

*Standard (Mandatory Services) General Ophthalmic Services Contract Variation  
Notice – October 2010*

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The text of the Standard (Mandatory Services) General Ophthalmic Services Contract Variation Notice October 2010 has been prepared by the Department of Health's Solicitors. It is prepared on the basis that the numbering adopted in the signed contract follows that used in the Standard (Mandatory Services) General Ophthalmic Services Contract May 2008.

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Dear Sir/Madam

**Notice of Variation to your Standard (Mandatory Services) General Ophthalmic Services Contract dated [            ]**

We give you notice under paragraph 33(2) of Part 7 of Schedule 1 to the General Ophthalmic Services Contracts Regulations 2008 (S.I. 2008/1185) (“the Regulations”) that the terms of your standard (mandatory services) general ophthalmic services contract dated [            ] are varied as set out below with effect from [*insert here date on which variations will take effect. Where reasonably practicable this should not be less than 14 days after the date on which this notice is served*].

These variations are made to comply with the terms of the National Health Service (Miscellaneous Amendments Relating to Ophthalmic Services) Regulations 2010 (S.I. 2010/634), the Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (S.I. 2009/309), and the Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008 (S.I.2008/1700). There is also a minor amendment of the definition of “Secretary of State” and the footnote to Clause B under the section headed Background.

We request you to acknowledge receipt of this notice by signing and returning the enclosed duplicate of it.

Dated:

Signed:

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on behalf of [ ] Primary Care Trust

Print name:

**WORDING OF VARIATIONS**

**TITLE : STANDARD (MANDATORY SERVICES) GENERAL  
OPHTHALMIC SERVICES CONTRACT**

**BACKGROUND**

1. In **Clause B**, replace the footnote to the reference to “the regulations made there under” as follows:

“See the General Ophthalmic Services Contracts Regulations 2008 (S.I. 2008/1185) (*“the Regulations”*) and please also see regulation 2 of the Primary Ophthalmic Services Transitional Provisions Regulations 2008 (SI 2008/1209) (*“the Transitional Regulations”*).”.

**PART 1 – DEFINITIONS AND INTERPRETATION**

2. The following variations are made to **Clause 1**:

- 2.1 In the **definition of “child”**, “under” is replaced by “who has not attained”.

- 2.2 After the **definition of the “child”**, insert the following definition:

““the Complaints Regulations” means the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (SI 2009/309);”.

- 2.3 In the **definition of “contract disqualification order”**, “*FHSAA*” is replaced with “First-tier Tribunal”.

- 2.4 After the **definition of “health service body”**, insert the following definition:

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““Health Service Commissioner” means a Commissioner who conducts investigations in accordance with the Health Service Commissioners Act 1993 (c.46);”

**2.5** Replace the **definition of “mandatory services”** as follows:

““mandatory services” means the primary ophthalmic services provided under section 115(1)(a) of *the Act* (sight-testing service) and described in Part 8 of this Contract to a person who falls within regulation 3(1) of the *POS Regulations* (except sight-testing services provided as mobile services under regulation 2A of the *POS Regulations*);”.

**2.6** In the **definition of “national disqualification”**, “*FHSAA*” is replaced with “First-tier Tribunal” wherever it appears.

**2.7** In the **definition of “the register”**, after “7(a)” insert “or 8B(1)(a)”.

**2.8** Replace the **definition of “the Secretary of State”** as follows:

““the Secretary of State” means, unless the context otherwise requires, one of Her Majesty’s Principal Secretaries of State; and”.

**PART 7 – PROVISION OF SERVICES**

**3.** After **Clause 25**, the following heading and new clause are inserted:

**“Patient preference of performer**

25A. The Contractor must-

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25A.1. where it has agreed to provide services to a patient, notify the patient (or, in the case of a *child* or incapable adult, the person who made the application on their behalf) of the patient’s right to express a preference to receive services from a particular performer where more than one performer is available;

25A.2. try to comply with any reasonable preference expressed by the patient under 25.A.1. but need not do so if the preferred performer has reasonable grounds for refusing to provide services to the patient.”.

**PART 9– PATIENTS**

4. The following variations are made to Part 9.

4.1 In **Clause 35**, “The Contractor shall provide” is replaced by “The Contractor may provide mandatory”.

4.2 In **Clause 36**, sub-clause 36.1.3, is replaced with –

“36.1.3. a person duly authorised by a voluntary organisation which is accommodating the child under the provisions of that Act; or”

4.3 After clause 36.1.3, insert –

“36.1.4. the guardian or other adult person who has the care of the child; or”.

**PART 13– FEES AND CHARGES**

5. **Clause 85** is deleted and replaced with the words “[**Clause 85 is spare**]”.

**PART 17– COMPLAINTS**

6. The following variations are made to Part 17.

6.1 In the **footnote to the heading “Part 17”**, insert “Part 4A and” before “Part 5”.

6.2 At the end of the heading “**Complaints procedure**” insert “**before 1st April 2009**”.

6.3 At the end of **Clause 101** insert “which are received before 1st April 2009”.

6.4 After **Clause 103** the following heading and new clause are inserted:

**“Complaints procedure for complaints received on or after  
1st April 2009**

103A. As regards complaints relating to any matter reasonably connected with the provision of services under the Contract which are received on or after 1st April 2009, the Contractor shall establish and operate a complaints procedure that meets the requirements of the *Complaints Regulations*.”.

6.5 In **Clause 113.1**, “Commission for Healthcare Audit and Inspection” is replaced with “*Health Service Commissioner*”.

**PART 19 – VARIATION AND TERMINATION OF THE CONTRACT**

7. The following variations are made to Part 19.

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**7.1** In **Clause 148**, in sub-clause 148.1, “paragraph 34” is replaced by “paragraph 31”.

**7.2** In **Clause 155**, sub-clause 155.11.2 is replaced as follows:

“155.11.2. removed under–

(a) section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (powers of the Court of Session to deal with management of charities), or

(b) section 34(5)(e) of the Charities and Trustee Investment (Scotland) Act 2005 (powers of the Court of Session),

from being concerned with the management or control of any body; or”.

**7.3** In **Clause 169**, where “default” appears it is replaced by “breach” and “the Contract in respect of that”, is replaced by “the Contract in respect of the”.

**7.4** In **Clause 179**, in sub-clause 179.1, “paragraph 34” is replaced by “paragraph 31”.

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I/We [ ] acknowledge receipt of the notice of variation dated [ ] of which the above is a duplicate. I/We acknowledge that this notice will take effect from [ ].

Signed:



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[on behalf of \_\_\_\_\_ ]:

Print name:

Date: