for infection control and decontamination in premises where surgical procedures are undertaken, and for these purposes, the Board may stipulate—
  - (i) the use of sterile packs from the local Central Sterile Service Department<sup>(a)</sup>, disposable sterile instruments, or approved sterilisation procedures; and
  - (ii) the use of particular infection control policies in relation to, for example, the handling of used instruments and excised specimens, and the disposal of clinical waste;
- (g) a requirement that the contractor ensures that all records relating to all surgical procedures are maintained in such a way—
  - (i) that aggregated data and details of individual patients are readily accessible for lawful purposes; and
  - (ii) as to facilitate regular audit and peer review by the contractor of the performance of surgical procedures under the Scheme;
- (h) a requirement that the contractor supplies the Board with such information as it may reasonably request for the purposes of monitoring the contractor's performance of its obligations under the Scheme; and
- (i) the payment arrangements for the contractor.

(3) The Board must, where necessary, vary the contractor's primary medical services contract or agreement so that the Scheme comprises part of the contractor's contract or agreement and the arrangements under the Scheme are conditions of the contract or agreement.

### **Revocation and savings**

**8.**—(1) Subject to paragraph (2), the Primary Medical Services (Directed Enhanced Services) (No. 2) Directions 2021 are revoked.

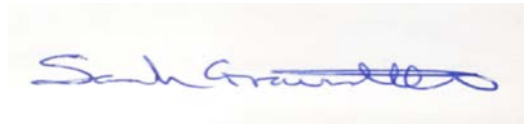
(2) Despite the revocation provided for in paragraph (1), the Primary Medical Services (Directed Enhanced Services) (No. 2) Directions 2021 as in force immediately before these Directions come into force are to continue to apply to the extent necessary to assess any entitlement to payment in respect of services provided under arrangements made in accordance with those Directions.

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(a) The local Central Sterile Services Department is the provider of equipment sterilisation facilities in the local health economy.



Signed by authority of the Secretary of State for Health and Social Care

A handwritten signature in blue ink, appearing to read "Sarah Gravenstede", is shown on a light-colored background.

[21 December 2021, 18:18]

Sarah Gravenstede  
Member of the Senior Civil Service  
Department of Health and Social Care