

# PROTOTYPE AGREEMENT SCHEME STATEMENT OF FINANCIAL ENTITLEMENTS

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# 1. Introduction

1.1 The Secretary of State for Health makes the following Directions set out in this Prototype Agreement Scheme Statement of Financial Entitlements (“SFE”) in exercise of the powers conferred by sections 103(1), 109(4), 272(7) and (8) and 273(1) of the National Health Service Act 2006 (“the 2006 Act”)<sup>1</sup>. This SFE applies only where the contractor and the National Health Service Commissioning Board (“the Board”)<sup>2</sup> elect to enter into a Prototype Agreement (“the Prototype Agreement”).

1.2 These Directions may be cited as the Prototype Agreement Scheme Statement of Financial Entitlements and are referred to in the following Sections as this SFE. This SFE refers to payments to be made by the Board to a Contractor under a Prototype Agreement.

1.3 The directions set out in this SFE are subordinate legislation for the purposes of section 23 of the Interpretation Act 1978, and accordingly, in this SFE, unless the context otherwise requires:

- (a) words or expressions used both here and in the 2006 Act bear the meaning they bear in the 2006 Act;
- (b) references to legislation (i.e. Acts and subordinate legislation) are to that legislation as amended, extended or applied, from time to time;
- (c) words importing the masculine gender include the feminine gender, and vice versa (and words importing the neuter gender also include the masculine and feminine gender); and
- (d) words in the singular include the plural, and vice versa.

1.4 This SFE is divided into Chapters, Parts, Sections, paragraphs, sub-paragraphs and heads. A glossary of some of the words and expressions used in this SFE is provided in Section 34. Words and expressions defined in that Section are often highlighted by initial capital letters.

1.5 At various points in this SFE, reference is made to a dental practitioner being “employed or engaged” by a contractor. In this SFE, “employed or engaged”, in relation to a dental practitioner’s relationship with a contractor includes, in addition to dental practitioners who have a contract of service or for services with the contractor:

- (a) a dental practitioner who is the contractor;
- (b) a dental practitioner who is a partner in a contractor that is a partnership; and
- (c) a dental practitioner who is a director of a dental corporation.

## ***Commencement and application***

1.6 This SFE is authorised to be given, and by an instrument in writing, on behalf of the Secretary of State for Health, by Peter Howitt, a member of the Senior Civil Service, on 23rd September 2015, and comes into force on 1st November 2015.

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<sup>1</sup> 2006 c.41. By virtue of section 271(1) of the National Health Service Act 2006, the functions of the Secretary of State being exercised in the making of these Directions are exercisable only in relation to England.

<sup>2</sup> The National Health Service Commissioning Board was established by section 1H of the National Health Service Act 2006. Section 1H was inserted into section 9 of the Health and Social Care Act 2012 (c.7).

1.7 The directions in this SFE are given to the National Health Service Commissioning Board and apply in relation to England only.

1.8 This SFE may be revised at any time, in certain circumstances with retrospective effect. For the most up-to-date information, contact the Dental and Eye Care Services Branch, Policy and Legislative Unit, NHS Group, Room 201 Richmond House, 79 Whitehall, London, SW1A 2NS, or visit the following website: [www.gov.uk](http://www.gov.uk).

1.9 From 1st November 2015, each contractor who participates in the Prototype Agreement Scheme will be assigned to a Prototype Blend:

- (a) Blend A, where
  - (i) capitation is used as the basis for payment for what would be described as Band 1 courses of treatment in the underlying GDS contract or PDS agreement, and
  - (ii) activity is used as the basis for payment for what would be described as Band 2 and Band 3 courses of treatment in the underlying GDS contract or PDS agreement; and
- (b) Blend B, where
  - (i) capitation is used as the basis for payment for what would be described as Band 1 and Band 2 courses of treatment in the underlying GDS contract or PDS agreement, and
  - (ii) activity is used as the basis for payment for what would be described as Band 3 courses of treatment in the underlying GDS contract or PDS agreement.

1.10 Where contractors and the Board have entered into a:

- (a) PDS agreement prior to the commencement of the Prototype Agreement, or a Capitation and Quality Scheme Agreement or a Capitation and Quality Scheme 2 Agreement but the underlying agreement is a PDS agreement, Chapters 1 and 3 of this SFE apply; and
- (b) GDS contract prior to the commencement of the Prototype Agreement, or a Capitation and Quality Scheme Agreement or a Capitation and Quality Scheme 2 Agreement but the underlying agreement is a GDS contract, Chapters 2 and 3 of this SFE apply.

1.11 Where the contractor and the Board have elected to enter into a Prototype Agreement, except as expressly provided for in this SFE the General Dental Services Statement of Financial Entitlements 2013<sup>3</sup> or the Personal Dental Services Statement of Financial Entitlements 2013<sup>4</sup> temporarily have no effect with effect from the period starting on the day on which the Prototype Agreement commences and ending at the end of the day which is the date of the termination of that Prototype Agreement.

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<sup>3</sup> The General Dental Services Statement of Financial Entitlements 2013 signed on 28th of March 2013 is amended by the Primary Dental Services Statements of Financial Entitlement (Amendment) Directions 2014 signed on 16th April 2014 and the Primary Dental Services Statements of Financial Entitlement (Amendment) Directions 2015 signed on 30th July 2014. All of the aforementioned documents are published on [www.gov.uk](http://www.gov.uk). Hard copies of these documents can be obtained by writing to Dental and Eye Care Services, Policy and Legislation Unit, NHS Group, Room 201 Richmond House, 79 Whitehall, London, SW1A 2NS.

<sup>4</sup> The Personal Dental Services Statement of Financial Entitlements 2013 signed on 28th of March 2013 is amended by the Primary Dental Services Statements of Financial Entitlement (Amendment) Directions 2014 signed on 16th April 2014 and the Primary Dental Services Statements of Financial Entitlement (Amendment) Directions 2015 signed on 30th July 2014. All of the aforementioned documents are published on [www.gov.uk](http://www.gov.uk). Hard copies of these documents can be obtained by writing to Dental and Eye Care Services, Policy and Legislation Unit, NHS Group, Room 201 Richmond House, 79 Whitehall, London, SW1A 2NS.

1.12 On cessation of the Prototype Agreement Scheme or termination of the Prototype Agreement, the contractor must continue to provide primary dental services in accordance with the PDS Agreement, or the GDS contract, and the Personal Dental Services Statement of Financial Entitlements 2013 and the General Dental Services Statement of Financial Entitlements 2013 continue to have effect as may be amended.

Signed by authority of the Secretary of State for Health

23rd September 2015

*Peter Howitt*  
A Member of the Senior Civil Service  
Department of Health

# **CHAPTER ONE**

## **PAYMENTS FOR THOSE ELECTING TO ENTER INTO A PROTOTYPE AGREEMENT FROM AN UNDERLYING PDS AGREEMENT**

### **PART 1**

#### **Blend A Prototype Agreements**

## 2. Negotiated Annual Prototype Value

2.1 With effect from 1st November 2015, where a contractor has elected to enter into a Prototype Agreement with the Board and has been assigned to a Blend A Prototype Agreement, the PDS agreement held by the contractor which was considered to have a Negotiated Annual Agreement Value (NAAV) will be deemed to have a Negotiated Annual Prototype Value – Blend A (NAPVA) beginning on the date the Prototype Agreement commences.

2.2 Payments under a Blend A Prototype Agreement in respect of the agreed services specified in the Prototype Agreement are to be based on a NAPVA.

2.3 Each Blend A Prototype Agreement must specify:

- (a) that the contractor will offer all mandatory NHS services, and
- (b) any other services to be provided.

#### ***Nomination of the first Negotiated Annual Prototype Value – Blend A***

2.4 At the start of the financial year – or, if a Blend A Prototype Agreement starts after the start of the financial year, for the date on which the Blend A Prototype Agreement takes effect – the Board must calculate for each contractor the NAPVA. The value of the NAPVA is the same as the value of the NAAV of the underlying PDS agreement held by the contractor immediately before the commencement of the Prototype Agreement.

2.5 The NAAV may have been updated by the percentage amount determined by the Secretary of State at the beginning of the financial year 2015 to 2016. If this has not taken place, the NAAV will need to be adjusted by the percentage increase determined by the Secretary of State for the financial year 2015 to 2016 which is 1.34%.

2.6 If the payment, or any of the payments in the aggregate of payments, only relates to part of that financial year – for example, because the PDS agreement held prior to the commencement of the Prototype Agreement takes effect for payment purposes after the start of the financial year, or is due to end before the end of the financial year – the part year payment or payments are to be annualised. The annualised amount of the nominated payment or aggregate of payments is to be used as the basis of the calculation of the first NAPVA for the contractor's Blend A Prototype Agreement.

***Dealing with under-delivery of units of dental activity in previous financial year or in the current financial year***

2.7 Where a contractor held an underlying PDS agreement immediately prior to the commencement of the Prototype Agreement, it may be the case that the number of units of dental activity the contractor was required to provide under that PDS agreement have not been delivered by the date on which the Prototype Agreement commences. Where it is agreed between the Board and the contractor that any under-delivered units of dental activity are to be carried forward, then that number of units of dental activity will be carried forward and in effect the obligation to provide that activity is “stayed” for the duration of the Prototype Agreement. The number of units of dental activity “stayed” for the duration of the Prototype Agreement must be set out in the Prototype Agreement. The Board will need to agree with the contractor as to how the units of dental activity which have been “stayed” will be provided following the termination of the Prototype Agreement.

2.8 The number of units of dental activity that must be “stayed” is calculated as:

- (a) the pro-rated number of units of dental activity that should have been delivered for the financial year to date. (Where the Board and a contractor have agreed a specific profile for delivering units of dental activity during the year, this profile can be used instead of pro-rating the amount); plus
- (b) the number of under-delivered units of dental activity from the previous financial year which it was agreed would be carried forward; minus
- (c) the units of dental activity delivered up to the date on which the Prototype Agreement commences.

2.9 Where a contractor has previously held a Capitation and Quality Scheme 2 Agreement, it may have been the case that a number of units of dental activity was “stayed” for the duration of that Capitation and Quality Scheme 2 Agreement. In these cases, the same number of units of dental activity is “stayed” for the duration of the Prototype Agreement. The amount of units of dental activity “stayed” must be set out in the Prototype Agreement. The Board will need to agree with the contractor as to how the amount of units of dental activity “stayed” will be provided following the termination of the Prototype Agreement.

***New NAPVAs where a Blend A Prototype Agreement is revised***

2.10 If, with the agreement of the Board and the contractor, the NHS commitment of the contractor changes, or the services, or service levels, that a contractor is required to provide under its Blend A Prototype Agreement is revised, a new NAPVA will have to be established for that contractor. If the variation takes effect during the financial year, the new NAPVA for that Prototype Agreement must be an annualised amount for calculation purposes, even though only a proportion of that annualised amount will in fact be payable for the remaining part year.

2.11 NHS commitment is the time and effort that a contractor devotes to providing NHS care. For the Blend A Prototype Agreements it is important that the results achieved are assessed in the context of the overall time and effort put in by the contractor. The intent is not to manage this at a detailed level but where necessary, the Board must look at indicators to assess NHS commitment. These key indicators of NHS commitment are:

- (a) the average weekly time given to appointments in which an element of NHS care is delivered and reported to the NHS BSA calculated on a quarterly basis. The Board may review the NAPVA where the key indicator, in the opinion of the Board, significantly decreases from the level agreed at the date of the commencement of the Prototype Agreement and the Board considers that decrease to represent a significant reduction in NHS commitment. The review period runs from the date of the commencement of the Prototype Agreement until the end of the financial year in which the Prototype Agreement is made (with an equivalent period for future years); and
- (b) the historical capitated population number after any adjustment for past under-delivery, calculated on a quarterly basis. The Board may review the NAPVA if, in the opinion of the Board, this indicator significantly decreases from the level agreed at the date of the commencement of the Prototype Agreement, and the Board considers that decrease to represent a significant reduction in NHS commitment. The review period runs from the date of the commencement of the Prototype Agreement until the end of the financial year in which the Prototype Agreement is made (with an equivalent period for future years).

### *Annual uprating of NAPVAs*

2.12 It is intended that at the start of each financial year that this SFE applies, this SFE will be amended so as to include the percentage increase in agreement value as determined by the Secretary of State for the duration of the Prototype Agreement Scheme. In practice, these adjustments will be factored into Monthly Annual Prototype Value – Blend A Payments (APVAP) by the NHS BSA on a national basis. The Board must not itself, therefore, adjust the amounts that it has loaded into the Payments On-Line (POL) system by these adjustments.

## 3. Payment of Monthly Annual Prototype Value Payments

3.1 At any point, there must be, in respect of each Blend A Prototype Agreement, a NAPVA, determined in accordance with Section 2. This, in all cases, is to be an annual (or annualised) amount. For each Blend A Prototype Agreement, the contractor's Actual Annual Prototype Value – Blend A (AAPVA) has to be established.

3.2 The AAPVA is calculated as:

- (a) the NAPVA; minus
- (b) an amount of the NAPVA that is attributed to orthodontic activity, which will be paid for separately under the underlying PDS agreement. If the element relating to orthodontics is not explicitly stated in the underlying PDS agreement then an amount must be agreed by the Board and the contractor; and minus
- (c) an element of the NAPVA that is due to specified services. Specified services are defined in paragraph 10.1 (specified services). If the element relating to specified services is not explicitly stated in the underlying PDS agreement then an amount must be agreed by the Board and the contractor.

3.3 The AAPVA provides the basis for the calculation of the Monthly Annual Prototype Value – Blend A Payments (Monthly APVAP) payable under the Prototype Agreement. These calculations are outlined in the rest of Section 3.

3.4 Payments for orthodontics are made in accordance with the underlying PDS agreement. The Prototype Agreement must specify the value of the orthodontic services element of the NAPVA and the number of units of orthodontic activity (“UOAs”) that the contractor is required to provide in the financial year.

3.5 Payments for specified services are outlined in Section 10 (specified services).

#### ***Initial value of Monthly APVAPs***

3.6 The first initial value of a contractor’s Monthly APVAPs is to be determined for the date on which its Blend A Prototype Agreement takes effect for payment purposes. Once the contractor’s AAPVA has been established, that amount is to be divided by twelve, and subject to paragraph 3.7, the result is the first initial value of the contractor’s Monthly APVAPs.

3.7 If the contractor’s Blend A Prototype Agreement took effect for payment purposes other than on the first day of a month, the initial value of its Monthly APVAPs in respect of the first part-month of its Prototype Agreement is to be adjusted by a factor which is produced by dividing:

- (a) the number of days during the month for which the Prototype Agreement has effect for payment purposes; by
- (b) the total number of days in that month.

3.8 That initial value (expressed as a monthly value, in cases where a Prototype Agreement took effect for payment purposes other than on the first day of the month) will remain the basis for the calculation of the net value of the contractor’s Monthly APVAPs, until that initial value is next revised.

#### ***Revision of the initial value of Monthly APVAPs***

3.9 The initial value of a contractor’s Monthly APVAPs will have to be revised where, for any reason, its AAPVA is revised.

3.10 If the contractor’s AAPVA is revised for the start of a month, the new initial value of its Monthly APVAPs (until its AAPVA is next revised) is its new AAPVA divided by twelve. If its AAPVA changes during a month, the initial value of its Monthly APVAPs (until its AAPVA is next revised again) is:

- (a) for the month after the month during which its AAPVA changed, its AAPVA divided by 12; or
- (b) for the month during which its AAPVA changed, the sum of the following amounts:
  - (i) the amount produced by dividing the number of days during the month before the change by the total number of days in that month, and



- multiplying that fraction by the old initial value of the contractor's Monthly APVAPs, plus
- (ii) the amount produced by dividing the number of days during the month for which the contractor had a new AAPVA by the total number of days in that month and multiplying that fraction by the new initial value of the contractor's Monthly APVAPs.

3.11 Once the initial value of a contractor's Monthly APVAPs has been established for any particular month, the Board must go on to establish the net value of the contractor's Monthly APVAPs, which is the amount actually to be paid.

#### ***Deductions in respect of NHS charges***

3.12 Deductions must be made in respect of NHS charges in line with paragraphs 8.1 to 8.3 in Part 3 of this SFE (deductions in respect of NHS charges).

3.13 The Monthly APVAP value produced after the deduction described in paragraph 8.3 has been made is, subject to paragraph 3.14, the gross value of the contractor's Monthly APVAP for that month (i.e. the value before the deduction of employee's superannuation contributions).

#### ***Deductions in respect of overpayments etc.***

3.14 Deductions may need to be made to the amount determined in accordance with paragraph 8.3 under the administrative provisions in Section 16 of this SFE (administrative provisions), to take account of matters such as overpayments. In accounting terms, these deductions may alter the gross value of the Monthly APVAP in question or the gross value of another payment, but either way they will alter the net value of the Monthly APVAP in question.

#### ***Deductions in respect of LDC levies***

3.15 Any agreed deduction for LDC levies in line with paragraph 8.4 (deductions in respect of LDC levies) must be deducted by the Board from the contractor's Monthly APVAPs.

#### ***Deductions in respect of employee's superannuation contributions***

3.16 Deductions must be made in respect of employee's superannuation contributions in line with paragraphs 8.5 to 8.7 in Part 3 of this SFE (deductions in respect of employee's superannuation contributions).

#### ***Net value of the contractor's first Monthly APVAPs***

3.17 The gross value of a contractor's Monthly APVAPs, minus any necessary deductions as mentioned in paragraphs 3.12 to 3.16, and minus any voluntary deductions that the contractor has asked to be made, is the net value of the contractor's first Monthly APVAPs. That amount is the amount actually to be paid. It becomes payable on the contractor's Monthly Payment Date, which is the first working day of the month after the month to which the Monthly APVAP relates.

### ***Conditions attached to Monthly APVAPs***

3.18 Monthly APVAPs, or any part of such payments, are only payable if the contractor satisfies the following conditions:

- (a) the contractor must make available any information which the Board does not have but needs (including the returns required under the DQOF), and which the contractor either has or could reasonably be expected to obtain, in order to calculate the contractor's Monthly APVAPs;
- (b) the contractor must make available to the Board a reasonable estimate of the net monthly Pensionable Earnings (i.e. net of any Pensionable Earnings that are attributable to any Monthly Seniority Payment) of each Dentist Performer who is employed or engaged by it, and must notify the Board of any appropriate changes to that estimate; and
- (c) all information supplied pursuant to or in accordance with this paragraph must be accurate.

3.19 If the contractor breaches any condition of its Monthly APVAPs that is set out in this SFE (including the conditions that are set out in paragraph 3.18), the Board may, in appropriate circumstances, withhold payment of all or any part of a Monthly APVAPs that is otherwise payable.

### ***Monthly Payment Schedule***

3.20 On the due date for Monthly APVAPs, or as soon as reasonably practicable thereafter, the Board must send to the contractor a Monthly Payment Schedule which must include (but not be limited to):

- (a) the contractor's AAPVA;
- (b) the amount of the initial value of the contractor's Monthly APVAPs, prior to any permitted deductions;
- (c) the amount of permitted deductions, which shall be specified in two parts:
  - (i) the amount of the NHS charges that the Board has determined, in accordance with paragraph 8.3, that the contractor should have collected in respect of courses of treatment provided, and
  - (ii) the amount of any other deductions that need to be made to the Monthly APVAPs under the Prototype Agreement or pursuant to this SFE (for example, the deductions mentioned in paragraphs 3.14 to 3.16), together with the reason for any such deduction;
- (d) the amount of the Monthly APVAP following the permitted deductions;
- (e) any other payments payable to the contractor pursuant to this SFE on that due date, including where relevant an indication that a particular payment is made in respect of a named Dentist Performer; and
- (f) the estimated net monthly Pensionable Earnings of each Dentist Performer who performs services under the Prototype Agreement, i.e. net of any Pensionable Earnings that are attributable to any Monthly Seniority Payment.

3.21 In practice, in accordance with entry 2(c) in column 2 of the Schedule to the Functions Regulations, the Monthly Payment Schedule will be sent to the contractor by the

NHS BSA, who will also need to send a copy to the Board (entry 2(a) of column 3 of the Schedule to the Functions Regulations).

## 4. Annual payment adjustment for capitation, activity and performance

### *Initial value of the Month 12 Monthly APVAP*

4.1 The adjustments for capitation, activity and performance are carried out in Month 15 so an interim payment for Month 12 needs to be made to contractors. The calculation and value of the Month 12 Monthly APVAP is as described in Section 3. Adjustments are then made to this in Month 15 relative to the money already paid to the contractor.

### *Setting the baseline for the annual payment adjustment*

4.2 The amount of payment made to each contractor during the financial year needs to be adjusted based on each contractor's performance for:

- (a) capitation, in terms of what would be described as Band 1 courses of treatments in the underlying PDS agreement;
- (b) activity, in terms of what would be described as Band 2 and Band 3 courses of treatments in the underlying PDS agreement; and
- (c) performance against the DQOF.

4.3 On the date of its commencement, or at the beginning of each financial year, the Prototype Agreement must set out:

- (a) the AAPVA;
- (b) the Pro-rated AAPVA (PAAPVA), which is the pro-rated value of the Prototype Agreement where the Prototype Agreement has started after the beginning of the financial year. For Prototype Agreements that begin on 1 April in any financial year, the PAAPVA = AAPVA;
- (c) the minimum expected number of units of dental activity for Band 2 and Band 3 courses of treatment (effectively worth 2 and 11 units of dental activity respectively) that the contractor is expected to deliver under its Prototype Agreement for the part of the financial year to which the Prototype Agreement applies. This is described as the Expected Minimum Activity (EMA);
- (d) the value of a unit of dental activity in the underlying PDS agreement, which is described as the UDA Value (UDAV);
- (e) the Pro-rated Actual Annual Prototype Value – Blend A – Activity Element (PAAPVA-A), which is the amount of the PAAPVA that will be measured by activity;
- (f) the Prorated Actual Annual Prototype Value – Blend A – Capitation Element (PAAPVA-C), which is the amount of the PAAPVA that will be measured by capitation; and
- (g) the number of capitated patients to whom the contractor is expected to have provided primary dentals services by the end of the financial year, which is described as the Contractor's Expected Capitated Population (CECP).

4.4 The Board will calculate the PAAPVA-A and PAAPVA-C for each Prototype Agreement at the commencement of that Prototype Agreement, or at the beginning of each financial year. The calculation is to be relative to:

- (a) the number of Band 2 courses of treatment provided in the baseline year;
- (b) the number of Band 3 courses of treatment provided in the baseline year;
- (c) the UDAV;
- (d) the PAAPVA;
- (e) any allowance the Board is applying to reflect the expected fall in the numbers of courses of treatment provided under Prototype Agreements, to reflect the additional time that is being spent on prevention; and
- (f) the proportion of the financial year covered by the Prototype Agreement.

4.5 The Prototype Agreement must also state the Contract Value Carried Forward – Previous Year (CVCF(Y-1)). This is equal to the Contract Value Carried Forward – Current Year (CVCF(Y)), which was calculated as part of the Month 15 adjustments for the previous financial year, adjusted to include any uplift determined by the Secretary of State (in line with paragraph 2.5). For all Prototype Agreements in the financial year 2015 to 2016, the value of the CVCF(Y-1) = £0.

#### ***Setting the limits for the adjustments to capitation and activity performance***

4.6 The Board will need to establish a minimum level for the reduction of the contractor's AAPVA for reductions due to its capitation and activity performance. This minimum level figure is known as the Capitation and Activity Adjustment Minimum Level (CAAML). The value for the CAAML for all Prototype agreements is 90%.

4.7 For any Prototype Agreement, the Board may put a limit on the degree to which performance in terms of capitation can differ from performance in terms of activity. This is known as the Activity and Capitation Performance Tolerance (ACPT) and is expressed as a percentage. The Prototype Agreement must either:

- a) set out the level of the ACPT; or
- b) set out that there are no limits being applied between performance in terms of activity and performance in terms of capitation.

4.8 The Prototype Agreement must set out the limits on under-performance and over-performance in line with the Prototype Directions as follows:

- (a) for under-delivery, the proportion of the PAAPVA that can be carried forward for delivery in the following financial year, as opposed to being deducted from the Month 15 payment, is defined as the Carry Forward – Lower Limit (CF-LL). In line with the Prototype Directions the CF-LL is 4%; and
- (b) for over-delivery, the proportion of the PAAPVA that can be deducted from delivery levels in the following financial year, as opposed to added to the Month 15 payment, is defined as the Carry Forward – Upper Limit (CF-UL). In line with the Prototype Directions, the CF-UL is 2%. It is at the discretion of the Board if they wish to pay for any over-delivery above this limit.

#### ***Adjusting for different levels of capitation and activity performance***

4.9 Two months after the end of the financial year, all FP17s should have been returned by GDS Contract Holders, PDS Agreement Holders and Capitation and Quality Scheme 2

Agreement Holders who are not participating in the Prototype Agreement Scheme, in respect of their completed courses of treatment. This will enable the NHS BSA to review the patients of Prototype Agreement Holders that are part of a contractor's population for capitation purposes. In practice there will continue to be a small amount of courses of treatment outstanding by GDS Contract Holders and PDS Agreement Holders who are not participating in the Prototype Agreement Scheme, and the FP17s for those courses of treatment will be submitted later in the year after the courses of treatment to which they apply are completed. These FP17s will not be included in any adjustments made for capitation levels for the purposes of the Prototype Agreements as the impact of them is expected to be minimal.

4.10 A Notional Capitation Remuneration Level (NCRL) must be calculated for each Blend A Prototype Agreement. This is to be based on the Contractor's Capitated Population (CCP). On any day ("the relevant day"), a patient is part of a CCP if that patient has been provided with a banded course of treatment by a contractor (C1) within a period of three years immediately preceding that day, provided that:

- (a) the banded course of treatment has not been provided by a foundation trainee;
- (b) the patient has not been referred to the contractor (C1) for the banded course of treatment by another primary dental services contractor; and
- (c) the patient was not subsequently provided with a banded course of treatment before the relevant day by another primary dental services contractor (C2), apart from where a patient was referred to C2 by C1 for that banded course of treatment,

and for the purposes of this paragraph a banded course of treatment does not include the provision of an urgent course of treatment.

4.11 A computation of the CCP is to be taken by the NHS BSA for all Prototype Agreements as of the 31<sup>st</sup> March.

4.12 The NCRL is calculated as follows:

$$\text{NCRL} = \frac{\text{CCP}}{\text{CECP}} \times \text{PAAPVA-C}$$

4.13 A Notional Activity Remuneration Level (NARL) must be calculated for each Blend A Prototype Agreement. This is based on the Contractor's Activity Performance (CAP). The CAP is defined as the number of units of dental activity delivered for activity relating to the activity element of the Prototype Agreement. A computation of the CAP is to be taken by the NHS BSA for all Prototype Agreements as of the 31<sup>st</sup> March.

4.14 The NARL is calculated as follows:

$$\text{NARL} = \frac{\text{CAP}}{\text{EMA}} \times \text{PAAPVA-A}$$

4.15 To make any adjustments to the remuneration levels, the percentage achievement for capitation and activity are calculated as follows:

- (a) the Percentage of Capitation Achieved (PCA) is calculated as:

$$\text{PCA} = \frac{\text{CCP}}{\text{CECP}} ; \text{ and}$$

## CECP

- (b) the Percentage of Activity Achieved (PAA) is calculated as:

$$\text{PAA} = \frac{\text{CAP}}{\text{EMA}}$$

4.16 The adjustment relating to performance in terms of capitation can be relative to performance in terms of activity. The Adjusted Capitation Remuneration Level (ACRL) is the amount of remuneration for performance in terms of capitation, adjusted to reflect whether the Board has agreed to limit the degree to which performance in terms of capitation can differ from performance in terms of activity, as described in paragraph 4.7:

- (a) for Prototype Agreements where an ACPT has been set:

- (i) if  $\text{PCA} \leq \text{PAA}$ , then:

$$\text{ACRL} = \text{NCRL}; \text{ or}$$

- (ii) if  $\text{PCA} > \text{PAA}$  and  $\text{PCA} \leq \text{PAA} + \text{ACPT}$ , then:

$$\text{ACRL} = \text{NCRL}; \text{ or}$$

- (iii) if  $\text{PCA} > \text{PAA} + \text{ACPT}$ , then:

$$\text{ACRL} = \text{PAAPVA-C} \times (\text{PAA} + \text{ACPT}).$$

- (b) for Prototype Agreements where there are no limits between performance in terms of activity and performance in terms of capitation:

$$\text{ACRL} = \text{NCRL}.$$

4.17 The adjustment relating to performance in terms of activity can then be calculated to give the Adjusted Activity Remuneration Level (AARL). The AARL is calculated as:

- (a) if  $\text{PCA} \leq 100\%$ , then the AARL is calculated as the smaller of:

- (i) the NARL, or  
(ii) PAAPVA-A; or

- (b) if  $\text{PCA} > 100\%$ , then:

- (i) if  $\text{PAA} \leq \text{PCA}$

$$\text{AARL} = \text{PAAPVA-A} \times \text{PAA}, \text{ or}$$

- (ii) if  $\text{PAA} > \text{PCA}$

$$\text{AARL} = \text{PAAPVA-A} \times \text{PCA}.$$

4.18 The Initial Combined Adjusted Remuneration Level (ICARL) is calculated by adding the ACRL and the AARL:

$$\text{ICARL} = \text{ACRL} + \text{AARL}.$$

4.19 Any carry forward from the previous year is then applied to the ICARL to determine the Combined Adjusted Remuneration Level (CARL). This is calculated as:

$$\text{CARL} = \text{ICARL} - \text{CVCF(Y-1)}.$$

4.20 The Pre-Quality Remuneration Level (PQRL) is calculated by applying the minimum remuneration levels (prior to DQOF adjustments) and the agreed levels of carry forward of contract value. It will also determine the Overall Capitation and Activity Performance Level (OCAPL) and the level of Contract Value Carried Forward – Current Year (CVCF(Y)). The PQRL, OCAPL and CVCF(Y) are calculated as:

(a) if  $\text{CARL} \leq \text{PAAPVA} \times \text{CAAML}$ , then:

- (i)  $\text{PQRL} = \text{PAAPVA} \times \text{CAAML}$ ,
- (ii)  $\text{OCAPL} = \frac{\text{PQRL}}{\text{PAAPVA}}$ ,
- (iii)  $\text{CVCF(Y)} = 0$ ;

(b) if  $\text{CARL} > \text{PAAPVA} \times \text{CAAML}$  and  $\leq \text{PAAPVA} \times (1 - \text{CF-LL})$ , then:

- (i)  $\text{PQRL} = \text{CARL}$ ,
- (ii)  $\text{OCAPL} = \frac{\text{PQRL}}{\text{PAAPVA}}$ ,
- (iii)  $\text{CVCF(Y)} = 0$ ;

(c) if  $\text{CARL} > \text{PAAPVA} \times (1 - \text{CF-LL})$  and  $\leq \text{PAAPVA}$ , then:

- (i)  $\text{PQRL} = \text{PAAPVA}$ ,
- (ii)  $\text{OCAPL} = \frac{\text{PQRL}}{\text{PAAPVA}}$ ,
- (iii)  $\text{CVCF(Y)} = \text{PAAPVA} - \text{CARL}$ ;

(d) if  $\text{CARL} > \text{PAAPVA}$  and  $\leq \text{PAAPVA} \times (1 + \text{CF-UL})$ , then:

- (i)  $\text{PQRL} = \text{PAAPVA}$ ,
- (ii)  $\text{OCAPL} = \frac{\text{PQRL}}{\text{PAAPVA}}$ ,
- (iii)  $\text{CVCF(Y)} = \text{PAAPVA} - \text{CARL}$ ; or

(e) if  $\text{CARL} > \text{PAAPVA} \times (1 + \text{CF-UL})$ , then:

- (i)  $\text{PQRL} = \text{PAAPVA}$ ,
- (ii)  $\text{OCAPL} = \frac{\text{PQRL}}{\text{PAAPVA}}$ ,
- (iii)  $\text{CVCF(Y)} = -\text{PAAPVA} \times \text{CF-UL}$ .

### ***Adjusting for performance on quality***

4.21 The amount of payment made to each contractor during the financial year needs to be reconciled after all the performance data provided by the contractor is available to the NHS BSA for the purposes of payments under the DQOF and after any adjustments due to capitation and activity have been finalised. For the financial year 2015/16, the DQOF will not be applied to any Prototype Agreement Holder that has not previously been part of the Capitation & Quality 2 Scheme.

4.22 If a contractor holds more than one Prototype Agreement then the expectation is that the PAAPVA values for each of those Prototype Agreements would be effectively combined at this stage so that a single DQOF payment is calculated. The value of the DQOF payment, once calculated, must then be split proportionately across the Prototype Agreements using the ratio of their PAAPVA values. The Board must agree with the contractor whether the Prototype Agreements are suitable for combining the PAAPVA values, such as two Prototype Agreements providing mandatory services held by the same practice.

### ***Calculation of the payment pool relating to performance***

4.23 The amount of payment available to a contractor to reward performance against the DQOF is known as the PAAPVA(Full Quality Pool). It is calculated by applying the quality weighting percentage given in paragraph A.7.2 (weighting for performance) of Annex A (Dental Quality and Outcomes Framework) to the PAAPVA. For example, if the PAAPVA is £10,000 and the quality weighting percentage is 10%, then the PAAPVA(Full Quality Pool) in this case would be £1,000.

4.24 The amount of payment available to the contractor irrespective of performance against the DQOF is known as the PAAPVA(Primary Pool). It is calculated as the PAAPVA minus the PAAPVA(Full Quality Pool).

4.25 A Contractor's Annual Performance Score (CAPS) is calculated using the rules laid out in paragraph A.6.6 of Annex A (annual performance report).

4.26 The contractor's Quality Payment (Non-Peer) (QP(NP)) is the amount of money that a contractor must receive irrespective of their performance relative to peers. It is calculated as:

$$QP(NP) = \frac{CAPS}{1,000} \times PAAPVA(\text{Full Quality Pool}).$$

4.27 The contractor's notional contribution to the peer performance payment pool is known as the PAAPVA(Peer Quality Pool). It is calculated as:

$$PAAPVA(\text{Peer Quality Pool}) = PAAPVA(\text{Full Quality Pool}) - QP(NP).$$

4.28 The contractor's Quality Payment (Peer) (QP(P)) is the amount of money that a contractor should receive based on their performance relative to peers. It is calculated by NHS BSA in accordance with Section A8 of Annex A (assessment of peer performance across all Prototype Agreements) and the figure is given to the Board.



4.29 It is necessary for the financial risk of commissioners to be capped within the Prototype Agreement Scheme. It is possible, although unlikely, that a contractor's QP(P) could be many times its NAPVA if its performance is considerably better than that of all of the other Prototype Agreement Holders. This risk would not occur if there was an actual national pool of money to pay the QP(P)s but for the Prototype Agreements Scheme this has to be paid by the Board. Therefore the Final QP(P) (FQP(P)) is calculated as follows:

- (a) if the sum of the PAAPVA(Primary Pool) plus the QP(NP) plus the QP(P)  $\leq$  102% of PAAPVA, then FQP(P) = QP(P); or
- (b) if the sum of the PAAPVA(Primary Pool) plus the QP(NP) plus the QP(P)  $>$  102% of PAAPVA, then FQP(P) = (1.02 x PAAPVA) minus the PAAPVA(Primary Pool) and minus the QP(NP).

4.30 Where the QP(P) is greater than the FQP(P), the difference between the two is known as the QP(P) Residual (QP(P)R). Where the QP(P) is less than or equal to the FQP(P), then the QP(P)R is equal to £0. This value is used by NHS BSA to calculate the final element of the performance payment in line with Section A.9 (redistribution of capped peer quality payments).

4.31 The Residual Payment (RP) is the mechanism by which the Prototype Agreement Scheme ensures that all the money made available for payments under the DQOF is paid to those participating in the Prototype Agreement Scheme. The RP must be calculated by the NHS BSA in line with Section A.9.

#### ***Calculation of the Reconciliation Month 12 Payment – Blend A***

4.32 The contractor's Calculated Actual Annual Prototype Value – Blend A (CAAPVA) is then calculated as:

- (a) in respect of any Prototype Agreements held by a contractor who did not participate in the Capitation & Quality Scheme 2:

$$\text{CAAPVA} = \text{PQRL}; \text{ or}$$

- (b) for all other Prototype Agreements:

$$\text{CAAPVA} = \text{PQRL} - \text{PAAPVA}(\text{Full Quality Pool}) + \text{QP}(\text{NP}) + \text{FQP}(\text{P}) + \text{RP}.$$

4.33 The Reconciliation Month 12 Payment – Blend A (RMTPA) is calculated by comparing the CAAPVA with the PAAPVA. It takes into account final year-end performance data provided by the contractor during the financial year to take into account any changes in performance in respect of capitation, activity and performance as calculated against the DQOF. In practice, the RMTPA is likely to be made in July of the next financial year. The RMTPA is then calculated as:

- (a) the CAAPVA; minus
- (b) the sum of the twelve APVAPs in the relevant financial year before deductions (where a Blend A Prototype Agreement begins after the start of the financial year, the APVAPs so far during that financial year must be subtracted).

4.34 The RMTPA is to be paid to the contractor by the Board. If the RMTPA is negative, the Board may withhold the value from any payments due to the contractor pursuant to direction 8(2)(c) of the Prototype Directions.

4.35 At this stage, the Board must also confirm and set out in the Prototype Agreement the CVCF that will apply for the following financial year.

## **PART 2**

### **Blend B Prototypes Agreements**

#### **5. Negotiated Annual Prototype Value**

5.1 With effect from 1st November 2015, where a contractor has elected to enter into a Prototype Agreement with the Board and has been assigned to a Blend B Prototype Agreement, the PDS Agreement held by the contractor which was considered to have a Negotiated Annual Agreement Value (NAAV) will be deemed to have a Negotiated Annual Prototype Value – Blend B (NAPVB) beginning on the date the Prototype Agreement commences.

5.2 Payments under a Blend B Prototype Agreement in respect of the agreed services specified in the Prototype Agreement are to be based on a NAPVB.

5.3 Each Blend B Prototype Agreement must specify:

- (a) that the contractor will offer all mandatory NHS services; and
- (b) any other services to be provided.

#### ***Nomination of the first Negotiated Annual Prototype Value – Blend B***

5.4 At the start of the financial year – or, if a Blend B Prototype Agreement starts after the start of the financial year, for the date on which the Blend B Prototype Agreement takes effect – the Board must calculate for each contractor the NAPVB. The value of the NAPVB is the same as the value of the NAAV of the underlying PDS agreement held by the contractor immediately before the commencement of the Prototype Agreement.

5.5 The NAAV may have been updated by the percentage amount determined by the Secretary of State at the beginning of the financial year 2015 to 2016. If this has not taken place, the NAAV will need to be adjusted by the percentage increase determined by the Secretary of State for the financial year 2015 to 2016 which is 1.34%.

5.6 If the payment, or any of the payments in the aggregate of payments, only relates to part of that financial year – for example, because the PDS agreement held prior to the commencement of the Prototype Agreement takes effect for payment purposes after the start of the financial year, or is due to end before the end of the financial year – the part year payment or payments are to be annualised. The annualised amount of the nominated payment or aggregate of payments is to be used as the basis of the calculation of the first NAPVB for the contractor's Blend B Prototype Agreement.

***Dealing with under-delivery of units of dental activity in previous financial year or in the current financial year***

5.7 Where a contractor held an underlying PDS agreement immediately prior to the commencement of the Prototype Agreement, it may be the case that the number of units of dental activity the contractor was required to provide under that PDS agreement have not been delivered by the date on which the Prototype Agreement commences. Where it is agreed between the Board and the contractor that any under-delivered units of dental activity are to be carried forward, then that number of units of dental activity will be carried forward and in effect the obligation to provide that activity is “stayed” for the duration of the Prototype Agreement. The number of units of dental activity “stayed” for the duration of the Prototype Agreement must be set out in the Prototype Agreement. The Board will need to agree with the contractor as to how the units of dental activity which have been “stayed” will be provided following the termination of the Prototype Agreement.

5.8 The number of units of dental activity that must be “stayed” is calculated as:

- (a) the pro-rated number of units of dental activity that should have been delivered for the financial year to date. (Where the Board and a contractor have agreed a specific profile for delivering units of dental activity during the year, this profile can be used instead of pro-rating the amount); plus
- (b) the number of under-delivered units of dental activity from the previous financial year which it was agreed would be carried forward; minus
- (c) the number of units of dental activity delivered up to the date on which the Prototype Agreement commences.

5.9 Where a contractor has previously held a Capitation and Quality Scheme 2 Agreement, it may have been the case that a number of units of dental activity was “stayed” for the duration of that Capitation and Quality Scheme 2 Agreement. In these cases, the same number of units of dental activity is “stayed” for the duration of the Prototype Agreement. The amount of units of dental activity “stayed” must be set out in the Prototype Agreement. The Board will need to agree with the contractor as to how the number of units of dental activity “stayed” will be provided following the termination of the Prototype Agreement.

***New NAPVBs where a Blend B Prototype Agreement is revised***

5.10 If, with the agreement of the Board and the contractor, the NHS commitment of the contractor changes, or the services, or service levels, that a contractor is required to provide under its Blend B Prototype Agreement is revised, a new NAPVB will have to be established for that contractor. If the variation takes effect during the financial year, the new NAPVB for that Prototype Agreement must be an annualised amount for calculation purposes, even though only a proportion of that annualised amount will in fact be payable for the remaining part year.

5.11 NHS commitment is the time and effort that a contractor devotes to providing NHS care. For the Blend B Prototype Agreement it is important that the results achieved are assessed in the context of the overall time and effort put in by the contractor. The intent is not to manage this at a detailed level but where necessary, the Board must look at indicators to assess NHS commitment. These key indicators of NHS commitment are:

- (a) the average weekly time given to appointments in which an element of NHS care is delivered and reported to the NHS BSA calculated on a quarterly basis. The Board may review the NAPVB where the key indicator, in the opinion of the Board, significantly decreases from the level agreed at the date of the commencement of the Prototype Agreement and the Board considers that decrease to represent a significant reduction in NHS commitment. The review period runs from the date of the commencement of the Prototype Agreement until the end of the financial year in which the Prototype Agreement is made (with an equivalent period for future years); and
- (b) the historical capitated population number after any adjustment for past under-delivery, calculated on a quarterly basis. The Board may review the NAPVB if, in the opinion of the Board, this indicator significantly decreases from the level agreed at the date of the commencement of the Prototype Agreement, and the Board considers that decrease to represent a significant reduction in NHS commitment. The review period runs from the date of the commencement of the Prototype Agreement until the end of the financial year in which the Prototype Agreement is made (with an equivalent period for future years).

### ***Annual uprating of NAPVBs***

5.12 It is intended that at the start of each financial year that this SFE applies, this SFE will be amended so as to include the percentage increase in agreement value as determined by the Secretary of State for the duration of the Prototype Agreement Scheme. In practice, these adjustments will be factored into Monthly Annual Prototype Value – Blend B Payments (APVBP) by the NHS BSA on a national basis. The Board must not itself, therefore, adjust the amounts that it has loaded into the Payments On-Line (POL) system by these adjustments.

## **6. Payment of Monthly Annual Prototype Value Payments**

6.1 At any point, there must be in respect of each Blend B Prototype Agreement a NAPVB, determined in accordance with Section 5. This, in all cases, is to be an annual (or annualised) amount. For each Blend B Prototype Agreement, the contractor's Actual Annual Prototype Value – Blend B (AAPVB) has to be established.

6.2 The AAPVB is calculated as:

- (a) the NAPVB; minus
- (b) an amount of the NAPVB that is attributed to orthodontic activity, which will be paid for separately under the underlying PDS agreement. If the element relating to orthodontics is not explicitly stated in the underlying PDS agreement then an amount must be agreed by the Board and the contractor; and minus
- (c) an element of the NAPVB that is due to specified services. Specified services are defined in paragraph 10.1 (specified services). If the element relating to specified services is not explicitly stated in the underlying PDS agreement then an amount must be agreed by the Board and the contractor.

6.3 The AAPVB provides the basis for the calculation of the Monthly Annual Prototype Value – Blend B Payments (Monthly APVBP) payable under the Prototype Agreement. These calculations are outlined in the rest of Section 6.

6.4 Payments for orthodontics are made in accordance with the underlying PDS agreement. The Prototype Agreement must specify the value of the orthodontic services element of the NAPVB and the number of units of orthodontic activity (“UOAs”) that the contractor is required to provide in the financial year.

6.5 Payments for specified services are outlined in Section 10 (specified services).

#### ***Initial value of Monthly APVBPs***

6.6 The first initial value of a contractor’s Monthly APVBPs is to be determined for the date on which its Blend B Prototype Agreement takes effect for payment purposes. Once the contractor’s AAPVB has been established, that amount is to be divided by twelve, and subject to paragraph 6.7, the result is the first initial value of the contractor’s Monthly APVBPs.

6.7 If the contractor’s Blend B Prototype Agreement took effect for payment purposes other than on the first day of a month, the initial value of its Monthly APVBPs in respect of the first part-month of its Prototype Agreement is to be adjusted by a factor which is produced by dividing:

- (a) the number of days during the month for which the Prototype Agreement has effect for payment purposes; by
- (b) the total number of days in that month.

6.8 That initial value (expressed as a monthly value, in cases where a Prototype Agreement took effect for payment purposes other than on the first day of the month) will remain the basis for the calculation of the net value of the contractor’s Monthly APVBPs, until that initial value is next revised.

#### ***Revision of the initial value of Monthly APVBPs***

6.9 The initial value of a contractor’s Monthly APVBPs will have to be revised where, for any reason, its AAPVB is revised.

6.10 If the contractor’s AAPVB is revised for the start of a month, the new initial value of its Monthly APVBPs (until its AAPVB is next revised) is its new AAPVB divided by twelve. If its AAPVB changes during a month, the initial value of its Monthly APVBPs (until its AAPVB is next revised again) is:

- (a) for the month after the month during which its AAPVB changed, its AAPVB divided by 12; or
- (b) for the month during which its AAPVB changed, the sum of the following amounts
  - (i) the amount produced by dividing the number of days during the month before the change by the total number of days in that month, and

- multiplying that fraction by the old initial value of the contractor's Monthly APVBPs, plus
- (ii) the amount produced by dividing the number of days during the month for which the contractor had a new AAPVB by the total number of days in that month, and multiplying that fraction by the new initial value of the contractor's Monthly APVBPs.

6.11 Once the initial value of a contractor's Monthly APVBPs has been established for any particular month, the Board must go on to establish the net value of the contractor's Monthly APVBPs, which is the amount actually to be paid.

***Deductions in respect of NHS charges***

6.12 Deductions must be made in respect of NHS charges in line with paragraphs 8.1 to 8.3 in Part 3 of this SFE (deductions in respect of NHS charges).

6.13 The Monthly APVBP value produced after the deduction described in paragraph 8.3 has been made is, subject to paragraph 6.14, the gross value of the contractor's Monthly APVBP for that month (i.e. the value before the deduction of employee's superannuation contributions).

***Deductions in respect of overpayments etc.***

6.14 Deductions may need to be made to the amount determined in accordance with paragraph 8.3 under the administrative provisions in Section 16 of this SFE (administrative provisions), to take account of matters such as overpayments. In accounting terms, these deductions may alter the gross value of the Monthly APVBP in question or the gross value of another payment, but either way they will alter the net value of the Monthly APVBP in question.

***Deductions in respect of LDC levies***

6.15 Any agreed deduction for LDC levies in line with paragraph 8.4 (deductions in respect of LDC levies) must be deducted by the Board from the contractor's Monthly APVBPs.

***Deductions in respect of employee's superannuation contributions***

6.16 Deductions must be made in respect of employee's superannuation contributions in line with paragraphs 8.5 to 8.7 in Part 3 of this SFE (deductions in respect of employee's superannuation contributions).

***Net value of the contractor's first Monthly APVBPs***

6.17 The gross value of a contractor's Monthly APVBPs, minus any necessary deductions as mentioned in paragraphs 6.12 to 6.16, and minus any voluntary deductions that the contractor has asked to be made, is the net value of the contractor's first Monthly APVBPs. That amount is the amount actually to be paid. It becomes payable on the contractor's Monthly Payment Date, which is the first working day of the month after the month to which the Monthly APVBP relates.

### ***Conditions attached to Monthly APVBPs***

6.18 Monthly APVBPs, or any part of such payments, are only payable if the contractor satisfies the following conditions:

- (a) the contractor must make available any information which the Board does not have but needs (including the returns required under the DQOF), and which the contractor either has or could reasonably be expected to obtain, in order to calculate the contractor's Monthly APVBPs;
- (b) the contractor must make available to the Board a reasonable estimate of the net monthly Pensionable Earnings (i.e. net of any Pensionable Earnings that are attributable to any Monthly Seniority Payment) of each Dentist Performer who is employed or engaged by it, and must notify the Board of any appropriate changes to that estimate; and
- (c) all information supplied pursuant to or in accordance with this paragraph must be accurate.

6.19 If the contractor breaches any condition of its Monthly APVBPs that is set out in this SFE (including the conditions that are set out in paragraph 6.18), the Board may, in appropriate circumstances, withhold payment of all or any part of a Monthly APVBP that is otherwise payable.

### ***Monthly Payment Schedule***

6.20 On the due date for Monthly APVBPs, or as soon as reasonably practicable thereafter, the Board must send to the contractor a Monthly Payment Schedule which must include (but not be limited to):

- (a) the contractor's AAPVB;
- (b) the amount of the initial value of the contractor's Monthly APVBPs, prior to any permitted deductions;
- (c) the amount of permitted deductions, which shall be specified in two parts:
  - (i) the amount of the NHS charges that the Board has determined, in accordance with paragraph 8.3, that the contractor should have collected in respect of courses of treatment provided, and
  - (ii) the amount of any other deductions that need to be made to the Monthly APVBPs under the Prototype Agreement or pursuant to this SFE (for example, the deductions mentioned in paragraphs 6.14 to 6.16), together with the reason for any such deduction;
- (d) the amount of the Monthly APVBP following the permitted deductions;
- (e) any other payments payable to the contractor pursuant to this SFE on that due date, including where relevant an indication that a particular payment is made in respect of a named Dentist Performer; and
- (f) the estimated net monthly Pensionable Earnings of each Dentist Performer who performs services under the Prototype Agreement, i.e. net of any Pensionable Earnings that are attributable to any Monthly Seniority Payment.

6.21 In practice, in accordance with entry 2(c) in column 2 of the Schedule to the Functions Regulations, the Monthly Payment Schedule will be sent to the contractor by the

NHS BSA, who will also need to send a copy to the Board (entry 2(a) of column 3 of the Schedule to the Functions Regulations).

## 7. Annual payment adjustment for capitation, activity and performance

### *Initial value of the Month 12 Monthly APVBP*

7.1 The adjustments for capitation, activity and performance are carried out in Month 15 so an interim payment for Month 12 needs to be made to contractors. The calculation and value of the Month 12 Monthly APVBP is as described in Section 6. Adjustments are then made to this in Month 15 relative to the money already paid to the contractor.

### *Setting the baseline for the annual payment adjustment*

7.2 The amount of payment made to each contractor during the financial year needs to be adjusted based on each contractor's performance for:

- (a) capitation, in terms of what would be described as Band 1 and Band 2 courses of treatment in the underlying PDS agreement;
- (b) activity, in terms of what would be described as Band 3 courses of treatments in the underlying PDS agreement; and
- (c) performance against the DQOF.

7.3 On the date of its commencement, or at the beginning of each financial year, the Prototype Agreement must set out:

- (a) the AAPVB;
- (b) the Pro-rated AAPVB (PAAPVB), which is the pro-rated value of the Prototype Agreement where the Prototype Agreement has started after the beginning of the financial year. For Prototype Agreements that begin on 1 April in any financial year, the PAAPVB = AAPVB;
- (c) the minimum expected number of units of dental activity for Band 3 courses of treatment (effectively worth 9 units of dental activity) that the Contractor is expected to deliver under its Prototype Agreement for the part of the financial year to which the Prototype Agreement applies. This is described as the Expected Minimum Activity (EMA);
- (d) the value of a unit of dental activity in the underlying PDS agreement, which is described as the UDA Value (UDAV);
- (e) the Pro-rated Actual Annual Prototype Value – Blend B – Activity Element (PAAPVB-A), which is the amount of the PAAPVB that will be measured by activity;
- (f) the Prorated Actual Annual Prototype Value – Blend B – Capitation Element (PAAPVB-C), which is the amount of the PAAPVB that will be measured by capitation; and
- (g) the number of capitated patients to whom the contractor is expected to have provided primary dental services by the end of the financial year, which is described as the Contractor's Expected Capitated Population (CECP).



7.4 The Board must calculate the PAAPVB-A and PAAPVB-C for each Prototype Agreement at the commencement of that Prototype Agreement, or at the beginning of each financial year. The calculation is to be relative to:

- (a) the number of Band 3 courses of treatment provided in the baseline year;
- (b) the UDAV;
- (c) the PAAPVB;
- (d) any allowance the Board is applying to reflect the expected fall in the number of courses of treatment provided under the Prototype Agreement, to reflect the additional time that is being spent on prevention; and
- (e) the proportion of the financial year covered by the Prototype Agreement.

7.5 The Prototype Agreement must also state the Contract Value Carried Forward – Previous Year (CVCF(Y-1)). This is equal to the Contract Value Carried Forward – Current Year (CVCF(Y)), which was calculated as part of the Month 15 adjustments for the previous financial year, adjusted to include any uplift determined by the Secretary of State (in line with paragraph 2.5). For all Prototype Agreements in the financial year 2015 to 2016, the value of the CVCF(Y-1) = £0.

#### ***Setting the limits for the adjustments to capitation and activity performance***

7.6 The Board will need to establish a minimum level for the reduction of the contractor's AAPVB for reductions due to its capitation and activity performance. This minimum level figure is known as the Capitation and Activity Adjustment Minimum Level (CAAML). The value for the CAAML for all prototype agreements is 90%.

7.7 For any Prototype Agreement, the Board may put a limit on the degree to which performance in terms of capitation can differ from performance in terms of activity. This is known as the Activity and Capitation Performance Tolerance (ACPT) and is expressed as a percentage. The Prototype Agreement must either:

- a) set out the level of the ACPT; or
- b) set out that there are no limits being applied between performance in terms of activity and performance in terms of capitation.

7.8 The Prototype Agreement must set out the limits on under-performance and over-performance in line with the Prototype Directions as follows:

- (a) for under-delivery, the proportion of the PAAPVB that can be carried forward for delivery in the following financial year, as opposed to being deducted from the Month 15 payment, is defined as the Carry Forward – Lower Limit (CF-LL). In line with the Prototype Directions, the CF-LL is 4%; and
- (b) for over-delivery, the proportion of the PAAPVB that can be deducted from delivery levels in the following financial year, as opposed to added to the Month 15 payment, is defined as the Carry Forward – Upper Limit (CF-UL). In line with the Prototype Directions, the CF-UL is 2%. It is at the discretion of the Board if they wish to pay for any over-delivery above this limit.

#### ***Adjusting for different levels of capitation and activity performance***

7.9 Two months after the end of the financial year, all FP17s should have been returned by GDS Contract Holders, PDS Agreement Holders and Capitation and Quality Scheme 2 Agreement Holders who are not participating in the Prototype Agreement Scheme, in respect

of their completed courses of treatment. This will enable the NHS BSA to review the patients of Prototype Agreement Holders that are part of a contractor's population for capitation purposes. In practice there will continue to be a small amount of courses of treatment outstanding by GDS Contract Holders and PDS Agreement Holders who are not participating in the Prototype Agreement Scheme, and those FP17s for those courses of treatment will be submitted later in the year after those courses of treatment to which they apply are completed. These FP17s will not be included in any adjustments made for capitation levels for the purposes of the Prototype Agreements as the impact of them is expected to be minimal.

7.10 A Notional Capitation Remuneration Level (NCRL) must be calculated for each Blend B Prototype Agreement. This is based on the Contractor's Capitated Population (CCP). On any day ("the relevant day"), a patient is part of a CCP if that patient has been provided with a banded course of treatment by a contractor (C1) within a period of three years immediately preceding that day, provided that:

- (a) the banded course of treatment has not been provided by a foundation trainee;
- (b) the patient has not been referred to the contractor (C1) for the banded course of treatment by another primary dental services contractor; and
- (c) the patient was not subsequently provided with a banded course of treatment before the relevant day by another primary dental services contractor (C2), apart from where a patient was referred to C2 by C1 for that banded course of treatment,

and for the purposes of this paragraph, a banded course of treatment does not include the provision of an urgent course of treatment.

7.11 A computation of the CCP is to be taken by the NHS BSA for all Prototype Agreements as of the 31<sup>st</sup> March.

7.12 The NCRL is calculated as follows:

$$\text{NCRL} = \frac{\text{CCP}}{\text{CECP}} \times \text{PAAPVB-C.}$$

7.13 A Notional Activity Remuneration Level (NARL) must be calculated for each Blend B Prototype Agreement. This is based on the Contractor's Activity Performance (CAP). The CAP is defined as the number of units of dental activity delivered for activity relating to the activity element of the Prototype Agreement. A computation of the CAP is taken by the NHS BSA for all Prototype Agreements as of the 31<sup>st</sup> March.

7.14 The NARL is calculated as follows:

$$\text{NARL} = \frac{\text{CAP}}{\text{EMA}} \times \text{PAAPVB-A.}$$

7.15 To make any adjustments to the remuneration levels, the percentage achievement for capitation and activity are calculated as follows:

- (a) the Percentage of Capitation Achieved (PCA) is calculated as:

$$\text{PCA} = \frac{\text{CCP}}{\text{CECP}}$$

- (b) the Percentage of Activity Achieved (PAA) is calculated as:

$$PAA = \frac{CAP}{EMA}.$$

7.16 The adjustment relating to performance in terms of capitation can be relative to performance in terms of activity. The Adjusted Capitation Remuneration Level (ACRL) is the amount of remuneration for performance in terms of capitation, adjusted to reflect whether the Board has agreed to limit the degree to which performance in terms of capitation can run differ from performance in terms of activity, as described in paragraph 7.7:

- (a) for Prototype Agreements where an ACPT has been set:

- (i) if  $PCA \leq PAA$ , then:

$$ACRL = NCRL, \text{ or}$$

- (ii) if  $PCA > PAA$  and  $PCA \leq PAA + ACPT$ , then:

$$ACRL = NCRL, \text{ or}$$

- (iii) if  $PCA > PAA + ACPT$ , then:

$$ACRL = PAAPVB-C \times (PAA + ACPT); \text{ or}$$

- (b) for Prototype Agreements where there are no limits between performance in terms of activity and performance in terms of capitation:

$$ACRL = NCRL.$$

7.17 The adjustment relating to performance in terms of activity can then be calculated to give the Adjusted Activity Remuneration Level (AARL). The AARL is calculated as the smaller of:

- (a) if  $PCA \leq 100\%$ , then the AARL is calculated as the smaller of:

- (i) the NARL, or  
(ii) PAAPVB-A; or

- (b) if  $PCA > 100\%$ , then:

- (i) if  $PAA \leq PCA$

$$AARL = PAAPVB-A \times PAA, \text{ or}$$

- (ii) if  $PAA > PCA$

$$AARL = PAAPVB-A \times PCA.$$

7.18 The Initial Combined Adjusted Remuneration Level (ICARL) is calculated by adding the ACRL and the AARL:

$$\text{ICARL} = \text{ACRL} + \text{AARL}.$$

7.19 Any carry forward from the previous year is then applied to the ICARL to determine the Combined Adjusted Remuneration Level (CARL). This is calculated as:

$$\text{CARL} = \text{ICARL} - \text{CVCF(Y-1)}.$$

7.20 The Pre-Quality Remuneration Level (PQRL) is calculated by applying the minimum remuneration levels (prior to DQOF adjustments) and the agreed levels of carry forward of contract value. It will also determine the Overall Capitation and Activity Performance Level (OCAPL) and the level of Contract Value Carried Forward – Current Year (CVCF(Y)). The PQRL, OCAPL and CVCF(Y) are calculated as:

(a) if  $\text{CARL} \leq \text{PAAPVB} \times \text{CAAML}$ , then:

- (i)  $\text{PQRL} = \text{PAAPVB} \times \text{CAAML}$ ,
- (ii)  $\text{OCAPL} = \frac{\text{PQRL}}{\text{PAAPVB}}$ ,
- (iii)  $\text{CVCF(Y)} = 0$ ;

(b) if  $\text{CARL} > \text{PAAPVB} \times \text{CAAML}$  and  $\leq \text{PAAPVB} \times (1 - \text{CF-LL})$ , then:

- (i)  $\text{PQRL} = \text{CARL}$ ,
- (ii)  $\text{OCAPL} = \frac{\text{PQRL}}{\text{PAAPVB}}$ ,
- (iii)  $\text{CVCF(Y)} = 0$ ;

(c) if  $\text{CARL} > \text{PAAPVB} \times (1 - \text{CF-LL})$  and  $\leq \text{PAAPVB}$ , then:

- (i)  $\text{PQRL} = \text{PAAPVB}$ ,
- (ii)  $\text{OCAPL} = \frac{\text{PQRL}}{\text{PAAPVB}}$ ,
- (iii)  $\text{CVCF(Y)} = \text{PAAPVB} - \text{CARL}$ ;

(d) if  $\text{CARL} > \text{PAAPVB}$  and  $\leq \text{PAAPVB} \times (1 + \text{CF-UL})$ , then:

- (i)  $\text{PQRL} = \text{PAAPVB}$ ,
- (ii)  $\text{OCAPL} = \frac{\text{PQRL}}{\text{PAAPVB}}$ ,
- (iii)  $\text{CVCF(Y)} = \text{PAAPVB} - \text{CARL}$ ; or

(e) if  $\text{CARL} > \text{PAAPVB} \times (1 + \text{CF-UL})$ , then:

- (i)  $\text{PQRL} = \text{PAAPVB}$ ,
- (ii)  $\text{OCAPL} = \frac{\text{PQRL}}{\text{PAAPVB}}$ ,
- (iii)  $\text{CVCF(Y)} = -\text{PAAPVB} \times \text{CF-UL}$ .

### ***Adjusting for performance on quality***

7.21 The amount of payment made to each contractor during the financial year needs to be reconciled after all the performance data provided by the contractor is available to the NHS BSA for the purposes of payments under the DQOF and after any adjustments due to capitation and activity have been finalised. For the financial year 2015/16, the DQOF will not be applied to any Prototype Agreement Holder that has not previously been part of the Capitation & Quality Scheme 2.

7.22 If a contractor holds more than one Prototype Agreement then the expectation is that the PAAPVB values for each of those Prototype Agreements would be effectively combined at this stage so that a single DQOF payment is calculated. The value of the DQOF payment, once calculated, must then be split proportionately across the Prototype Agreements using the ratio of their PAAPVB values. The Board must agree with the contractor whether the Prototype Agreements are suitable for combining the PAAPVB values, such as two Prototype Agreements providing mandatory services held by the same practice.

### ***Calculation of the payment pool relating to performance***

7.23 The amount of payment available to a contractor to reward performance against the DQOF is known as the PAAPVB(Full Quality Pool). It is calculated by applying the quality weighting percentage given in paragraph A.7.2 (weighting for performance) of Annex A (Dental Quality and Outcomes Framework) to the PAAPVB. For example, if the AAPVB is £10,000 and the quality weighting percentage is 10%, then the PAAPVB(Full Quality Pool) in this case would be £1,000.

7.24 The amount of payment available to the contractor irrespective of performance against the DQOF is known as the PAAPVB(Primary Pool). It is calculated as the PAAPVB minus the PAAPVB(Full Quality Pool).

7.25 A Contractor's Annual Performance Score (CAPS) is calculated using the rules laid out in paragraph A.6.6 of Annex A (annual performance report).

7.26 The contractor's Quality Payment (Non-Peer) (QP(NP)) is the amount of money that a contractor must receive irrespective of their performance relative to peers. It is calculated as:

$$QP(NP) = \frac{CAPS}{1,000} \times PAAPVB(\text{Full Quality Pool}).$$

7.27 The contractor's notional contribution to the peer performance payment pool is known as the PAAPVB(Peer Quality Pool). It is calculated as:

$$PAAPVB(\text{Peer Quality Pool}) = PAAPVB(\text{Full Quality Pool}) - QP(NP).$$

7.28 The contractor's Quality Payment (Peer) (QP(P)) is the amount of money that a contractor should receive based on their performance relative to peers. It is calculated by NHS BSA in accordance with Section A8 of Annex A (assessment of peer performance across all Prototype Agreements) and the figure is given to the Board.

7.29 It is necessary for the financial risk of commissioners to be capped within the Prototype Agreement Scheme. It is possible, although unlikely, that a contractor's QP(P) could be many times its AAPVB if its performance is considerably better than that of all the other Prototype Agreement Holders. This risk would not occur if there was an actual national pool of money to pay the QP(P)s but for the Prototype Agreements Scheme this has to be paid by the Board. Therefore the Final QP(P) (FQP(P)) is calculated as follows:

- (a) if the sum of the AAPVB(Primary Pool) plus the QP(NP) plus the QP(P)  $\leq$  102% of AAPVB, then  $FQP(P) = QP(P)$ ; or
- (b) if the sum of the AAPVB(Primary Pool) plus the QP(NP) plus the QP(P)  $>$  102% of AAPVB, then  $FQP(P) = (1.02 \times AAPVB)$  minus the AAPVB(Primary Pool) and minus the QP(NP).

7.30 Where the QP(P) is greater than the FQP(P), the difference between the two is known as the QP(P) Residual (QP(P)R). Where the QP(P) is less than or equal to the FQP(P), then the QP(P)R is equal to £0. This value is used by NHS BSA to calculate the final element of the performance payment in line with Section A.9 (redistribution of capped peer quality payments).

7.31 The Residual Payment (RP) is the mechanism by which the Prototype Agreement Scheme ensures that all the money made available for payments under the DQOF is paid to those participating in the Prototype Agreements Scheme. The RP must be calculated by the NHS BSA in line with Section A.9.

### ***Calculation of the Reconciliation Month 12 Payment – Blend B***

7.32 The contractor's Calculated Actual Annual Prototype Value – Blend B (CAAPVB) is then calculated as:

- (a) in respect of any Prototype Agreements held by a contractor who did not participate in the Capitation & Quality Scheme 2:

$$CAAPVB = PQRL; \text{ or}$$

- (b) for all other Prototype Agreements:

$$CAAPVB = PQRL - PAAPVB(\text{Full Quality Pool}) + QP(NP) + FQP(P) + RP.$$

7.33 The Reconciliation Month 12 Payment – Blend B (RMTPB) is calculated by comparing the CAAPVB with the PAAPVB. It takes into account final year-end performance data provided by the contractor during the financial year to take into account any changes in performance in respect of capitation, activity and performance as calculated against the DQOF. In practice, the RMTPB is likely to be made in July of the next financial year. The RMTPB is then calculated as:

- (a) the CAAPVB; minus
- (b) the sum of the twelve APVBPs in the relevant financial year before deductions (where a Blend B Prototype Agreement begins after the start of the financial year, the APVBPs so far during that financial year must be subtracted).

7.34 The RMTPB is to be paid to the contractor by the Board. If the RMTPB is negative, the Board may withhold the value from any payments due to the contractor pursuant to direction 8(2)(c) of the Prototype Directions.

7.35 At this stage, the Board must also confirm and set out in the Prototype Agreement the CVCF that will apply for the following financial year.

## **PART 3**

### **Adjustments to payments common to all Prototype blends**

#### **8. Deductions to monthly payments**

##### ***Deductions in respect of NHS charges***

8.1 Patients in receipt of relevant dental treatment have to pay charges in respect of that treatment under the NHS Charges Regulations, unless they are exempt from paying the charge by virtue of either section 177 of the 2006 Act or the NHS Charges Regulations. Charges are recoverable under those Regulations in respect of specified types of treatment.

8.2 It is the contractor who collects the NHS charges from those patients. Furthermore, in accordance with the underlying PDS agreement condition set by virtue of paragraph 39 (notification of a course of treatment, orthodontic course of treatment) of Schedule 3 to the PDS Agreements Regulations, the contractor is required to make returns of information to the Board within specified time periods outlined about the courses of NHS treatment it provides, and in those returns it has to provide information about whether an NHS charge was payable in respect of that treatment.

8.3 The Board must set the particular date each month by which these paragraph 39 returns of information will be processed. This date is known as the 'scheduling date'. Using the paragraph 39 returns which have been submitted by the contractor, the Board will make a determination of the amount to be deducted that month in respect of NHS charges. These NHS charges should have been collected by the contractor in respect of courses of treatment in accordance with the NHS Charges Regulations, or where applicable, orthodontic activity that the contractor is to provide under its Prototype Agreement.

##### ***Deductions in respect of LDC levies***

8.4 The Board may have recognised a LDC for an area, pursuant to section 113 of the 2006 Act. Where it has done so, a performer of services under a Prototype Agreement may have notified the Board that the performer wishes to be represented by that committee. In these circumstances, the performer's contractor may also have agreed with the Board that the levy that the performer is due to pay in respect of that representation, pursuant to directions of the committee under section 113(11) of the 2006 Act, will be deducted by the Board from the contractor's Monthly APVPs. Where such an agreement has been reached, the levy in respect of that performer is to be so deducted.

##### ***Deductions in respect of employee's superannuation contributions***

8.5 The Dentist Performers who are employed or engaged by the contractor are likely to be members of either the NHS Pension Scheme 1995, the NHS Pension Scheme 2008 or the NHS Pension Scheme 2015, and their Employing Authority for the purposes of that Scheme will, for present purposes, be the Board (they may have employment in another context which also entitles them to an NHS Pension Scheme pension, but the pensionable earnings derived from that employment should be superannuated elsewhere). Unless they are Foundation Trainees, the Dentist Performers' Pensionable Earnings to be derived from that contractor's Prototype Agreement in each financial year will be limited up to a specified percentage of the value of that Prototype Agreement for that financial year, net of any parental leave payments, sickness leave payments, foundation trainee salary and national insurance reimbursement payments, non-domestic rates reimbursement payments or Monthly Seniority Payments payable under that agreement. Foundation Trainee's salaries (net of any bonus, expenses or overtime payments) are fully pensionable.

8.6 The Board will need to make all the deductions in respect of employees' superannuation contributions (including Money Purchase Additional Voluntary Contributions (MPAVCs)) that are payable in respect of the Dentist Performers' Pensionable Earnings that derive from each Prototype Agreement that it holds.

8.7 Accordingly, the Board must deduct those contributions from the contractor's Monthly APVPs (or, in the case of Foundation Trainee's employee's superannuation contributions, from their salary reimbursement payments). The process of calculating and making all these deductions is explained in Section 9 (superannuation contributions). If the Board is an Employing Authority for any Dentist Performer employed or engaged by the contractor, the Board may also deduct from the contractor's Monthly APVPs any employee's superannuation contributions (including Money Purchase Additional Voluntary Contributions (MPAVCs)) that the Dentist Performer owes but which have not been superannuated elsewhere, provided that the Board has taken reasonable steps to satisfy itself that no other arrangements have been made to pay those contributions.

## 9. Superannuation contributions

9.1 The arrangements whereby certain dental pilot scheme employees, other than dental practitioners, were able to be members of the NHS Pension Scheme ceased with the abolition of dental pilot schemes as from 1<sup>st</sup> April 2006.

### ***Employer's superannuation contributions of Dentist Performers***

9.2 However, under the NHS Pension Scheme Regulations 1995, 2008 and 2015, the Board will be liable for paying the employer's superannuation contributions in respect of the Pensionable Earnings of dental practitioners who are employed or engaged by a contractor, who are members of the Scheme and who are—

- (a) for the purposes of the NHS Pension Scheme Regulations 1995 or 2008 either:
  - (i) type 1 dental practitioners (that is, Dentist Performers, other than Foundation Trainees), or
  - (ii) type 2 dental practitioners (that is, Foundation Trainees), or
- (b) for the purposes of the NHS Pensions Scheme Regulations 2015, dental practitioners,



as their Employing Authority.

9.3 In practice, by virtue of entry 26(d) and 28(d) of the Schedule to the Functions Regulations, and other arrangements put in place in relation to the NHS Pension Scheme 2015 (which are expected to include arrangements deriving from further amendments to the Functions Regulations), one part of the NHS BSA (the part that is acting, in effect, as agent of the Board), will be responsible for forwarding to another part of the NHS BSA (the part that acts as the Pension Scheme administrator) the employer's superannuation contributions that the Board owes in respect of type 1 and type 2 dental practitioners, who are members of the NHS Pension Schemes 1995 and 2008, and dental practitioners who are members of the NHS Pensions Scheme 2015. The Department of Health will:

- (a) make available to the part of the NHS BSA that is acting, in effect, as the agent of the Board in this matter the resources that it needs for forwarding these contributions; and
- (b) deduct from its allocations to the Board amounts equal to the Board's liabilities that have been thus discharged.

***Employee's superannuation contributions and Money Purchase Additional Voluntary Contributions of Dentist Performers***

9.4 As regards the employee superannuation contributions:

(a) of members of the NHS Pension Schemes 1995 and 2008, and any MPAVCs, the following arrangements will apply:

(i) in the case of Foundation Trainees, although the contractor that employs him is legally responsible for ensuring that his employee superannuation contributions are deducted from his salary, in practice, these contributions will be deducted by the NHS BSA (i.e. the part of it acting, in effect, as the agent of the Board) from the reimbursement of salary payment under paragraph 12.5(b). It will then remit these employee superannuation contributions to the part of the NHS BSA that acts as the Pension Scheme administrator; and

(ii) in the case of type 1 dental practitioner members of the Scheme:  
(aa) their employee superannuation contributions in respect of their Pensionable Earnings will have to be deducted by the Board from the contractor's Monthly APVPs; and  
(bb) any MPAVCs will have to be deducted by the Board from the contractor's Monthly APVPs; and

(b) of members of the NHS Pension Scheme 2015, the arrangements that have been put in place in relation to those members (which are expected to include arrangements deriving from further amendments to the Functions Regulations), will apply

9.5 In practice, the making of the deductions referred to in paragraph 9.4(b) will generally be undertaken by the NHS BSA, which has been given the power to make these deductions by virtue of entries 26(a), 28(a) and 30(a) of the Schedule to the Functions Regulations in respect of the NHS Pensions Scheme 1995 and 2008, and under other arrangements put in

place in relation to the NHS Pension Scheme 2015 (which are expected to include arrangements deriving from further amendments to the Functions Regulations), although the Board remains ultimately responsible for the calculation of the deductions and ensuring that the deductions that are made are correct. These deductions are to be made in two stages.

***Monthly deductions in respect of employee's superannuation contributions of Dentist Performers who are not Foundation Trainees***

9.6 First, as is stated in paragraphs 8.5 to 8.7, deductions in respect of type 1 dental practitioners who are members of the NHS Pension Schemes 1995 and 2008, and dental practitioners who are not Foundation Trainees (the Foundation Trainee deductions are made from their salary payments) who are members of the NHS Pension Scheme 2015, will need to be made each month from the contractor's Monthly APVPs. These deductions are to be based on a reasonable estimate of the monthly proportion of the annual liability of each such dental practitioner employed or engaged by the contractor in respect of:

- (a) the employee's superannuation contributions payable to the part of the NHS BSA that acts as the Pension Scheme administrator; and
- (b) any MPAVCs payable to an MPAVCs Provider.

9.7 The Board must take all reasonable steps to agree the amount of the deductions with the contractor and must, where requested to do so by the contractor, duly justify the amount of the monthly deductions. It must keep those amounts under review, to take account of significant changes to the contractor's income.

9.8 An amount equal to the monthly amount that the NHS BSA, acting in effect as the agent of the Board in this matter, deducts must be remitted to the part of the NHS BSA that acts as the Pension Scheme administrator, and to any relevant MPAVCs Provider, no later than:

- (a) in the case of employees' superannuation contributions:
  - (i) if the contractor's Monthly Payment Date is the first working day of the month, the nineteenth day of the month after the month to which the related earnings relate, or
  - (ii) if the contractor's Monthly Payment Date is any other date, the nineteenth day after the Monthly Payment Date on which the earnings to which the contributions relate were paid; and
- (b) in the case of MPAVCs, the seventh day after the payment from which they were deducted was paid.

***End-year adjustments***

9.9 After the end of any financial year, it should be possible for the Board to determine the value of the contractor's Prototype Agreement, net of:

- (a) any payments in respect of parental or sickness leave or any Monthly Seniority Payments (these are payments that are pensionable but not included in the calculation of the Prototype Agreement's Pensionable Earnings Ceiling); and
- (b) any foundation trainee salary payments, reimbursement of foundation trainee national insurance reimbursement payments, or non-domestic rates

reimbursement payments (these are payments that are neither pensionable nor included in the calculation of the Prototype Agreement's Pensionable Earnings Ceiling).

9.10 This amount will be included in the Annual Reconciliation Report. The Secretary of State will have established, pursuant to the NHS Pension Scheme Regulations 1995, 2008 and 2015 what percentage of that net amount can be considered as Pensionable Earnings under that Prototype Agreement. By applying that percentage to that net amount, the Board, and the contractor, will be able to determine the Pensionable Earnings Ceiling for that Prototype Agreement for that financial year.

9.11 It is a condition of a contractor's Monthly APVPs that by the date specified in paragraph 23(5) (accounts and actuarial reports) of Schedule 2 (medical and dental practitioners) to the NHS Pension Schemes Regulations 1995, regulation 3.J.14(4) (employing authority and certain member record keeping and contribution estimates) of the NHS Pension Scheme Regulations 2008, and paragraph 8(5) of Schedule 12 to the NHS Pensions Scheme Regulations 2015, the contractor must return the notice referred to in those provisions to the Board in accordance with those provisions.

9.12 Once the Pensionable Earnings in respect of that financial year of each Dentist Performer employed or engaged by a contractor have been notified to the Board, the Board (or if the adjustments can be made by varying the Prototype Agreement, the NHS BSA, effectively acting on its behalf) must:

- (a) if the deductions of employee's superannuation contributions (including MPAVCs) from the contractor's Monthly APVPs during that financial year in respect of those earnings:
  - (i) did not cover the cost of all the employee's superannuation contributions payable in respect of those earnings:
    - (aa) deduct the amount outstanding from any Monthly APVPs payable, or from a series of Monthly APVPs payable, to the contractor, or
    - (bb) obtain payment (where no such deduction can be made) from the contractor of the amount outstanding, and it is a condition of all of the payments made pursuant to this SFE that the contractor must pay to the Board the amount outstanding, or
  - (ii) were in excess of the amount payable in respect of employee's superannuation contributions, repay the excess amount to the contractor promptly (unless in the case of an excess amount in respect of MPAVCs, the Dentist Performer elects for that amount to be a further contribution and is entitled to so elect); and
- (b) forward any outstanding employee's superannuation contributions due in respect of those earnings to the part of the NHS BSA that acts as the Pension Scheme administrator or the relevant MPAVCs Provider (having regard to the payments it has already made on account in respect of those Dentist Performers for that financial year).

9.13 The functions of the Board in respect of the NHS Pension Scheme Regulations 1995 and 2008 are exercisable by the NHS BSA in accordance with regulation 2(1) and (2) of, and entries 26, 28 and 29 in columns 2 and 3 of the Schedule to the Functions Regulations and

any other arrangements that have been put in place in relation to the NHS Pension Scheme 2015 (which are expected to include arrangements deriving from further amendments to the Functions Regulations).

## 10. Specified services

10.1 Specified services is a collective term for additional services, excluding orthodontics, advanced mandatory services and other services that may be delivered under a Prototype Agreement. Specified services include, but are not limited to:

- (a) domiciliary services;
- (b) sedation services;
- (c) advanced mandatory services, such as minor oral surgery;
- (d) access services, which are generally defined as services that have been commissioned by the Board to provide NHS care to those people who cannot routinely access NHS care; and
- (e) out of hours unscheduled care services. For NHS dental services the term “out-of-hours” does not refer to a fixed universally agreed period, but refers to services provided outside the scheduled opening hours of a particular surgery. Out of hours unscheduled care services are generally defined as services that have been commissioned by the Board to provide emergency dental services for residents and visitors to an area who are not routinely under the care of a dentist, and who require urgent treatment arrangements to address severe pain or prevent significant deterioration in oral health.

10.2 At the commencement of the Prototype Agreement, the Board and the contractor must:

- (a) identify and agree the range of specified services that are included in the underlying PDS agreement;
- (b) agree the value of the specified services that will be provided under the Prototype Agreement and this value must be subtracted from the NAPV of the Prototype Agreement in line with paragraph 3.2(c) and 6.2(c); and
- (c) agree the level of service or activity that is to be provided for each of the specified services under the Prototype Agreement.

10.3 The contractor is remunerated for these services by additional payments on top of the calculations in Parts 1 and 2. The intention is that remuneration for the mandatory component of these services is effectively done through the main payment and that these additional payments reflect the additional costs of delivering these services.

### ***Agreeing and revising Annual Specified Services Payments***

10.4 Where the contractor is to provide specified services under a Prototype Agreement for or during part of a financial year, the Board must agree with the contractor an annual (or annualised for part years) level of service or activity involving each specified service for that financial year and an annual (or annualised for part years) sum to be paid in respect of those courses of treatment. This amount is known as the Annual Specified Services Payment (ASSP) and is to be paid in monthly instalments.

10.5 If that number of courses of treatment involving specified services is revised, a new ASSP will have to be established for that contractor. If that variation takes effect during the year, the revised ASSP for that contract shall be an annual (or annualised for the part year) amount for calculation purposes, even though only a proportion of that annual amount will in fact be payable

### ***Annual uprating of ASSPs***

10.6 If:

- (a) at the start of a financial year, a contractor was in receipt of Monthly ASSPs in respect of the last month of the previous financial year; and
- (d) the number of courses of treatment involving specified services that the contractor is required to provide is unchanged,

the amount of its ASSP is to be uprated by a percentage amount to be determined by the Secretary of State. It is intended that at the start of each financial year this SFE will be amended so as to include that percentage increase.

### ***Initial value of Monthly ASSPs***

10.7 Once the contractor's first ASSP has been established, that amount is to be divided by twelve, and subject to paragraphs 10.10 to 10.14, the result is the first gross value of the contractor's Monthly ASSPs.

10.8 If the contractor's contractual arrangement to provide a specified number of courses of treatment involving specified services took effect other than on the first day of a month, the gross value of its Monthly ASSPs in respect of the first part-month of this contractual arrangement is to be adjusted by a factor which is produced by dividing:

- (a) the number of days during the month for which the contractual arrangements to provide specified services have effect; by
- (b) the total number of days in that month.

10.9 That gross value (expressed as a monthly value, in cases where the relevant contractual arrangement took effect other than on the first day of the month) will remain the basis for the calculation of the net value of the contractor's Monthly ASSPs, until that initial value is next revised.

### ***Revision of the initial value of Monthly ASSPs***

10.10 The gross value of a contractor's Monthly ASSPs will have to be revised where, for any reason, its ASSP is revised (for example, to take account of annual uprating or where the contractor's specified number of courses of treatment involving specified services is changed).

10.11 If the contractor's ASSP is revised for the start of a month, the new gross value of its Monthly ASSPs (until its ASSP is next revised again) is its new ASSP divided by twelve. If its ASSP changes during a month, the new gross value of its Monthly ASSPs (until its ASSP is next revised again):

- (a) for the month after the month during which its ASSP changed, is its new ASSP divided by 12; or
- (b) for the month during which its ASSP changed, is the aggregate of the following amounts:
  - (i) the amount produced by dividing the number of days during the month before the change by the total number of days in that month, and multiplying that fraction by the old initial value of the contractor's Monthly ASSPs, plus
  - (ii) the amount produced by dividing the number of days during the month for which the contractor had a new ASSP by the total number of days in that month, and multiplying that fraction by the new initial value of the contractor's Monthly ASSPs.

10.12 Once the gross value of a contractor's Monthly ASSPs has been established for any particular month (subject to paragraph 10.14), the Board must go on to establish the net value of the contractor's Monthly ASSPs, which is the amount actually to be paid.

***NHS charges and employee's superannuation contributions***

10.13 The NHS charges in respect of the courses of treatment involving specified services must be deducted from the contractor's Monthly APVPs, so no deduction will need be made in respect of those from the Monthly ASSPs. Any employee's superannuation contributions attributable to the Monthly ASSPs will be deducted from the Monthly APVPs rather than the ASSPs. However, as both Monthly APVPs and ASSPs are payable at the same time, this distinction will generally only have accounting rather than practical implications.

***Deductions in respect of overpayments etc.***

10.14 Deductions may need to be made from the Monthly ASSPs under the administrative provisions in Section 16 (administrative provisions) of this SFE, to take account of matters such as overpayments. In accounting terms, these deductions may alter the gross value of the Monthly ASSP in question or the gross value of another payment, but either way it will alter the net value of the Monthly ASSP in question.

***Net value of the contractor's first Monthly ASSPs***

10.15 The gross value of a contractor's Monthly ASSPs, minus any deductions as mentioned in paragraph 10.14, is the net value of the contractor's first Monthly ASSPs, which is the amount actually to be paid. This amount becomes payable on the first working day of the month after the month to which the Monthly ASSP relates.

***Conditions attached to Monthly ASSPs***

10.16 Monthly ASSPs, or any part of such payments, are only payable if the contractor satisfies the following conditions:

- (a) the contractor must make available any information which the Board does not have but needs (including the returns required by virtue of paragraph 39 of Schedule 3 to the PDS Agreements Regulations), and which the contractor

- either has or could reasonably be expected to obtain, in order to calculate the contractor's Monthly ASSPs;
- (b) all information supplied pursuant to or in accordance with this paragraph must be accurate.

10.17 If the contractor breaches any condition of its Monthly ASSPs that is set out in this SFE (including the conditions that are set out in paragraph 10.16), the Board may, in appropriate circumstances, withhold payment of any or any part of a Monthly ASSP that is otherwise payable.

## 11. Seniority Payments

11.1 Seniority payments are monthly payments to a contractor in respect of individual Dentist Performers who satisfy the eligibility criteria.

### *Eligibility criteria*

11.2 A contractor is entitled to receive a seniority payment in respect of a Dentist Performer employed or engaged by it if the Dentist Performer:

- (a) reached the age of 55 years:
- (i) before 1<sup>st</sup> January 2006, and was entitled to and in receipt of a seniority payment pursuant to Determination III of the SDR (set out in the Annex B to this SFE) in respect of the last quarter of the financial year 2005 to 2006, or
  - (ii) between 1<sup>st</sup> January 2006 and 31<sup>st</sup> March 2006 inclusive, and would have been entitled to a seniority payment pursuant to Determination III of the SDR in respect of the last quarter of the financial year 2005 to 2006 had the Dentist Performer reached the age of 55 years in the previous quarter of that financial year;
- (b) reached the age of 55 years before 1<sup>st</sup> April 2006, and–
- (i) in the last quarter of the financial year 2005 to 2006, the Dentist Performer was employed or engaged by a pilot scheme provider, and
  - (ii) the Dentist Performer would have been entitled to a seniority payment pursuant to Determination III of the SDR in respect of that quarter had the Dentist Performer –
    - (aa) instead provided services under section 35 of the NHS Act 1977 in that quarter, and
    - (bb) reached the age of 55 years before 1<sup>st</sup> January 2006, (whether or not the Dentist Performer did in fact do so);
- (c) reached the age of 55 years between 1st April 2006 and 31st March 2011 inclusive (although the Dentist Performer's eligibility is treated as starting in the month after the month during which the Dentist Performer's birthday falls), and–
- (i) in the last quarter of the financial year 2005 to 2006, the Dentist Performer provided services under section 35 of the 1977 Act or a pilot scheme agreement; and

- (ii) would have been entitled to a seniority payment pursuant to Determination III of the SDR in respect of that quarter had the Dentist Performer–
  - (aa) in the case of a person who provided services under a pilot scheme agreement in that quarter, provided services under section 35 of the 1977 Act in that quarter; and
  - (bb) reached the age of 55 years in the previous quarter of that financial year.

11.3 Additionally, a contractor is entitled to receive a seniority payment in respect of a Dentist Performer employed or engaged by it only if:

- (a) the person in respect of whom the payment is made remains included in the Dental Performers List;
- (b) the person in respect of whom the payment is made is not in receipt of a pension payment under the NHS pension scheme in any month in which the contractor claims a Monthly Seniority Payment in respect of him; and
- (c) the amount of the payment, together with the amount of any other Monthly Seniority Payment received by any other contractor participating in the Capitation and Quality Scheme 2, the Prototype Agreement Scheme, or any other PDS Agreement or GDS Contract Holder, in respect of that Dentist Performer for the same month is less than £662.

#### ***Applications for a seniority payment***

11.4 Where a Dentist Performer satisfies the eligibility criteria specified in paragraph 11.2(a) or (b), in order to obtain its first Monthly Seniority Payment in respect of that Dentist Performer, the contractor must notify the Board in writing:

- (a) that the Dentist Performer is employed or engaged by the contractor; and
- (b) of any other Monthly Seniority Payments which any other contractor participating in the Capitation and Quality Scheme 2 or the Prototype Agreement Scheme, or any other PDS Agreement or GDS Contract Holder is claiming in respect of that Dentist Performer for any month to which the contractor's claim relates.

11.5 Where a Dentist Performer satisfies the eligibility criteria specified in paragraph 11.2(c), in order to obtain its first Monthly Seniority Payment in respect of that Dentist Performer, the contractor must make an application to the Board on a standard form (set nationally and available electronically), and that application must include–

- (a) details of how the Dentist Performer satisfies the eligibility criteria set out in paragraph 11.2(c);



- (b) details of the Dentist Performer's estimated net monthly Pensionable Earnings (which should be the amount that features in respect of that Dentist Performer on the contractor's Monthly Payment Schedule); and
- (c) details of any other Monthly Seniority Payments which any other contractor or GDS Contract Holder (who may in fact be a Prototype Agreement Holder or a participant in the Capitation and Quality Scheme 2) is claiming in respect of that Dentist Performer for any month to which the contractor's claim relates.

### ***The percentage calculation and the maximum amount of Monthly Seniority Payments***

11.6 The amount to which the contractor is entitled as a Monthly Seniority Payment in respect of a Dentist Performer that it employs or engages and in respect of whom the eligibility criteria are satisfied is 21.72% of the Dentist Performer's net monthly Pensionable Earnings under the contractor's Prototype Agreement in the month to which the payment relates, but the maximum amount payable in respect of each Dentist Performer in any month is £662.

11.7 Where a Monthly Seniority Payment may be payable in respect of a particular Dentist Performer to more than one contractor participating in the Prototype Agreement Scheme or the Capitation and Quality Scheme 2, or to any other PDS Agreement or GDS Contract Holder, but the totals payable under each Capitation and Quality Scheme 2 Agreement, Prototype Agreement, PDS agreement or GDS contract, taken together, would (if there were no maximum amounts) exceed £662, the maximum amount payable under all the Capitation and Quality Scheme 2 Agreements, Prototype Agreements, PDS agreements or GDS contracts under which Monthly Seniority Payments may be payable in respect of that contractor is £662. The £662 must therefore be distributed proportionately between each Capitation and Quality Scheme 2 Agreement, Prototype Agreement, PDS agreement and GDS contract.

11.8 So, if the Dentist Performer earns 60% of his net monthly Pensionable Earnings from a standard PDS Agreement, 30% from a standard GDS contract, 5% from a Capitation and Quality Scheme 2 Agreement, and 5% from a Prototype Agreement, that performer's Monthly Seniority Payment under the PDS agreement would be £397, under the GDS contract would be £199, under the Capitation and Quality Scheme 2 Agreement would be £33 and under the Prototype Agreement would be £33.

11.9 In practice, the apportionment will be made by the NHS BSA, as it is they who will have the necessary data about each of the relevant agreements or contracts.

### ***Estimates of net monthly Pensionable Earnings***

11.10 For the purposes of this Section, a Dentist Performer's net monthly Pensionable Earnings in respect of any month are one twelfth of his Pensionable Earnings for the financial year into which the month falls, having excluded from those earnings any Pensionable Earnings for that financial year which are attributable to a Monthly Seniority Payment.

11.11 This means that it will be impossible to know, until sometime after the end of a financial year, what the true value of the Monthly Seniority Payments during that financial year should be. Accordingly, the Board must pay, each month, an estimate of what the true

value of the Monthly Seniority Payments should be, and that estimate must be the estimate of the net monthly Pensionable Earnings (i.e. net of any Pensionable Earnings that are attributable to any Monthly Seniority Payments) that appears in respect of the Dentist Performer on the contractor's Monthly Payment Schedule.

11.12 The amount of this monthly estimate becomes payable on the first working day of the month after the month to which the Monthly Seniority Payment relates. Any excess that falls due once the true value of the Monthly Seniority Payments is ascertained becomes payable once that true value is ascertained by the Board.

### ***Conditions attached to Monthly Seniority Payments***

11.13 Monthly Seniority Payments, or any part of such payments, are only payable if the following conditions are satisfied:

- (a) the contractor must make available to the Board any information which the Board does not have but needs, and the contractor either has or could reasonably be expected to obtain, in order to calculate the payment;
- (b) the contractor must notify the Board of any change in the amount of the net monthly Pensionable Earnings (i.e. net of any Pensionable Earnings that are attributable to any Monthly Seniority Payments) of the Dentist Performers employed or engaged by it; and
- (c) all information provided pursuant to or in accordance with this paragraph must be accurate.

11.14 If the contractor breaches any condition of its payments under this Section that is set out in this SFE (including the conditions that are set out in paragraph 11.13), the Board may, in appropriate circumstances, withhold payment of any or any part of a payment under this Section that is otherwise payable.

## **12. Payments in respect of foundation training**

12.1 Payments in respect of foundation training are payments to a contractor who employs a Foundation Trainee. They are intended to meet the salary costs of employing the Foundation Trainee, provide payment to the Dentist Performer who is providing the foundation training to the Foundation Trainee and to provide a payment to the contractor to cover service costs. The payments are only intended to meet the costs of providing foundation training to those graduates who are required to complete one year's foundation training to remain on the Dental Performers List (apart from any "relevant period of employment" determined in accordance with regulation 30(2) (interpretation: foundation training) of the Performers Lists Regulations.

### ***Eligibility for payments in respect of foundation training***

12.2 A contractor will be eligible to receive payments under this Section where:

- (a) the contractor employs or engages a Dentist Performer who is a Trainer;
- (b) the contractor has employed a Foundation Trainee under a contract of employment for:

- (i) a period of one year’s full-time employment (or an equivalent period of part-time employment); or
  - (ii) any other period which is a “relevant period of employment” for the purposes of regulation 30(2) (interpretation: foundation training) of the Performers Lists Regulations;
- (c) under that contract of employment, the contractor has agreed to pay the Foundation Trainee a monthly salary at a full-time (at least 35 hours per week) rate of £2,561 per month or the amount specified for that period *pro-rata* in the Foundation Trainee is part-time; and
- (d) the Foundation Trainee is not exempt from the requirement to complete one year’s foundation training to remain on the Dental Performers List (apart from any “relevant period of employment” determined in accordance with regulation 30(2) (interpretation: foundation training) of the Performer Lists Regulations.

12.3 Any attendance by a Foundation Trainee at a day release course in connection with the foundation training scheme is to be included in the calculation of his contracted hours.

***Applications for payments under this Section***

12.4 Where a contractor satisfies the eligibility criteria specified in paragraph 12.2, read with paragraph 12.3, in order to obtain payments in respect of foundation training, it must make an application to the Board on a standard form (set nationally and available electronically), and that application must include:

- (a) the following information:
  - (i) the name of the Foundation Trainee appointed,
  - (ii) the date when the Foundation Trainee’s employment commenced,
  - (iii) the number of hours to be worked by the Foundation Trainee per week,
  - (iv) the date when the Foundation Trainee’s employment will end, and
  - (v) the date of the month on which payment of the salary will be made to the Foundation Trainee;
- (b) a certificate provided by the local Postgraduate Dental Dean or Director of Postgraduate Dental Education verifying that the information provided pursuant to paragraph (a) is correct;
- (c) a declaration in writing that the contractor will pay the Foundation Trainee a monthly salary at a full-time (at least 35 hours per week) rate of £2,561 per month or the amount specified for that period *pro-rata* if the Foundation Trainee is part-time; and
- (d) confirmation in writing from the local Postgraduate Dental Dean or Director of Postgraduate Dental Education that the Foundation Trainee must-
  - (i) complete 12 months foundation training to remain on the performers list; or
  - (ii) that the dentist must complete a “relevant period of employment” by virtue of regulation 30(2) of the Performers Lists Regulations.

***Foundation training payments to be made***

12.5 Provided the contractor satisfies the eligibility criteria set out in paragraph 12.2, and has applied in accordance with paragraph 12.4, the contractor is entitled to receive the following four types of foundation training payment during the currency of a training contract with a Foundation Trainee:

- (a) a training grant of £ 769 per month, if the Foundation Trainee is full-time (i.e. has contracted hours of at least 35 hours per week), or the amount specified for that period *pro-rata* if the Foundation Trainee is part-time;
- (b) reimbursement of the salary which the contractor has paid to the Foundation Trainee, which is to be:
  - (i) £2,561 per month, less the Foundation Trainee's employee superannuation contributions (if the Foundation Trainee is a member of the NHS Pension Schemes 1995, 2008 or 2015) in respect of that Foundation Trainee's salary (see paragraph 9.4(a)), if the Foundation Trainee is full-time (i.e. has contracted hours of at least 35 hours per week), or
  - (ii) that amount *pro-rata* (subject to lawful deductions in respect of superannuation contributions) if the Foundation Trainee is part-time;
- (c) where a salary is reimbursed pursuant to sub-paragraph (b), reimbursement of the amount of any employer's national insurance contributions which are payable by the contractor in respect of that salary; and
- (d) a sum that represents the service cost to the contractor of employing the Foundation Trainee, of £5,347 per month, if the Foundation Trainee is full-time (i.e. has contracted hours of at least 35 per week), or the amount specified for that period *pro-rata* if the Foundation Trainee is part-time.

12.6 Again, any attendance by a Foundation Trainee at a day release course in connection with the foundation training scheme is to be included in the calculation of his contracted hours.

12.7 The payments due to a contractor under this Section become payable on the contractor's next Monthly Payment Date after the end of the month to which the claim for the payments relates, which need not be a calendar month. Only one application for payments need be made in respect of each agreed training period, and where appropriate, *pro-rata* claims may be made in respect of part months.

#### ***Conditions attached to foundation training payments***

12.8 Payments under paragraph 12.5(a), or any part of such payments, are only payable if the contractor gives that training grant to the Foundation Trainee's Trainer:

- (a) within one calendar month of receiving the training grant; and
- (b) as an element of the personal income of the Trainer, subject to any lawful deduction of income tax, national insurance and superannuation contributions.

12.9 Payments under paragraph 12.5(b) or (c), or any part of such payments, are only payable if the contractor pays the Foundation Trainee his salary under his contract of employment.

12.10 The payments under paragraph 12.5, or any part of such payments, are only payable if the following conditions are satisfied:

- (a) the Trainer in respect of whom the payments are made must remain a Trainer;
- (b) the Foundation Trainee in respect of whom the payments are made must remain employed by the contractor;
- (c) the contractor must inform the Board if there is any change of circumstances which may affect its entitlement to payments under this Section (including changes which may affect the level of the payments to which it is entitled under this Section);
- (d) the contractor must make available to the Board any information which the Board does not have but needs and the contractor either has or could reasonably be expected to obtain in order to calculate the payment; and
- (e) all information provided by the contractor pursuant to or in accordance with sub-paragraphs (c) or (d) must be accurate.

12.11 If the contractor breaches any condition of its payments under this Section that is set out in this SFE (including the conditions that are set out in paragraphs 12.8 to 12.10), the Board may, in appropriate circumstances, withhold payment of any or any part of a payment under this Section that is otherwise payable.

12.12 If there is a breach of the condition that is set out in paragraph 12.10(b), the Board may require repayment of any payment paid to which the condition relates, or may withhold payment of any other payment payable to the contractor under this SFE, to the value of the payment paid. However, if the contract of employment is terminated by either party before it has run its full course and the Foundation Trainee does not serve out a period of notice but is instead paid an amount equal to the salary due in respect of the period of notice, the contractor will be entitled to receive payments under paragraph 12.5(b) and (c) in respect of the amount of the salary which it has paid to the Foundation Trainee in respect of the period of notice, up to a maximum of one month's salary.

### 13. Payments in respect of maternity, paternity and adoption leave

13.1 Employees of contractors will have rights to time off for ante-natal care, maternity leave, paternity leave, adoption leave, parental leave, time off for dependants and the right to request flexible working if they satisfy the relevant entitlement conditions under employment legislation for those types of leave. The right of partners in partnerships to these types of leave is a matter for their partnership agreement.

13.2 If an employee, a partner in a partnership or a contractor is a Dentist Performer, the contractor that employs or engages that Dentist Performer will be entitled under this Section to payments from the Board in respect of a period of maternity leave, paternity leave or adoption leave taken by that Dentist Performer, provided the eligibility criteria are satisfied and the relevant payment conditions are not breached. However, nothing in the conditions for payments to contractors under this Section shall be interpreted as qualifying a Dentist Performer's statutory rights. In any event, even if the Board is not directed in this SFE to make payments to a contractor in respect of parental leave, it may do so as a matter of discretion. The powers to do so are set out in section 112 of the 2006 Act.

#### ***Eligibility for maternity leave payments***

13.3 A contractor is entitled to receive a maternity leave payment in respect of a Dentist Performer that it employs or engages if:

- (a) the Dentist Performer's name has been included in a Dental List for a period of at least 2 years (subject to paragraph 13.7) and the last 26 weeks of that period must have been a period of continuous employment or engagement that required the performance of dental services as part of the NHS and must have immediately preceded the 15<sup>th</sup> week before the expected week of confinement;
- (b) the Dentist Performer has become pregnant and has reached, or been confined before reaching, the commencement of the 11<sup>th</sup> week before the expected week of confinement;
- (c) the Dentist Performer has ceased to perform dental services under the contractor's Prototype Agreement in order to take maternity leave (which for these purposes includes leave for ante-natal care), excluding any optional keeping in touch days on which it has been agreed between the contractor and the Dentist Performer that the Dentist Performer will work; and
- (d) the payment relates to a Parental Leave Pay Period and not to a period of sickness absence.

***Eligibility for paternity leave payments – birth***

13.4 A contractor is entitled to receive a paternity leave payment in respect of a Dentist Performer that it employs or engages if:

- (a) the Dentist Performer's name has been included in a Dental List for a period of at least 2 years (subject to paragraph 13.7) and the last 26 weeks of that period must have been a period of continuous employment or engagement that required the performance of dental services as part of the NHS ending with the week immediately preceding the child's date of birth;
- (b) the Dentist Performer is either:
  - (i) the father of the child; or
  - (ii) married to or the partner of the child's mother, but not the child's father; or
  - (iii) has, or expects to have:
    - (aa) if the Dentist Performer is the child's father, responsibility for the upbringing of the child; or
    - (bb) if the Dentist Performer is the mother's husband or partner but not the child's father, the main responsibility, (apart from any responsibility of the mother) for the upbringing of a child.
- (c) the Dentist Performer has ceased to perform dental services under the contractor's Prototype Agreement in order to take paternity leave; and
- (d) the payment relates to a Parental Leave Pay Period and not to a period of sickness absence.

***Eligibility for paternity leave payments – adoption***

13.5 A contractor is entitled to receive a paternity leave payment in respect of a Dentist Performer that it employs or engages if:

- (a) the Dentist Performer’s name has been included in a Dental List for a period of at least 2 years (subject to paragraph 13.7) and the last 26 weeks of that period must have been a period of continuous employment or engagement that required the performance of dental services as part of the NHS ending with the week in which the child is adopted;
- (b) the Dentist Performer:
  - (i) is either married to, or the partner of the child’s adopter; or
  - (ii) has, or expects to have, the main responsibility (apart from the responsibility of the adopter) for the upbringing of the child;
- (c) the Dentist Performer has ceased to perform dental services under the contractor’s Prototype Agreement in order to take paternity leave; and
- (d) the payment relates to a Parental Leave Pay Period and not to a period of sickness absence.

***Eligibility for adoption leave payments***

13.6 A contractor is entitled to receive an adoption leave payment in respect of a Dentist Performer that it employs or engages if:

- (a) the Dentist Performer’s name has been included in a Dental List for a period of at least 2 years (subject to paragraph 13.7) and the last 26 weeks of that period must have been a period of continuous employment or engagement that required the performance of dental services as part of the NHS and must have immediately preceded the date of the adoption;
- (b) the Dentist Performer has become the adoptive parent of a child and is the main care provider for that child;
- (c) the Dentist Performer has ceased to provide dental services under the contractor’s Prototype Agreement in order to take adoption leave, excluding any optional keeping in touch days on which it has been agreed between the contractor and the dentist performer that the dentist performer will work; and
- (d) the payment relates to a Parental Leave Pay Period and not to a period of sickness absence.

***Parental leave for those who have undertaken approved foundation training***

13.7 In the case of a Dentist Performer who has undergone one year’s approved foundation training, the 2 years mentioned in paragraphs 13.3(a), 13.4(a), 13.5(a) and 13.6(a) must be reduced to one year.

***Meaning of “Parental Leave Pay Period”***

13.8 In this Section, “Parental Leave Pay Period” means:

- (a) in the case of a maternity leave payment, a period not exceeding 26 weeks commencing:
  - (i) not earlier than the 11<sup>th</sup> week before the expected week of confinement, nor later than the expected week of confinement, or
  - (ii) if confinement occurs prior to the eleventh week before the expected week of confinement, on the Monday immediately before the actual date of confinement,

- in respect of which a claim for payments is made by or in respect of a person taking maternity leave (which for these purposes includes leave for ante-natal care) under this Section;
- (b) in the case of a paternity payment, a period not exceeding 2 weeks commencing within 26 weeks of the date of the relevant birth or adoption and in respect of which a claim for payments is made by or in respect of a person taking paternity leave under this Section; and
  - (c) in the case of an adoption leave payment, a period not exceeding 26 weeks which immediately follows the date of the adoption and in respect of which a claim for payments is made by or in respect of a person taking adoption leave under this Section.

### ***Applications for parental leave payments***

13.9 Where a Dentist Performer satisfies the eligibility criteria specified in paragraphs 13.3, 13.4, 13.5 or 13.6, in order to obtain parental leave payments in respect of that Dentist Performer, the contractor must make an application to the Board on a standard form (set nationally and available electronically), and that application must include:

- (a) the intended dates of the Dentist Performer's Parental Leave Pay Period (i.e. the Parental Leave Pay Period in respect of which the application is being made); and
- (b) details of the Dentist Performer's estimated net monthly Pensionable Earnings (which should be based on the last pension declaration statement).

13.10 If the application is in respect of maternity leave payments, the application must also include:

- (a) a maternity certificate or other statement completed by a registered medical practitioner or registered midwife, giving the expected week of confinement of the Dentist Performer or, as the case may be, the date of confinement; and
- (b) a declaration in writing from the contractor that to the best of its knowledge, with regard to the period to which the claim relates, no claim for sickness leave payments has been made under Section 14 (payments in respect of long-term sickness absence) by it or any other contractor participating in the Capitation and Quality Scheme 2 or the Prototype Agreement Scheme, or by any other PDS Agreement Holder under the PDS SFE or by any other GDS Contract Holder under the GDS SFE.

13.11 If the application is in respect of paternity leave payments, the application must also include:

- (a) in respect of the birth of a child, written confirmation from the contractor:
  - (i) of the expected or actual date of birth, and
  - (ii) that the Dentist Performer is the husband or partner of the mother, will share responsibility for the child's upbringing and is taking time off to support the mother or to care for the child;
- (b) in respect of the adoption of a child, documents showing the date on which the child is expected to be placed for adoption or the actual date of the placement,



- the date the adopter was notified of having been matched with the child and written confirmation from the contractor that the Dentist Performer—
- (i) is the partner of the main care provider,
  - (ii) will share responsibility for the child’s upbringing, and
  - (iii) is taking time off to support his partner or to care for the child; and
- (c) a declaration in writing from the contractor that to the best of its knowledge, with regard to the period to which the claim relates, no claim for sickness leave payments has been made under Section 14 by it or any other contractor participating in the Capitation and Quality Scheme 2 or the Prototype Agreement Scheme, or by any other PDS Agreement Holder under the PDS SFE or by any other GDS Contract Holder under the GDS SFE.

13.12 If the application is in respect of adoption leave payments, the application must also include:

- (a) in the case of an adoption within the United Kingdom:
  - (i) the date on which the child is expected to be placed for adoption; or
  - (ii) the actual date of the placement;
  - (iii) the date the adopter was notified of having been matched with the child endorsed by the appropriate adoption agency with its name and address; or
  - (iv) a matching certificate giving equivalent details;
- (b) in the case of an inter-country adoption:
  - (i) the date on which the adopter received official notification,
  - (ii) the expected date the child will enter the United Kingdom or the date upon which the child did so enter, and
  - (iii) a copy of the official notification and evidence of the date of the child’s arrival;
- (c) written confirmation from the contractor that the Dentist Performer is or will be the main care provider for the child; and
- (d) a declaration in writing from the contractor that to the best of its knowledge, with regard to the period to which the claim relates, no claim for sickness leave payments has been made under Section 14 by it or any other contractor participating in the Capitation and Quality Scheme 2 or the Prototype Agreement Scheme, or by any other PDS Agreement Holder under the PDS SFE or by any other GDS Contract Holder under the GDS SFE.

***Calculation of the amount of parental leave payments and the due date***

13.13 The amount to which the contractor is entitled in respect of parental leave payments is a weekly amount, calculated on the basis of the Dentist Performer’s estimated monthly Pensionable Earnings (which should usually be the amount that features in respect of that Dentist Performer on the contractor’s Monthly Payment Schedule, plus his estimated monthly Pensionable Earnings in respect of any Monthly Seniority Payment to which he is entitled) immediately before the parental leave is taken. This monthly amount is to be multiplied by 12 and then divided by 52 to produce the weekly amount of the parental leave payments.

13.14 That weekly amount is the amount to which the contractor is entitled in respect of each complete week of the Dentist Performer’s Parental Leave Pay Period. If the last day of a week of the Dentist Performer’s Parental Leave Pay Period falls in a particular month, the

weekly parental leave payment in respect of that week is to fall due on the contractor's Monthly Payment Date in the following month. For these purposes, "month" means a calendar month.

### ***Conditions attached to parental leave payments***

13.15 Payments under this Section, or any part of such payments, are only payable if the following conditions are satisfied:

- (a) the Dentist Performer must not perform any dental services during the Parental Leave Pay Period under any Capitation and Quality Scheme 2 Agreement, Prototype Agreement, PDS agreement or GDS contract, (other than any optional keeping in touch days on which it has been agreed between the contractor and the Dentist Performer that the Dentist Performer will work), except with the written approval of the Board; and
- (b) unless the performer dies, the Dentist Performer in respect of whom the payments are made must continue to be a Dentist Performer and continue to be employed or engaged by the contractor (if the performer does die, parental leave payments may continue to be paid to the contractor for the balance of the Parental Leave Pay Period, provided these are forwarded by the contractor to the performer's estate); and
- (c) the contractor must continue to pay the Dentist Performer an amount equivalent to the Dentist Performer's estimated net Pensionable Earnings (which provided the basis for the calculation of the parental leave payment) during the Parental Leave Pay Period (or pay this to the performer's estate if the Dentist Performer dies).

13.16 If the contractor breaches any condition of its payments under this Section that is set out in this SFE (including the conditions that are set out in paragraph 13.15), the Board may, in appropriate circumstances, withhold payment of any or any part of a payment under this Section that is otherwise payable.

13.17 The computation of periods of entitlement under this section is to take into account periods of leave before this SFE comes into force. Therefore, in the case of a claim for maternity leave payment in respect of a Dentist Performer who has taken a 10 weeks period of maternity leave immediately before this SFE comes into force, there will be an entitlement to a further 16 weeks of maternity leave payment under this SFE.

## **14. Payments in respect of long-term sickness absence**

14.1 Employees of contractors will, if they qualify for it, be entitled to statutory sick pay for 28 weeks of absence on account of sickness in any three years. The right of partners in partnership agreements to paid sickness leave is a matter for their partnership agreement.

14.2 If an employee, a partner in a partnership or a contractor is a Dentist Performer, the contractor that employs or engages that Dentist Performer will be entitled under this Section to payments from the Board in respect of a period of long term sickness absence taken by that Dentist Performer, provided the eligibility criteria are satisfied and the relevant payment conditions are not breached. However, nothing in the conditions for payments to contractors under this Section shall be interpreted as qualifying a Dentist Performer's statutory rights. In

any event, even if the Board is not directed in this SFE to make payments to a contractor in respect of sickness absence, it may do so as a matter of discretion. The powers to do so are set out in section 112 of the 2006 Act.

### ***Eligibility for sickness leave payments***

14.3 A contractor is entitled to receive sickness leave payments in respect of a Dentist Performer that it employs or engages if, in respect of a complete week of sickness absence:

- (a) subject to paragraph 14.4, the Dentist Performer's name has been included in a Dental List for a period of at least 2 years, which need not be a continuous period and part or all of that period need not immediately precede the period of sickness, but during those 2 years (or that aggregate of 2 years) the Dentist Performer must have been performing dental services as part of the NHS;
- (b) the Dentist Performer has been unable to provide dental services under the contractor's Prototype Agreement because of sickness, but sickness leave payments are not payable in respect of the first 4 weeks of absence;
- (c) the Dentist Performer has been in receipt of payments under this Section for less than the maximum of 22 weeks during a period of sickness; and
- (d) the contractor is not in receipt of payments under Section 13 (payments in respect of maternity, paternity and adoption leave) in respect of the Dentist Performer.

14.4 In the case of a Dentist Performer who has undergone one year's approved foundation training, the 2 years mentioned in paragraph 14.3(a) shall be reduced to one year.

14.5 Sickness leave payments are only payable in respect of a maximum of 22 weeks in any period of 52 weeks. So, for example, once sickness leave payments have been made in respect of a Dentist Performer for a continuous period of 22 weeks, it will be a further 30 weeks before the Board could again be obliged to make sickness leave payments in respect of that Dentist Performer. However, the Board may waive the eligibility criterion set out in this paragraph in any case where it considers it is reasonable in all the circumstances to do so. The computation of periods of sickness leave is to take into account periods of sickness leave before this SFE comes into force.

### ***Applications for sickness leave payments***

14.6 Where a Dentist Performer satisfies the eligibility criteria specified in paragraphs 14.3 to 14.5, in order to obtain a sickness leave payment in respect of that Dentist Performer, the contractor must make an application to the Board on a standard form (set nationally and available electronically), and that application must include:

- (a) a medical certificate, or other statement, completed by a registered medical practitioner to the effect that the Dentist Performer is incapable of work by reason of sickness; and
- (b) a declaration in writing from the contractor that to the best of its knowledge, with regard to the period to which the claim relates, no claim for parental leave payments has been made under Section 13 by it or any other contractor participating in the Capitation and Quality Scheme 2 or the Prototype

Agreement Scheme, or by any other PDS Agreement Holder under the PDS SFE or by any other GDS Contract Holder under the GDS SFE.

***Calculation of the amount of sickness leave payments and the due date***

14.7 The amount to which the contractor is entitled in respect of sickness leave payments is a weekly amount, calculated on the basis of the Dentist Performer's estimated monthly Pensionable Earnings (which should usually be the amount that features in respect of that Dentist Performer on the contractor's Monthly Payment Schedule, plus his estimated monthly Pensionable Earnings in respect of any Monthly Seniority Payment to which he is entitled) immediately before the sickness leave is taken. This amount is to be multiplied by 12 and then divided by 52 to produce, subject to paragraph 14.8, the weekly amount of the sickness leave payments.

14.8 The weekly amount determined in accordance with paragraph 14.7 is the amount to which the contractor is entitled in respect of each complete week during which the Dentist Performer is absent and continues to satisfy the eligibility criteria. If the last day of such a week falls in a particular month, the weekly sickness leave payment in respect of that week is to fall due on the contractor's Monthly Payment Date in the following month. For these purposes, "month" means a calendar month.

***Conditions attached to sickness leave payments***

14.9 Payments under this Section, or any part of such payments, are only payable if the following conditions are satisfied:

- (a) the contractor must, if the Board so requests, provide the Board with medical certificates or other statements to the effect that the Dentist Performer is incapable of work by reason of sickness, completed by a registered medical practitioner, covering any period of absence in respect of which a sickness leave payment is being claimed;
- (b) the Dentist Performer must not perform any dental services under a PDS agreement, a GDS contract, a Capitation and Quality Scheme 2 Agreement or a Prototype Agreement during any period of absence in respect of which a sickness leave payment is claimed, except with the written approval of the Board;
- (c) unless he dies, the Dentist Performer in respect of whom the payments are made continues to be a Dentist Performer and continues to be employed or engaged by the contractor (if he does die, sickness leave payments may continue to be paid to the contractor for the balance of the 22 weeks for which sickness leave payments would otherwise have been payable, provided these are forwarded by the contractor to the Dentist Performer's estate); and
- (d) the contractor must continue to pay the Dentist Performer at least his estimated net Pensionable Earnings during his absence (or pay this to his estate if he dies).

14.10 If the contractor breaches any condition of his sickness leave payments that is set out in this SFE (including the conditions that are set out in paragraph 14.9), the Board may, in appropriate circumstances, withhold payment of any or any part of a payment under this Section that is otherwise payable.

## 15. Reimbursement of non-domestic rates

15.1 Under this Section, a contractor may be able to claim reimbursement of the Non-domestic Rates payable in relation to any premises at which it provides services under its Agreement.

### *Eligibility for reimbursement of non-domestic rates*

15.2 A contractor is entitled to receive reimbursement of payments in respect of its non-domestic rates for practice premises if, in any financial year:

- (a) it is a Non-Domestic Ratepayer or, where the contractor is a partnership, one of the partners comprising the partnership is the Non-Domestic Ratepayer, as regards the hereditament that comprises or includes the practice premises and in respect of which the claim is made (“the Hereditament”); and
- (b) subject to paragraph 15.3, the total value of the primary dental services provided at the practice premises as part of the NHS is not less than £25,000.

15.3 The Board may waive the eligibility criterion in paragraph 15.2(b) in any case where it considers it is reasonable in all the circumstances to do so.

### *Applications for reimbursement of non-domestic rates*

15.4 Provided the contractor satisfies the eligibility criteria specified in paragraph 15.2, read with paragraph 15.3, in order to obtain reimbursement in respect of its non-domestic rates, it must make an application to the Board on a standard form (set nationally and available electronically), and that application must include:

- (a) the Demand Notice for the financial year to which the claim relates, or a copy of it certified by the Billing Authority;
- (b) in respect of the Hereditament:
  - (i) a receipt from the Billing Authority for the whole amount or, if the contractor pays the annual amount in two instalments, half the amount of the contractor’s (or the partner’s) annual liability for non-domestic rates, specified in the Demand Notice, or
  - (ii) if the contractor (or the partner) pays its non-domestic rates by monthly instalments, details of the amount to be paid each month, the date the payments are due to commence and the date the payments are due to cease, together with the Demand Notice specifying the monthly instalments due; and where the contractor wishes to be reimbursed in a lump sum after payment of all the instalments, it must provide proof of payment for the whole amount specified in the Demand Notice;
- (c) a declaration in writing from the contractor specifying the proportion, expressed as a percentage, which its income under its Prototype Agreement bears to the gross income of the Hereditament from the provision of dental services (i.e. from both NHS and private work) during the last 6 months of the financial year preceding the financial year in respect of which the claim for reimbursement is being made; and

- (d) a declaration in writing from the contractor undertaking, if requested to do so by the Board, within three months of receiving such a request to provide to the Board documentary evidence sufficient to demonstrate accurately the proportion that its income under its Prototype Agreement bore to the gross income of the Hereditament from the provision of dental services (i.e. from both NHS and private work) in the last 6 months of the financial year preceding the financial year in respect of which the claim for reimbursement is being made.

15.5 Where the contractor seeks reimbursement of an amount in respect of non-domestic rates in relation to more than one Hereditament, it shall submit to the Board a separate claim in respect of each such Hereditament.

15.6 For the purposes of this Section, the gross income of a Hereditament from the provision of dental services means the gross income from any dental services provided at or associated with the Hereditament by either the contractor or any dental practitioner that the contractor employs or engages.

***Amount of non-domestic rates that may be reimbursed***

15.7 The amount to which the contractor is entitled in respect of a reimbursement payment in any financial year is the amount specified in the Demand Notice for that financial year less, where the gross income of the Hereditament from the provision of dental services includes any income which is not derived from its Prototype Agreement, any amount (“the abatement”) calculated in accordance with paragraph 15.8.

15.8 The amount of the abatement shall be based on the percentage that the contractor is required to declare in accordance with paragraph 15.4(c). Wherever that percentage features in column 1 of the table below (as adjusted, where appropriate, in the light of further information received by the contractor, as requested in accordance with paragraph 15.4(c)) the corresponding percentage opposite that entry in column 2 is the amount, in percentage terms, of the abatement.

COLUMN 1	COLUMN 2
Proportion which the Prototype Agreement income bears to the gross income of the Hereditament	Proportion of Non-domestic Rates to be abated
90% or more	No abatement
80% or more but less than 90%	10%
70% or more but less than 80%	20%
60% or more but less than 70%	30%
50% or more but less than 60%	40%
40% or more but less than 50%	50%
30% or more but less than 40%	60%
20% or more but less than 30%	70%
10% or more but less than 20%	80%
Less than 10%	90%

15.9 The amount to which the contractor is entitled falls due once the Board receives a valid application for the amount.

***Conditions attached to payments under this Section***

15.10 Payments under this Section, or any part of such payments, are only payable if the following conditions are satisfied:

- (a) the contractor must, as regards the Hereditament to which the payment relates, comply with its Prototype Agreement term set by virtue of paragraph 13 (premises, facilities and equipment) of Schedule 3 to the PDS Agreements Regulations.
- (b) the contractor must make available any information which the Board does not have but needs, and which the contractor either has or could reasonably be expected to obtain, in order to calculate the amount of contractor's reimbursement payments;
- (c) the contractor must inform the Board of any changes to its circumstances which may affect its eligibility for reimbursement payments or the level of the reimbursement payments to which it may be entitled; and
- (d) all information supplied pursuant to or in accordance with sub-paragraphs (b) or (c) must be accurate.

15.11 If the contractor breaches any condition of its payments under this Section that is set out in this SFE (including the conditions that are set out in paragraph 15.10), the Board may, in appropriate circumstances, withhold payment of all or any part of a payment under this Section that is otherwise payable.

## **PART 4**

### **Supplementary provisions common to all Prototype blends**

#### **16. Administrative provisions**

***Payment arrangements***

16.1 Payment under this SFE will be undertaken on the Board's behalf by the NHS BSA, and will be paid on the due date. The making of the payments which are required to be paid under these Directions was made a function of the NHS BSA by virtue of entry (a) of column 2 that corresponds to entry 3 in column 1 of the Schedule to the Functions Regulations. By virtue of regulation 2(3)(b) (functions of the Board exercisable by the Authority) of those Regulations, the Board may exercise that function itself only in the event that the NHS BSA is unable to do so for reasons other than a failure by the Board to co-operate in a reasonable manner with the NHS BSA.

16.2 This means that although it remains the responsibility of the Board to determine the correct amount of the payment, (subject to the specific arrangements for making the annual adjustments determined by the Secretary of State which are set out in paragraphs 2.12 or 5.12) it must be the NHS BSA that actually makes the payment to the contractor.

16.3 In practice, the Board will be responsible for loading payment data into the NHS BSA's computerised payment system, and this system will normally generate the amount of the payments to be made.

16.4 The NHS BSA has a responsibility (under entry 15 in column 3 of the Schedule to the Functions Regulations) for reporting to the Board evidence that it discovers in the course of carrying out its functions which it considers might be evidence of a breach of contract, an unlawful activity or an irregularity – or a matter which is otherwise unusual – but ultimate responsibility for ensuring that contractors are paid the correct amount rests with the Board. Indeed, the Board is responsible for any acts or omissions of the NHS BSA with regard to the payment functions that it has under the Functions Regulations, including the payment functions that the NHS BSA must perform on the Board's behalf (see regulation 2(4) (functions of the Board exercisable by the Authority) of the Functions Regulations).

16.5 Therefore, because the NHS BSA is effectively acting as the agent of the Board as regards the making of payments, the making of payments is referred to elsewhere in this SFE (see for example paragraph 16.7) as a function of the Board, even though the function is performed by the NHS BSA. As mentioned in the previous paragraph, this reflects the underlying legal liability, but in practice, references in this SFE to the Board making payments will need to be construed in accordance with the arrangements for making payments described in the preceding paragraphs of this Section.

16.6 However, where reference is made in this SFE to decisions with regard to the withholding of payments or the making of deductions (see for example the next paragraph), these will need to be decisions of the Board, although the NHS BSA will be putting the decision into effect on the Board's behalf.

### ***Overpayments and withheld amounts***

16.7 Without prejudice to the specific provisions elsewhere in this SFE relating to overpayments of particular payments, if the Board makes a payment to a contractor under its Agreement pursuant to this SFE and:

- (a) the contractor was not entitled to receive all or part thereof, whether because:
  - (i) it or a person employed or engaged by it did not meet the eligibility criteria for the payment, or
  - (ii) the payment was calculated incorrectly (including where a payment on account overestimates the amount that is to fall due);
- (b) the Board was entitled to withhold all or part of the payment because of a breach of a condition attached to the payment, but is unable to do so because the money has already been paid; or
- (c) the Board is entitled to repayment of all or part of the money paid,

the Board may recover the money paid by deducting an equivalent amount from any payment payable pursuant to this SFE (in instalments, where that is appropriate), and where no such deduction can be made, it is a condition of the payments made pursuant to this SFE that the contractor must pay to the Board that equivalent amount.

16.8 Where the Board is entitled pursuant to this SFE to withhold all or part of a payment because of a breach of a payment condition, and the Board does so or recovers the money by



deducting an equivalent amount from another payment in accordance with paragraph 16.7, it may, where it sees fit to do so, reimburse the contractor the amount withheld or recovered, if the breach is cured.

### ***Underpayments and late payments***

16.9 Without prejudice to the specific provisions elsewhere in this SFE relating to underpayments of particular payments, if the full amount of a payment that is payable pursuant to this SFE has not been paid before the date on which the payment falls due, then unless:

- (a) this is with the consent of the contractor; or
- (b) the amount of, or entitlement to, the payment, or any part thereof, is in dispute,

once it falls due, it must be paid promptly (see direction 8(1) of the Prototype Directions).

16.10 If the contractor's entitlement to the payment is not in dispute but the amount of the payment is in dispute, then once the payment falls due, pending the resolution of the dispute, the Board must:

- (a) pay to the contractor, promptly, an amount representing the amount that the Board accepts that the contractor is at least entitled to; and
- (b) thereafter pay any shortfall promptly, once the dispute is finally resolved.

16.11 However, if a contractor has:

- (a) not claimed a payment to which it would be entitled pursuant to this SFE if it claimed the payment; or
- (b) claimed a payment to which it is entitled pursuant to this SFE but the Board is unable to calculate the payment until after the payment is due to fall due because it does not have the information it needs in order to calculate that payment (all reasonable efforts to obtain the information having been undertaken),

that payment is (instead) to fall due on the contractor's Monthly Payment Date in the month after the month during which the Board obtains the information it needs in order to calculate the payment.

### ***Payments on account***

16.12 Where the Board and the contractor agree (but the Board's agreement may be withdrawn where it is reasonable to do so and if it has given the contractor reasonable notice thereof), the Board must pay to a contractor on account any amount that is:

- (a) the amount of, or a reasonable approximation of the amount of, a payment that is due to fall due pursuant to this SFE; or
- (b) an agreed percentage of the amount of, or a reasonable approximation of the amount of, a payment that is due to fall due pursuant to this SFE,

and if that payment results in an overpayment in respect of the payment, paragraph 16.7 applies.

***Time limitation for claiming payments***

16.13 Subject to paragraphs 16.14 and 16.15, contractors are only eligible for payments under this SFE if they are claimed within three months of the date on which they could first have fallen due.

16.14 Subject to paragraph 16.15, a contractor is only eligible to receive reimbursement in respect of non-domestic rates under Section 15:

- (a) where it is claiming a single payment of the full amount due as a reimbursement in respect of any financial year, if it makes a valid application within three months of the date in the Demand Notice on which the full amount of its non-domestic rates for that financial year falls due;
- (b) where it is claiming two payments, each of half the full amount due as a reimbursement in respect of any financial year, if in relation to each application for a payment it has made a valid application within three months of the date in its Demand Notice on which the corresponding six-monthly amount of its non-domestic rates for that financial year falls due; and
- (c) where it is claiming reimbursement of monthly instalments of non-domestic rates in monthly instalments, if it has made a valid application within three months of the date on which the first of the monthly instalments of non-domestic rates falls due.

16.15 The Board may waive the eligibility criteria in paragraphs 16.13 and 16.14 in any case where it considers it is reasonable in all the circumstances to do so.

***Payments to or in respect of suspended dentists whose suspension ceases***

16.16 If the suspension of a dental practitioner from the Dental Performers List ceases, and:

- (a) that dental practitioner enters into a Prototype Agreement, any payments that the dental practitioner received under a determination made under regulation 13(1) (payment during suspension) of the Performers Lists Regulations<sup>5</sup> may be set off, equitably, against the payments that the dental practitioner is entitled to receive under that dental practitioner's Prototype Agreement pursuant to this SFE; or
- (b) a contractor is entitled to any payments in respect of that dental practitioner pursuant to this SFE and a payment was made to the dental practitioner pursuant to a determination made under regulation 13(1) (payment during suspension) of the Performers Lists Regulations 2013<sup>6</sup> but the dental practitioner was not entitled to receive all or any part thereof, the amount to which the dental practitioner was not entitled may be set off, equitably, against the payments that the contractor is entitled to in respect of him pursuant to this SFE.

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<sup>5</sup> See copy of The Performance Lists (Suspended Dentists' NHS Earnings) Determination 2015 produced for reference at Annex C

<sup>6</sup> See copy of The Performance Lists (Suspended Dentists' NHS Earnings) Determination 2015 produced for references at Annex C

### ***Effect on periodic payments on termination of a Prototype Agreement***

16.17 If a Prototype Agreement under which a periodic payment (generally, the monthly agreement payments) is payable pursuant to this SFE is terminated before the end of the period to which it relates, a proportion of that payment is to fall due on the last day on which the Prototype Agreement has effect. The amount of the periodic payment payable is to be adjusted by the fraction produced by dividing:

- (a) the number of days during the period to which the payment relates for which the Prototype Agreement has effect; by
- (b) the total number of days in that period.

16.18 This is without prejudice to any arrangements for the recovery of money paid under the Prototype Agreement that is recoverable as a result of the Prototype Agreement terminating or any breach thereof.

### ***Overpayment and termination of a Prototype Agreement***

16.19 If a Prototype Agreement is terminated before the end of the period to which it relates, under which a periodic payment (generally, the monthly agreement payments) is payable pursuant to this SFE, the Board shall perform a reconciliation of the payments made by the Board to the Contractor under the Prototype Agreement. The Board must serve the Contractor with written details of the reconciliation as soon as reasonably practicable, and in any event no later than four months after the termination of the Prototype Agreement, in respect of all outstanding payments due to the contractor from the Board and any patient charges due to be paid by the contractor to the Board.

16.20 Payments pursuant to this SFE and the reconciliation statement referred to in paragraph 16.19:

- (a) payable to the contractor by the Board must be paid in accordance with paragraphs 16.17(a) and (b) above in respect of the amount of periodic payment payable, and
- (b) that have been made to a contractor by the Board to which that contractor was not entitled may be recovered by the Board by deducting an equivalent amount from any payment payable pursuant to this SFE.

16.21 If after 2 months of the reconciliation statement being produced the contractor has not disputed the reconciliation statement, that reconciliation statement will be the amount either payable to the contractor or recoverable from the contractor, whether or not, if the reconciliation statement had been disputed, that would have led to an amended reconciliation.

16.22 Where payments pursuant to this SFE have been paid by the Board to the contractor and it is not possible for the Board to recover the money paid by deducting an equivalent amount from any payment payable pursuant to this SFE, the contractor must pay to the Board that equivalent amount in accordance with paragraph 16.7.

### ***Dispute resolution procedures***

16.23 Any dispute arising out of or in connection with this SFE between the Board and a contractor is to be resolved as a dispute arising out of or in connection with the contractor's Prototype Agreement, i.e. in accordance with the NHS dispute resolution procedures or by the courts (see Part 7 of Schedules 3 to the PDS Agreements Regulations).

16.24 The procedures require the contractor and the Board to make every reasonable effort to communicate and cooperate with each other with a view to resolving the dispute between themselves before referring it for determination.

### ***Information returns***

16.25 FP17s will have been submitted by contractors electronically.

### ***Annual Reconciliation Report***

16.26 The Board must, by no later than 31<sup>st</sup> August in each financial year, send the contractor an Annual Reconciliation Report, whether as part of the annual report and review required by paragraph 40 (annual report and review) of Schedule 3 to the PDS Agreements Regulations or otherwise, which must include (but not be limited to), in respect of the previous financial year:

- (a) the total value of the contractor's Prototype Agreement, net of:
  - (i) any payments in respect of parental or sickness leave or any Monthly Seniority Payments (these are payments that are pensionable but not included in the calculation of the Prototype Agreement's Pensionable Earnings Ceiling), and
  - (ii) any foundation trainee salary payments, foundation trainee national insurance reimbursement payments, or non-domestic rates reimbursement payments (these are payments that are neither pensionable nor included in the calculation of the Prototype Agreement's Pensionable Earnings Ceiling);
- (b) the total of the initial values of the contractor's Monthly APVPs;
- (c) the total value of the deductions made to Monthly APVPs paid to the contractor, which shall be specified in two parts—
  - (i) the total amount of the NHS charges deducted, and
  - (ii) the total amount of any other deductions made under the Prototype Agreement or pursuant to this SFE; and
- (d) the estimated Pensionable Earnings of each Dentist Performer who performed services under its Agreement, net of any Pensionable Earnings that are attributable to any Monthly Seniority Payment paid in respect of the Dentist Performer;
- (e) the value of the adjustments made for capitation where applicable;
- (f) the contractor's performance against the DQOF, including:
  - (i) the CAPS,
  - (ii) the QP(NP),
  - (iii) the FQP(P), and
  - (iv) the RP;
- (g) the:
  - (i) number of units of orthodontic activity the contractor:
    - (aa) was contracted to provide;

- (bb) actually provided, based on the data submitted to the Board by the contractor, in accordance with its PDS agreement condition set by virtue of regulation 14 (units of orthodontic activity) of the PDS Agreements Regulations; and
- (cc) was contracted to provide but did not provide; and
- (ii) the payments that have been made for these units of orthodontic activity under the PDS SFE; and
- (h) the total of the initial values of the contractor's Monthly ASSPs.

16.27 The Annual Reconciliation Report will draw on an annual reconciliation statement relating to the payments made under the Prototype Agreement sent by the NHS BSA to the Board pursuant to entry (b) in column 3 that corresponds to entry 3 in column 1 of the Functions Regulations.

## **PART 5**

### **Termination of a Prototype Agreement**

#### **17. Exit from a Prototype Agreement**

17.1 This Section applies in a case where the Prototype Agreement terminates as a consequence of:

- (a) the Board gives notice of intention to withdraw from the Prototype Agreement pursuant to direction 10(2) of the Prototype Directions;
- (b) the contractor gives notice of intention to withdraw from the Prototype Agreement pursuant to direction 10(4) of the Prototype Directions; or
- (c) cessation of the Prototype Agreement Scheme pursuant to direction 11 of the Prototype Directions.

#### ***Adjustments to payments on returning to underlying PDS agreement***

17.2 Whatever the reason for the termination of a prototype agreement, the Board will apply all the relevant financial adjustments described in Section 4 (annual payment adjustments for capitation, activity and performance) and Section 7 (annual payment adjustments for capitation, activity and performance). The adjustments will be made to a pro-rated value of the AAPV:

- (a) an adjustment for capitation and activity made on a *pro-rata* basis in respect of the contract value based on the CCP and CAP taken by the NHS BSA on the date of termination, and
- (b) an adjustment for performance against the DQOF for Blend A and Blend B Prototype Agreements made on a *pro-rata* basis in respect of the Prototype Agreement value and using the contractor's DQOF performance on the date of termination. This adjustment will be made in Month 15 in line with the similar adjustments being made to the other Prototype Agreements to allow the calculation of the DQOF adjustments that relate to peer performance to be carried out.

17.3 If the termination for whatever reason takes effect other than on the first day of a month, for the purposes of payments, the value of its last Monthly APVP in respect of the last part-month of its Prototype Agreement is to be produced by dividing:

- (a) the number of days during the month for which the Prototype Agreement has effect for payment purposes; by
- (b) the total number of days in that month.

17.4 Where the termination for whatever reason takes effect at the end of the financial year then the value of the last Monthly APVP will be adjusted for capitation, activity and performance against the DQOF.

***Transfer of residual value of the Prototype Agreement***

17.5 On termination for whatever reason of the Prototype Agreement, the residual value of the contractor's AAPV which will transfer to its underlying PDS agreement will be determined for the date on which the contractor transfers back into that underlying PDS agreement. The AAPV must be divided by twelve with one twelfth of the AAPV transferring for each remaining month of the financial year.

17.6 If the termination for whatever reason of the Prototype Agreement takes effect for payment purposes other than on the first day of a month, the initial value of its Monthly APVPs in respect of the first part-month of the underlying PDS agreement is to be produced by dividing:

- (a) the number of days during the month for which the Prototype Agreement has effect for payment purposes; by
- (b) the total number of days in that month.

***Activity requirement for the remainder of the financial year***

17.7 Following the termination for whatever reason of the Prototype Agreement, the activity, expressed in units of dental activity, expected from a contractor on transfer back to its underlying PDS agreement must be calculated by dividing the contractor's previously agreed number of units of dental activity by twelve with one twelfth of the number of units of dental activity transferring for each remaining month of the financial year.

17.8 If the termination of the Prototype Agreement for whatever reason takes effect for the purposes of payment other than on the first day of a month, the initial value of the units of dental activity in respect of the first part-month of the contractor's underlying PDS agreement is to be produced by dividing:

- (a) the number of days during the month for which the Prototype Agreement has effect for payment purposes; by
- (b) the total number of days in that month.

17.9 Following the termination of the Prototype Agreement for whatever reason, any under-delivered activity, expressed in units of dental activity, which was "stayed" by agreement (pursuant to paragraphs 2.8 and 5.8) between the contractor and the Board at the commencement of the Prototype Agreement will be added in full to the annual units of dental

activity required under the PDS agreement for the remainder of the financial year in which the Prototype Agreement terminates. If the remainder of the financial year is 5 months or more the Board must, if it considers it reasonable to do so, require the contractor to deliver the activity within the financial year in which the Prototype Agreement terminates. If there is less than 5 calendar months remaining in the financial year in which the Prototype Agreement terminates, the Board must, if it considers it reasonable to do so, extend the period for delivery of the units of dental activity to the “normal” 60 day minimum period from the start of the following financial year (along with any other agreed carried forward units of dental activity for that year).

17.10 Paragraphs 17.3, 17.4, 17.5 and 17.6 are subject to any rights the Board may have to set off against an amount payable to the contractor an amount that:

- (a) is owed by the contractor to the Board under the Prototype Agreement;
  - (b) has been paid to the contractor owing to an error or in circumstances when it was not due; or
  - (c) may be withheld in accordance with direction 8(2)(c) of the Prototype Directions and the SFE,
- in accordance with direction 8 of the Prototype Directions.

**CHAPTER TWO**  
**PAYMENTS FOR THOSE ELECTING TO**  
**ENTER INTO A PROTOTYPE AGREEMENT**  
**SCHEME AGREEMENT FROM AN**  
**UNDERLYING GDS CONTRACT**

**PART 6**  
**Blend A Prototype Agreements**

**18. Negotiated Annual Prototype Value**

18.1 With effect from 1st November 2015, where a contractor has elected to enter into a Prototype Agreement with the Board and has been assigned to a Blend A Prototype Agreement, the GDS Contract held by the contractor which was considered to have a Negotiated Annual Contract Value (NACV) will be deemed to have a Negotiated Annual Prototype Value – Blend A (NAPVA) beginning on the date the Prototype Agreement commences.

18.2 Payments under a Blend A Prototype Agreement in respect of the agreed services specified in the Prototype Agreement are to be based on a NAPVA.

18.3 Each Blend A Prototype Agreement must specify:

- (a) that the contractor will offer all mandatory NHS services; and
- (b) any other services to be provided.

***Nomination of the first Negotiated Annual Prototype Value – Blend A***

18.4 At the start of the financial year – or, if a Blend A Prototype Agreement starts after the start of the financial year, for the date on which the Blend A Prototype Agreement takes effect – the Board must calculate for each contractor the NAPVA. The value of the NAPVA is the same as the NACV of the underlying GDS contract held by the contractor immediately before the commencement of the Prototype Agreement.

18.5 The NACV may have been updated by the percentage amount determined by the Secretary of State at the beginning of the financial year 2015 to 2016. If this has not taken place, the NACV will need to be adjusted by the percentage increase determined by the Secretary of State for the financial year 2015 to 2016 which is 1.34%.

18.6 If the payment, or any of the payments in the aggregate of payments, only relates to part of that financial year – for example, because the GDS contract held prior to the commencement of the Prototype Agreement takes effect for payment purposes after the start of the financial year, or is due to end before the end of the financial year – the part year payment or payments are to be annualised. The annualised amount of the nominated payment



or aggregate of payments is to be used as the basis of the calculation of the first NAPVA for the contractor's Blend A Prototype Agreement.

***Dealing with under-delivery of units of dental activity in previous financial year or in the current financial year***

18.7 Where a contractor held an underlying GDS contract immediately prior to the commencement of the Prototype Agreement, it may be the case that the number of units of dental activity the contractor was required to provide under that GDS contract has not been delivered by the date on which the Prototype Agreement commences. Where it is agreed between the Board and the contractor that any under-delivered activity are to be carried forward, then that number of units of dental activity will be carried forward and in effect the obligation to provide that activity is "stayed" for the duration of the Prototype Agreement. The number of units of dental activity "stayed" for the duration of the Prototype Agreement must be set out in the Prototype Agreement. The Board will need to agree with the contractor as to how the number of units of dental activity "stayed" will be provided following the termination of the Prototype Agreement.

18.8 The number of units of dental activity that must be "stayed" is calculated as:

- (a) the pro-rated number of units of dental activity that should have been delivered for the financial year to date. (Where the Board and a contractor have agreed a specific profile for delivering units of dental activity during the year, this profile can be used instead of pro-rating the amount); plus
- (b) the number of under-delivered units of dental activity from the previous financial year that was agreed would be carried forward; minus
- (c) the number of units of dental activity delivered up to the date on which the Prototype Agreement commences.

18.9 Where a contractor has previously held a Capitation and Quality Scheme 2 Agreement, it may have been the case that a number of units of dental activity was "stayed" for the duration of that Capitation and Quality Scheme 2 Agreement. In these cases, the same number of units of dental activity is "stayed" for the duration of the Prototype Agreement. The number of units of dental activity "stayed" must be set out in the Prototype Agreement. The Board will need to agree with the contractor as to how the number of units of dental activity "stayed" will be provided following the termination of the Prototype Agreement.

***New NAPVAs where a Blend A Prototype Agreement is revised***

18.10 If, with the agreement of the Board and the contractor, the NHS commitment of the contractor changes, or the services, or service levels, that a contractor is required to provide under its Blend A Prototype Agreement is revised, a new NAPVA will have to be established for that contractor. If the variation takes effect during the financial year, the new NAPVA for that Prototype Agreement must be an annualised amount for calculation purposes, even though only a proportion of that annualised amount will in fact be payable for the remaining part year.

18.11 NHS commitment is the time and effort that a contractor devotes to providing NHS care. For the Blend A Prototype Agreements it is important that the results achieved are assessed in the context of the overall time and effort put in by the contractor. The intent is not

to manage this at a detailed level but where necessary, the Board must look at indicators to assess NHS commitment. These key indicators of NHS commitment are:

- (a) the average weekly time given to appointments in which an element of NHS care is delivered and reported to the NHS BSA calculated on a quarterly basis. The Board may review the NAPVA where the key indicator, in the opinion of the Board, significantly decreases from the level agreed at the date of the commencement of the Prototype Agreement and the Board considers that decrease to represent a significant reduction in NHS commitment. The review period runs from the date of the commencement of the Prototype Agreement until the end of the financial year in which the Prototype Agreement is made (with an equivalent period for future years); and
- (b) the historical capitated population number after any adjustment for past under-delivery, calculated on a quarterly basis. The Board may review the NAPVA if, in the opinion of the Board, this indicator significantly decreases from the level agreed at the date of the commencement of the Prototype Agreement, and the Board considers that decrease to represent a significant reduction in NHS commitment. The review period runs from the date of the commencement of the Prototype Agreement until the end of the financial year in which the Prototype Agreement is made (with an equivalent period for future years).

### ***Annual uprating of NAPVAs***

18.12 It is intended that at the start of each financial year that this SFE applies, this SFE will be amended so as to include the percentage increase in agreement value as determined by the Secretary of State for the duration of the Prototype Agreement Scheme. In practice, these adjustments will be factored into Monthly Annual Prototype Value – Blend A Payments (APVAP) by the NHS BSA on a national basis. The Board must not itself, therefore, adjust the amounts that it has loaded into the Payments On-Line (POL) system by these adjustments.

## **19. Payment of Monthly Annual Prototype Value Payments**

19.1 At any point, there must be, in respect of each Blend A Prototype Agreement, a NAPVA, determined in accordance with Section 2. This, in all cases, is to be an annual (or annualised) amount. For each Blend A Prototype Agreement, the contractor's Actual Annual Prototype Value – Blend A (AAPVA) has to be established.

19.2 The AAPVA is calculated as:

- (a) The NAPVA; minus
- (b) an amount of the NAPVA that is attributed to orthodontic activity, which will be paid for separately under the underlying GDS contract. If the element relating to orthodontics is not explicitly stated in the underlying GDS Contract then an amount must be agreed by the Board and the contractor; and minus
- (c) an element of the NAPVA that is due to specified services. Specified services are defined in paragraph 10.1 (specified services). If the element relating to

specified services is not explicitly stated in the underlying GDS contract then an amount must be agreed by the Board and the contractor.

19.3 The AAPVA provides the basis for the calculation of the Monthly Annual Prototype Value – Blend A Payments (Monthly APVAP) payable under the Prototype Agreement. These calculations are outlined in the rest of Section 3.

19.4 Payments for orthodontics are made in accordance with the underlying GDS contract. The Prototype Agreement must specify the value of the orthodontic services element of the NAPVA and the number of units of orthodontic activity (“UOAs”) that the contractor is required to provide in the financial year.

19.5 Payments for specified services are outlined in Section 26 (specified services).

### ***Initial value of Monthly APVAPs***

19.6 The first initial value of a contractor’s Monthly APVAPs is to be determined for the date on which its Blend A Prototype Agreement takes effect for payment purposes. Once the contractor’s AAPVA has been established, that amount is to be divided by twelve, and subject to paragraph 19.7, the result is the first initial value of the contractor’s Monthly APVAPs.

19.7 If the contractor’s Blend A Prototype Agreement took effect for payment purposes other than on the first day of a month, the initial value of its Monthly APVAPs in respect of the first part-month of its Agreement is to be adjusted by a factor which is produced by dividing:

- (a) the number of days during the month for which the Prototype Agreement has effect for payment purposes; by
- (b) the total number of days in that month.

19.8 That initial value (expressed as a monthly value, in cases where a Prototype Agreement took effect for payment purposes other than on the first day of the month) will remain the basis for the calculation of the net value of the contractor’s Monthly APVAPs, until that initial value is next revised.

### ***Revision of the initial value of Monthly APVAPs***

19.9 The initial value of a contractor’s Monthly APVAPs will have to be revised where, for any reason, its AAPVA is revised.

19.10 If the contractor’s AAPVA is revised for the start of a month, the new initial value of its Monthly APVAPs (until its AAPVA is next revised) is its new AAPVA divided by twelve. If its AAPVA changes during a month, the initial value of its Monthly APVAPs (until its AAPVA is next revised again) is:

- (a) for the month after the month during which its AAPVA changed, its AAPVA divided by 12; or
- (b) for the month during which its AAPVA changed, the sum of the following amounts:

- (i) the amount produced by dividing the number of days during the month before the change by the total number of days in that month, and multiplying that fraction by the old initial value of the contractor's Monthly APVAPs, plus
- (ii) the amount produced by dividing the number of days during the month for which the contractor had a new AAPVA by the total number of days in that month, and multiplying that fraction by the new initial value of the contractor's Monthly APVAPs.

19.11 Once the initial value of a contractor's Monthly APVAPs has been established for any particular month, the Board must go on to establish the net value of the contractor's Monthly APVAPs, which is the amount actually to be paid.

#### ***Deductions in respect of NHS charges***

19.12 Deductions must be made in respect of NHS charges in line with paragraphs 24.1 to 24.3 in Part 8 of this SFE (deductions in respect of NHS Charges).

19.13 The Monthly APVAP value produced after the deduction described in paragraph 24.3 has been made is, subject to paragraph 19.14, the gross value of the contractor's Monthly APVAP for that month (i.e. the value before the deduction of employee's superannuation contributions).

#### ***Deductions in respect of overpayments etc.***

19.14 Deductions may need to be made to the amount determined in accordance with paragraph 24.3 under the administrative provisions in Section 32 of this SFE (administrative provisions), to take account of matters such as overpayments. In accounting terms, these deductions may alter the gross value of the Monthly APVAP in question or the gross value of another payment, but either way they will alter the net value of the Monthly APVAP in question.

#### ***Deductions in respect of LDC levies***

19.15 Any agreed deduction for LDC levies in line with paragraph 24.4 (deductions in respect of LDC levies) must be deducted by the Board from the contractor's Monthly APVAPs.

#### ***Deductions in respect of employee's superannuation contributions***

19.16 Deductions must be made in respect of employee's superannuation contributions in line with paragraphs 24.5 to 24.7 in Part 8 of this SFE (deductions in respect of employee's superannuation contributions).

#### ***Net value of the contractor's first Monthly APVAPs***

19.17 The gross value of a contractor's Monthly APVAPs, minus any necessary deductions as mentioned in paragraphs 19.12 to 19.16, and minus any voluntary deductions that the contractor has asked to be made, is the net value of the contractor's first Monthly APVAPs. That amount is the amount actually to be paid. It becomes payable on the contractor's

Monthly Payment Date, which is the first working day of the month after the month to which the Monthly APVAP relates.

***Conditions attached to Monthly APVAPs***

19.18 Monthly APVAPs, or any part of such payments, are only payable if the contractor satisfies the following conditions:

- (a) the contractor must make available any information which the Board does not have but needs (including the returns required under the DQOF), and which the contractor either has or could reasonably be expected to obtain, in order to calculate the contractor's Monthly APVAPs;
- (b) the contractor must make available to the Board a reasonable estimate of the net monthly Pensionable Earnings (i.e. net of any Pensionable Earnings that are attributable to any Monthly Seniority Payment) of each Dentist Performer who is employed or engaged by it, and must notify the Board of any appropriate changes to that estimate; and
- (c) all information supplied pursuant to or in accordance with this paragraph must be accurate.

19.19 If the contractor breaches any condition of its Monthly APVAPs that is set out in this SFE (including the conditions that are set out in paragraph 19.18), the Board may, in appropriate circumstances, withhold payment of all or any part of a Monthly APVAPs that is otherwise payable.

***Monthly Payment Schedule***

19.20 On the due date for Monthly APVAPs, or as soon as reasonably practicable thereafter, the Board must send to the contractor a Monthly Payment Schedule which must include (but not be limited to):

- (a) the contractor's AAPVA;
- (b) the amount of the initial value of the contractor's Monthly APVAPs, prior to any permitted deductions;
- (c) the amount of permitted deductions, which shall be specified in two parts:
  - (i) the amount of the NHS charges that the Board has determined, in accordance with paragraph 24.3, that the contractor should have collected in respect of courses of treatment provided, and
  - (ii) the amount of any other deductions that need to be made to the Monthly APVAPs under the Prototype Agreement or pursuant to this SFE (for example, the deductions mentioned in paragraphs 19.14 to 19.16), together with the reason for any such deduction;
- (d) the amount of the Monthly APVAP following the permitted deductions;
- (e) any other payments payable to the contractor pursuant to this SFE on that due date, including where relevant an indication that a particular payment is made in respect of a named Dentist Performer; and
- (f) the estimated net monthly Pensionable Earnings of each Dentist Performer who performs services under the Prototype Agreement, i.e. net of any Pensionable Earnings that are attributable to any Monthly Seniority Payment.

19.21 In practice, in accordance with entry 2(c) in column 2 of the Schedule to the Functions Regulations, the Monthly Payment Schedule will be sent to the contractor by the NHS BSA, who will also need to send a copy to the Board (entry 2(a) of column 3 of the Schedule to the Functions Regulations).

## 20. Annual payment adjustment for capitation, activity and performance

### *Initial value of the Month 12 Monthly APVAP*

20.1 The adjustments for capitation, activity and performance are carried out in Month 15 so an interim payment for Month 12 needs to be made to contractors. The calculation and value of the Month 12 Monthly APVAP is as described in Section 19. Adjustments are then made to this in Month 15 relative to the money already paid to the contractor.

### *Setting the baseline for the annual payment adjustment*

20.2 The amount of payment made to each contractor during the financial year needs to be adjusted based on each contractor's performance for:

- (a) capitation, in terms of what would be described as Band 1 courses of treatment in the underlying GDS contract;
- (b) activity, in terms of what would be described as Band 2 and Band 3 course of treatment in the underlying GDS contract; and
- (c) performance against the DQOF.

20.3 On the date of its commencement, or at the beginning of each financial year, the Prototype Agreement must set out:

- (a) the AAPVA;
- (b) the Pro-rated AAPVA (PAAPVA), which is the pro-rated value of the Prototype Agreement where the Prototype Agreement has started after the beginning of the financial year. For Prototype Agreements that begin on 1 April in any financial year, the PAAPVA = AAPVA;
- (c) the minimum expected number of units of dental activity for Band 2 and Band 3 courses of treatments (effectively worth 2 and 11 units of dental activity respectively) that the contractor is expected to deliver under its Prototype Agreement for the part of the financial year to which the Prototype Agreement applies. This is described as the Expected Minimum Activity (EMA);
- (d) the value of a unit of dental activity in the underlying GDS contract, which is described as the UDA Value (UDAV);
- (e) the Pro-rated Actual Annual Prototype Value – Blend A – Activity Element (PAAPVA-A), which is the amount of the PAAPVA that will be measured by activity;
- (f) the Prorated Actual Annual Prototype Value – Blend A – Capitation Element (PAAPVA-C), which is the amount of the PAAPVA that will be measured by capitation; and
- (g) the number of capitated patients to whom the contractor is expected to have provided primary dental services by the end of the financial year, which is described as the Contractor's Expected Capitated Population (CECP).

20.4 The Board must calculate the PAAPVA-A and PAAPVA-C for each prototype at the commencement of the Prototype Agreement, or at the beginning of each financial year. The calculation is to be relative to:

- (a) the number of Band 2 courses of treatment done in the baseline year;
- (b) the number of Band 3 courses of treatment done in the baseline year;
- (c) the UDAV;
- (d) the PAAPVA;
- (e) any allowance the Board is applying to reflect the expected fall in the numbers of courses of treatment provided under Prototype Agreements, to reflect the additional time that is being spent on prevention; and
- (f) the proportion of the financial year covered by the Prototype Agreement.

20.5 The Prototype Agreement must also state the Contract Value Carried Forward – Previous Year (CVCF(Y-1)). This is equal to the Contract Value Carried Forward – Current Year (CVCF(Y)), which was calculated as part of the Month 15 adjustments for the previous financial year, adjusted to include any uplift determined by the Secretary of State (in line with paragraph 2.5). For all Prototype Agreements in the financial year 2015 to 2016, the value of the CVCF(Y-1) = £0.

#### ***Setting the limits for the adjustments to capitation and activity performance***

20.6 The Board will need to establish a minimum level for the reduction of the contractor's AAPVA for reductions due to its capitation and activity performance. This minimum level figure is known as the Capitation and Activity Adjustment Minimum Level (CAAML). The value for the CAAML for all Prototype Agreements is 90%.

20.7 For any Prototype Agreement, the Board may put a limit on the degree to which performance in terms of capitation can differ from performance in terms of activity. This is known as the Activity and Capitation Performance Tolerance (ACPT) and is expressed as a percentage. The Prototype Agreement must either;

- (a) set out the level of the ACPT; or
- (b) set out that there are no limits being applied between performance in terms of activity and performance in terms of capitation.

20.8 The Prototype Agreement must set out the limits on under-performance and over-performance in line with the Prototype Directions as follows:

- (a) for under-delivery, the proportion of the PAAPVA that can be carried forward for delivery in the following financial year, as opposed to being deducted from the Month 15 payment, is defined as the Carry Forward – Lower Limit (CF-LL). In line with the Prototype Directions, the CF-LL is 4%; and
- (b) for over-delivery, the proportion of the PAAPVA that can be deducted from delivery levels in the following financial year, as opposed to added to the Month 15 payment, is defined as the Carry Forward – Upper Limit (CF-UL). In line with the Prototype Directions, the CF-UL is 2%. It is at the discretion of the Board if they wish to pay for any over-delivery above this limit.

#### ***Adjusting for different levels of capitation and activity performance***

20.9 Two months after the end of the financial year, all FP17s should have been returned by those GDS Contract Holders, PDS Agreement Holders and Capitation and Quality

Scheme 2 Agreement Holders who are not participating in the Prototype Agreement Scheme in respect of their completed courses of treatment. This will enable the NHS BSA to review the patients of Prototype Agreement Holders that are part of a contractor's population for capitation purposes. In practice there will continue to be a small amount of courses of treatment outstanding by GDS Contract Holders and PDS Agreement Holders who are not participating in the Prototype Agreement Scheme, and those FP17s for those courses of treatment will be submitted later in the year after those courses of treatment to which they apply are complete. These FP17s will not be included in any adjustments made for capitation levels for the purposes of the Prototype Agreements as the impact is expected to be minimal.

20.10 A Notional Capitation Remuneration Level (NCRL) must be calculated for each Blend A Prototype Agreement. This is based on the Contractor's Capitated Population (CCP). On any day ("the relevant day"), a patient is part of a CCP if that patient has been provided with a banded course of treatment by a contractor (C1) within a period of three years immediately preceding that day, provided that:

- (a) the banded course of treatment has not been provided by a foundation trainee;
- (b) the patient has not been referred to the contractor (C1) for the banded course of treatment by another primary dental services contractor; and
- (c) the patient was not subsequently provided with a banded course of treatment before the relevant day by another primary dental services contractor (C2), apart from where a patient was referred to C2 by C1 for that banded course of treatment,

and for the purposes of this paragraph a banded course of treatment does not include the provision of an urgent course of treatment.

20.11 A computation of the CCP is to taken by the NHS BSA for all Prototype Agreements as of the 31<sup>st</sup> March.

20.12 The NCRL is calculated as follows:

$$\text{NCRL} = \frac{\text{CCP}}{\text{CECP}} \times \text{PAAPVA-C.}$$

20.13 A Notional Activity Remuneration Level (NARL) must be calculated for each Blend A Prototype Agreement. This is based on the Contractor's Activity Performance (CAP). The CAP is defined as the number of units of dental activity delivered for activity relating to the activity element of the Prototype Agreement. A computation of the CAP is to be taken by the NHS BSA for all Prototype Agreements as of the 31<sup>st</sup> March.

20.14 The NARL is calculated as follows:

$$\text{NARL} = \frac{\text{CAP}}{\text{EMA}} \times \text{PAAPVA-A.}$$

20.15 To make any adjustments to the remuneration levels, the percentage achievement for capitation and activity are calculated as follows:

- (a) the Percentage of Capitation Achieved (PCA) is calculated as:

$$\text{PCA} = \frac{\text{CCP}}{\text{CECP}} ; \text{ and}$$



## CECP

- (b) the Percentage of Activity Achieved (PAA) is calculated as:

$$PAA = \frac{CAP}{EMA}$$

20.16 The adjustment relating to performance in terms of capitation can be relative to performance in terms of activity. The Adjusted Capitation Remuneration Level (ACRL) is the amount of remuneration for performance in terms of capitation, adjusted to reflect whether the Board has agreed to limit the degree to which performance in terms of capitation can differ from performance in terms of activity, as described in paragraph 20.7:

- (a) for Prototype Agreements where an ACPT has been set:

- (i) if  $PCA \leq PAA$ , then:

$$ACRL = NCRL; \text{ or}$$

- (ii) if  $PCA > PAA$  and  $PCA \leq PAA + ACPT$ , then:

$$ACRL = NCRL; \text{ or}$$

- (iii) if  $PCA > PAA + ACPT$ , then:

$$ACRL = PAAPVA-C \times (PAA + ACPT)$$

- (b) for Prototype Agreements where there are no limits between performance in terms of activity and performance in terms of capitation:

$$ACRL = NCRL.$$

20.17 The adjustment relating to performance in terms of activity can then be calculated to give the Adjusted Activity Remuneration Level (AARL). The AARL is calculated as:

- (a) if  $PCA \leq 100\%$ , then the AARL is calculated as the smaller of:

- (i) the NARL, or  
(ii) PAAPVA-A; or

- (b) If  $PCA > 100\%$ , then:

- (i) if  $PAA \leq PCA$

$$AARL = PAAPVA-A \times PAA, \text{ or}$$

- (ii) if  $PAA > PCA$

$$AARL = PAAPVA-A \times PCA$$

20.18 The Initial Combined Adjusted Remuneration Level (ICARL) is calculated by adding the ACRL and the AARL:

$$\text{ICARL} = \text{ACRL} + \text{AARL}.$$

20.19 Any carry forward from the previous year is then applied to the ICARL to determine the Combined Adjusted Remuneration Level (CARL). This is calculated as:

$$\text{CARL} = \text{ICARL} - \text{CVCF(Y-1)}.$$

20.20 The Pre-Quality Remuneration Level (PQRL) is calculated by applying the minimum remuneration levels (prior to DQOF adjustments) and the agreed levels of carry forward of contract value. It will also determine the Overall Capitation and Activity Performance Level (OCAPL) and the level of Contract Value Carried Forward – Current Year (CVCF(Y)). The PQRL, OCAPL and CVCF(Y) are calculated as:

(a) if  $\text{CARL} \leq \text{PAAPVA} \times \text{CAAML}$ , then:

- (i)  $\text{PQRL} = \text{PAAPVA} \times \text{CAAML}$ ,
- (ii)  $\text{OCAPL} = \frac{\text{PQRL}}{\text{PAAPVA}}$ ,
- (iii)  $\text{CVCF(Y)} = 0$ ;

(b) if  $\text{CARL} > \text{PAAPVA} \times \text{CAAML}$  and  $\leq \text{PAAPVA} \times (1 - \text{CF-LL})$ , then:

- (i)  $\text{PQRL} = \text{CARL}$ ,
- (ii)  $\text{OCAPL} = \frac{\text{PQRL}}{\text{PAAPVA}}$
- (iii)  $\text{CVCF(Y)} = 0$ ;

(c) if  $\text{CARL} > \text{PAAPVA} \times (1 - \text{CF-LL})$  and  $\leq \text{PAAPVA}$ , then:

- (i)  $\text{PQRL} = \text{PAAPVA}$ ,
- (ii)  $\text{OCAPL} = \frac{\text{PQRL}}{\text{PAAPVA}}$ ,
- (iii)  $\text{CVCF(Y)} = \text{PAAPVA} - \text{CARL}$ ;

(d) if  $\text{CARL} > \text{PAAPVA}$  and  $\leq \text{PAAPVA} \times (1 + \text{CF-UL})$ , then:

- (i)  $\text{PQRL} = \text{PAAPVA}$ ,
- (ii)  $\text{OCAPL} = \frac{\text{PQRL}}{\text{PAAPVA}}$ ,
- (iii)  $\text{CVCF(Y)} = \text{PAAPVA} - \text{CARL}$ ; or

(e) if  $\text{CARL} > \text{PAAPVA} \times (1 + \text{CF-UL})$ , then:

- (i)  $\text{PQRL} = \text{PAAPVA}$ ,
- (ii)  $\text{OCAPL} = \frac{\text{PQRL}}{\text{PAAPVA}}$ ,
- (iii)  $\text{CVCF(Y)} = - \text{PAAPVA} \times \text{CF-UL}$ .

### ***Adjusting for performance on quality***

20.21 The amount of payment made to each contractor during the financial year needs to be reconciled after all the performance data provided by the contractor is available to the NHS BSA for the purposes of payments under the DQOF and after any adjustments due to capitation and activity have been finalised. For the financial year 2015/16, the DQOF will not be applied to any Prototype Agreement Holder that has not previously been part of the Capitation & Quality 2 scheme.

20.22 If a contractor holds more than one Prototype Agreement then the expectation is that the PAAPVA values for each of those Prototype Agreements would be effectively combined at this stage so that a single DQOF payment is calculated. The value of the DQOF payment, once calculated, must then be split proportionately across the Prototype Agreements using the ratio of their PAAPVA values. The Board must agree with the contractor whether the Prototype Agreements are suitable for combining the PAAPVA values, such as two Prototype Agreements providing mandatory services held by the same practice.

### ***Calculation of the payment pool relating to performance***

20.23 The amount of payment available to a contractor to reward performance against the DQOF is known as the PAAPVA(Full Quality Pool). It is calculated by applying the quality weighting percentage given in paragraph A.7.2 (weighting for performance) of Annex A (Dental Quality and Outcomes Framework) to the PAAPVA. For example, if the PAAPVA is £10,000 and the quality weighting percentage is 10%, then the PAAPVA(Full Quality Pool) in this case would be £1,000.

20.24 The amount of payment available to the contractor irrespective of performance against the DQOF is known as the PAAPVA(Primary Pool). It is calculated as the PAAPVA minus the PAAPVA(Full Quality Pool).

20.25 A Contractor's Annual Performance Score (CAPS) is calculated using the rules laid out in paragraph A.6.6 of Annex A (annual performance report).

20.26 The contractor's Quality Payment (Non-Peer) (QP(NP)) is the amount of money that a contractor must receive irrespective of their performance relative to peers. It is calculated as:

$$QP(NP) = \frac{CAPS}{1,000} \times PAAPVA(\text{Full Quality Pool}).$$

20.27 The contractor's notional contribution to the peer performance payment pool is known as the PAAPVA(Peer Quality Pool). It is calculated as:

$$PAAPVA(\text{Peer Quality Pool}) = PAAPVA(\text{Full Quality Pool}) - QP(NP)$$

20.28 The contractor's Quality Payment (Peer) (QP(P)) is the amount of money that a contractor should receive based on their performance relative to peers. It is calculated by NHS BSA in accordance with Section A8 of Annex A (assessment of peer performance across all Prototype Agreements) and the figure is given to the Board.

20.29 It is necessary for the financial risk of commissioners to be capped within the Prototype Agreement Scheme. It is possible, although unlikely, that a contractor's QP(P) could be many times its NAPVA if its performance is considerably better than that of all of the other Prototype Agreements Holders. This risk would not occur if there was an actual national pool of money to pay the QP(P)s but for the Prototype Agreements this has to be paid by the Board. Therefore the Final QP(P) (FQP(P)) is calculated as follows:

- (a) if the sum of the PAAPVA(Primary Pool) plus the QP(NP) plus the QP(P)  $\leq$  102% of PAAPVA, then FQP(P) = QP(P); or
- (b) if the sum of the PAAPVA(Primary Pool) plus the QP(NP) plus the QP(P)  $>$  102% of PAAPVA, then FQP(P) = (1.02 x PAAPVA) minus the PAAPVA(Primary Pool) and minus the QP(NP).

20.30 Where the QP(P) is greater than the FQP(P), the difference between the two is known as the QP(P) Residual (QP(P)R). Where the QP(P) is less than or equal to the FQP(P), then the QP(P)R is equal to £0. This value is used by NHS BSA to calculate the final element of the performance payment in line with Section A.9 (redistribution of capped peer quality payments).

20.31 The Residual Payment (RP) is the mechanism by which the Prototype Agreement Scheme ensures that all the money made available for payments under the DQOF is paid to those participating in the Scheme. The RP must be calculated by the NHS BSA in line with Section A.9.

#### ***Calculation of the Reconciliation Month 12 Payment – Blend A***

20.32 The contractor's Calculated Actual Annual Prototype Value – Blend A (CAAPVA) is then calculated as:

- (a) in respect of any Prototype Agreements held by a contractor who did not participate in the Capitation and Quality Scheme 2:

$$\text{CAAPVA} = \text{PQRL}; \text{ or}$$

- (b) for all other Prototype Agreements:

$$\text{CAAPVA} = \text{PQRL} - \text{PAAPVA}(\text{Full Quality Pool}) + \text{QP}(\text{NP}) + \text{FQP}(\text{P}) + \text{RP}.$$

20.33 The Reconciliation Month 12 Payment – Blend A (RMTPA) is calculated by comparing the CAAPVA with the PAAPVA. It takes into account final year-end performance data provided by the contractor during the financial year to take into account any changes in performance in respect of capitation, activity and performance as calculated against the DQOF. In practice, the RMTPA is likely to be made in July of the next financial year. The RMTPA is then calculated as:

- (a) the CAAPVA; minus
- (b) the sum of the twelve APVAPs in the relevant financial year before deductions (where a Blend A Prototype Agreement begins after the start of the financial year, the APVAPs so far during that financial year must be subtracted).

20.34 The RMTPA is to be paid to the contractor by the Board. If the RMTPA is negative, the Board may withhold the value from any payments due to the contractor pursuant to direction 8(2)(c) of the Directions.

20.35 At this stage, the Board must also confirm and set out in the Prototype Agreement the CVCF that will apply.

## **PART 7**

### **Blend B Prototypes Agreements**

#### **21. Negotiated Annual Prototype Value**

21.1 With effect from 1st November 2015, where a contractor has elected to enter into a Prototype Agreement with the Board and has been assigned to a Blend B Prototype Agreement, the GDS Contract held by the contractor which was considered to have a Negotiated Annual Contract Value (NACV) will be deemed to have a Negotiated Annual Prototype Value – Blend B (NAPVB) beginning on the date the Prototype Agreement commences.

21.2 Payments under a Blend B Prototype Agreement in respect of the agreed services specified in the Prototype Agreement are to be based on a NAPVB.

21.3 Each Blend B Prototype Agreement must specify:

- (a) that the contractor will offer all mandatory NHS services; and
- (b) any other services to be provided.

#### ***Nomination of the first Negotiated Annual Prototype Value – Blend B***

21.4 At the start of the financial year – or, if a Blend B Prototype Agreement starts after the start of the financial year, for the date on which the Blend B Prototype Agreement takes effect – the Board must calculate for each contractor the NAPVB. The value of the NAPVB is the same as the value of the NACV of the underlying GDS contract held by the contractor immediately before the commencement of the Prototype Agreement.

21.5 The NACV may have been updated by the percentage amount determined by the Secretary of State at the beginning of the financial year 2015 to 2016. If this has not taken place, the NACV will need to be adjusted by the percentage increase determined by the Secretary of State for the financial year 2015 to 2016 which is 1.34%.

21.6 If the payment, or any of the payments in the aggregate of payments, only relates to part of that financial year – for example, because the GDS contract held prior to the commencement of the Prototype Agreement takes effect for payment purposes after the start of the financial year, or is due to end before the end of the financial year – the part year payment or payments are to be annualised. The annualised amount of the nominated payment or aggregate of payments is to be used as the basis of the calculation of the first NAPVB for the contractor's Blend B Prototype Agreement.

***Dealing with under-delivery of units of dental activity in previous financial year or in the current financial year***

21.7 Where a contractor held an underlying GDS contract immediately prior to the commencement of the Prototype Agreement, it may be the case that the number of units of dental activity the contractor was required to provide under that GDS contract have not been delivered by the date on which the Prototype Agreement commences. Where it is agreed between the Board and the contractor that any under-delivered units of dental activity are to be carried forward, then that number of units of dental activity will be carried forward and in effect the obligation to provide that activity is “stayed” for the duration of the Prototype Agreement. The number of units of dental activity “stayed” for the duration of the Prototype Agreement must be set out in the Prototype Agreement. The Board will need to agree with the contractor as to how the number of units of dental activity “stayed” will be provided following the termination of the Prototype Agreement.

21.8 The number of units of dental activity that must be “stayed” is calculated as:

- (a) the pro-rated amount of units of dental activity that should have been delivered for the financial year to date. (Where the Board and a contractor have agreed a specific profile for delivering units of dental activity during the year, this profile can be used instead of pro-rating the amount); plus
- (b) the amount of under-delivered units of dental activity from the previous financial year that was agreed would be carried forward; minus
- (c) the number of units of dental activity delivered up to the date on which the Prototype Agreement commences.

21.9 Where a contractor has previously held a Capitation and Quality Scheme 2 Agreement, it may have been the case that a number of units of dental activity was “stayed” for the duration of that Capitation and Quality Scheme 2 Agreement. In these cases, the same number of units of dental activity is “stayed” for the duration of the Prototype Agreement. The number of units of dental activity “stayed” must be set out in the Prototype Agreement. The Board will need to agree with the contractor as to how the number of units of dental activity “stayed” will be provided following the termination of the Prototype Agreement.

***New NAPVBs where a Blend B Prototype Agreement is revised***

21.10 If, with the Agreement of the Board and the contractor, the NHS commitment of the contractor changes, or the services, or service levels, that a contractor is required to provide under its Blend B Prototype Agreement is revised, a new NAPVB will have to be established for that contractor. If the variation takes effect during the financial year, the new NAPVB for that Prototype Agreement must be an annualised amount for calculation purposes, even though only a proportion of that annualised amount will in fact be payable for the remaining part year.

21.11 NHS commitment is the time and effort that a contractor devotes to providing NHS care. For the Blend B Prototype Agreements it is important that the results achieved are assessed in the context of the overall time and effort put in by the contractor. The intent is not to manage this at a detailed level but where necessary, the Board must look at indicators to assess NHS commitment. These key indicators of NHS commitment are:

- (a) the average weekly time given to appointments in which an element of NHS care is delivered and reported to the NHS BSA calculated on a quarterly basis. The Board may review the NAPVB where the key indicator, in the opinion of the Board, significantly decreases from the level agreed at the date of the commencement of the Prototype Agreement and the Board considers that decrease to represent a significant reduction in NHS commitment. The review period runs from the date of the commencement of the Prototype Agreement until the end of the financial year in which the Prototype Agreement is made (with an equivalent period for future years); and
- (b) the historical capitated population number after any adjustment for past under-delivery, calculated on a quarterly basis. The Board may review the NAPVB if, in the opinion of the Board, this indicator significantly decreases from the level agreed at the date of the commencement of the Prototype Agreement, and the Board considers that decrease to represent a significant reduction in NHS commitment. The review period runs from the date of the commencement of the Prototype Agreement until the end of the financial year in which the Prototype Agreement is made (with an equivalent period for future years).

### ***Annual uprating of NAPVBs***

21.12 It is intended that at the start of each financial year that this SFE applies, this SFE will be amended so as to include the percentage increase in agreement value as determined by the Secretary of State for the duration of the Prototype Agreement Scheme. In practice, these adjustments will be factored into Monthly Annual Prototype Value – Blend B Payments (APVBP) by the NHS BSA on a national basis. The Board must not itself, therefore, adjust the amounts that it has loaded into the Payments On-Line (POL) system by these adjustments.

## **22. Payment of Monthly Annual Prototype Value Payments**

22.1 At any point, there must be in respect of each Blend B Prototype Agreement a NAPVB, determined in accordance with Section 21. This, in all cases, is to be an annual (or annualised) amount. For each Blend B Prototype Agreement, the contractor's Actual Annual Prototype Value – Blend B (AAPVB) has to be established.

22.2 The AAPVB is calculated as:

- (a) The NAPVB; minus
- (b) an amount of the NAPVB that is attributed to orthodontic activity, which will be paid for separately under the underlying GDS contract. If the element relating to orthodontics is not explicitly stated in the underlying GDS contract then an amount must be agreed by the Board and the contractor; and minus
- (c) an element of the NAPVB that is due to specified services. Specified services are defined in paragraph 26.1 (specified services). If the element relating to specified services is not explicitly stated in the underlying GDS contract then an amount must be agreed by the Board and the contractor.

22.3 The AAPVB provides the basis for the calculation of the Monthly Annual Prototype Value – Blend B Payments (Monthly APVBP) payable under the Prototype Agreement. These calculations are outlined in the rest of Section 22.

22.4 Payments for orthodontics are made in accordance with the underlying GDS contract. The Prototype Agreement must specify the value of the orthodontic services element of the NAPVB and the number of units of orthodontic activity (“UOAs”) that the contractor is required to provide in the financial year.

22.5 Payments for specified services are outlined in Section 26 (specified services).

### ***Initial value of Monthly APVBPs***

22.6 The first initial value of a contractor’s Monthly APVBPs is to be determined for the date on which its Blend B Prototype Agreement takes effect for payment purposes. Once the contractor’s AAPVB has been established, that amount is to be divided by twelve, and subject to paragraph 22.7, the result is the first initial value of the contractor’s Monthly APVBPs.

22.7 If the contractor’s Blend B Prototype Agreement took effect for payment purposes other than on the first day of a month, the initial value of its Monthly APVBPs in respect of the first part-month of its Prototype Agreement is to be adjusted by a factor which is produced by dividing:

- (a) the number of days during the month for which the Prototype Agreement has effect for payment purposes; by
- (b) the total number of days in that month.

22.8 That initial value (expressed as a monthly value, in cases where a Prototype Agreement took effect for payment purposes other than on the first day of the month) will remain the basis for the calculation of the net value of the contractor’s Monthly APVBPs, until that initial value is next revised.

### ***Revision of the initial value of Monthly APVBPs***

22.9 The initial value of a contractor’s Monthly APVBPs will have to be revised where, for any reason, its AAPVB is revised.

22.10 If the contractor’s AAPVB is revised for the start of a month, the new initial value of its Monthly APVBPs (until its AAPVB is next revised) is its new AAPVB divided by twelve. If its AAPVB changes during a month, the initial value of its Monthly APVBPs (until its AAPVB is next revised again) is:

- (a) for the month after the month during which its AAPVB changed, its AAPVB divided by 12; or
- (b) for the month during which its AAPVB changed, the sum of the following amounts:
  - (i) the amount produced by dividing the number of days during the month before the change by the total number of days in that month, and



- multiplying that fraction by the old initial value of the contractor's Monthly APVBPs, plus
- (ii) the amount produced by dividing the number of days during the month for which the contractor had a new AAPVB by the total number of days in that month, and multiplying that fraction by the new initial value of the contractor's Monthly APVBPs.

22.11 Once the initial value of a contractor's Monthly APVBPs has been established for any particular month, the Board must go on to establish the net value of the contractor's Monthly APVBPs, which is the amount actually to be paid.

#### ***Deductions in respect of NHS charges***

22.12 Deductions must be made in respect of NHS charges in line with paragraphs 24.1 to 24.3 in Part 8 of this SFE (deductions in respect of NHS charges).

22.13 The Monthly APVBP value produced after the deduction described in paragraph 24.3 has been made is, subject to paragraph 22.14, the gross value of the contractor's Monthly APVBP for that month (i.e. the value before the deduction of employee's superannuation contributions).

#### ***Deductions in respect of overpayments etc.***

22.14 Deductions may need to be made to the amount determined in accordance with paragraph 24.3 under the administrative provisions in Section 32 (administrative provisions) of this SFE, to take account of matters such as overpayments. In accounting terms, these deductions may alter the gross value of the Monthly APVBP in question or the gross value of another payment, but either way they will alter the net value of the Monthly APVBP in question.

#### ***Deductions in respect of LDC levies***

22.15 Any agreed deduction for LDC levies in line with paragraph 24.4 (deductions in respect of LDC levies) must be deducted by the Board from the contractor's Monthly APVBPs.

#### ***Deductions in respect of employee's superannuation contributions***

22.16 Deductions must be made in respect of employee's superannuation contributions in line with paragraphs 24.5 to 24.7 in Part 8 of this SFE (deductions in respect of employee's superannuation contributions).

#### ***Net value of the contractor's first Monthly APVBPs***

22.17 The gross value of a contractor's Monthly APVBPs, minus any necessary deductions as mentioned in paragraphs 22.12 to 22.16, and minus any voluntary deductions that the contractor has asked to be made, is the net value of the contractor's first Monthly APVBPs. That amount is the amount actually to be paid. It becomes payable on the contractor's Monthly Payment Date, which is the first working day of the month after the month to which the Monthly APVBP relates.

### ***Conditions attached to Monthly APVBPs***

22.18 Monthly APVBPs, or any part of such payments, are only payable if the contractor satisfies the following conditions:

- (a) the contractor must make available any information which the Board does not have but needs (including the returns required under the DQOF), and which the contractor either has or could reasonably be expected to obtain, in order to calculate the contractor's Monthly APVBPs;
- (b) the contractor must make available to the Board a reasonable estimate of the net monthly Pensionable Earnings (i.e. net of any Pensionable Earnings that are attributable to any Monthly Seniority Payment) of each Dentist Performer who is employed or engaged by it, and must notify the Board of any appropriate changes to that estimate; and
- (c) all information supplied pursuant to or in accordance with this paragraph must be accurate.

22.19 If the contractor breaches any condition of its Monthly APVBPs that is set out in this SFE (including the conditions that are set out in paragraph 22.18), the Board may, in appropriate circumstances, withhold payment of all or any part of a Monthly APVBPs that is otherwise payable.

### ***Monthly Payment Schedule***

22.20 On the due date for Monthly APVBPs, or as soon as reasonably practicable thereafter, the Board must send to the contractor a Monthly Payment Schedule which must include (but not be limited to):

- (a) the contractor's AAPVB;
- (b) the amount of the initial value of the contractor's Monthly APVBPs, prior to any permitted deductions;
- (c) the amount of permitted deductions, which shall be specified in two parts:
  - (i) the amount of the NHS charges that the Board has determined, in accordance with paragraph 24.3, that the contractor should have collected in respect of courses of treatment provided, and
  - (ii) the amount of any other deductions that need to be made to the Monthly APVBPs under the Prototype Agreement or pursuant to this SFE (for example, the deductions mentioned in paragraphs 22.14 to 22.16), together with the reason for any such deduction;
- (d) the amount of the Monthly APVBP following the permitted deductions;
- (e) any other payments payable to the contractor pursuant to this SFE on that due date, including where relevant an indication that a particular payment is made in respect of a named Dentist Performer; and
- (f) the estimated net monthly Pensionable Earnings of each Dentist Performer who performs services under the Prototype Agreement, i.e. net of any Pensionable Earnings that are attributable to any Monthly Seniority Payment.

22.21 In practice, in accordance with entry 2(c) in column 2 of the Schedule to the Functions Regulations, the Monthly Payment Schedule will be sent to the contractor by the

NHS BSA, who will also need to send a copy to the Board (entry 2(a) of column 3 of the Schedule to the Functions Regulations).

## 23. Annual payment adjustment for capitation, activity and performance

### *Initial value of the Month 12 Monthly APVBP*

23.1 The adjustments for capitation, activity and performance are carried out in Month 15 so an interim payment for Month 12 needs to be made to contractors. The calculation and value of the Month 12 Monthly APVBP is as described in Section 22. Adjustments are then made to this in Month 15 relative to the money already paid to the contractor.

### *Setting the baseline for the annual payment adjustment*

23.2 The amount of payment made to each contractor during the financial year needs to be adjusted based on each contractor's performance for:

- (a) capitation, in terms of what would be described as Band 1 and Band 2 courses of treatments in the underlying GDS contract;
- (b) activity, in terms of what would be described as Band 3 courses of treatments in the underlying GDS contract; and
- (c) performance against the DQOF.

23.3 On the date of its commencement, or at the beginning of each financial year, the Prototype Agreement must set out:

- (a) the AAPVB;
- (b) the Pro-rated AAPVB (PAAPVB), which is the pro-rated value of the Prototype Agreement where the Prototype Agreement has started after the beginning of the financial year. For Prototype Agreements that begin on 1 April in any financial year, the PAAPVB = AAPVB;
- (c) the minimum expected number of units of dental activity for Band 3 courses of treatments (effectively worth 9 units of dental activity) that the contractor is expected to deliver under its Prototype Agreement for the part of the financial year to which the Prototype Agreement applies. This is described as the Expected Minimum Activity (EMA);
- (d) the value of a unit of dental activity in the underlying GDS contract, which is described as the UDA Value (UDAV);
- (e) the Pro-rated Actual Annual Prototype Value – Blend B – Activity Element (PAAPVB-A), which is the amount of the PAAPVB that will be measured by activity;
- (f) the Prorated Actual Annual Prototype Value – Blend B – Capitation Element (PAAPVB-C), which is the amount of the PAAPVB that will be measured by capitation; and
- (g) the number of capitated patients to whom the contractor is expected to have provided primary dental services by the end of the financial year, which is described as the Contractor's Expected Capitated Population (CECP).

23.4 The Board must calculate the PAAPVB-A and PAAPVB-C for each Prototype Agreement at the commencement of that Prototype Agreement, or at the beginning of each financial year. The calculation is to be relative to:

- (a) the number of Band 3 courses of treatment provided in the baseline year;
- (b) the UDAV;
- (c) the PAAPVB;
- (d) any allowance the Board is applying to reflect the expected fall in the numbers of courses of treatment provided under the Prototype Agreement, to reflect the additional time that is being spent on prevention; and
- (e) the proportion of the financial year covered by the Prototype Agreement.

23.5 The Prototype Agreement will also state the Contract Value Carried Forward – Previous Year (CVCF(Y-1)). This is equal to the Contract Value Carried Forward – Current Year (CVCF(Y)), which was calculated as part of the Month 15 adjustments for the previous financial year, adjusted to include any uplift determined by the Secretary of State (in line with paragraph 2.5). For all Prototype Agreements in the financial year 2015 to 2016, the value of the CVCF(Y-1) = £0.

#### ***Setting the limits for the adjustments to capitation and activity performance***

23.6 The Board will need to establish a minimum level for the reduction of the contractor's AAPVB for reductions due to its capitation and activity performance. This minimum level figure is known as the Capitation and Activity Adjustment Minimum Level (CAAML). The value for the CAAML for all Prototype Agreements is 90%.

23.7 For any Prototype Agreement, the Board may put a limit on the degree to which performance in terms of capitation can differ from performance in terms of activity. This is known as the Activity and Capitation Performance Tolerance (ACPT) and is expressed as a percentage. The Prototype Agreement must either:

- (a) set out the level of the ACPT; or
- (b) set out that there are no limits being applied between performance in terms of activity and performance in terms of capitation.

23.8 The Prototype Agreement must set out the limits on under-performance and over-performance in line with the Prototype Directions as follows:

- (a) for under-delivery, the proportion of the PAAPVB that can be carried forward for delivery in the following financial year, as opposed to being deducted from the Month 15 payment, is defined as the Carry Forward – Lower Limit (CF-LL). In line with the Prototype Directions, the CF-LL is 4%; and
- (b) for over-delivery, the proportion of the PAAPVB that can be deducted from delivery levels in the following financial year, as opposed to added to the Month 15 payment, is defined as the Carry Forward – Upper Limit (CF-UL). In line with the Prototype Directions, the CF-UL is 2%. It is at the discretion of the Board if they wish to pay for any over-delivery above this limit.

#### ***Adjusting for different levels of capitation and activity performance***

23.9 Two months after the end of the financial year, all FP17s should have been returned by GDS Contract Holders, PDS Agreement Holders and Capitation and Quality Scheme 2 Agreement Holders who are not participating in the Prototype Agreement Scheme in respect

of their completed courses of treatment. This will enable the NHS BSA to review the patients of Prototype Agreement Holders that are part of a contractor's population for capitation purposes. In practice there will continue to be a small amount of courses of treatment outstanding by GDS Contract Holders and PDS Agreement Holders who are not participating in the Prototype Agreement Scheme, and those FP17s for those courses of treatment will be submitted later in the year after the courses of treatment to which they apply are completed. These FP17s will not be included in any adjustments made for capitation levels for the purposes of the Prototype Agreements as the impact of them is expected to be minimal.

23.10 A Notional Capitation Remuneration Level (NCRL) must be calculated for each Blend B Prototype Agreement. This is to be based on the Contractor's Capitated Population (CCP). On any day ("the relevant day"), a patient is part of a CCP if that patient has been provided with a banded course of treatment by a contractor (C1) within a period of three years immediately preceding that day, provided that:

- (a) the banded course of treatment has not been provided by a foundation trainee;
- (b) the patient has not been referred to the contractor (C1) for the banded course of treatment by another primary dental services contractor; and
- (c) the patient was not subsequently provided with a banded course of treatment before the relevant day by another primary dental services contractor (C2), apart from where a patient was referred to C2 by C1 for that banded course of treatment,

and for the purposes of this paragraph a banded course of treatment does not include the provision of an urgent course of treatment.

23.11 A computation of the CCP is to be taken by the NHS BSA for all Prototype Agreements as of the 31<sup>st</sup> March.

23.12 The NCRL is calculated as follows:

$$\text{NCRL} = \frac{\text{CCP}}{\text{CECP}} \times \text{PAAPVB-C.}$$

23.13 A Notional Activity Remuneration Level (NARL) must be calculated for each Blend B Prototype Agreement. This is based on the Contractor's Activity Performance (CAP). The CAP is defined as the number of units of dental activity delivered for activity relating to the activity element of the Prototype Agreement. A computation of the CAP is taken by the NHS BSA for all Prototype Agreements as of the 31<sup>st</sup> March.

23.14 The NARL is calculated as follows:

$$\text{NARL} = \frac{\text{CAP}}{\text{EMA}} \times \text{PAAPVB-A.}$$

23.15 To make any adjustments to the remuneration levels, the percentage achievement for capitation and activity are calculated as follows:

- (a) the Percentage of Capitation Achieved (PCA) is calculated as:

$$\text{PCA} = \frac{\text{CCP}}{\text{CECP}} ; \text{ and}$$

- (b) the Percentage of Activity Achieved (PAA) is calculated as:

$$PAA = \frac{CAP}{EMA}.$$

23.16 The adjustment relating to performance in terms of capitation can be relative to performance in terms of activity. The Adjusted Capitation Remuneration Level (ACRL) is the amount of remuneration for performance in terms of capitation, adjusted to reflect whether the Board has agreed to limit the degree to which performance in terms of capitation can run differ from performance in terms of activity, as described in paragraph 23.7:

- (a) for Prototype Agreements where an ACPT has been set:

- (i) if  $PCA \leq PAA$ , then:

$$ACRL = NCRL; \text{ or}$$

- (ii) if  $PCA > PAA$  and  $PCA \leq PAA + ACPT$ , then:

$$ACRL = NCRL; \text{ or}$$

- (iii) if  $PCA > PAA + ACPT$ , then:

$$ACRL = PAAPVB-C \times (PAA + ACPT); \text{ or}$$

- (b) for Prototype Agreements where there are no limits between performance in terms of activity and performance in terms of capitation:

$$ACRL = NCRL.$$

23.17 The adjustment relating to performance in terms of activity can then be calculated to give the Adjusted Activity Remuneration Level (AARL). The AARL is calculated as:

- (a) if  $PCA \leq 100\%$ , then the AARL is calculated as the smaller of:

- (i) the NARL, or  
(ii) PAAPVB-A; or

- (b) if  $PCA > 100\%$ , then:

- (i) if  $PAA \leq PCA$

$$AARL = PAAPVB-A \times PAA; \text{ or}$$

- (ii) if  $PAA > PCA$

$$AARL = PAAPVB-A \times PCA$$

23.18 The Initial Combined Adjusted Remuneration Level (ICARL) is calculated by adding the ACRL and the AARL:

$$\text{ICARL} = \text{ACRL} + \text{AARL}.$$

23.19 Any carry forward from the previous year is then applied to the ICARL to determine the Combined Adjusted Remuneration Level (CARL). This is calculated as:

$$\text{CARL} = \text{ICARL} - \text{CVCF(Y-1)}.$$

23.20 The Pre-Quality Remuneration Level (PQRL) is calculated by applying the minimum remuneration levels (prior to DQOF adjustments) and the agreed levels of carry forward of contract value. It will also determine the Overall Capitation and Activity Performance Level (OCAPL) and the level of Contract Value Carried Forward – Current Year (CVCF(Y)). The PQRL, OCAPL and CVCF(Y) are calculated as:

- (a) if  $\text{CARL} \leq \text{PAAPVB} \times \text{CAAML}$ , then:
- (i)  $\text{PQRL} = \text{PAAPVB} \times \text{CAAML}$ ,
  - (ii)  $\text{OCAPL} = \frac{\text{PQRL}}{\text{PAAPVB}}$ ,
  - (iii)  $\text{CVCF(Y)} = 0$ ;
- (b) if  $\text{CARL} > \text{PAAPVB} \times \text{CAAML}$  and  $\leq \text{PAAPVB} \times (1 - \text{CF-LL})$ , then:
- (i)  $\text{PQRL} = \text{CARL}$ ,
  - (ii)  $\text{OCAPL} = \frac{\text{PQRL}}{\text{PAAPVB}}$ ,
  - (iii)  $\text{CVCF(Y)} = 0$ ;
- (c) if  $\text{CARL} > \text{PAAPVB} \times (1 - \text{CF-LL})$  and  $\leq \text{PAAPVB}$ , then:
- (i)  $\text{PQRL} = \text{PAAPVB}$ ,
  - (ii)  $\text{OCAPL} = \frac{\text{PQRL}}{\text{PAAPVB}}$ ,
  - (iii)  $\text{CVCF(Y)} = \text{PAAPVB} - \text{CARL}$ ;
- (d) if  $\text{CARL} > \text{PAAPVB}$  and  $\leq \text{PAAPVB} \times (1 + \text{CF-UL})$ , then:
- (i)  $\text{PQRL} = \text{PAAPVB}$ ,
  - (ii)  $\text{OCAPL} = \frac{\text{PQRL}}{\text{PAAPVB}}$ ,
  - (iii)  $\text{CVCF(Y)} = \text{PAAPVB} - \text{CARL}$ ;
- (e) if  $\text{CARL} > \text{PAAPVB} \times (1 + \text{CF-UL})$ , then:
- (i)  $\text{PQRL} = \text{PAAPVB}$ ;
  - (ii)  $\text{OCAPL} = \frac{\text{PQRL}}{\text{PAAPVB}}$ ,
  - (iii)  $\text{CVCF(Y)} = - \text{PAAPVB} \times \text{CF-UL}$ .

***Adjusting for performance on quality***

23.21 The amount of payment made to each contractor during the financial year needs to be reconciled after all the performance data provided by the contractor is available to the NHS BSA for the purposes of payments under the DQOF and after any adjustments due to capitation and activity have been finalised. For the financial year 2015/16, the DQOF will not be applied to any Prototype Agreement Holder that has not previously been part of the Capitation & Quality Scheme 2.

23.22 If a contractor holds more than one Prototype Agreement then the expectation is that the PAAPVB values for each of those Prototype Agreements would be effectively combined at this stage so that a single DQOF payment is calculated. The value of the DQOF payment, once calculated, must then be split proportionately across the Prototype Agreements using the ratio of their PAAPVB values. The Board must agree with the contractor whether the Prototype Agreements are suitable for combining the PAAPVB values, such as two Prototype Agreements providing mandatory services held by the same practice.

### ***Calculation of the payment pool relating to performance***

23.23 The amount of payment available to a contractor to reward performance against the DQOF is known as the PAAPVB(Full Quality Pool). It is calculated by applying the quality weighting percentage given in paragraph A.7.2 (weighting for performance) of Annex A (Dental Quality and Outcomes Framework) to the PAAPVB. For example, if the AAPVB is £10,000 and the quality weighting percentage is 10%, then the PAAPVB(Full Quality Pool) in this case would be £1,000.

23.24 The amount of payment available to the contractor irrespective of performance against the DQOF is known as the PAAPVB(Primary Pool). It is calculated as the PAAPVB minus the PAAPVB(Full Quality Pool).

23.25 A Contractor's Annual Performance Score (CAPS) is calculated using the rules laid out in paragraph A.6.6 of Annex A (annual performance report).

23.26 The contractor's Quality Payment (Non-Peer) (QP(NP)) is the amount of money that a contractor must receive irrespective of their performance relative to peers. It is calculated as:

$$QP(NP) = \frac{CAPS}{1,000} \times PAAPVB(\text{Full Quality Pool}).$$

23.27 The contractor's notional contribution to the peer performance payment pool is known as the PAAPVB(Peer Quality Pool). It is calculated as:

$$PAAPVB(\text{Peer Quality Pool}) = PAAPVB(\text{Full Quality Pool}) - QP(NP).$$

23.28 The contractor's Quality Payment (Peer) (QP(P)) is the amount of money that a contractor should receive based on their performance relative to peers. It is calculated by NHS BSA in accordance with Section A8 of Annex A (assessment of peer performance across all Prototype Agreements) and the figure is given to the Board.

23.29 It is necessary for the financial risk of commissioners to be capped within the Prototype Agreement Scheme. It is possible, although unlikely, that a contractor's QP(P)



could be many times its NAPVB if its performance is considerably better than that of all of the other Prototype Holders. This risk would not occur if there was an actual national pool of money to pay the QP(P)s but for the Prototype Agreements this has to be paid by the Board. Therefore the Final QP(P) (FQP(P)) is calculated as follows:

- (a) if the sum of the AAPVB(Primary Pool) plus the QP(NP) plus the QP(P)  $\leq$  102% of AAPVB, then  $FQP(P) = QP(P)$ ; or
- (b) if the sum of the AAPVB(Primary Pool) plus the QP(NP) plus the QP(P)  $>$  102% of AAPVB, then  $FQP(P) = (1.02 \times AAPVB)$  minus the AAPVB(Primary Pool) and minus the QP(NP).

23.30 Where the QP(P) is greater than the FQP(P), the difference between the two is known as the QP(P) Residual (QP(P)R). Where the QP(P) is less than or equal to the FQP(P), then the QP(P)R is equal to £0. This value is used by NHS BSA to calculate the final element of the performance payment in line with Section A.9 (redistribution of capped peer quality payments).

23.31 The Residual Payment (RP) is the mechanism by which the Prototype Agreement Scheme ensures that all the money made available for payments under the DQOF is paid to those participating in the Prototype Agreement Scheme. The RP must be calculated by the NHS BSA in line with Section A.9.

#### ***Calculation of the Reconciliation Month 12 Payment – Blend B***

23.32 The contractor's Calculated Actual Annual Prototype Value – Blend B (CAAPVB) is then calculated as:

- (a) in respect of any Prototype Agreements held by a contractor who did not participate in the Capitation & Quality Scheme 2:

$$CAAPVB = PQRL; \text{ or}$$

- (b) for all other Prototype Agreements:

$$CAAPVB = PQRL - PAAPVB(\text{Full Quality Pool}) + QP(NP) + FQP(P) + RP.$$

23.33 The Reconciliation Month 12 Payment – Blend B (RMTPB) is calculated by comparing the CAAPVB with the PAAPVB. It takes into account final year-end performance data provided by the contractor during the financial year to take into account any changes in performance in respect of capitation, activity and performance as calculated against the DQOF. In practice, the RMTPB is likely to be made in July of the next financial year. The RMTPB is then calculated as:

- (a) the CAAPVB; minus
- (b) the sum of the twelve APVBPs in the relevant financial year before deductions (where a Blend B Prototype Agreement begins after the start of the financial year, the APVBPs so far during that financial year must be subtracted).

23.34 The RMTPB is to be paid to the contractor by the Board. If the RMTPB is negative, the Board may withhold the value from any payments due to the contractor pursuant to direction 8(2)(c) of the Prototype Directions.

23.35 At this stage, the Board must also confirm and set out in the Prototype Agreement the CVCF that will apply to the following financial year.

## **PART 8**

### **Adjustments to payments common to all Prototype blends**

#### **24. Deductions to monthly payments**

##### ***Deductions in respect of NHS charges***

24.1 Patients in receipt of relevant dental treatment have to pay charges in respect of that treatment under the NHS Charges Regulations, unless they are exempt from paying the charge by virtue of either section 177 of the 2006 Act or the NHS Charges Regulations. Charges are recoverable under those Regulations in respect of specified types of treatment.

24.2 It is the contractor who collects the NHS charges from those patients. Furthermore, in accordance with the underlying GDS contract condition set by virtue of paragraph 39 (notification of a course of treatment, orthodontic course of treatment) of Schedule 3 to the GDS Contracts Regulations, the contractor is required to make returns of information to the Board within specified time periods outlined about the courses of NHS treatment it provides, and in those returns it has to provide information about whether an NHS charge was payable in respect of that treatment.

24.3 The Board must set the particular date each month by which these paragraph 39 returns of information will be processed. This date is known as the 'scheduling date'. Using the paragraph 39 returns which have been submitted by the contractor, the Board will make a determination of the amount to be deducted that month in respect of NHS charges. These NHS charges should have been collected by the contractor in respect of courses of treatment in accordance with the NHS Charges Regulations, or where applicable, orthodontic activity that the contractor is to provide under its Prototype Agreement.

##### ***Deductions in respect of LDC levies***

24.4 The Board may have recognised a LDC for an area, pursuant to section 113 of the 2006 Act. Where it has done so, a performer of services under a Prototype Agreement may have notified the Board that the performer wishes to be represented by that committee. In these circumstances, the performer's contractor may also have agreed with the Board that the levy that the performer is due to pay in respect of that representation, pursuant to directions of the committee under section 113(11) of the 2006 Act, will be deducted by the Board from the contractor's Monthly APVPs. Where such an agreement has been reached, the levy in respect of that performer is to be so deducted.

##### ***Deductions in respect of employee's superannuation contributions***

24.5 The Dentist Performers who are employed or engaged by the contractor are likely to be members of either the NHS Pension Scheme 1995, the NHS Pension Scheme 2008 or the NHS Pension Scheme 2015, and their Employing Authority for the purposes of that Scheme will, for present purposes, be the Board (they may have employment in another context which also entitles them to an NHS Pension Scheme pension, but the pensionable earnings derived from that employment should be superannuated elsewhere). Unless they are Foundation Trainees, the Dentist Performers' Pensionable Earnings to be derived from that contractor's Prototype Agreement in each financial year will be limited up to a specified percentage of the value of that Prototype Agreement for that financial year, net of any parental leave payments, sickness leave payments, foundation trainee salary and national insurance reimbursement payments, non-domestic rates reimbursement payments or Monthly Seniority Payments payable under that agreement. Foundation Trainee's salaries (net of any bonus, expenses or overtime payments) are fully pensionable.

24.6 The Board will need to make all the deductions in respect of employees' superannuation contributions (including Money Purchase Additional Voluntary Contributions (MPAVCs)) that are payable in respect of the Dentist Performers' Pensionable Earnings that derive from each Prototype Agreement that it holds.

24.7 Accordingly, the Board must deduct those contributions from the contractor's Monthly APVPs (or, in the case of Foundation Trainee's employee's superannuation contributions, from their salary reimbursement payments). The process of calculating and making all these deductions is explained in Section 25 (superannuation contributions). If the Board is an Employing Authority for any Dentist Performer employed or engaged by the contractor, the Board may also deduct from the contractor's Monthly APVPs any employee's superannuation contributions (including Money Purchase Additional Voluntary Contributions (MPAVCs)) that the Dentist Performer owes but which have not been superannuated elsewhere, provided that the Board has taken reasonable steps to satisfy itself that no other arrangements have been made to pay those contributions.

## 25. Superannuation contributions

### *Employer's superannuation contributions of Dentist Performers*

25.1 Under the NHS Pension Scheme Regulations 1995, 2008 and 2015, the Board will be liable for paying the employer's superannuation contributions in respect of the Pensionable Earnings of dental practitioners who are employed or engaged by a contractor, who are members of the Scheme and who are—

- (a) for the purposes of the NHS Pension Scheme Regulations 1995 or 2008 either:
  - (i) type 1 dental practitioners (that is, Dentist Performers, other than Foundation Trainees), or
  - (ii) type 2 dental practitioners (that is, Foundation Trainees), or
- (b) for the purposes of the NHS Pensions Scheme Regulations 2015, dental practitioners,

as their Employing Authority.

25.2 In practice, by virtue of entry 26(d) and 28(d) of the Schedule to the Functions Regulations, and other arrangements put in place in relation to the NHS Pension Scheme 2015 (which are expected to include arrangements deriving from further amendments to the Functions Regulations), one part of the NHS BSA (the part that is acting, in effect, as agent of the Board), will be responsible for forwarding to another part of the NHS BSA (the part that acts as the Pension Scheme administrator) the employer's superannuation contributions that the Board owes in respect of type 1 and type 2 dental practitioners, who are members of the NHS Pension Schemes 1995 and 2008, and dental practitioners who are members of the NHS Pension Scheme 2015. The Department of Health will:

- (a) make available to the part of the NHS BSA that is acting, in effect, as the agent of the Board in this matter the resources that it needs for forwarding these contributions; and
- (b) deduct from its allocations to the Board amounts equal to the Board's liabilities that have been thus discharged.

***Employee's superannuation contributions and Money Purchase Additional Voluntary Contributions of Dentist Performers***

25.3 As regards the employee superannuation contributions:

(a) of members of the NHS Pension Schemes 1995 and 2008, and any MPAVCs, the following arrangements will apply:

- (i) in the case of Foundation Trainees, although the contractor that employs him is legally responsible for ensuring that his employee superannuation contributions are deducted from his salary, in practice, these contributions will be deducted by the NHS BSA (i.e. the part of it acting, in effect, as the agent of the Board) from the reimbursement of salary payment under paragraph 28.5(b). It will then remit these employee superannuation contributions to the part of the NHS BSA that acts as the Pension Scheme administrator; and
- (ii) in the case of type 1 dental practitioner members of the Scheme:
  - (aa) their employee superannuation contributions in respect of their Pensionable Earnings will have to be deducted by the Board from the contractor's Monthly APVPs; and
  - (bb) any MPAVCs will have to be deducted by the Board from the contractor's Monthly APVPs; and

(b) of members of the NHS Pension Scheme 2015, the arrangements that have been put in place in relation to those members (which are expected to include arrangements deriving from further amendments to the Functions Regulations), will apply.

25.4 In practice, the making of the deductions referred to in paragraph 25.5(b) will generally be undertaken by the NHS BSA, which has been given the power to make these deductions by virtue of entries 26(a), 28(a) and 30(a) of the Schedule to the Functions Regulations in respect of the NHS Pension Schemes 1995 and 2008, and other arrangements that have been put in place in relation to the NHS Pension Scheme 2015, (which are expected to include arrangements deriving from further amendments to the Functions Regulations) although the Board remains ultimately responsible for the calculation of the deductions and

ensuring that the deductions that are made are correct. These deductions are to be made in two stages.

***Monthly deductions in respect of employee's superannuation contributions of Dentist Performers who are not Foundation Trainees***

25.5 First, as is stated in paragraphs 24.5 to 24.7, deductions in respect of type 1 dental practitioners who are members of the NHS Pension Schemes 1995 and 2008, and dental practitioners who are not Foundation Trainees (the Foundation Trainee deductions are made from their salary payments) who are members of the NHS Pension Scheme 2015, will need to be made each month from the contractor's Monthly APVPs. These deductions are to be based on a reasonable estimate of the monthly proportion of the annual liability of each such dental practitioner employed or engaged by the contractor in respect of:

- (a) the employee's superannuation contributions payable to the part of the NHS BSA that acts as the Pension Scheme administrator; and
- (b) any MPAVCs payable to an MPAVCs Provider.

25.6 The Board must take all reasonable steps to agree the amount of the deductions with the contractor and must, where requested to do so by the contractor, duly justify the amount of the monthly deductions. It must keep those amounts under review, to take account of significant changes to the contractor's income.

25.7 An amount equal to the monthly amount that the NHS BSA, acting in effect as the agent of the Board in this matter, deducts must be remitted to the part of the NHS BSA that acts as the Pension Scheme administrator, and to any relevant MPAVCs Provider, no later than:

- (a) in the case of employees' superannuation contributions:
  - (i) if the contractor's Monthly Payment Date is the first working day of the month, the nineteenth day of the month after the month to which the related earnings relate, or
  - (ii) if the contractor's Monthly Payment Date is any other date, the nineteenth day after the Monthly Payment Date on which the earnings to which the contributions relate were paid; and
- (b) in the case of MPAVCs, the seventh day after the payment from which they were deducted was paid.

***End-year adjustments***

25.8 After the end of any financial year, it should be possible for the Board to determine the value of the contractor's Prototype Agreement, net of:

- (a) any payments in respect of parental or sickness leave or any Monthly Seniority Payments (these are payments that are pensionable but not included in the calculation of the Prototype Agreement's Pensionable Earnings Ceiling); and
- (b) any foundation trainee salary payments, reimbursement of foundation trainee national insurance reimbursement payments, or non-domestic rates reimbursement payments (these are payments that are neither pensionable nor

included in the calculation of the Prototype Agreement's Pensionable Earnings Ceiling).

25.9 This amount will be included in the Annual Reconciliation Report. The Secretary of State will have established, pursuant to the NHS Pension Scheme Regulations 1995, 2008 and 2015 what percentage of that net amount can be considered as Pensionable Earnings under that Prototype Agreement. By applying that percentage to that net amount, the Board, and the contractor, will be able to determine the Pensionable Earnings Ceiling for that Prototype Agreement for that financial year.

25.10 It is a condition of a contractor's Monthly APVPs that by the date specified in paragraph 23(5) (accounts and actuarial reports) of Schedule 2 (medical and dental practitioners) to the NHS Pension Schemes Regulations 1995, regulation 3.J.14(4) (employing authority and certain member record keeping and contribution estimates) of the NHS Pension Scheme Regulations 2008 and paragraph 8(5) of Schedule 12 to the NHS Pensions Scheme Regulations 2015, the contractor must return the notice referred to in those provisions to the Board in accordance with those provisions.

25.11 Once the Pensionable Earnings in respect of that financial year of each Dentist Performer employed or engaged by a contractor have been notified to the Board, the Board (or if the adjustments can be made by varying the Prototype Agreement, the NHS BSA, effectively acting on its behalf) must:

- (a) if the deductions of employee's superannuation contributions (including MPAVCs) from the contractor's Monthly APVPs during that financial year in respect of those earnings:
  - (i) did not cover the cost of all the employee's superannuation contributions payable in respect of those earnings:
    - (aa) deduct the amount outstanding from any Monthly APVPs payable, or from a series of Monthly APVPs payable, to the contractor, or
    - (bb) obtain payment (where no such deduction can be made) from the contractor of the amount outstanding, and it is a condition of all of the payments made pursuant to this SFE that the contractor must pay to the Board the amount outstanding, or
  - (ii) were in excess of the amount payable in respect of employee's superannuation contributions, repay the excess amount to the contractor promptly (unless in the case of an excess amount in respect of MPAVCs, the Dentist Performer elects for that amount to be a further contribution and is entitled to so elect); and
- (b) forward any outstanding employee's superannuation contributions due in respect of those earnings to the part of the NHS BSA that acts as the Pension Scheme administrator or the relevant MPAVCs Provider (having regard to the payments it has already made on account in respect of those Dentist Performers for that financial year).

25.12 The functions of the Board in respect of the NHS Pension Scheme Regulations 1995 and 2008 are exercisable by the NHS BSA in accordance with regulation 2(1) and (2) of, and entries 26, 28 and 29 in columns 2 and 3 of the Schedule to the Functions Regulations, and any arrangements that have been put in place in relation to the NHS Pension Scheme 2015

(which are expected to include arrangements deriving from further amendments to the Functions Regulations).

## 26. Specified services

26.1 Specified services is a collective term for additional services, excluding orthodontics, advanced mandatory services and other services that may be delivered under a Prototype Agreement. Specified services include, but are not limited to:

- (a) domiciliary services;
- (b) sedation services;
- (c) advanced mandatory services, such as minor oral surgery;
- (d) access services, which are generally defined as services that have been commissioned by the Board to provide NHS care to those people who cannot routinely access NHS care; and
- (e) out of hours unscheduled care services. For NHS dental services the term “out-of-hours” does not refer to a fixed universally agreed period, but refers to services provided outside the scheduled opening hours of a particular surgery. Out of hours unscheduled care services are generally defined as services that have been commissioned by the Board to provide emergency dental services for residents and visitors to an area who are not routinely under the care of a dentist, and who require urgent treatment arrangements to address severe pain or prevent significant deterioration in oral health.

26.2 At the commencement of the Prototype Agreement, the Board and the contractor must:

- (a) identify and agree the range of specified services that are included in the underlying GDS contract
- (b) agree the value of the specified services that will be provided under the Prototype Agreement and this value must be subtracted from the NAPV of the Prototype Agreement in line with paragraph 19.2(c) and 22.2(c); and
- (c) agree the level of service or activity that is to be provided for each of the specified services under the Prototype Agreement.

26.3 The contractor is remunerated for these services by additional payments on top of the calculations in Parts 6 and 7. The intention is that remuneration for the mandatory component of these services is effectively done through the main payment and that these additional payments reflect the additional costs of delivering these services.

### ***Agreeing and revising Annual Specified Services Payments***

26.4 Where the contractor is to provide specified services under a Prototype Agreement for or during part of a financial year, the Board must agree with the contractor an annual (or annualised for part years) level of service or activity involving each specified service for that financial year and an annual (or annualised for part years) sum to be paid in respect of those courses of treatment. This amount is known as the Annual Specified Services Payment (ASSP) and is to be paid in monthly instalments.

26.5 If that number of courses of treatment involving specified services is revised, a new ASSP will have to be established for that contractor. If that variation takes effect during the year, the revised ASSP for that contract shall be an annual (or annualised for the part year) amount for calculation purposes, even though only a proportion of that annual amount will in fact be payable

### ***Annual uprating of ASSPs***

26.6 If:

- (a) at the start of a financial year, a contractor was in receipt of Monthly ASSPs in respect of the last month of the previous financial year; and
- (d) the number of courses of treatment involving specified services that the contractor is required to provide is unchanged,

the amount of its ASSP is to be uprated by a percentage amount to be determined by the Secretary of State. It is intended that at the start of each financial year this SFE will be amended so as to include that percentage increase.

### ***Initial value of Monthly ASSPs***

26.7 Once the contractor's first ASSP has been established, that amount is to be divided by twelve, and subject to paragraphs 26.10 to 26.14, the result is the first gross value of the contractor's Monthly ASSPs.

26.8 If the contractor's contractual arrangement to provide a specified number of courses of treatment involving specified services took effect other than on the first day of a month, the gross value of its Monthly ASSPs in respect of the first part-month of this contractual arrangement is to be adjusted by a factor which is produced by dividing:

- (a) the number of days during the month for which the contractual arrangements to provide specified services have effect; by
- (b) the total number of days in that month.

26.9 That gross value (expressed as a monthly value, in cases where the relevant contractual arrangement took effect other than on the first day of the month) will remain the basis for the calculation of the net value of the contractor's Monthly ASSPs, until that initial value is next revised.

### ***Revision of the initial value of Monthly ASSPs***

26.10 The gross value of a contractor's Monthly ASSPs will have to be revised where, for any reason, its ASSP is revised (for example, to take account of annual uprating or where the contractor's specified number of courses of treatment involving specified services is changed).

26.11 If the contractor's ASSP is revised for the start of a month, the new gross value of its Monthly ASSPs (until its ASSP is next revised again) is its new ASSP divided by twelve. If its ASSP changes during a month, the new gross value of its Monthly ASSPs (until its ASSP is next revised again):



- (a) for the month after the month during which its ASSP changed, is its new ASSP divided by 12; or
- (b) for the month during which its ASSP changed, is the aggregate of the following amounts:
  - (i) the amount produced by dividing the number of days during the month before the change by the total number of days in that month, and multiplying that fraction by the old initial value of the contractor's Monthly ASSPs, plus
  - (ii) the amount produced by dividing the number of days during the month for which the contractor had a new ASSP by the total number of days in that month, and multiplying that fraction by the new initial value of the contractor's Monthly ASSPs.

26.12 Once the gross value of a contractor's Monthly ASSPs has been established for any particular month (subject to paragraph 26.14), the Board must go on to establish the net value of the contractor's Monthly ASSPs, which is the amount actually to be paid.

***NHS charges and employee's superannuation contributions***

26.13 The NHS charges in respect of the courses of treatment involving specified services must be deducted from the contractor's Monthly APVPs, so no deduction will need be made in respect of those from the Monthly ASSPs. Any employee's superannuation contributions attributable to the Monthly ASSPs will be deducted from the Monthly APVPs rather than the ASSPs. However, as both Monthly APVPs and ASSPs are payable at the same time, this distinction will generally only have accounting rather than practical implications.

***Deductions in respect of overpayments etc.***

26.14 Deductions may need to be made from the Monthly ASSPs under the administrative provisions in Section 32 (administrative provisions) of this SFE, to take account of matters such as overpayments. In accounting terms, these deductions may alter the gross value of the Monthly ASSP in question or the gross value of another payment, but either way it will alter the net value of the Monthly ASSP in question.

***Net value of the contractor's first Monthly ASSPs***

26.15 The gross value of a contractor's Monthly ASSPs, minus any deductions as mentioned in paragraph 26.14, is the net value of the contractor's first Monthly ASSPs, which is the amount actually to be paid. This amount becomes payable on the first working day of the month after the month to which the Monthly ASSP relates.

***Conditions attached to Monthly ASSPs***

26.16 Monthly ASSPs, or any part of such payments, are only payable if the contractor satisfies the following conditions:

- (a) the contractor must make available any information which the Board does not have but needs (including the returns required by virtue of paragraph 39 of Schedule 3 to the GDS Contracts Regulations), and which the contractor either

- has or could reasonably be expected to obtain, in order to calculate the contractor's Monthly ASSPs;
- (b) all information supplied pursuant to or in accordance with this paragraph must be accurate.

26.17 If the contractor breaches any condition of its Monthly ASSPs that is set out in this SFE (including the conditions that are set out in paragraph 26.16), the Board may, in appropriate circumstances, withhold payment of any or any part of a Monthly ASSP that is otherwise payable.

## 27. Seniority Payments

27.1 Seniority payments are monthly payments to a contractor in respect of individual Dentist Performers who satisfy the eligibility criteria.

### *Eligibility criteria*

27.2 A contractor is entitled to receive a seniority payment in respect of a Dentist Performer employed or engaged by it if the Dentist Performer:

- (a) reached the age of 55 years:
- (i) before 1<sup>st</sup> January 2006, and was entitled to and in receipt of a seniority payment pursuant to Determination III of the SDR (set out in the Annex B to this SFE) in respect of the last quarter of the financial year 2005 to 2006, or
  - (ii) between 1<sup>st</sup> January 2006 and 31<sup>st</sup> March 2006 inclusive, and would have been entitled to a seniority payment pursuant to Determination III of the SDR in respect of the last quarter of the financial year 2005 to 2006 had the Dentist Performer reached the age of 55 years in the previous quarter of that financial year;
- (b) reached the age of 55 years before 1<sup>st</sup> April 2006, and–
- (i) in the last quarter of the financial year 2005 to 2006, the Dentist Performer was employed or engaged by a pilot scheme provider, and
  - (ii) the Dentist Performer would have been entitled to a seniority payment pursuant to Determination III of the SDR in respect of that quarter had the Dentist Performer –
    - (aa) instead provided services under section 35 of the NHS Act 1977 in that quarter, and
    - (bb) reached the age of 55 years before 1<sup>st</sup> January 2006, (whether or not the Dentist Performer did in fact do so);
- (c) reached the age of 55 years between 1st April 2006 and 31st March 2011 inclusive (although the Dentist Performer's eligibility is treated as starting in the month after the month during which the Dentist Performer's birthday falls), and–
- (i) in the last quarter of the financial year 2005 to 2006, the Dentist Performer provided services under section 35 of the 1977 Act or a pilot scheme agreement; and

- (ii) would have been entitled to a seniority payment pursuant to Determination III of the SDR in respect of that quarter had the Dentist Performer–
  - (aa) in the case of a person who provided services under a pilot scheme agreement in that quarter, provided services under section 35 of the 1977 Act in that quarter; and
  - (bb) reached the age of 55 years in the previous quarter of that financial year.

27.3 Additionally, a contractor is entitled to receive a seniority payment in respect of a Dentist Performer employed or engaged by it only if:

- (a) the person in respect of whom the payment is made remains included in the Dental Performers List;
- (b) the person in respect of whom the payment is made is not in receipt of a pension payment under the NHS pension scheme in any month in which the contractor claims a Monthly Seniority Payment in respect of him; and
- (c) the amount of the payment, together with the amount of any other Monthly Seniority Payment received by any other contractor participating in the Capitation and Quality Scheme 2, the Prototype Agreement Scheme, or any other PDS Agreement or GDS Contract Holder, in respect of that Dentist Performer for the same month is less than £662.

#### ***Applications for a seniority payment***

27.4 Where a Dentist Performer satisfies the eligibility criteria specified in paragraph 27.2(a) or (b), in order to obtain its first Monthly Seniority Payment in respect of that Dentist Performer, the contractor must notify the Board in writing:

- (a) that the Dentist Performer is employed or engaged by the contractor; and
- (b) of any other Monthly Seniority Payments which any other contractor participating in the Capitation and Quality Scheme 2, the Prototype Agreement Scheme, or any other PDS Agreement or GDS Contract Holder is claiming in respect of that Dentist Performer for any month to which the contractor's claim relates.

27.5 Where a Dentist Performer satisfies the eligibility criteria specified in paragraph 27.2(c), in order to obtain its first Monthly Seniority Payment in respect of that Dentist Performer, the contractor must make an application to the Board on a standard form (set nationally and available electronically), and that application must include–

- (a) details of how the Dentist Performer satisfies the eligibility criteria set out in paragraph 27.2(c);

- (b) details of the Dentist Performer's estimated net monthly Pensionable Earnings (which should be the amount that features in respect of that Dentist Performer on the contractor's Monthly Payment Schedule); and
- (c) details of any other Monthly Seniority Payments which any other contractor or GDS Contract Holder (who may in fact be a Prototype Agreement Holder or a participant in the Capitation and Quality Scheme 2) is claiming in respect of that Dentist Performer for any month to which the contractor's claim relates.

### ***The percentage calculation and the maximum amount of Monthly Seniority Payments***

27.6 The amount to which the contractor is entitled as a Monthly Seniority Payment in respect of a Dentist Performer that it employs or engages and in respect of whom the eligibility criteria are satisfied is 21.72% of the Dentist Performer's net monthly Pensionable Earnings under the contractor's Prototype Agreement in the month to which the payment relates, but the maximum amount payable in respect of each Dentist Performer in any month is £662.

27.7 Where a Monthly Seniority Payment may be payable in respect of a particular Dentist Performer to more than one contractor participating in the Prototype Agreement Scheme, or the Capitation and Quality Scheme 2, or to any other PDS Agreement or GDS Contract Holder, but the totals payable under the Prototype Agreement, the Capitation and Quality Scheme 2 Agreement, the PDS agreement or the GDS contract, taken together, would (if there were no maximum amounts) exceed £662, the maximum amount payable under all the Prototype Agreements, the Capitation and Quality Scheme 2 Agreements, PDS agreements or GDS contracts under which Monthly Seniority Payments may be payable in respect of that contractor is £662. The £662 must therefore be distributed proportionately between each Prototype Agreement, Capitation and Quality Scheme 2 Agreement, PDS agreement and GDS contract.

27.8 So, if the Dentist Performer earns 60% of his net monthly Pensionable Earnings from a standard PDS Agreement, 30% from a standard GDS contract and 5% from a Prototype Agreement, and 5% from a Capitation and Quality Scheme 2 Agreement, the performer's Monthly Seniority Payment under the PDS agreement would be £397, under the GDS contract would be £199, under the Prototype Agreement would be £33 and under the Capitation and Quality Scheme 2 Agreement would be £33.

27.9 In practice, the apportionment will be made by the NHS BSA, as it is they who will have the necessary data about each of the relevant agreements or contracts.

### ***Estimates of net monthly Pensionable Earnings***

27.10 For the purposes of this Section, a Dentist Performer's net monthly Pensionable Earnings in respect of any month are one twelfth of his Pensionable Earnings for the financial year into which the month falls, having excluded from those earnings any Pensionable Earnings for that financial year which are attributable to a Monthly Seniority Payment.

27.11 This means that it will be impossible to know, until sometime after the end of a financial year, what the true value of the Monthly Seniority Payments during that financial year should be. Accordingly, the Board must pay, each month, an estimate of what the true

value of the Monthly Seniority Payments should be, and that estimate must be the estimate of the net monthly Pensionable Earnings (i.e. net of any Pensionable Earnings that are attributable to any Monthly Seniority Payments) that appears in respect of the Dentist Performer on the contractor's Monthly Payment Schedule.

27.12 The amount of this monthly estimate becomes payable on the first working day of the month after the month to which the Monthly Seniority Payment relates. Any excess that falls due once the true value of the Monthly Seniority Payments is ascertained becomes payable once that true value is ascertained by the Board.

### ***Conditions attached to Monthly Seniority Payments***

27.13 Monthly Seniority Payments, or any part of such payments, are only payable if the following conditions are satisfied:

- (a) the contractor must make available to the Board any information which the Board does not have but needs, and the contractor either has or could reasonably be expected to obtain, in order to calculate the payment;
- (b) the contractor must notify the Board of any change in the amount of the net monthly Pensionable Earnings (i.e. net of any Pensionable Earnings that are attributable to any Monthly Seniority Payments) of the Dentist Performers employed or engaged by it; and
- (c) all information provided pursuant to or in accordance with this paragraph must be accurate.

27.14 If the contractor breaches any condition of its payments under this Section that is set out in this SFE (including the conditions that are set out in paragraph 27.13), the Board may, in appropriate circumstances, withhold payment of any or any part of a payment under this Section that is otherwise payable.

## **28. Payments in respect of foundation training**

28.1 Payments in respect of foundation training are payments to a contractor who employs a Foundation Trainee. They are intended to meet the salary costs of employing the Foundation Trainee, provide payment to the Dentist Performer who is providing the foundation training to the Foundation Trainee and to provide a payment to the contractor to cover service costs. The payments are only intended to meet the costs of providing foundation training to those graduates who are required to complete one year's foundation training to remain on the Dental Performers List (apart from any "relevant period of employment" determined in accordance with regulation 30(2) (interpretation: foundation training) of the Performers Lists Regulations.

### ***Eligibility for payments in respect of foundation training***

28.2 A contractor will be eligible to receive payments under this Section where:

- (a) the contractor employs or engages a Dentist Performer who is a Trainer;
- (b) the contractor has employed a Foundation Trainee under a contract of employment for:

- (i) a period of one year’s full-time employment (or an equivalent period of part-time employment); or
  - (ii) any other period which is a “relevant period of employment” for the purposes of regulation 30(2) (interpretation: foundation training) of the Performers Lists Regulations;
- (c) under that contract of employment, the contractor has agreed to pay the Foundation Trainee a monthly salary at a full-time (at least 35 hours per week) rate of £2,561 per month or the amount specified for that period *pro-rata* in the Foundation Trainee is part-time; and
- (d) the Foundation Trainee is not exempt from the requirement to complete one year’s foundation training to remain on the Dental Performers List (apart from any “relevant period of employment” determined in accordance with regulation 30(2) (interpretation: foundation training) of the Performer Lists Regulations.

28.3 Any attendance by a Foundation Trainee at a day release course in connection with the foundation training scheme is to be included in the calculation of his contracted hours.

***Applications for payments under this Section***

28.4 Where a contractor satisfies the eligibility criteria specified in paragraph 28.2, read with paragraph 28.3, in order to obtain payments in respect of foundation training, it must make an application to the Board on a standard form (set nationally and available electronically), and that application must include:

- (a) the following information:
  - (i) the name of the Foundation Trainee appointed,
  - (ii) the date when the Foundation Trainee’s employment commenced,
  - (iii) the number of hours to be worked by the Foundation Trainee per week,
  - (iv) the date when the Foundation Trainee’s employment will end, and
  - (v) the date of the month on which payment of the salary will be made to the Foundation Trainee;
- (b) a certificate provided by the local Postgraduate Dental Dean or Director of Postgraduate Dental Education verifying that the information provided pursuant to paragraph (a) is correct;
- (c) a declaration in writing that the contractor will pay the Foundation Trainee a monthly salary at a full-time (at least 35 hours per week) rate of £2,561 per month or the amount specified for that period *pro-rata* if the Foundation Trainee is part-time; and
- (d) confirmation in writing from the local Postgraduate Dental Dean or Director of Postgraduate Dental Education that the Foundation Trainee must-
  - (i) complete 12 months foundation training to remain on the performers list; or
  - (ii) that the dentist must complete a “relevant period of employment” by virtue of regulation 30(2) of the Performers Lists Regulations.

***Foundation training payments to be made***

28.5 Provided the contractor satisfies the eligibility criteria set out in paragraph 28.2, and has applied in accordance with paragraph 28.4, the contractor is entitled to receive the following four types of foundation training payment during the currency of a training contract with a Foundation Trainee:

- (a) a training grant of £ 769 per month, if the Foundation Trainee is full-time (i.e. has contracted hours of at least 35 hours per week), or the amount specified for that period *pro-rata* if the Foundation Trainee is part-time;
- (b) reimbursement of the salary which the contractor has paid to the Foundation Trainee, which is to be:
  - (i) £2,561 per month, less the Foundation Trainee's employee superannuation contributions (if the Foundation Trainee is a member of the NHS Pension Schemes 1995, 2008 or 2015) in respect of that Foundation Trainee's salary (see paragraph 9.4(a)), if the Foundation Trainee is full-time (i.e. has contracted hours of at least 35 hours per week), or
  - (ii) that amount *pro-rata* (subject to lawful deductions in respect of superannuation contributions) if the Foundation Trainee is part-time;
- (c) where a salary is reimbursed pursuant to sub-paragraph (b), reimbursement of the amount of any employer's national insurance contributions which are payable by the contractor in respect of that salary; and
- (d) a sum that represents the service cost to the contractor of employing the Foundation Trainee, of £5,347 per month, if the Foundation Trainee is full-time (i.e. has contracted hours of at least 35 per week), or the amount specified for that period *pro-rata* if the Foundation Trainee is part-time.

28.6 Again, any attendance by a Foundation Trainee at a day release course in connection with the foundation training scheme is to be included in the calculation of his contracted hours.

28.7 The payments due to a contractor under this Section become payable on the contractor's next Monthly Payment Date after the end of the month to which the claim for the payments relates, which need not be a calendar month. Only one application for payments need be made in respect of each agreed training period, and where appropriate, *pro-rata* claims may be made in respect of part months.

#### ***Conditions attached to foundation training payments***

28.8 Payments under paragraph 28.5(a), or any part of such payments, are only payable if the contractor gives that training grant to the Foundation Trainee's Trainer:

- (a) within one calendar month of receiving the training grant; and
- (b) as an element of the personal income of the Trainer, subject to any lawful deduction of income tax, national insurance and superannuation contributions.

28.9 Payments under paragraph 28.5(b) or (c), or any part of such payments, are only payable if the contractor pays the Foundation Trainee his salary under his contract of employment.

28.10 The payments under paragraph 28.5, or any part of such payments, are only payable if the following conditions are satisfied:

- (a) the Trainer in respect of whom the payments are made must remain a Trainer;
- (b) the Foundation Trainee in respect of whom the payments are made must remain employed by the contractor;
- (c) the contractor must inform the Board if there is any change of circumstances which may affect its entitlement to payments under this Section (including changes which may affect the level of the payments to which it is entitled under this Section);
- (d) the contractor must make available to the Board any information which the Board does not have but needs and the contractor either has or could reasonably be expected to obtain in order to calculate the payment; and
- (e) all information provided by the contractor pursuant to or in accordance with sub-paragraphs (c) or (d) must be accurate.

28.11 If the contractor breaches any condition of its payments under this Section that is set out in this SFE (including the conditions that are set out in paragraphs 28.8 to 28.10), the Board may, in appropriate circumstances, withhold payment of any or any part of a payment under this Section that is otherwise payable.

28.12 If there is a breach of the condition that is set out in paragraph 28.10(b), the Board may require repayment of any payment paid to which the condition relates, or may withhold payment of any other payment payable to the contractor under this SFE, to the value of the payment paid. However, if the contract of employment is terminated by either party before it has run its full course and the Foundation Trainee does not serve out a period of notice but is instead paid an amount equal to the salary due in respect of the period of notice, the contractor will be entitled to receive payments under paragraph 28.5(b) and (c) in respect of the amount of the salary which it has paid to the Foundation Trainee in respect of the period of notice, up to a maximum of one month's salary.

## 29. Payments in respect of maternity, paternity and adoption leave

29.1 Employees of contractors will have rights to time off for ante-natal care, maternity leave, paternity leave, adoption leave, parental leave, time off for dependants and the right to request flexible working if they satisfy the relevant entitlement conditions under employment legislation for those types of leave. The right of partners in partnerships to these types of leave is a matter for their partnership agreement.

29.2 If an employee, a partner in a partnership or a contractor is a Dentist Performer, the contractor that employs or engages that Dentist Performer will be entitled under this Section to payments from the Board in respect of a period of maternity leave, paternity leave or adoption leave taken by that Dentist Performer, provided the eligibility criteria are satisfied and the relevant payment conditions are not breached. However, nothing in the conditions for payments to contractors under this Section shall be interpreted as qualifying a Dentist Performer's statutory rights. In any event, even if the Board is not directed in this SFE to make payments to a contractor in respect of parental leave, it may do so as a matter of discretion. The powers to do so are set out in section 112 of the 2006 Act.

### *Eligibility for maternity leave payments*



29.3 A contractor is entitled to receive a maternity leave payment in respect of a Dentist Performer that it employs or engages if:

- (a) the Dentist Performer's name has been included in a Dental List for a period of at least 2 years (subject to paragraph 29.7) and the last 26 weeks of that period must have been a period of continuous employment or engagement that required the performance of dental services as part of the NHS and must have immediately preceded the 15<sup>th</sup> week before the expected week of confinement;
- (b) the Dentist Performer has become pregnant and has reached, or been confined before reaching, the commencement of the 11<sup>th</sup> week before the expected week of confinement;
- (c) the Dentist Performer has ceased to perform dental services under the contractor's Prototype Agreement in order to take maternity leave (which for these purposes includes leave for ante-natal care), excluding any optional keeping in touch days on which it has been agreed between the contractor and the Dentist Performer that the Dentist Performer will work; and
- (d) the payment relates to a Parental Leave Pay Period and not to a period of sickness absence.

***Eligibility for paternity leave payments – birth***

29.4 A contractor is entitled to receive a paternity leave payment in respect of a Dentist Performer that it employs or engages if:

- (a) the Dentist Performer's name has been included in a Dental List for a period of at least 2 years (subject to paragraph 29.7) and the last 26 weeks of that period must have been a period of continuous employment or engagement that required the performance of dental services as part of the NHS ending with the week immediately preceding the child's date of birth;
- (b) the Dentist Performer is either:
  - (i) the father of the child; or
  - (ii) married to or the partner of the child's mother, but not the child's father; or
  - (iii) has, or expects to have:
    - (aa) if the Dentist Performer is the child's father, responsibility for the upbringing of the child; or
    - (bb) if the Dentist Performer is the mother's husband or partner but not the child's father, the main responsibility, (apart from any responsibility of the mother) for the upbringing of a child.
- (c) the Dentist Performer has ceased to perform dental services under the contractor's Prototype Agreement in order to take paternity leave; and
- (d) the payment relates to a Parental Leave Pay Period and not to a period of sickness absence.

***Eligibility for paternity leave payments – adoption***

29.5 A contractor is entitled to receive a paternity leave payment in respect of a Dentist Performer that it employs or engages if:

- (a) the Dentist Performer’s name has been included in a Dental List for a period of at least 2 years (subject to paragraph 29.7) and the last 26 weeks of that period must have been a period of continuous employment or engagement that required the performance of dental services as part of the NHS ending with the week in which the child is adopted;
- (b) the Dentist Performer:
  - (i) is either married to, or the partner of the child’s adopter; or
  - (ii) has, or expects to have, the main responsibility (apart from the responsibility of the adopter) for the upbringing of the child;
- (c) the Dentist Performer has ceased to perform dental services under the contractor’s Prototype Agreement in order to take paternity leave; and
- (d) the payment relates to a Parental Leave Pay Period and not to a period of sickness absence.

***Eligibility for adoption leave payments***

29.6 A contractor is entitled to receive an adoption leave payment in respect of a Dentist Performer that it employs or engages if:

- (a) the Dentist Performer’s name has been included in a Dental List for a period of at least 2 years (subject to paragraph 29.7) and the last 26 weeks of that period must have been a period of continuous employment or engagement that required the performance of dental services as part of the NHS and must have immediately preceded the date of the adoption;
- (b) the Dentist Performer has become the adoptive parent of a child and is the main care provider for that child;
- (c) the Dentist Performer has ceased to provide dental services under the contractor’s Prototype Agreement in order to take adoption leave, excluding any optional keeping in touch days on which it has been agreed between the contractor and the dentist performer that the dentist performer will work; and
- (d) the payment relates to a Parental Leave Pay Period and not to a period of sickness absence.

***Parental leave for those who have undertaken approved foundation training***

29.7 In the case of a Dentist Performer who has undergone one year’s approved foundation training, the 2 years mentioned in paragraphs 29.3(a), 29.4(a), 29.5(a) and 29.6(a) must be reduced to one year.

***Meaning of “Parental Leave Pay Period”***

29.8 In this Section, “Parental Leave Pay Period” means:

- (a) in the case of a maternity leave payment, a period not exceeding 26 weeks commencing:
  - (i) not earlier than the 11<sup>th</sup> week before the expected week of confinement, nor later than the expected week of confinement, or
  - (ii) if confinement occurs prior to the eleventh week before the expected week of confinement, on the Monday immediately before the actual date of confinement,

- in respect of which a claim for payments is made by or in respect of a person taking maternity leave (which for these purposes includes leave for ante-natal care) under this Section;
- (b) in the case of a paternity payment, a period not exceeding 2 weeks commencing within 26 weeks of the date of the relevant birth or adoption and in respect of which a claim for payments is made by or in respect of a person taking paternity leave under this Section; and
- (c) in the case of an adoption leave payment, a period not exceeding 26 weeks which immediately follows the date of the adoption and in respect of which a claim for payments is made by or in respect of a person taking adoption leave under this Section.

***Applications for parental leave payments***

29.9 Where a Dentist Performer satisfies the eligibility criteria specified in paragraphs 29.3, 29.4, 29.5 or 29.6, in order to obtain parental leave payments in respect of that Dentist Performer, the contractor must make an application to the Board on a standard form (set nationally and available electronically), and that application must include:

- (a) the intended dates of the Dentist Performer's Parental Leave Pay Period (i.e. the Parental Leave Pay Period in respect of which the application is being made); and
- (b) details of the Dentist Performer's estimated net monthly Pensionable Earnings (which should be based on the last pension declaration statement).

29.10 If the application is in respect of maternity leave payments, the application must also include:

- (a) a maternity certificate or other statement completed by a registered medical practitioner or registered midwife, giving the expected week of confinement of the Dentist Performer or, as the case may be, the date of confinement; and
- (b) a declaration in writing from the contractor that to the best of its knowledge, with regard to the period to which the claim relates, no claim for sickness leave payments has been made under Section 30 (payments in respect of long-term sickness absence) by it or any other contractor participating in the Capitation and Quality Scheme 2, the Prototype Agreement Scheme, or by any other PDS Agreement Holder under the PDS SFE or by any other GDS Contract Holder under the GDS SFE.

29.11 If the application is in respect of paternity leave payments, the application must also include:

- (a) in respect of the birth of a child, written confirmation from the contractor:
  - (i) of the expected or actual date of birth, and
  - (ii) that the Dentist Performer is the husband or partner of the mother, will share responsibility for the child's upbringing and is taking time off to support the mother or to care for the child;
- (b) in respect of the adoption of a child, documents showing the date on which the child is expected to be placed for adoption or the actual date of the placement,

- the date the adopter was notified of having been matched with the child and written confirmation from the contractor that the Dentist Performer—
- (i) is the partner of the main care provider,
  - (ii) will share responsibility for the child’s upbringing, and
  - (iii) is taking time off to support his partner or to care for the child; and
- (c) a declaration in writing from the contractor that to the best of its knowledge, with regard to the period to which the claim relates, no claim for sickness leave payments has been made under Section 30 by it or any other contractor participating in the Capitation and Quality Scheme 2, the Prototype Agreement Scheme, or by any other PDS Agreement Holder under the PDS SFE or by any other GDS Contract Holder under the GDS SFE.

29.12 If the application is in respect of adoption leave payments, the application must also include:

- (a) in the case of an adoption within the United Kingdom:
  - (i) the date on which the child is expected to be placed for adoption; or
  - (ii) the actual date of the placement;
  - (iii) the date the adopter was notified of having been matched with the child endorsed by the appropriate adoption agency with its name and address; or
  - (iv) a matching certificate giving equivalent details;
- (b) in the case of an inter-country adoption:
  - (i) the date on which the adopter received official notification,
  - (ii) the expected date the child will enter the United Kingdom or the date upon which the child did so enter, and
  - (iii) a copy of the official notification and evidence of the date of the child’s arrival;
- (c) written confirmation from the contractor that the Dentist Performer is or will be the main care provider for the child; and
- (d) a declaration in writing from the contractor that to the best of its knowledge, with regard to the period to which the claim relates, no claim for sickness leave payments has been made under Section 30 by it or any other contractor participating in the Capitation and Quality Scheme 2, the Prototype Agreement Scheme, or by any other PDS Agreement Holder under the PDS SFE or by any other GDS Contract Holder under the GDS SFE.

***Calculation of the amount of parental leave payments and the due date***

29.13 The amount to which the contractor is entitled in respect of parental leave payments is a weekly amount, calculated on the basis of the Dentist Performer’s estimated monthly Pensionable Earnings (which should usually be the amount that features in respect of that Dentist Performer on the contractor’s Monthly Payment Schedule, plus his estimated monthly Pensionable Earnings in respect of any Monthly Seniority Payment to which he is entitled) immediately before the parental leave is taken. This monthly amount is to be multiplied by 12 and then divided by 52 to produce the weekly amount of the parental leave payments.

29.14 That weekly amount is the amount to which the contractor is entitled in respect of each complete week of the Dentist Performer’s Parental Leave Pay Period. If the last day of a week of the Dentist Performer’s Parental Leave Pay Period falls in a particular month, the

weekly parental leave payment in respect of that week is to fall due on the contractor's Monthly Payment Date in the following month. For these purposes, "month" means a calendar month.

### ***Conditions attached to parental leave payments***

29.15 Payments under this Section, or any part of such payments, are only payable if the following conditions are satisfied:

- (a) the Dentist Performer must not perform any dental services during the Parental Leave Pay Period under any Capitation and Quality Scheme 2 Agreement, Prototype Agreement, PDS agreement or GDS contract, (other than any optional keeping in touch days on which it has been agreed between the contractor and the Dentist Performer that the Dentist Performer will work), except with the written approval of the Board; and
- (b) unless the performer dies, the Dentist Performer in respect of whom the payments are made must continue to be a Dentist Performer and continue to be employed or engaged by the contractor (if the performer does die, parental leave payments may continue to be paid to the contractor for the balance of the Parental Leave Pay Period, provided these are forwarded by the contractor to the performer's estate); and
- (c) the contractor must continue to pay the Dentist Performer an amount equivalent to the Dentist Performer's estimated net Pensionable Earnings (which provided the basis for the calculation of the parental leave payment) during the Parental Leave Pay Period (or pay this to the performer's estate if the Dentist Performer dies).

29.16 If the contractor breaches any condition of its payments under this Section that is set out in this SFE (including the conditions that are set out in paragraph 29.15), the Board may, in appropriate circumstances, withhold payment of any or any part of a payment under this Section that is otherwise payable.

29.17 The computation of periods of entitlement under this section is to take into account periods of leave before this SFE comes into force. Therefore, in the case of a claim for maternity leave payment in respect of a Dentist Performer who has taken a 10 weeks period of maternity leave immediately before this SFE comes into force, there will be an entitlement to a further 16 weeks of maternity leave payment under this SFE.

## **30. Payments in respect of long-term sickness absence**

30.1 Employees of contractors will, if they qualify for it, be entitled to statutory sick pay for 28 weeks of absence on account of sickness in any three years. The right of partners in partnership agreements to paid sickness leave is a matter for their partnership agreement.

30.2 If an employee, a partner in a partnership or a contractor is a Dentist Performer, the contractor that employs or engages that Dentist Performer will be entitled under this Section to payments from the Board in respect of a period of long term sickness absence taken by that Dentist Performer, provided the eligibility criteria are satisfied and the relevant payment conditions are not breached. However, nothing in the conditions for payments to contractors under this Section shall be interpreted as qualifying a Dentist Performer's statutory rights. In

any event, even if the Board is not directed in this SFE to make payments to a contractor in respect of sickness absence, it may do so as a matter of discretion. The powers to do so are set out in section 112 of the 2006 Act.

### ***Eligibility for sickness leave payments***

30.3 A contractor is entitled to receive sickness leave payments in respect of a Dentist Performer that it employs or engages if, in respect of a complete week of sickness absence:

- (a) subject to paragraph 30.4, the Dentist Performer's name has been included in a Dental List for a period of at least 2 years, which need not be a continuous period and part or all of that period need not immediately precede the period of sickness, but during those 2 years (or that aggregate of 2 years) the Dentist Performer must have been performing dental services as part of the NHS;
- (b) the Dentist Performer has been unable to provide dental services under the contractor's Prototype Agreement because of sickness, but sickness leave payments are not payable in respect of the first 4 weeks of absence;
- (c) the Dentist Performer has been in receipt of payments under this Section for less than the maximum of 22 weeks during a period of sickness; and
- (d) the contractor is not in receipt of payments under Section 29 (payments in respect of maternity, paternity and adoption leave) in respect of the Dentist Performer.

30.4 In the case of a Dentist Performer who has undergone one year's approved foundation training, the 2 years mentioned in paragraph 30.3(a) shall be reduced to one year.

30.5 Sickness leave payments are only payable in respect of a maximum of 22 weeks in any period of 52 weeks. So, for example, once sickness leave payments have been made in respect of a Dentist Performer for a continuous period of 22 weeks, it will be a further 30 weeks before the Board could again be obliged to make sickness leave payments in respect of that Dentist Performer. However, the Board may waive the eligibility criterion set out in this paragraph in any case where it considers it is reasonable in all the circumstances to do so. The computation of periods of sickness leave is to take into account periods of sickness leave before this SFE comes into force.

### ***Applications for sickness leave payments***

30.6 Where a Dentist Performer satisfies the eligibility criteria specified in paragraphs 30.3 to 30.5, in order to obtain a sickness leave payment in respect of that Dentist Performer, the contractor must make an application to the Board on a standard form (set nationally and available electronically), and that application must include:

- (a) a medical certificate, or other statement, completed by a registered medical practitioner to the effect that the Dentist Performer is incapable of work by reason of sickness; and
- (b) a declaration in writing from the contractor that to the best of its knowledge, with regard to the period to which the claim relates, no claim for parental leave payments has been made under Section 29 by it or any other contractor participating in the Capitation and Quality Scheme 2, the Prototype

Agreement Scheme, or by any other PDS Agreement Holder under the PDS SFE or by any other GDS Contract Holder under the GDS SFE.

***Calculation of the amount of sickness leave payments and the due date***

30.7 The amount to which the contractor is entitled in respect of sickness leave payments is a weekly amount, calculated on the basis of the Dentist Performer's estimated monthly Pensionable Earnings (which should usually be the amount that features in respect of that Dentist Performer on the contractor's Monthly Payment Schedule, plus his estimated monthly Pensionable Earnings in respect of any Monthly Seniority Payment to which he is entitled) immediately before the sickness leave is taken. This amount is to be multiplied by 12 and then divided by 52 to produce, subject to paragraph 30.8, the weekly amount of the sickness leave payments.

30.8 The weekly amount determined in accordance with paragraph 30.7 is the amount to which the contractor is entitled in respect of each complete week during which the Dentist Performer is absent and continues to satisfy the eligibility criteria. If the last day of such a week falls in a particular month, the weekly sickness leave payment in respect of that week is to fall due on the contractor's Monthly Payment Date in the following month. For these purposes, "month" means a calendar month.

***Conditions attached to sickness leave payments***

30.9 Payments under this Section, or any part of such payments, are only payable if the following conditions are satisfied:

- (a) the contractor must, if the Board so requests, provide the Board with medical certificates or other statements to the effect that the Dentist Performer is incapable of work by reason of sickness, completed by a registered medical practitioner, covering any period of absence in respect of which a sickness leave payment is being claimed;
- (b) the Dentist Performer must not perform any dental services under a PDS agreement, GDS contract, Capitation and Quality Scheme 2 Agreement or Prototype Agreement during any period of absence in respect of which a sickness leave payment is claimed, except with the written approval of the Board;
- (c) unless he dies, the Dentist Performer in respect of whom the payments are made continues to be a Dentist Performer and continues to be employed or engaged by the contractor (if he does die, sickness leave payments may continue to be paid to the contractor for the balance of the 22 weeks for which sickness leave payments would otherwise have been payable, provided these are forwarded by the contractor to the Dentist Performer's estate); and
- (d) the contractor must continue to pay the Dentist Performer at least his estimated net Pensionable Earnings during his absence (or pay this to his estate if he dies).

30.10 If the contractor breaches any condition of his sickness leave payments that is set out in this SFE (including the conditions that are set out in paragraph 30.9), the Board may, in appropriate circumstances, withhold payment of any or any part of a payment under this Section that is otherwise payable.

## 31. Reimbursement of non-domestic rates

31.1 Under this Section, a contractor may be able to claim reimbursement of the Non-domestic Rates payable in relation to any premises at which it provides services under its Agreement.

### *Eligibility for reimbursement of non-domestic rates*

31.2 A contractor is entitled to receive reimbursement of payments in respect of its non-domestic rates for practice premises if, in any financial year:

- (a) it is a Non-Domestic Ratepayer or, where the contractor is a partnership, one of the partners comprising the partnership is the Non-Domestic Ratepayer, as regards the hereditament that comprises or includes the practice premises and in respect of which the claim is made (“the Hereditament”); and
- (b) subject to paragraph 31.3, the total value of the primary dental services provided at the practice premises as part of the NHS is not less than £25,000.

31.3 The Board may waive the eligibility criterion in paragraph 31.2(b) in any case where it considers it is reasonable in all the circumstances to do so.

### *Applications for reimbursement of non-domestic rates*

31.4 Provided the contractor satisfies the eligibility criteria specified in paragraph 31.2, read with paragraph 31.3, in order to obtain reimbursement in respect of its non-domestic rates, it must make an application to the Board on a standard form (set nationally and available electronically), and that application must include:

- (a) the Demand Notice for the financial year to which the claim relates, or a copy of it certified by the Billing Authority;
- (b) in respect of the Hereditament:
  - (i) a receipt from the Billing Authority for the whole amount or, if the contractor pays the annual amount in two instalments, half the amount of the contractor’s (or the partner’s) annual liability for non-domestic rates, specified in the Demand Notice, or
  - (ii) if the contractor (or the partner) pays its non-domestic rates by monthly instalments, details of the amount to be paid each month, the date the payments are due to commence and the date the payments are due to cease, together with the Demand Notice specifying the monthly instalments due; and where the contractor wishes to be reimbursed in a lump sum after payment of all the instalments, it must provide proof of payment for the whole amount specified in the Demand Notice;
- (c) a declaration in writing from the contractor specifying the proportion, expressed as a percentage, which its income under its Prototype Agreement bears to the gross income of the Hereditament from the provision of dental services (i.e. from both NHS and private work) during the last 6 months of the financial year preceding the financial year in respect of which the claim for reimbursement is being made; and



- (d) a declaration in writing from the contractor undertaking, if requested to do so by the Board, within three months of receiving such a request to provide to the Board documentary evidence sufficient to demonstrate accurately the proportion that its income under its Prototype Agreement bore to the gross income of the Hereditament from the provision of dental services (i.e. from both NHS and private work) in the last 6 months of the financial year preceding the financial year in respect of which the claim for reimbursement is being made.

31.5 Where the contractor seeks reimbursement of an amount in respect of non-domestic rates in relation to more than one Hereditament, it shall submit to the Board a separate claim in respect of each such Hereditament.

31.6 For the purposes of this Section, the gross income of a Hereditament from the provision of dental services means the gross income from any dental services provided at or associated with the Hereditament by either the contractor or any dental practitioner that the contractor employs or engages.

***Amount of non-domestic rates that may be reimbursed***

31.7 The amount to which the contractor is entitled in respect of a reimbursement payment in any financial year is the amount specified in the Demand Notice for that financial year less, where the gross income of the Hereditament from the provision of dental services includes any income which is not derived from its Prototype Agreement, any amount (“the abatement”) calculated in accordance with paragraph 31.8.

31.8 The amount of the abatement shall be based on the percentage that the contractor is required to declare in accordance with paragraph 31.4(c). Wherever that percentage features in column 1 of the table below (as adjusted, where appropriate, in the light of further information received by the contractor, as requested in accordance with paragraph 31.4(c)) the corresponding percentage opposite that entry in column 2 is the amount, in percentage terms, of the abatement.

COLUMN 1	COLUMN 2
Proportion which the Prototype Agreement income bears to the gross income of the Hereditament	Proportion of Non-domestic Rates to be abated
90% or more	No abatement
80% or more but less than 90%	10%
70% or more but less than 80%	20%
60% or more but less than 70%	30%
50% or more but less than 60%	40%
40% or more but less than 50%	50%
30% or more but less than 40%	60%
20% or more but less than 30%	70%
10% or more but less than 20%	80%
Less than 10%	90%

31.9 The amount to which the contractor is entitled falls due once the Board receives a valid application for the amount.

***Conditions attached to payments under this Section***

31.10 Payments under this Section, or any part of such payments, are only payable if the following conditions are satisfied:

- (a) the contractor must, as regards the Hereditament to which the payment relates, comply with its Prototype Agreement term set by virtue of paragraph 13 (premises, facilities and equipment) of Schedule 3 to the GDS Contracts Regulations.
- (b) the contractor must make available any information which the Board does not have but needs, and which the contractor either has or could reasonably be expected to obtain, in order to calculate the amount of contractor's reimbursement payments;
- (c) the contractor must inform the Board of any changes to its circumstances which may affect its eligibility for reimbursement payments or the level of the reimbursement payments to which it may be entitled; and
- (d) all information supplied pursuant to or in accordance with sub-paragraphs (b) or (c) must be accurate.

31.11 If the contractor breaches any condition of its payments under this Section that is set out in this SFE (including the conditions that are set out in paragraph 31.10), the Board may, in appropriate circumstances, withhold payment of all or any part of a payment under this Section that is otherwise payable.

## **PART 9**

### **Supplementary provisions common to all Prototype blends**

#### **32. Administrative provisions**

***Payment arrangements***

32.1 Payment under this SFE will be undertaken on the Board's behalf by the NHS BSA, and will be paid on the due date. The making of the payments which are required to be paid under these Directions was made a function of the NHS BSA by virtue of entry (a) of column 2 that corresponds to entry 3 in column 1 of the Schedule to the Functions Regulations. By virtue of regulation 2(3)(b) (functions of the Board exercisable by the Authority) of those Regulations, the Board may exercise that function itself only in the event that the NHS BSA is unable to do so for reasons other than a failure by the Board to co-operate in a reasonable manner with the NHS BSA.

32.2 This means that although it remains the responsibility of the Board to determine the correct amount of the payment, (subject to the specific arrangements for making the annual adjustments determined by the Secretary of State which are set out in paragraphs 18.12 or 21.12) it must be the NHS BSA that actually makes the payment to the contractor.

32.3 In practice, the Board will be responsible for loading payment data into the NHS BSA's computerised payment system, and this system will normally generate the amount of the payments to be made.

32.4 The NHS BSA has a responsibility (under entry 15 in column 3 of the Schedule to the Functions Regulations) for reporting to the Board evidence that it discovers in the course of carrying out its functions which it considers might be evidence of a breach of contract, an unlawful activity or an irregularity – or a matter which is otherwise unusual – but ultimate responsibility for ensuring that contractors are paid the correct amount rests with the Board. Indeed, the Board is responsible for any acts or omissions of the NHS BSA with regard to the payment functions that it has under the Functions Regulations, including the payment functions that the NHS BSA must perform on the Board's behalf (see regulation 2(4) (functions of the Board exercisable by the Authority) of the Functions Regulations).

32.5 Therefore, because the NHS BSA is effectively acting as the agent of the Board as regards the making of payments, the making of payments is referred to elsewhere in this SFE (see for example paragraph 32.7) as a function of the Board, even though the function is performed by the NHS BSA. As mentioned in the previous paragraph, this reflects the underlying legal liability, but in practice, references in this SFE to the Board making payments will need to be construed in accordance with the arrangements for making payments described in the preceding paragraphs of this Section.

32.6 However, where reference is made in this SFE to decisions with regard to the withholding of payments or the making of deductions (see for example the next paragraph), these will need to be decisions of the Board, although the NHS BSA will be putting the decision into effect on the Board's behalf.

### ***Overpayments and withheld amounts***

32.7 Without prejudice to the specific provisions elsewhere in this SFE relating to overpayments of particular payments, if the Board makes a payment to a contractor under its Agreement pursuant to this SFE and:

- (a) the contractor was not entitled to receive all or part thereof, whether because:
  - (i) it or a person employed or engaged by it did not meet the eligibility criteria for the payment, or
  - (ii) the payment was calculated incorrectly (including where a payment on account overestimates the amount that is to fall due);
- (b) the Board was entitled to withhold all or part of the payment because of a breach of a condition attached to the payment, but is unable to do so because the money has already been paid; or
- (c) the Board is entitled to repayment of all or part of the money paid,

the Board may recover the money paid by deducting an equivalent amount from any payment payable pursuant to this SFE (in instalments, where that is appropriate), and where no such deduction can be made, it is a condition of the payments made pursuant to this SFE that the contractor must pay to the Board that equivalent amount.

32.8 Where the Board is entitled pursuant to this SFE to withhold all or part of a payment because of a breach of a payment condition, and the Board does so or recovers the money by

deducting an equivalent amount from another payment in accordance with paragraph 32.7, it may, where it sees fit to do so, reimburse the contractor the amount withheld or recovered, if the breach is cured.

### ***Underpayments and late payments***

32.9 Without prejudice to the specific provisions elsewhere in this SFE relating to underpayments of particular payments, if the full amount of a payment that is payable pursuant to this SFE has not been paid before the date on which the payment falls due, then unless:

- (a) this is with the consent of the contractor; or
- (b) the amount of, or entitlement to, the payment, or any part thereof, is in dispute,

once it falls due, it must be paid promptly (see direction 8(1) of the Prototype Directions).

32.10 If the contractor's entitlement to the payment is not in dispute but the amount of the payment is in dispute, then once the payment falls due, pending the resolution of the dispute, the Board must:

- (a) pay to the contractor, promptly, an amount representing the amount that the Board accepts that the contractor is at least entitled to; and
- (b) thereafter pay any shortfall promptly, once the dispute is finally resolved.

32.11 However, if a contractor has:

- (a) not claimed a payment to which it would be entitled pursuant to this SFE if it claimed the payment; or
- (b) claimed a payment to which it is entitled pursuant to this SFE but the Board is unable to calculate the payment until after the payment is due to fall due because it does not have the information it needs in order to calculate that payment (all reasonable efforts to obtain the information having been undertaken),

that payment is (instead) to fall due on the contractor's Monthly Payment Date in the month after the month during which the Board obtains the information it needs in order to calculate the payment.

### ***Payments on account***

32.12 Where the Board and the contractor agree (but the Board's agreement may be withdrawn where it is reasonable to do so and if it has given the contractor reasonable notice thereof), the Board must pay to a contractor on account any amount that is:

- (a) the amount of, or a reasonable approximation of the amount of, a payment that is due to fall due pursuant to this SFE; or
- (b) an agreed percentage of the amount of, or a reasonable approximation of the amount of, a payment that is due to fall due pursuant to this SFE,

and if that payment results in an overpayment in respect of the payment, paragraph 32.7 applies.

### ***Time limitation for claiming payments***

32.13 Subject to paragraphs 32.14 and 32.15, contractors are only eligible for payments under this SFE if they are claimed within three months of the date on which they could first have fallen due.

32.14 Subject to paragraph 32.15, a contractor is only eligible to receive reimbursement in respect of non-domestic rates under Section 31:

- (a) where it is claiming a single payment of the full amount due as a reimbursement in respect of any financial year, if it makes a valid application within three months of the date in the Demand Notice on which the full amount of its non-domestic rates for that financial year falls due;
- (b) where it is claiming two payments, each of half the full amount due as a reimbursement in respect of any financial year, if in relation to each application for a payment it has made a valid application within three months of the date in its Demand Notice on which the corresponding six-monthly amount of its non-domestic rates for that financial year falls due; and
- (c) where it is claiming reimbursement of monthly instalments of non-domestic rates in monthly instalments, if it has made a valid application within three months of the date on which the first of the monthly instalments of non-domestic rates falls due.

32.15 The Board may waive the eligibility criteria in paragraphs 32.13 and 32.14 in any case where it considers it is reasonable in all the circumstances to do so.

### ***Payments to or in respect of suspended dentists whose suspension ceases***

32.16 If the suspension of a dental practitioner from the Dental Performers List ceases, and:

- (a) that dental practitioner enters into a Prototype Agreement, any payments that the dental practitioner received under a determination made under regulation 13(1) (payment during suspension) of the Performers Lists Regulations<sup>7</sup> may be set off, equitably, against the payments that the dental practitioner is entitled to receive under that dental practitioner's Prototype Agreement pursuant to this SFE; or
- (b) a contractor is entitled to any payments in respect of that dental practitioner pursuant to this SFE and a payment was made to the dental practitioner pursuant to a determination made under regulation 13(1) (payment during suspension) of the Performers Lists Regulations 2013<sup>8</sup> but the dental practitioner was not entitled to receive all or any part thereof, the amount to which the dental practitioner was not entitled may be set off, equitably, against the payments that the contractor is entitled to in respect of him pursuant to this SFE.

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<sup>7</sup> See copy of The Performance Lists (Suspended Dentists' NHS Earnings) Determination 2015 produced for reference at Annex C

<sup>8</sup> See copy of The Performance Lists (Suspended Dentists' NHS Earnings) Determination 2013 produced for reference at Annex C

### ***Effect on periodic payments on termination of a Prototype Agreement***

32.17 If a Prototype Agreement under which a periodic payment (generally, the monthly agreement payments) is payable pursuant to this SFE is terminated before the end of the period to which it relates, a proportion of that payment is to fall due on the last day on which the Prototype Agreement has effect. The amount of the periodic payment payable is to be adjusted by the fraction produced by dividing:

- (a) the number of days during the period to which the payment relates for which the Prototype Agreement has effect; by
- (b) the total number of days in that period.

32.18 This is without prejudice to any arrangements for the recovery of money paid under the Prototype Agreement that is recoverable as a result of the Prototype Agreement terminating or any breach thereof.

### ***Overpayment and termination of a Prototype Agreement***

32.19 If a Prototype Agreement is terminated before the end of the period to which it relates, under which a periodic payment (generally, the monthly agreement payments) is payable pursuant to this SFE, the Board shall perform a reconciliation of the payments made by the Board to the Contractor under the Prototype Agreement. The Board must serve the Contractor with written details of the reconciliation as soon as reasonably practicable, and in any event no later than four months after the termination of the Prototype Agreement, in respect of all outstanding payments due to the contractor from the Board and any patient charges due to be paid by the contractor to the Board.

32.20 Payments pursuant to this SFE and the reconciliation statement referred to in paragraph 32.19:

- (a) payable to the contractor by the Board must be paid in accordance with paragraphs 32.17(a) and (b) above in respect of the amount of periodic payment payable, and
- (b) that have been made to a contractor by the Board to which that contractor was not entitled may be recovered by the Board by deducting an equivalent amount from any payment payable pursuant to this SFE.

32.21 If after 2 months of the reconciliation statement being produced the contractor has not disputed the reconciliation statement, that reconciliation statement will be the amount either payable to the contractor or recoverable from the contractor, whether or not, if the reconciliation statement had been disputed, that would have led to an amended reconciliation.

32.22 Where payments pursuant to this SFE have been paid by the Board to the contractor and it is not possible for the Board to recover the money paid by deducting an equivalent amount from any payment payable pursuant to this SFE, the contractor must pay to the Board that equivalent amount in accordance with paragraph 32.7.

### ***Dispute resolution procedures***

32.23 Any dispute arising out of or in connection with this SFE between the Board and a contractor is to be resolved as a dispute arising out of or in connection with the contractor's Prototype Agreement, i.e. in accordance with the NHS dispute resolution procedures or by the courts (see Part 7 of Schedules 3 to the GDS Contracts Regulations).

32.24 The procedures require the contractor and the Board to make every reasonable effort to communicate and cooperate with each other with a view to resolving the dispute between themselves before referring it for determination.

### ***Information returns***

32.25 FP17s will have been submitted by contractors electronically.

### ***Annual Reconciliation Report***

32.26 The Board must, by no later than 31<sup>st</sup> August in each financial year, send the contractor an Annual Reconciliation Report, whether as part of the annual report and review required by paragraph 40 (annual report and review) of Schedule 3 to the GDS Contracts Regulations or otherwise, which must include (but not be limited to), in respect of the previous financial year:

- (a) the total value of the contractor's Prototype Agreement, net of:
  - (i) any payments in respect of parental or sickness leave or any Monthly Seniority Payments (these are payments that are pensionable but not included in the calculation of the Prototype Agreement's Pensionable Earnings Ceiling), and
  - (ii) any foundation trainee salary payments, foundation trainee national insurance reimbursement payments, or non-domestic rates reimbursement payments (these are payments that are neither pensionable nor included in the calculation of the Prototype Agreement's Pensionable Earnings Ceiling);
- (b) the total of the initial values of the contractor's Monthly APVPs;
- (c) the total value of the deductions made to Monthly APVPs paid to the contractor, which shall be specified in two parts—
  - (i) the total amount of the NHS charges deducted, and
  - (ii) the total amount of any other deductions made under the Prototype Agreement or pursuant to this SFE; and
- (d) the estimated Pensionable Earnings of each Dentist Performer who performed services under its Agreement, net of any Pensionable Earnings that are attributable to any Monthly Seniority Payment paid in respect of the Dentist Performer;
- (e) the value of the adjustments made for capitation where applicable;
- (f) the contractor's performance against the DQOF, including:
  - (i) the CAPS,
  - (ii) the QP(NP),
  - (iii) the FQP(P), and
  - (iv) the RP;
- (g) the:
  - (i) number of units of orthodontic activity the contractor:
    - (aa) was contracted to provide;

- (bb) actually provided, based on the data submitted to the Board by the contractor, in accordance with its GDS contract condition set by virtue of regulation 18 (units of orthodontic activity) of the GDS Contracts Regulations; and
- (cc) was contracted to provide but did not provide; and
- (ii) the payments that have been made for these units of orthodontic activity under the GDS SFE; and
- (h) the total of the initial values of the contractor's Monthly ASSPs.

32.27 The Annual Reconciliation Report will draw on an annual reconciliation statement relating to the payments made under the Prototype Agreement sent by the NHS BSA to the Board pursuant to entry (b) in column 3 that corresponds to entry 3 in column 1 of the Functions Regulations.

## **PART 10**

### **Termination of a Prototype Agreement**

#### **33. Exit from a Prototype Agreement**

33.1 This Section applies in a case where the Prototype Agreement terminates as a consequence of:

- (a) the Board gives notice of intention to withdraw from the Prototype Agreement pursuant to direction 10(2) of the Prototype Directions;
- (b) the contractor gives notice of intention to withdraw from the Prototype Agreement pursuant to direction 10(4) of the Prototype Directions; or
- (c) cessation of the Prototype Agreement Scheme pursuant to direction 11 of the Prototype Directions.

#### ***Adjustments to payments on returning to underlying GDS contract***

33.2 Whatever the reason for the termination of a prototype agreement, the Board will apply all the relevant financial adjustments described in Section 20 (annual payment adjustments for capitation, activity and performance) and Section 23 (annual payment adjustments for capitation, activity and performance). The adjustments will be made to a pro-rated value of the AAPV:

- (a) an adjustment for capitation and activity made on a *pro-rata* basis in respect of the contract value based on the CCP and CAP taken by the NHS BSA on the date of termination, and
- (b) an adjustment for performance against the DQOF for Blend A and Blend B Prototype Agreements made on a *pro-rata* basis in respect of the Prototype Agreement value and using the contractor's DQOF performance on the date of termination. This adjustment will be made in Month 15 in line with the similar adjustments being made to other Prototype Agreements to allow the calculation of the DQOF adjustments that relate to peer performance to be carried out.



33.3 If the termination for whatever reason takes effect other than on the first day of a month, for the purposes of payments, the value of its last Monthly APVP in respect of the last part-month of its Prototype Agreement is to be produced by dividing:

- (a) the number of days during the month for which the Prototype Agreement has effect for payment purposes; by
- (b) the total number of days in that month.

33.4 Where the termination for whatever reason takes effect at the end of the financial year then the value of the last Monthly APVP will be adjusted for capitation, activity and performance against the DQOF.

***Transfer of residual value of the Prototype Agreement***

33.5 On termination for whatever reason of the Prototype Agreement, the residual value of the contractor's AAPV which will transfer to its underlying GDS contract will be determined for the date on which the contractor transfers back into that underlying GDS contract. The AAPV must be divided by twelve with one twelfth of the AAPV transferring for each remaining month of the financial year.

33.6 If the termination for whatever reason of the Prototype Agreement takes effect for payment purposes other than on the first day of a month, the initial value of its Monthly APVPs in respect of the first part-month of the underlying GDS contract is to be produced by dividing:

- (a) the number of days during the month for which the Prototype Agreement has effect for payment purposes; by
- (b) the total number of days in that month.

***Activity requirement for the remainder of the financial year***

33.7 Following the termination for whatever reason of the Prototype Agreement, the activity, expressed in units of dental activity, expected from a contractor on transfer back to its underlying GDS contract must be calculated by dividing the contractor's previous agreed number of units of dental activity by twelve with one twelfth of the number of units of dental activity transferring for each remaining month of the financial year.

33.8 If the termination of the Prototype Agreement for whatever reason takes effect for the purposes of payment other than on the first day of a month, the initial value of the units of dental activity in respect of the first part-month of the contractor's underlying GDS contract is to be produced by dividing:

- (a) the number of days during the month for which the Prototype Agreement has effect for payment purposes; by
- (b) the total number of days in that month.

33.9 Following the termination of the Prototype Agreement for whatever reason, any under-delivered activity, expressed in units of dental activity, which was "stayed" by agreement (pursuant to paragraphs 18.8 and 21.8) between the contractor and the Board at the commencement of the Prototype Agreement will be added in full to the annual units of dental

activity required under the GDS contract for the remainder of the financial year in which the Prototype Agreement terminates. If the remainder of the financial year is 5 months or more the Board must, if it considers it reasonable to do so, require the contractor to deliver the activity within the financial year in which the Prototype Agreement terminates. If there is less than 5 calendar months remaining in the financial year in which the Prototype Agreement terminates, the Board must, if it considers it reasonable to do so, extend the period for delivery of the units of dental activity to the “normal” 60 day minimum period from the start of the following financial year (along with any other agreed carried forward units of dental activity for that year).

33.10 Paragraphs 33.3, 33.4, 33.5 and 33.6 are subject to any rights the Board may have to set off against an amount payable to the contractor an amount that:

- (a) is owed by the contractor to the Board under the Prototype Agreement,
  - (b) has been paid to the contractor owing to an error or in circumstances when it was not due, or
  - (c) may be withheld in accordance with direction 8(2)(c) of the Prototype Directions and the SFE,
- in accordance with direction 8 of the Prototype Directions.

# **CHAPTER THREE**

## **TERMS USED THROUGHOUT THIS SFE**

### **PART 11**

#### **Definitions**

#### 34. Glossary of Terms

##### *Acronyms*

34.1 The following acronyms are used in this document:

AARL	Adjusted Activity Remuneration Level
AAPV	Actual Annual Prototype Value (for all blends)
AAPVA	Actual Annual Prototype Value – Blend A
AAPVB	Actual Annual Prototype Value – Blend B
ACPT	Activity and Capitation Performance Tolerance
ACRL	Adjusted Capitation Remuneration Level
APVAP	Monthly Annual Prototype Value – Blend A Payments
APVBP	Monthly Annual Prototype Value – Blend B Payments
APVP	Monthly Annual Prototype Value Payments (for all blends)
ASSP	Annual Specified Services Payment
BPE	Basic Periodontal Examination
CAAML	Capitation and Activity Adjustment Minimum Level
CAAPV	Calculated Actual Annual Prototype Value – (for all blends)
CAAPVA	Calculated Actual Annual Prototype Value – Blend A
CAAPVB	Calculated Actual Annual Prototype Value – Blend B
CAP	Contractor’s Activity Performance
CAPS	Contractor’s Annual Performance Score
CARL	Combined Adjusted Remuneration Level
CCP	Contractor’s Capitated Population
CCSW	Contractor’s Contract Size Weighting
CECP	Contractor’s Expected Capitated Population
CEPS	Contractor’s Excess Performance Score
CF-LL	Carry Forward – Lower Limit
CF-UL	Carry Forward – Upper Limit
CPSP	Contractor’s Percentage Share of Peer Pool
CQC	Care Quality Commission
CRPPW	Contractor’s Residual Payment Pool Weighting
CRPPW(A)	Contractor’s Residual Payment Pool Weighting – A
CRPPW(B)	Contractor’s Residual Payment Pool Weighting – B
CRPPW(C)	Contractor’s Residual Payment Pool Weighting – C
CVCF(Y)	Contract Value Carried Forward – Current Year
CVCF(Y-1)	Contract Value Carried Forward – Previous Year
CWEPS	Contractor’s Weighted Excess Performance Score
DQOF	Dental Quality and Outcomes Framework
EMA	Expected Minimum Activity

FQP(P)	Final Quality Payment (Peer)
GDC	General Dental Council
ICARL	Initial Combined Adjusted Remuneration Level
LCAPS	Lowest Contractor's Annual Performance Score
MPAVC	Money Purchase Additional Voluntary Contributions
NAAV	Negotiated Annual Agreement Value
NACV	Negotiated Annual Contract Value
NAPV	Negotiated Annual Prototype Value (for all blends)
NAPVA	Negotiated Annual Prototype Value – Blend A
NAPVB	Negotiated Annual Prototype Value – Blend B
NARL	Notional Activity Remuneration Level
NCRL	Notional Capitation Remuneration Level
NHS BSA	NHS Business Services Authority
NPQP	National Peer Quality Pool
NWEPP	National Weighted Excess Performance Points
OCAPL	Overall Capitation and Activity Performance Level
OHA	Oral Health Assessment
OHR	Oral Health Review
PAA	Percentage of Activity Achieved
PAAPVA	Pro-rated Actual Annual Prototype Value – Blend A
PAAPVA-A	Pro-rated Actual Annual Prototype Value – Blend A – Activity Element
PAAPVA-C	Pro-rated Actual Annual Prototype Value – Blend A – Capitation Element
PAAPVB	Pro-rated Actual Annual Prototype Value – Blend B
PAAPVB-A	Pro-rated Actual Annual Prototype Value – Blend B – Activity Element
PAAPVB-C	Pro-rated Actual Annual Prototype Value – Blend B – Capitation Element
PCA	Percentage of Capitation Achieved
POL	Payments On-Line
PQRL	Pre-Quality Remuneration Level
PRP	Potential Residual Payment
PRP(A)	Potential Residual Payment – A
PRP(B)	Potential Residual Payment – B
PRP(C)	Potential Residual Payment – C
QP(NP)	Quality Payment (Non-Peer)
QP(P)	Quality Payment (Peer)
QP(P)R	Quality Payment (Peer) Residual
RAG	Red Amber Green
RMTP	Reconciliation Month 12 Payment – (for all blends)
RMTPA	Reconciliation Month 12 Payment – Blend A
RMTPB	Reconciliation Month 12 Payment – Blend B
RP	Residual Payment
RPP	Residual Payment Pool
RPP(A)	Residual Payment Pool–A
RPP(B)	Residual Payment Pool–B
RPP(C)	Residual Payment Pool–C
SFE	Statement of Financial Entitlement
UDAV	UDA Value

## ***Definitions***

34.2 Unless the context otherwise requires, words and expressions used in this SFE and the GDS Contracts Regulations, the PDS Agreements Regulations and the Prototype Directions bear the meaning they bear in the GDS Contracts Regulations, the PDS Agreements Regulations and the Prototype Directions.

34.3 The following words and expressions used in this SFE have, unless the context otherwise requires, the meanings ascribed below:

“The 1977 Act” means the National Health Service Act 1977.<sup>9</sup>

“The 2006 Act” means the National Health Service Act 2006.<sup>10</sup>

“Annual Reconciliation Report” is to be construed in accordance with paragraph 16.26 and 32.26.

“Baseline year” is the earliest financial year prior to the contractor joining the Capitation and Quality Scheme, the Capitation and Quality Scheme 2 or the Prototype Agreement Scheme.

“Billing Authority” has the same meaning as in Schedule 9 to the Local Government Finance Act 1988 (generally, district councils and London Borough Councils).

“the Board” means the National Health Service Commissioning Board<sup>11</sup>.

“a capitated patient” means a patient that, on any day (“the relevant day”) has been provided with a banded course of treatment by a contractor (C1) within a period of three years immediately preceding that day, provided that:

- (a) the banded course of treatment has not been provided by a foundation trainee;
- (b) the patient has not been referred to the contractor (C1) for the banded course of treatment by another primary dental services contractor; and
- (c) the patient was not subsequently provided with a banded course of treatment before the relevant day by another primary dental services contractor (C2), apart from where a patient was referred to C2 by C1 for that banded course of treatment,

and for the purposes of this definition a banded course of treatment does not include the provision of an urgent course of treatment.

“Capitation and Quality Scheme 2 Agreement” means an Agreement which formed a temporary part of a GDS agreement or PDS Agreement and which was entered into as part of the Capitation and Quality Scheme 2 introduced by the Secretary of State on 1st April 2013,

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<sup>9</sup> 1977 c.49.

<sup>10</sup> 2006 c.41.

<sup>11</sup> The National Health Service Commissioning Board was established by section 1H of the 2006 Act. Section 1H was inserted by section 9(1) of the Health and Social Care Act 2012 Act (c.7).

and in accordance with the National Health Service (Dental Services) (Capitation and Quality Scheme 2 Agreements) Directions 2013(12);

“Capitation and Quality Scheme 2” means the scheme of that name, introduced by the Secretary of State on 1st April 2013, following the termination of the Capitation and Quality Scheme on 31st March 2011, that the Secretary of State has developed to assist in continuing to promote and secure improvement in the provision of dental services in accordance with the Act;

“Care pathway” means the overarching plan (developing over time) of the continuing primary dental services to be provided to the patient, over the time immediately following the patient’s oral health assessments or oral health reviews, which includes:

- (a) the treatment interventions proposed for a patient and advice in relation to those interventions, which will include proposals for any interim care required, and the provision of an interim care plan;
- (b) advice in relation to oral health promotion and the prevention of oral disease relevant to that patient; and
- (c) the completion of a self-care plan specific to that patient, which includes:
  - (i) a plan of treatment interventions,
  - (ii) risk assessment in relation to oral health,
  - (iii) appropriate preventative advice,
  - (iv) a plan of self-care measures proposed for that patient including specified actions to be undertaken by the patient,
  - (v) referral to other services where necessary, and
  - (vi) the date of the next oral health review,which is provided to that patient for the purposes of improving and maintaining that patient’s oral health and reducing that patient’s risk level where necessary.

“Commencing a course of treatment” occurs on the acceptance date on the FP17 that was raised for that treatment.

“Confinement” means the birth of a living child, or the birth of a child, whether living or not, after 24 weeks of pregnancy.

“Contractor” means a person, other than the Board, who is a party to a Prototype Agreement.

“Demand Notice” means the notice served by the Billing Authority stating, in accordance with regulations under paragraph 2(2)(g) of Schedule 9 to the Local Government Finance Act 1988, the payment by way of Non-Domestic Rates that a Non-Domestic Ratepayer is required to make in respect of a financial year.

“Dental List” means the Dental Performers List.

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(12) The National Health Service (Dental Services) (Capitation and Quality Scheme Agreements) Directions 2013 signed on 13th March 2013. A hard copy of this document can be obtained by writing to Dental and Eye Care Services, Policy and Legislation Unit, NHS Group, Room 201 Richmond House, 79 Whitehall, London, SW1A 2NS.

“Dental Performers List” means the list prepared, maintained and published by the Board pursuant to regulation 3(1)(b) of the Performers Lists Regulations.

“Dental practitioner”, in the context of superannuation contributions under the NHS Pension Scheme 2015, has the meaning given in paragraph 7 of Schedule 5 to the NHS Pension Scheme Regulations 2015.

“Dentist” means a person registered in the dentists register under the Dentists Act 1984.

“Dentist Performer” means a dental practitioner:

- (a) whose name is included in the Dental Performers List;
- (b) who performs dental services under a Prototype Agreement; and
- (c) who is employed or engaged by a contractor.

“domain” means one of four categories of clinical disease status, which are –

- (a) caries;
- (b) periodontal disease;
- (c) non-carious tooth surface loss (erosion, attrition and abrasion); and
- (d) soft tissue conditions.

“Employed or engaged” is to be construed in accordance with paragraph 1.5.

“Employing Authority” has the same meaning as in the NHS Pension Scheme Regulations 1995, the NHS Pension Scheme Regulations 2008 and the NHS Pension Scheme Regulations 2015.

“Expected date of confinement” means the date on which the birth of a child is expected.

“Expected week of confinement” means the week in which the birth of a child is expected.

“Financial year” means a period of 12 months ending with 31<sup>st</sup> March in any year.

“Foundation Trainee” means a dental practitioner who is employed by a contractor as a Foundation Trainee as a consequence of a placement arrangement made by the local Postgraduate Dental Dean or Director of Postgraduate Dental Education.

“Foundation Trainer” means a Dentist Performer:

- (a) who is employed or engaged by a contractor; and
- (b) whose application to act as a Foundation Trainer in a foundation training scheme for general dental practice has been approved by a selection committee established by a postgraduate dental dean or director of postgraduate dental education, and who remains an approved person by such a committee.

“Functions Regulations” means 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.<sup>13</sup>

“GDS contract” means a general dental services contract.

“GDS Contract Holder” means a person who has entered into a GDS contract with the Board.

“GDS Contracts Regulations” means the National Health Service (General Dental Services Contracts) Regulations 2005.<sup>14</sup>

“GDS SFE 2013” means the directions given under section 103 of the 2006 Act in respect of GDS contracts.<sup>15</sup>

“Hereditament” shall be construed in accordance with paragraph 15.2(a) and paragraph 31.2(a).

“Interim care plan” means the plan of the additional advice and preventative treatment proposed at a patient’s oral health assessment or oral health review which is recorded on a patient’s treatment plan, which includes:

- (a) proposals of any preventative treatment to be provided;
- (b) proposals for instruction on techniques and practices required in relation to the promotion of oral health; and
- (c) proposals in respect of advice in relation to diet, hygiene, personal habits and oral health in order to prevent dental and oral disease.

“Money Purchase Additional Voluntary Contributions” means contributions to a Money Purchase Additional Voluntary Contributions Provider in respect of what, for the purposes of the National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2002, is a free-standing additional voluntary contributions scheme.

“Money Purchase Additional Voluntary Contributions Provider” means an insurance company providing what, for the purposes of the National Health Service (Additional Voluntary Contributions) Regulations 2000, is a free-standing additional voluntary contributions scheme.

“Month 12” means the last month of the financial year, which is March.

“Month 15”, in respect of any financial year, is the June of the following financial year when the calculations are carried out. The actual payment may actually be made in July depending on the scheduling of payments.

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<sup>13</sup> S.I. 2013/469.

<sup>14</sup> S.I. 2005/3361, as amended by S.I. 2006/563, 2007/544, 2008/528, 1514, and 1700, 2009/309 and 462, 2010/22 and 1181, 2011/1182, 2012/502, 2273 and 2404, 2013/235 and 364, 2014/443 and 1887 and 2015/137 and 416.

<sup>15</sup> The General Dental Services Statement of Financial Entitlements 2013 signed on 28th March 2013 is amended by the Primary Dental Services Statements of Financial Entitlement (Amendment) Directions 2014 signed on 16th April 2014 and the Primary Dental Services Statements of Financial Entitlement (Amendment) Directions 2015 signed on 30th July 2014. All of the aforementioned documents are published on [www.gov.uk](http://www.gov.uk). Hard copies of these documents can be obtained by writing to Dental and Eye Care Services, Policy and Legislation Unit, NHS Group, Room 201 Richmond House, 79 Whitehall, London, SW1A 2NS.



“Monthly Payment Date” shall be construed in accordance with paragraph 3.17, 6.17, 19.17, and 22.17.

“Monthly Payment Schedule” shall be construed in accordance with paragraph 3.20, 6.20, 19.20 and 22.20.

“Monthly Seniority Payment” is a payment under Section 11 or Section 27.

“Net monthly Pensionable Earnings” means a Dentist Performer’s monthly Pensionable Earnings (i.e. one twelfth of his Pensionable Earnings for the financial year into which the month falls), net of any Pensionable Earnings that are attributable to any Monthly Seniority Payment.

“NHS Business Services Authority” means the NHS Business Services Authority established by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005.<sup>16</sup>

“NHS charge” means a charge made to the patient for provision of services pursuant to the NHS Charges Regulations.

“NHS Charges Regulations” means the National Health Service (Dental Charges) Regulations 2005.<sup>17</sup>

“NHS Pension Scheme” means the pension scheme continued under the NHS Pension Scheme Regulations 1995 and 2008.

“NHS Pension Scheme 2015” means the pension scheme implemented by the NHS Pension Scheme Regulation 2015.

“NHS Pensions Scheme Regulations 1995” means the National Health Service Pension Schemes Regulations 1995.<sup>18</sup>

“NHS Pensions Scheme Regulations 2008” means the National Health Service Pension Scheme Regulations 2008.<sup>19</sup>

“NHS Pension Scheme Regulations 2015” means the National Health Service Pension Scheme Regulations 2015.<sup>20</sup>

“Non-Domestic Ratepayer” means the person who is liable under section 43 of the Local Government Finance Act 1988 to pay an amount in respect of Non-Domestic Rates.

“Non-Domestic Rates” means the non-domestic rates payable under Part III of the Local Government Finance Act 1988.

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<sup>16</sup> S.I. 2005/2414 as amended by S.I. 2006/632 and S.I. 2007/1201.

<sup>17</sup> S.I. 2005/3477 as amended by S.I. 2006/1837, 2007/544, 2008/547, 2009/407, 2011/519, 2013/364 and 711, 2014/433 and 547 and 2015/417.

<sup>18</sup> S.I. 1995/300 as amended.

<sup>19</sup> S.I. 2008/563 as amended.

<sup>20</sup> S.I. 2015/94.

“Oral health assessment” means the initial examination at which a comprehensive and standardised assessment of a patient’s oral health and individual risk factors relating to oral health is carried out when that patient first visits a practice participating in the Prototype Agreement Scheme which includes:

- (a) clinical assessment of that patient; and
- (b) a review of that patient’s medical history and clinically relevant social history, where relevant to a patient’s oral health,

during which the provider of services and the patient agree a self-care plan and a care pathway incorporating advice, actions to be undertaken by the patient and treatment for that patient that is appropriate to that patient’s need.

“Oral health review” means the examination undertaken for the purposes of updating the patient’s current oral health assessment, which is scheduled according to the patient’s need and risk, at which the patient’s care pathway is reviewed and agreed with the patient.

“Oral health status” means the risk status, specified as red, amber or green, which is assigned to the patient for each of the four domains following the oral health assessment and reviewed at each oral health review.

“Parental Leave Pay Period” is to be construed in accordance with paragraph 13.8 and paragraph 29.8.

“Partner”, in the context of a personal relationship (as opposed to a partner to a partnership agreement), means a member of a couple who are living as husband and wife or as civil partners, or who are living in like family arrangements.

“Paternity leave payment” includes payment for adoption leave for an adoptive parent who is not the main care provider.

“Patient Charges Revenue” means the payments collected by a contractor from patients for charges made and recovered in respect of the provision of primary dental services provided under a Prototype Agreement pursuant to the NHS Charges Regulations.

“Patient days” means the total number of days for which a contractor’s patients entitle him to a capitation payment during the stated period.

“Payments On-Line” is the NHS BSA’s computerised system for making payments to dentists on behalf of the Board.

“PDS agreement” is an agreement within the meaning of section 107 of the 2006 Act (arrangements by the Board for the provision of primary dental services).

“PDS Agreement Holder” means a person who is a party to a PDS agreement.

“PDS Agreements Regulations” means the National Health Service (Personal Dental Services Agreements) Regulations 2005.<sup>21</sup>

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<sup>21</sup> S.I. 2005/3373 as amended by S.I. 2006/563, 2007/544, 2008/528 and 1514, 2009/309 and 462, 2010/22 and 1181, 2011/1182, 2012/502, 2273 and 2404, 2013/235 and 364, 2014/443 and 1887 and 2015/137 and 416.

“PDS SFE 2013” means the directions given under section 109(4) of the 2006 Act in respect of PDS agreements.<sup>22</sup>

“Pensionable Earnings” means the earnings derived from a Capitation and Quality Scheme Agreement, a Prototype Agreement, a PDS agreement or a GDS contract which are treated as the pensionable earnings of a Dentist Performer under the NHS Pension Scheme Regulations 1995, the NHS Pension Scheme Regulations 2008 and the NHS Pension Scheme Regulations 2015.

“Pensionable Earnings Ceiling” has the meaning given in paragraph 1 of Schedule 2 to the NHS Pension Scheme Regulations 1995 (medical and dental practitioners – additional definitions), in regulation 3.A.1 of the NHS Pension Scheme Regulations 2008 (interpretation of Part 3; general) and in paragraph 3(3) of Schedule 10 to the NHS Pension Scheme Regulations 2015 (dental practitioner).

“Performers Lists Regulations” means the National Health Service (Performers Lists) (England) Regulations 2013.<sup>23</sup>

“Period of sickness” means a period beginning with the date on which a Dentist Performer ceases to provide dental services under the Prototype Agreement because of sickness and ending with the date on which that Dentist Performer is once again available to provide dental services under the Prototype Agreement.

"Postgraduate dental dean or director of postgraduate dental education" means a dental practitioner appointed to that position by Health Education England to assist in the provision of a suitable learning environment for dental practitioners performing primary dental services to meet the requirements and standards of the General Dental Council, the Dental Faculties of the Royal College of Surgeons of England, and the Department of Health.

“a Prototype Agreement ” means a GDS contract or a PDS agreement temporarily varied as part of the Prototype Agreement Scheme which contain:

- (a) the terms and conditions required under the Prototype Directions; and
- (b) the terms and conditions for such contractors required under the GDS Contracts Regulations and the PDS Agreement Regulations.

“Prototype Agreement Holder” means a person who is a party to a Prototype Agreement.

“ Prototype Agreement Scheme” means the Scheme of that name, introduced by the Secretary of State on 1st November 2015 that the Secretary of State has developed to assist in continuing to promote and secure improvement in the provision of dental services in accordance with the Act;

“the Prototype Directions” means the National Health Service (Dental Services) (Prototype Agreements) Directions 2015.<sup>24</sup>

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22 The Personal Dental Services Statement of Financial Entitlement 2013 signed on 28th March 2009 is amended by the Primary Dental Services Statements of Financial Entitlement (Amendment) Directions 2014 signed on 16th April 2014 and the Primary Dental Services Statements of Financial Entitlement (Amendment) Directions 2015 signed on 30th July 2014. All of the aforementioned documents are published on [www.gov.uk](http://www.gov.uk). Hard copies of these documents can be obtained by writing to Dental and Eye Care Services, Policy and Legislation Unit, NHS Group, Room 201 Richmond House, 79 Whitehall, London, SW1A 2NS.

23 S.I. 2013/335.

“SDR” means the Statement of Dental Remuneration under regulation 19(3) of the National Health Service (General Dental Services) Regulations 1992, as it had effect on 31<sup>st</sup> March 2006.

“Type 1 dental practitioner” has the meaning given in regulation A2 of the NHS Pension Scheme Regulations 1995 (interpretation) and in regulation 3.A.1 (interpretation) of Part 3: general) of the NHS Pension Scheme Regulations 2013.

“Type 2 dental practitioner” has the meaning given in regulation A2 of the NHS Pension Scheme Regulations 1995 (interpretation) and in regulation 3.A.1 (interpretation) of Part 3: general) of the NHS Pension Scheme Regulations 2013.

“Underlying agreement” means the PDS agreement held by a contractor immediately prior to entering a Prototype Agreement (or into a precursor Capitation and Quality Scheme Agreement or a Capitation and Quality Scheme 2 Agreement).

“Underlying contract” means the GDS contract held by a contractor immediately prior to entering a Prototype Agreement (or into a precursor Capitation and Quality Scheme Agreement or a Capitation and Quality Scheme 2 Agreement).

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24 The National Health Service (Dental Services)(Prototype Agreements) Directions 2015 signed on 23rd September 2015 published on [www.gov.uk](http://www.gov.uk). A hard copy of this document can be obtained by writing to Dental and Eye Care Services, Policy and Legislation Unit, NHS Group, Room 201 Richmond House, 79 Whitehall, London, SW1A 2NS.

# ANNEX A

## DENTAL QUALITY AND OUTCOMES FRAMEWORK

### A.1. Introduction

A.1.1 The Dental Quality and Outcomes Framework (DQOF) was revised with effect from 1st April 2014, and this revised version will apply to the Prototype Agreement Scheme for 2015-16. Further background on the development of the DQOF and its purpose can be found in the document entitled “Dental Quality and Outcomes Framework (DQOF)” that was published on the Department of Health website on 4th May 2011, now available on [www.gov.uk](http://www.gov.uk).

A.1.2 The maximum amount of points available to be achieved in the DQOF by a contractor is 1,000.

A.1.3 The DQOF consists of four domains:

- (a) Clinical effectiveness;
- (b) Patient experience;
- (c) Patient safety; and
- (d) Data quality.

### A.2. Clinical effectiveness

A.2.1 A key component of all Prototype Agreements will be the implementation of the oral health assessment and a pathway approach to care, supported by evidence-based clinical guidelines where available. All Prototype Agreements will use the Oral Health Assessment (OHA). The OHA is a standardised, comprehensive assessment of a patient’s oral health status in which standardised information is collected using the clinical software to support decisions about prevention, treatment and recall frequency. It involves taking a full patient history and carrying out a thorough dental and head and neck examination including:

- (a) tooth charting;
- (b) assessment of caries, erosion and dental decay;
- (c) assessment of periodontal disease;
- (d) assessment of tooth service loss;
- (e) assessment of soft tissue condition;
- (f) the patient’s medical history; and
- (g) the clinically relevant aspects of the patient’s social history.

A.2.2 A contractor will carry out an OHA when a patient first visits a practice. The OHA is to be updated at Oral Health Review (OHR). The interval between the OHA and OHR is dependent on the clinical need. The clinical software will set the recall based on oral health status but this can be overridden by the dentist if there are clinical reasons to do so. Contractors must follow the clinical and software guidance that will be provided.

A.2.3 The clinical effectiveness outcome indicators included in the DQOF are based on the clinical elements of the standardised OHA and the associated process of determining the

patient's oral health status. The oral health status can be described using a Red, Amber, Green (RAG) methodology. This is discussed between dentist and patient who then agree a personalised care plan which is recorded on the self-care plan provided to the patient and a defined care pathway. It enables an assessment of the patient's current status and patient modifying factors to determine risk of future disease, and must be refreshed at each review. It can also provide an assessment of need across a practice population.

A.2.4 The aim of this domain of the DQOF is to measure the maintenance or improvement of oral health with respect to caries and periodontal health. The risk screening process incorporates both clinical and patient modifying factors. For the purposes of the outcome measures, only the clinical factors are measured and evaluated.

### ***Clinical effectiveness indicators***

A.2.5 The following clinical effectiveness indicators are derived from the clinical elements of the assessment/review based on the standardised OHA and OHR and the associated process of determining the patient's oral health status. The indicator information will be captured at review, and achievement of the indicator is based on either maintaining or improving a patient's condition between consecutive oral health assessments/reviews (OHA/OHRs) at the practice.

Ref	Indicator	Points available
OI.01	Decayed teeth (dt) for patients aged under 6 years old – improved or maintained	125
OI.02	Decayed teeth (DT) for patients aged 6 years old to 18 years old – improved or maintained	125
OI.03	Decayed teeth (DT) for patients aged 19 years old and over – improved or maintained	125
OI.04	Basic periodontal examination (BPE) score for patients aged 19 years old and over – improved or maintained	75
OI.05	Number of sextant bleeding sites for patients aged 19 years old and over – improved or maintained	50

#### A.2.6 Clinical Effectiveness Outcome Indicator OI.01

##### **Definition**

Percentage of patients aged under 6 years old whose number of deciduous teeth with established caries is maintained or reduced between consecutive OHA/OHRs.

Denominator is all OHA/OHR pairs with age group derived from age at the first OHA/OHR and the second OHR occurring in the financial year.

Numerator is number of OHA/OHR pairs where the number of deciduous teeth with established caries on any surface recorded in the second OHR is the same or less than the number of deciduous teeth with established caries on any surface recorded in the first OHA/OHR.

Age Range: Patients aged under 6 years old

Exclusions: None

### **Achievement threshold**

< 75% = 0 points  
> 75% = 125 points

The achievement threshold allows for both the impact of patients and carers on attaining required outcomes and the susceptibility of individual patients.

### **Rationale**

Dental caries is preventable and at early stages reversible. This indicator will monitor the primary dental care team's adoption of evidenced informed preventative advice and intervention and their impact on oral health.

### **Evidence**

Delivering Better Oral Health (DBOH), evidence based prevention. Selected Cochrane reviews;

Marinho VC, Higgins JP, Sheiham A, Logan S. 2003. Fluoride toothpastes for preventing dental caries in children and adolescents. Cochrane Database of Systematic Reviews. Issue 2. Art. no: CD002278 DOI: 10.1002/14651858.

Marinho VCC, Higgins JPT, Logan S, Sheiham A. 2007. Fluoride varnishes for preventing dental caries in children and adolescents. Cochrane Database of Systematic Reviews. Issue 2. Art. no: CD002279. DOI: 10.1002/14651858.

NHS Dental Epidemiology programme survey of 5 year olds in 2007/08 reports that 69% of 5 year olds are caries free.

#### A.2.7 Clinical Effectiveness Outcome Indicator OI.02

### **Definition**

Percentage of patients aged 6 to 18 years old whose number of permanent teeth with established caries is maintained or reduced between consecutive OHA/OHRs.

Denominator is all OHA/OHR pairs with age group derived from age at the first OHA/OHR and the second OHR occurring in the financial year.

Numerator is number of OHA/OHR pairs where the number of permanent teeth with established caries on any surface recorded in the second OHR is the same or less than the number of permanent teeth with established caries on any surface recorded in the first OHA/OHR.

Age Range: Patients aged 6 to 18 years old

Exclusions: None

### **Achievement threshold**

< 75% = 0 points

> 75% = 125 points

The achievement threshold allows for both the impact of patients and carers on attaining required outcomes and the susceptibility of individual patients.

### **Rationale**

Dental caries is preventable and at early stages reversible. This indicator will monitor the primary dental care team's adoption of evidenced informed preventative advice and intervention and their impact on oral health.

### **Evidence**

Delivering Better Oral Health (DBOH), evidenced based prevention toolkit. Selected Cochrane references; as above and

Ahovuo-Saloranta A, Hiiri A, Nordblad A, Worthington H, Mäkelä M. 2007. Pit and fissure sealants for preventing dental decay in the permanent teeth of children and adolescents. Cochrane Database of Systematic Reviews. Issue 2. Art. no: CD001830. DOI: 10.1002/14651858 CD001830 pub 2

Marinho VCC, Higgins JPT, Logan S, Sheiham A. 2007. Fluoride mouthrinses for preventing dental caries in children and adolescents. Cochrane Database of Systematic Reviews. Issue 2. Art. no: CD002284. DOI: 10.1002/14651858.

NHS Dental Epidemiology programme survey of 12 year old children 2008/09 found 66.7% of 12 year olds with no caries experience.

## A.2.8 Clinical Effectiveness Outcome Indicator OI.03

### **Definition**

Percentage of patients aged 19 years old and over whose number of permanent teeth with established caries is maintained or reduced between consecutive OHA/OHRs.

Denominator is all OHA/OHR pairs with age group derived from age at the first OHA/OHR and the second OHR occurring in the financial year.

Numerator is number of OHA/OHR pairs where the number of permanent teeth with established caries on any surface recorded in the second OHR is the same or less than the number of permanent teeth with established caries on any surface recorded in the first OHA/OHR.

Age Range: Patients aged 19 years old and older

Exclusions: Edentate patients

### **Achievement threshold**

< 75% = 0 points

> 75% = 125 points



The achievement threshold allows for both the impact of patients and carers on attaining required outcomes and the susceptibility of individual patients.

### **Rationale**

Dental caries is preventable and at early stages reversible. This indicator will monitor the primary dental care team's adoption of evidenced informed preventative advice and intervention and their impact on oral health.

### **Evidence**

Delivering Better Oral Health (DBOH), evidence based prevention toolkit;

Baysan A, Lynch E, Ellwood R et al. 2001. Reversal of primary root caries using dentifrices containing 5,000 and 1,100 ppm fluoride. *Caries Res.* 35: 41–46.

Adult Dental Health survey 2009 reports that 72% of adults in England had no visible coronal caries.

## A.2.9 Clinical Effectiveness Outcome Indicator OI.04

### **Definition**

Percentage of patients aged 19 years old and over whose periodontal condition (measured using the Basic Periodontal Examination (BPE) score) is maintained or improved between consecutive OHA/OHRs.

Denominator is all OHA/OHR pairs with age group derived from age at the first OHA/OHR and the second OHR occurring in the financial year.

Numerator is number of OHA/OHR pairs where the maximum BPE score recorded in the second OHR is the same or less than the maximum BPE score recorded in the first OHA/OHR. Any changes in the maximum BPE score from 0 to 1 will be treated as no change i.e. included in the numerator.

Age Range: Patients aged 19 years old and older

Exclusions: Edentate patients

### **Achievement threshold**

< 75% = 0 points

> 75% = 75 points

The achievement threshold allows for both the impact of patients and carers on attaining required outcomes and the susceptibility of individual patients. The threshold also takes into consideration that periodontal disease is not always reversible.

### **Rationale**

With early identification of a periodontal condition practitioners can improve and maintain BPE status. This will monitor the primary dental care team's adoption of the BPE and evidenced informed preventative advice and intervention.

## **Evidence**

Delivering Better Oral Health (DBOH) evidence based prevention toolkit;

Guidelines for the management of patients with periodontal diseases. *J Periodontol.* 727: 1607–1611.

Nunn ME. 2003. Understanding the etiology of periodontitis: an overview of periodontal risk factors. *Periodontology.* 32: 11–23.

Albandar JM. 2002. Global risk factors and risk indicators for periodontal diseases. *Periodontology.* 29: 177–206.

Davies RM, Davies GM. 2005. Periodontal disease and general health. *Dent Update.* 32: 438–442.

Van der Weijden GA, Hioe KP. 2005. A systematic review of the effectiveness of self-performed mechanical plaque removal in adults with gingivitis using a manual toothbrush. *J Clin Periodontol.* 32(Suppl 6): 214–228.

### A.2.10 Clinical Effectiveness Outcome Indicator OI.05

#### **Definition**

Percentage of patients aged 19 years old and over whose number of sextant bleeding sites have been maintained or reduced between consecutive OHA/OHRs.

Denominator is all OHA/OHR pairs with age group derived from age at the first OHA/OHR and the second OHR occurring in the financial year and where the patient had a minimum BPE score of 2 recorded for at least one sextant in the first OHA/OHR.

Numerator is number of OHA/OHR pairs where the number of sextants with bleeding recorded in the second OHR is the same or less than the number of sextants with bleeding recorded in the first OHA/OHR.

Age Range: Patients aged 19 years old and older

Exclusions: Edentate patients

#### **Achievement threshold**

< 50% = 0 points

> 50% = 50 points

The achievement threshold allows for both the impact of patients and carers on attaining required outcomes and the susceptibility of individual patients. The threshold also takes into consideration that periodontal disease is not always reversible.

### **Rationale**

With early identification of a periodontal condition and monitoring of sextant bleeding, practitioners can improve and maintain levels of gingival bleeding. This will monitor the primary dental care team's adoption of the BPE and evidenced informed preventative advice and intervention.

### **Evidence**

Delivering Better Oral Health (DBOH) evidenced based prevention toolkit;

Baker P, Needleman I, 2010. Risk management in clinical practice. Part 10. Periodontology. British Dental Journal, vol 209 no 11 557-565.

### ***Weighting given to clinical effectiveness***

A.2.11 The maximum amount of points available to be achieved in the Clinical Effectiveness domain of the DQOF by a contractor is 500.

## **A.3. Patient experience**

A.3.1 Patient experience indicators are a fundamental part of performance frameworks in healthcare and are important for delivery of a patient-centred service. The indicators are needed to help ensure that the service delivered is in line with patient expectations and that the outcomes are in line with what patients want and need.

A.3.2 The surveys to assess performance against the patient experience indicators will be conducted by NHS BSA using their existing survey methodology but using a larger sample size for the Prototype Agreement practices.

### ***Patient experience indicators***

A.3.3 The following patient experience indicators are to be used.

Ref	Indicator	Points available
PE.01	Patients reporting that they are able to speak & eat comfortably	30
PE.02	Patients satisfied with the cleanliness of the dental practice	30
PE.03	Patients satisfied with the helpfulness of practice staff	30
PE.04	Patients reporting that they felt sufficiently involved in decisions about their care	50
PE.05	Patients who would recommend the dental practice to a friend	100
PE.06	Patients reporting satisfaction with NHS dentistry received	50
PE.07	Patients satisfied with the time to get an appointment	10

A.3.4 Patient Experience Indicator PE.01

### **Definition**

Percentage of patients who respond positively to survey question "Are you able to speak and eat comfortably?"

Result is based on all surveys returned relating to FP17s processed by NHS Dental Services within the financial year.

Numerator is number of survey responses where the answer is “Yes”. Denominator is total number of survey responses - “Yes” or “No”.

**Achievement threshold**

- < 75% = 0 points
- > 75% & < 85% = 15 points
- > 85% = 30 points

A.3.5 Patient Experience Indicator PE.02

**Definition**

Percentage of patients who respond positively to survey question “How satisfied were you with the cleanliness of the practice?”

Result is based on all surveys returned relating to FP17s processed by NHS Dental Services within the financial year.

Numerator is number of survey responses where the answer is either “Very satisfied” or “Quite satisfied”. Denominator is total number of survey responses - “Very satisfied”, “Quite satisfied”, “Quite unsatisfied” or “Very unsatisfied”.

**Achievement threshold**

- < 90% = 0 points
- > 90% & < 95% = 15 points
- > 95% = 30 points

A.3.6 Patient Experience Indicator PE.03

**Definition**

Percentage of patients who respond positively to survey question “How helpful were the staff at the practice?”

Result is based on all surveys returned relating to FP17s processed by NHS Dental Services within the financial year.

Numerator is number of survey responses where the answer is either “Very helpful” or “Quite helpful”. Denominator is total number of survey responses - “Very helpful”, “Quite helpful”, “Quite unhelpful” or “Very unhelpful”.

**Achievement threshold**

- < 90% = 0 points
- > 90% & < 95% = 15 points
- > 95% = 30 points

### A.3.7 Patient Experience Indicator PE.04

#### **Definition**

Percentage of patients who respond positively to survey question “Did you feel sufficiently involved in decisions about your care?”

Result is based on all surveys returned relating to FP17s processed by NHS Dental Services within the financial year.

Numerator is number of survey responses where the answer is “Yes”. Denominator is total number of survey responses - “Yes” or “No”.

#### **Achievement threshold**

< 85% = 0 points

> 85% & < 90% = 25 points

> 90% = 50 points

### A.3.8 Patient Experience Indicator PE.05

#### **Definition**

Percentage of patients who respond positively to survey question “Would you recommend this practice to a friend?”

Result is based on all surveys returned relating to FP17s processed by NHS Dental Services within the financial year.

Numerator is number of survey responses where the answer is “Yes”. Denominator is total number of survey responses where the answer is either “Yes” or “No”.

#### **Achievement threshold**

< 90% = 0 points

> 90% & < 95% = 50 points

> 95% = 100 points

### A.3.9 Patient Experience Indicator PE.06

#### **Definition**

Percentage of patients who respond positively to survey question “How satisfied are you with the NHS dentistry received?”

Result is based on all surveys returned relating to FP17s processed by NHS Dental Services within the financial year.

Numerator is number of survey responses where the answer is either “Very satisfied” or “Quite satisfied”. Denominator is total number of survey responses - “Very satisfied”, “Quite satisfied”, “Quite unsatisfied” or “Very unsatisfied”.

#### **Achievement threshold**

- < 90% = 0 points
- > 90% & < 95% = 25 points
- > 95% = 50 points

#### A.3.10 Patient Experience Indicator PE.07

##### **Definition**

Percentage of patients who respond positively to survey question “How do you feel about the length of time taken to get an appointment?”

Result is based on all surveys returned relating to FP17s processed by NHS Dental Services within the financial year.

Numerator is number of survey responses where the answer is “As soon as necessary”. Denominator is total number of survey responses – “As soon as necessary”, ”Should have been a bit sooner” or “Should have been a lot sooner”.

##### **Achievement threshold**

- < 70% = 0 points
- > 70% & < 85% = 5 points
- > 85% = 10 points

#### *Weighting given to patient experience*

A.3.11 The maximum amount of points available to be achieved in the Patient Experience domain of the DQOF by a contractor is 300.

## A.4. Patient Safety

A.4.1 Safety quality measures will fall also under the remit of the CQC and work with professional bodies such as the GDC. The dental profession and commissioners are committed to ensuring that clinical practice remains safe and that safety is a fundamental part of the service that is delivered. Consequently, patient safety overall is not something that must be rewarded through a quality payment as all dentists should adhere to safe practices.

#### *Patient safety indicator*

A.4.2 However clinical aspects of patient safety can be monitored and rewarded through payment and payment will be made on the following indicator:

Ref	Indicator	Points available
SA.01	Recording an up-to-date medical history at each oral health assessment/review	100

#### A.4.3 Safety Indicator SA.01

##### **Definition**

Percentage of patients for whom an up-to-date medical history is recorded at each oral health assessment/review (OHA/OHR)

Measurement will be based on all OHA/OHRs within the financial year.

Age Range: All

Exclusions: None

### **Achievement threshold**

< 90% = 0 points

> 90% = 100 points

### **Rationale**

The capture of a patient's past medical history is required under GDC standards of professional conduct – "Make and keep accurate and complete patient records, including a medical history, at the time you treat them". Patients are significantly at risk if this is not conducted prior to treatment.

### **Evidence**

D'Cruz L, 2010. Risk management in clinical practice. Part 1. Introduction. British Dental Journal. Volume 209, No 1 July 10

### ***Weighting given to patient safety***

A.4.4 The maximum amount of points available to be achieved in the Safety domain of the DQOF by a contractor is 100.

## **A.5. Data quality**

A.5.1 The submission of timely and accurate data is an essential requirement of any quality and outcomes framework. The submission of timely and accurate data is also essential for the prototype in terms of capturing evidence and learning.

### ***Data quality indicators***

A.5.2 The following data quality indicators are to be used.

Ref	Indicator	Points available
DQ.01	Appointment transmissions received within seven calendar days	50
DQ.02	FP17 submissions received within two months of completion of course of treatment	50

A.5.3 Data quality Indicator DQ.01

### **Definition**

Percentage of appointment transmissions successfully received by NHS BSA within the seven calendar day rule.

Result is based on all appointment transmissions for appointments that have taken place in the financial year. Appointments are grouped by claim reference number and the interval from appointment date to first transmission date is used.

Numerator is all appointment transmissions successfully received within the seven calendar day rule. Denominator is all appointment transmissions successfully received.

#### **Achievement threshold**

- < 80% = 0 points
- > 80% & < 90% = 25 points
- > 90% = 50 points

The achievement threshold allows for any issues that pilots may need to resolve with their software providers impacting the timely transmission of appointment data.

#### A.5.4 Data quality Indicator DQ.02

##### **Definition**

Percentage of FP17s [successfully] received by NHS BSA within 2 months of completion of course of treatment.

Result is based on all FP17s received and scheduled within the financial year including any that relate to previous financial years.

Numerator is all FP17s [successfully] received within two months of the treatment completion date for the course of treatment. If a treatment completion date is not provided, the treatment acceptance date is used instead. Denominator is all FP17s [successfully] received and scheduled in current financial year.

##### **Achievement threshold**

- < 90% = 0 points
- > 90% & < 95% = 25 points
- > 95% = 50 points

#### ***Weighting given to data quality***

A.5.5 The maximum amount of points available to be achieved in the Data Quality domain of the DQOF by a contractor is 100.

#### ***Appointment Data***

A.5.6 For the avoidance of doubt, the following information must be sent relating to the three appointment types for which transmission of data to the NHS Dental Service is required which are:

- (a) Oral Health Assessments and Oral Health Reviews (OHA/OHR) which must include all required transmission data relating to the OHA and the OHR;



- (b) courses of treatment; and
- (c) any private treatment where the data relates to a capitated patient appointment,

and specifically:

- (i) for courses of treatment appointments that are not the end of a course of treatment – only basic appointment information is required (see paragraph A.5.7 below);
- (ii) for courses of treatment appointments that are the end of a course of treatment – this must contain basic appointment information in addition to the prototype clinical data set information required for the course of treatment and not just that appointment;
- (iii) for urgent courses of treatment – this must contain basic appointment information and specify the date of completion of the urgent course of treatment and include the prototype clinical data set information for the urgent course of treatment;
- (iv) for treatment provided where a patient has been referred – if the patient is being provided with part of their course of treatment, then a course of treatment appointment(s) completed must be transmitted containing basic appointment information and prototype clinical dataset information must be transmitted when the referral course of treatment has been completed; and
- (v) for private treatment – where private treatment has been provided to a capitated patient which is unrelated to an NHS course of treatment (i.e. the course of treatment has not been provided as an alternative to part of an NHS course of treatment) as one or more appointments, the private treatment appointments data must be transmitted which must contain the basic appointment information data referred to above, in addition to the clinical data set information for each appointment.

A.5.7 For the purposes of paragraph A.5.6:

- (a) references to “basic appointment information” means:
  - (i) the patient’s details;
  - (ii) whether or not the patient has attended; and
  - (iii) the duration of the appointment; and
- (b) references to ‘patient details’ include the following data items:
  - (i) patient’s surname;
  - (ii) patient’s forename;
  - (iii) patient’s title;
  - (iv) patient’s address, including postcode;
  - (v) any previous patient surname (where applicable);
  - (vi) patient’s gender; and
  - (vii) patient’s date of birth.

## A.6. Developing a quality score

A.6.1 The NHS BSA must assess the performance of each contractor on behalf of the Board. The NHS BSA will send a performance report to the Board by 30th June in any year.

A.6.2 The performance of each contractor against each of the indicators in Sections A.2, A.3 A.4 and A.5 must be calculated using the table below:

Ref	Indicator	Contractor's Performance	Points available	Scoring rules <sup>25</sup>	Contractor's Score achieved
OI.01	Decayed teeth (dt) for patients aged under 6 years old – improved or maintained		125	If <75%, then Score = 0 If ≥75%, then Score = 125	
OI.02	Decayed teeth (DT) for patients aged 6 years old to 18 years old – improved or maintained		125	If <75%, then Score = 0 If ≥75%, then Score = 125	
OI.03	Decayed teeth (DT) for patients aged 19 years old and over – improved or maintained		125	If <75%, then Score = 0 If ≥75%, then Score = 125	
OI.04	BPE score for patients aged 19 years old and over – improved or maintained		75	If <75%, then Score = 0 If ≥75%, then Score = 75	
OI.05	Number of sextant bleeding sites for patients aged 19 years old and over – improved or maintained		50	If <50%, then Score = 0 If ≥50%, then Score = 50	
PE.01	Patients reporting that they are able to speak & eat comfortably		30	If <75%, then Score = 0 If ≥75% & <85%, then Score = 15 If ≥85%, then Score = 30	
PE.02	Patients satisfied with the cleanliness of the dental practice		30	If <90%, then Score = 0 If ≥90% & <95%, then Score = 15 If ≥95%, then Score = 30	
PE.03	Patients satisfied with the helpfulness of practice staff		30	If <90%, then Score = 0 If ≥90% & <95%, then Score = 15 If ≥95%, then Score = 30	
PE.04	Patients reporting that they felt sufficiently involved in decisions about their care		50	If <85%, then Score = 0 If ≥85% & <90%, then Score = 25 If ≥90%, then Score = 50	

<sup>25</sup> Contractors should note that the scoring described in paragraph A.6.4 will be applied in relation to the indicators in this table if the conditions described in that paragraph are met.

Ref	Indicator	Contractor's Performance	Points available	Scoring rules <sup>25</sup>	Contractor's Score achieved
PE.05	Patients who would recommend the dental practice to a friend		100	If <90%, then Score = 0 If ≥90% & <95%, then Score = 50 If ≥95%, then Score = 100	
PE.06	Patients reporting satisfaction with NHS dentistry received		50	If <90%, then Score = 0 If ≥90% & <95%, then Score = 25 If ≥95%, then Score = 50	
PE.07	Patients satisfied with the time to get an appointment		10	If <70%, then Score = 0 If ≥70% & <85%, then Score = 5 If ≥85%, then Score = 10	
SA.01	Recording an up-to-date medical history at each oral health assessment/review		100	If <90%, then Score = 0 If ≥90%, then Score = 100	
DQ.01	Appointment transmissions received within seven calendar days		50	If <80%, then Score = 0 If ≥80% & <90%, then Score = 25 If ≥90%, then Score = 50	
DQ.02	FP17 submissions received within two months of completion of course of treatment		50	If <90%, then Score = 0 If ≥90% & <95%, then Score = 25 If ≥95%, then Score = 50	

A.6.3 If in the course of the duration of the Prototype Agreement Scheme, elements of the DQOF prove unworkable or significantly affect the ability of the Board to monitor or evaluate the Scheme or the analysis of any data provided as a consequence of the Prototype Agreement effectively, the Secretary of State has the power to amend the DQOF, in consultation with the Board and contractors participating in the Scheme, in order to make its operation feasible.

A.6.4 If a contractor has less than 30 patients or survey returns for any particular indicator then they will score full points for that indicator. Where one or more indicators cannot be applied for any contractors for reasons that are not the responsibility of individual contractors then full points would be awarded to all contractors for the relevant indicators.

A.6.5 A Contractor's Annual Performance Score (CAPS) must be calculated by adding up the "Contractor's Score Achieved" for each of the fifteen indicators from the table above. Contractors should note that the scoring described in paragraph A.6.4 will be applied in relation to the indicators if the conditions described in that paragraph are met. The CAPS score will be out of 1,000.

#### ***Annual performance report***

A.6.6 The performance report will cover:

- (a) the contractor's performance against each of the indicators;
- (b) the points scored by the contractor for each of the indicators; and
- (c) the CAPS for that contractor.

### **A.7 Weighting for performance**

A.7.1 The percentage of payment relating to performance against the DQOF is reviewed and set by the Secretary of State at the start of each financial year.

A.7.2 The quality weighting for Prototype Agreements is 10% for the financial year 2015 to 2016.

### **A.8 Assessment of peer performance across all Prototype Agreements**

A.8.1 An assessment of peer performance across all Prototype Agreements must be calculated in accordance with paragraphs A.8.2 to A.8.11.

A.8.2 All the calculations in this section will be done by the NHS BSA and this section is provided for information. The payment for peer performance will come from the Board's budget.

A.8.3 For all Prototype Agreements, some of the payment will be dependent on performance against the other Prototype Agreements. The calculation of the peer performance award for each Prototype Agreement has to be calculated nationally.

A.8.4 A Lowest CAPS (LCAPS) across all Prototype Agreements is calculated as the lowest CAPS value for that financial year across the Blend A and Blend B Prototype Agreements.

A.8.5 A Contractor's Excess Performance Score (CEPS) is calculated by subtracting the LCAPS from that contractor's CAPS. For example, if a contractor has a CAPS of 950 and the LCAPS is 850, then the CEPS would be 100.

A.8.6 A Contractor's Contract Size Weighting (CCSW) is defined as the percentage of the value of all Prototype Agreements that is due to that particular Prototype Agreement. The calculation is:

$$\text{CCSW} = \frac{\text{PAAPV}}{\text{Sum of PAAPVs for all Blend A and Blend B Prototype Agreements.}}$$

A.8.7 A Contractor's Weighted Excess Performance Score (CWEPS) is calculated by multiplying the CEPS by the CCSW.

$$\text{CWEPS} = \text{CEPS} \times \text{CCSW}.$$

A.8.8 The National Weighted Excess Performance Points (NWEPP) is calculated as the sum of all the CWEPS across all Agreements.

A.8.9 A Contractor's Percentage Share of Peer Pool (CPSPP) is the proportion of the money available for performance against peers that a contractor will receive. The calculation is:

$$\text{CPSPP} = \frac{\text{CWEPS}}{\text{NWEPP}}.$$

A.8.10 The total amount notionally available for distribution across all the Prototype Agreements for performance relative to peers is called the National Peer Quality Pool (NPQP). It is the sum of all the PAAPV(Peer Quality Pool) across all the Prototype Agreements.

A.8.11 The amount that a Prototype Agreement would notionally receive from the NPQP is known as the Quality Payment (Peer) (QP(P)). The calculation is:

$$\text{QP(P)} = \text{CPSPP} \times \text{NPQP}.$$

## A.9 Redistribution of capped peer quality payments

A.9.1 Every Prototype Agreement must have an RP calculated in accordance with paragraphs A.9.2 to A.9.11 of Annex A.

A.9.2 Capping the QP(P) to produce a FQP(P) is intended to limit the liability of the Board's participation in the Prototype Agreement Scheme. It is not intended to limit the total amount of money paid out across all contractors. Therefore any money that was subtracted from a QP(P) to produce a FQP(P) needs to be distributed to other Agreements. The calculation for this distribution is done by NHS BSA.

A.9.3 For each Prototype Agreement, the QP(P)R is calculated in line with paragraphs 4.30, 7.30, 20.30 and 23.30. In some cases, the value of the QP(P)R is £0.

A.9.4 The sum of all the QP(P)Rs across all Prototype Agreements is known as the Residual Payment Pool – A (RPP(A)).

A.9.5 The Residual Payment (RP) to each contractor is then calculated by the NHS BSA. This calculation applies only to Prototype Agreements whose QP(P)R is equal to £0.

A.9.6 The Contractor's Residual Payment Pool Weighting – A (CRPPW(A)) is calculated as:

$$\text{CRPPW(A)} = \frac{\text{PAAPV (Peer Quality Pool)}}{\text{Sum of the PAAPV(Peer Quality Pool) of all Agreements whose QP(P)R=0.}}$$

A.9.7 The Potential Residual Payment - A (PRP(A) for each Agreement is then calculated as:

$$\text{PRP(A)} = \text{RPP(A)} \times \text{CRPPW(A)}.$$

A.9.8 A check is then made by NHS BSA to ensure that the PRP(A) for any Prototype Agreement is not so big that it exceeds the 2% cap:

- (a) if the sum of the PAAPV(Primary Pool) plus the QP(NP) plus the FQP(P) plus the PRP(A)  $\leq$  102% of PAAPV, then  $\text{RP(A)} = \text{PRP(A)}$ ;  
or
- (b) if the sum of the PAAPV(Primary Pool) plus the QP(NP) plus the FQP(P) plus the PRP(A)  $>$  102% of PAAPV, then  $\text{RP(A)} = (1.02 \times \text{PAAPV})$  minus the PAAPV (Primary Pool) and minus the QP(NP) and minus the FQP(P).

A.9.9 It is then possible that capping the PRP(A) to get the RP means that income for more Prototype Agreements has been capped and that there is more money that still needs to be distributed. In this case the process described above is repeated with a smaller number of Prototype Agreements. This means:

- (a) the Quality Payment (Peer) Residual B (QP(P)R(B)) is calculated for each Prototype Agreement whose PRP(A) was capped by subtracting the RP(A) from the PRP(A);
- (b) an RPP(B) is calculated from all the money that was capped in paragraph A.9.9(a);
- (c) the PAAPV(Peer Quality Pool) of each Prototype Agreement whose QP(P)R(B) is equal to £0 is divided by the sum of the PAAPV(Peer Quality Pool) of all Prototype Agreements whose QP(P)R(B) is equal to £0 to give the CRPPW(B);
- (d) an additional Potential Residual Payment – B (PRP(B) is then calculated as:

$PRP(B) = RPP(B) \times CRPPW(B)$ ; and

- (e) the same check that the total payments do not exceed the 2% cap is then made again:
- (i) if the sum of the PAAPV(Primary Pool) plus the QP(NP) plus the FQP(P) plus the RP(A) plus the PRP(B)  $\leq$  102% of PAAPV, then  $RP(B) = PRP(B)$ , or
  - (ii) if the sum of the PAAPV(Primary Pool) plus the QP(NP) plus the FQP(P) plus the RP(A) plus the PRP(B)  $>$  102% of PAAPV, then  $RP(B) = (1.02 \times PAAPV)$  minus the PAAPV (Primary Pool) and minus the QP(NP) and minus the FQP(P) minus the RP(A).

A.9.10 It is then possible that capping the PRP(B) to get the RP(B) means that income for more Prototype Agreements has been capped and that there is more money that still needs to be distributed. If there are still Prototype Agreements for whom this applies and therefore money still to be allocated then the calculation in paragraph A.9.9 is repeated for those Prototype Agreements only with the same two distinct pools, based on a QP(P)R(C), RPP(C), CRPPW(C) to get a PRP(C) and an RP(C). The calculation is repeated as many times as is necessary until all the money has been allocated.

A.9.11 The RP must be calculated by adding the RP(A) plus the RP(B) plus the RP(C) and so on, depending on how many iterations needed to be done to allocate all the money

A.9.12 For those Prototype Agreements whose QP(P)R is not equal to £0, the RP = £0. The RP is then used as part of the calculation of the CAAPV.



## ANNEX B

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### DETERMINATION III – SENIORITY PAYMENTS

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#### INTERPRETATION

1. (1) In this Determination, unless the context otherwise requires -

“accumulated gross fees” means gross fees authorised for payment by the Board in respect of a period since 1 April 2005;

“approved postgraduate education session” means a session of not less than two-and-a-half hours' duration which forms the whole or a part of a course approved by the regional Postgraduate Dental Dean / Director of postgraduate dental education;

“Board” means the Dental Practice Board;

“Financial Year” means the period beginning on 1 April in one year and ending on 31 March in the next year;

“PCT” means a Primary Care Trust;

“payment period” means a period since 1 April 2005;

“pensionable earnings” means that remuneration defined -

(a) in Schedule 2 to the National Health Service Pension Scheme Regulations 1995 (\*); or

(b) in Schedule 1 to the National Health Service Superannuation Scheme (Scotland) Regulations 1995 (#);

which is paid to a dentist for the provision of general dental services whether or not such a dentist is entitled to participate in the benefits provided under those Regulations, as if that definition -

(i) excluded payments made under this Determination and remuneration as a salaried practitioner; and

(ii) disregarded any limit on remuneration of which account must be taken under those Regulations;

"quarter" means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December;

"seniority payment" has the meaning assigned to it in paragraph 2 of this Determination;

"superannuation benefit" means any payment, other than a refund of contributions, made to a dentist by virtue of the application of

- (a) the National Health Service Pension Scheme Regulations 1995; or
- (b) the National Health Service Superannuation Scheme (Scotland) Regulations 1995; or
- (c) the corresponding provisions of the law in force in Northern Ireland or the Isle of Man;

as a result of his providing general dental services.

(2) In this Determination a reference to any enactment or statutory instrument is to that enactment or statutory instrument as amended or re-enacted by any subsequent enactment or statutory instrument.

(3) In this Determination a reference to a numbered paragraph is to the paragraph bearing that number in this Determination and a reference in a paragraph to a numbered sub-paragraph is to the sub-paragraph bearing that number in that paragraph.

(4) This Determination applies to England only, must come into force on 1 April 2005.

## **ENTITLEMENT**

2. (1) Subject to the provisions of sub-paragraph (5), a PCT must, with effect from the first day of a quarter on which a dentist must have fulfilled the conditions set out in sub-paragraphs (2) and (3) and complied with the requirements set out in sub-paragraph (4), authorise the Board to pay to the dentist in accordance with the provisions of paragraph 4 such additional remuneration as is appropriate. This additional remuneration will be referred to as a seniority payment.

(2) The conditions referred to in sub-paragraph (1) are -

- (a) the dentist has reached the age of 55 years on or before the first day of the relevant quarter;
- (b) the dentist has provided general dental services other than as a salaried dentist or as an assistant for a period of not less than 10 years since July 1948, of which not less than a period of 5 years (whether or not either of such periods has been continuous) has been within the period of 10 years ending on the first day of the relevant quarter; and
- (c) the dentist has, within the 10 years ending 31 March 2005, received pensionable earnings of not less than £207,000.

(3) A dentist, who becomes entitled to seniority payments for the first time on or after 1 April 1992, must have undertaken not less than two approved postgraduate education sessions in the five financial quarters prior to the first day of the quarter to which the claim relates.

(4) The requirements referred to in sub-paragraph (1) are that an application for a seniority payment must be made on a form which must be obtained from a PCT, on whose dental list the dentist is included, must be made by recorded delivery to that PCT, and must include particulars of the fulfilment by the dentist of the conditions set out in sub-paragraphs (2) and (3).

(5) A PCT must not authorise the Board to pay a seniority payment to a dentist

(a) to whom a seniority payment has by virtue of the preceding sub-paragraphs of this paragraph been authorised by another PCT; and

(b) for a quarter in which he ceases to be on that PCT's dental list and in respect of which a seniority payment is authorised by another PCT.

3. A dentist must cease from being entitled to a seniority payment from the beginning of the first day of -

(a) the quarter in which his name is removed from the dental list pursuant to regulation 9 of the National Health Service (General Dental Services) Regulations 1992, as amended; or

(b) the quarter immediately following any quarter in which he receives a superannuation benefit.

## **PAYMENTS**

4. A seniority payment must be calculated and payable as follows-

(a) for the period from 1 April 2005, where a dentist is or becomes entitled to seniority payments on or after 1 April 2005 by virtue of the provisions of paragraph 2, a seniority payment must be payable in the first and each subsequent quarter in which he is entitled, provided -

(i) that his accumulated gross fees to the end of the relevant quarter amount to at least the sums listed below -

<b>Quarter ending</b>	<b>Accumulated gross fees</b>
30 June 2005	£6,250
30 September 2005	£12,500
31 December 2005	£18,750
31 March 2006	£25,000

Or;

- (ii) that his accumulated gross fees are less than the minimum figure stipulated in sub-paragraph (a), but at least 90% of his earnings from dentistry was attributable to accumulated gross fees; and he applies for a seniority payment by completing the form provided to him, for that purpose, by the Board and returning it to the Board.

The seniority payments must be 10% of accumulated gross fees in the relevant quarter, less any seniority payment already made in respect of any previous quarter or quarters in the payment period (or in the case of a dentist who becomes eligible for seniority payments after 1 April 2005, less an amount equal to any seniority payment that would have been made if he had been entitled to seniority payments on 1 April 2005), up to a maximum accumulated gross fee income by the end of the relevant quarter as listed below;

<b>Quarter ending</b>	<b>Accumulated gross fees</b>
30 June 2005	£18,750
30 September 2005	£37,500
31 December 2005	£56,250
31 March 2005	£75,000

(b) subject to sub-paragraph (c), a seniority payment must be payable at the end of the quarter following the one to which it relates;

(c) no seniority payment must be made by the Board to a dentist in respect of any period before the quarter immediately preceding the quarter in which his application for a seniority payment is delivered to a PCT.

# ANNEX C

Copy produced for reference (see paragraphs 16.16 and 32.16)

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## DETERMINATION

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### NATIONAL HEALTH SERVICE, ENGLAND

#### The Performers Lists (Suspended Dentists' NHS Earnings) Determination 2015

The Secretary of State for Health makes the following determination in exercise of the powers conferred by regulation 13(1) of the National Health Service (Performers Lists) (England) Regulations 2013<sup>(26)</sup>.

#### Citation, commencement and application

1.—(1) This Determination may be cited as the Performers Lists (Suspended Dentists' NHS Earnings) Determination 2015.

- (1) This Determination comes into force on the day after the day on which it is made.
- (2) This Determination applies in respect of England only<sup>(27)</sup>.

#### Interpretation

2. In this Determination—

“2012 Act” means the Health and Social Care Act 2012<sup>(28)</sup>;

“2006 Act” means the National Health Service Act 2006<sup>(29)</sup>;

“Board” means the National Health Service Commissioning Board<sup>(30)</sup>

“contractor” means—

(a) a person (including a corporation, partnership, or a limited liability partnership) who has entered into a GDS contract with the Board under section 102 of the 2006 Act<sup>(31)</sup> (persons eligible to enter into GDS contracts) or as a consequence of a property transfer scheme made under section 300 of the 2012 Act (transfer schemes) is a party to a GDS contract; or

(b) a person who has entered into a PDS agreement made under section 107 of the 2006 Act<sup>(32)</sup> with the Board or as a consequence of section 300 of the 2012 Act is a party to a PDS agreement;

“dental performers list” means the list prepared, maintained and published by the Board pursuant to regulation 3(1)(b) of the Performers Lists Regulations (performers lists);

“dentist” means a person whose name is included in the dentists register;

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(26) S.I. 2013/335.

(27) The powers exercised in making this Determination are exercisable by the Secretary of State only in relation to England.

(28) 2012 c.7.

(29) 2006 c.41.

(30) The National Health Service Commissioning Board (known as “NHS England”) was established by section 1H of the National Health Service Act 2006. Section 1H was inserted by section 9 of the Health and Social Care Act 2012.

(31) Section 102 is amended by sections 55(1) and 203 of, and paragraph 44 of Schedule 4 to, the Health and Social Care Act 2012.

(32) Section 107 is amended by section 55(1) of, and paragraph 48 of Schedule 4 to, the Health and Social Care Act 2012.

“dentists register” means the register of dental practitioners kept by the General Dental Council under section 14 of the Dentist Act 1984<sup>(33)</sup> (the dentists register and the registrar);

“employed or engaged” in relation to a dental practitioner’s relationship with a contractor, includes, in addition to a dental practitioner who has a contract of service or for services with a contractor—

- (a) a dental practitioner who is a contractor;
- (b) a dental practitioner who is a partner in a partnership or a member of a limited liability partnership and the partnership is the contractor; and
- (c) a dental practitioner who is a director of a dental corporation and that corporation is the contractor;

“GDS contract” means a contract made under section 102 of the 2006 Act;

“NHS Pension Scheme Regulations 2008” means the National Health Service Pension Scheme Regulations 2008<sup>(34)</sup>;

“NHS Pension Scheme Regulations 1995” means the National Health Service Pension Scheme Regulations 1995<sup>(35)</sup>;

“monthly pensionable earnings” as regards any month, means one twelfth of the earnings that are the pensionable earnings of the dental practitioner from primary dental services for the financial year in which the month falls;

“PDS agreement” means an agreement entered into under section 107 of the 2006 Act;

“Primary Care Trust” means the Primary Care Trust which subsisted immediately before the coming into force of section 34 of the 2012 Act 2012 (abolition of Primary Care Trusts);

“pensionable earnings” has the same meaning as in paragraph 1 of Schedule 2 to the NHS Pensions Schemes Regulations 1995 (additional definitions used in this Schedule) or, as the case may be, regulation 3.A.1 of the NHS Pensions Schemes Regulations 2008 (interpretation of Part 3: general), and accordingly—

- (a) as regards type 1 dental practitioners, means practitioner income, including earnings derived from monthly seniority payments, but taking into account any relevant pensionable earnings ceiling; or
- (b) as regards type 2 dental practitioners, means fees or regular payments (including salary or wages) paid to the practitioner by a contractor in respect of the performance of primary dental services, excluding bonuses and payments to cover expenses or for overtime;

“Performers Lists Regulations” means the National Health Service (Performers Lists) (England) Regulations 2013<sup>(36)</sup>;

“suspended dentist” means a dentist who is suspended by the Board in accordance with regulation 12 of the Performers Lists Regulations (suspension);

“type 1 dental practitioner” has the same meaning as in the NHS Pension Scheme Regulations 1995 or as the case may be, as in NHS Pensions Scheme Regulations 2008; and

“type 2 dental practitioner” has the same meaning as in the NHS Pension Scheme Regulations 1995 or as the case may be, as in the NHS Pensions Scheme Regulations 2008.

### **Entitlement to payments by virtue of this determination**

3.—(1) A person may be entitled to payments from the Board if—

- (a) that person is a suspended dentist; or
- (b) that person is a contractor by whom that suspended dentist is employed or engaged, and

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<sup>(33)</sup> 1984 c.24.

<sup>(34)</sup> S.I. 2008/653, as amended.

<sup>(35)</sup> S.I. 1995/300, as amended.

<sup>(36)</sup> S.I. 2013/335; as amended by S.I. 2015/362.

immediately prior to the dentist's suspension or the circumstances that precipitated that dentist's suspension the dentist was employed or engaged by a contractor, and apart from the suspension under regulation 12 of the Performers Lists Regulations (suspension), or any suspension from the dentists register which does not provide grounds for immediate removal from the dental performers list under regulation 35 of the Performers Lists Regulations (grounds for removal from the dental performers list), that dentist would be able and would be permitted to perform primary dental services.

(2) Subject to the following paragraphs of this Determination, where a dentist falls within the circumstances referred to in sub-paragraph (1)(a), that suspended dentist must be entitled to payments from the Board in respect of each complete calendar month or part month for which the dentist is suspended, if—

- (a) in the case of a dentist who is a contractor—
  - (i) the suspended dentist holds a GDS contract or a PDS agreement and the normal monthly payments under the dentist's GDS contract or PDS agreement (or a *pro-rata* amount in the case of part months) have been suspended, or
  - (ii) the suspended dentist is still paid the normal monthly payments under the dentist's GDS contract or PDS agreement but, notwithstanding the dentist's suspension, the dentist is required to provide units of dental or orthodontic activity under the dentist's GDS contract or PDS agreement during the period of suspension; or
- (b) the dentist is a dental practitioner to whom (a) does not apply but—
  - (i) the dentist is, or immediately prior to the circumstances that precipitated the dentist's suspension was, employed or engaged by the contractor, and
  - (ii) the dentist is not entitled to the normal monthly remuneration from the contractor (or a *pro-rata* amount in the case of part months).

(3) Subject to the following paragraphs of this Determination, where by virtue of sub-paragraph (1)(b) a contractor may be entitled to payments in respect of a suspended dentist from the Board, that contractor must be entitled to payments from the Board in respect of the suspended dentist, in respect of each complete calendar month or part month during the suspension, if the suspended dentist is not entitled to payments pursuant sub-paragraph (2) but—

- (a) the suspended dentist is, or immediately prior to the circumstances that precipitated the dentist's suspension was, employed or engaged by the contractor; and
- (b) the suspended dentist is entitled to the dentist's normal monthly NHS remuneration from the contractor but the Board is satisfied that—
  - (i) the contractor has incurred costs in providing primary dental services that would have been provided by the suspended dentist, had that dentist not been suspended, and
  - (ii) it is unreasonable for the contractor to have to bear all those costs itself.

(4) For the purposes of paragraph (3)(b) for calculating the suspended dentist's normal monthly NHS remuneration, the Board must—

- (a) have regard only to remuneration relating to the performance by the suspended dentist of primary dental services provided under Part 5 of the 2006 Act (dental services); and
- (b) determine an amount which, in the Board's view, represents a reasonable amount having regard to the pensionable earnings of the suspended dentist in the most recently available six complete months of data relating to that suspended dentist's earning.

### **Amount of payments**

4.—(2) Subject to the following paragraphs of this Determination, if a suspended dentist is entitled to a payment from the Board by virtue of paragraph 3(2), the amount to which the dentist is entitled, in respect of each complete calendar month or part month for which the dentist is suspended, is the suspended dentist's monthly pensionable earnings (or a *pro-rata* amount in the case of part months).

(1) If in respect of any month or part month for which a suspended dentist is entitled to a payment from the Board by virtue of paragraph 3(2)—

(a) the dentist is entitled to receive—

- (i) any remuneration from any alternative work that the dentist has taken on following the dentist's suspension, or
- (ii) any insurance payments by reason of the dentist's cessation or reduction of work or income,

the sum which the dentist is entitled to receive pursuant to sub-paragraph (1) must be reduced by £1 for each complete £2 which the dentist is entitled to receive in respect of the alternative work or as an insurance payment; or

(b) the dentist is entitled to receive any remuneration which relates to the provision of primary dental services from any contractor by which the dentist was employed or engaged immediately prior to—

- (i) the dentist's suspension, or
- (ii) the circumstances which gave rise to the dentist's suspension,

the sum which the dentist is entitled to receive pursuant to sub-paragraph (1) shall be reduced by £9 for each complete £10 which the dentist is entitled to receive from the contractor.

(2) In a case to which direction 3(3) applies, the amount to which the contractor is entitled in respect of the suspended dentist in respect of each complete calendar month or part month for which the dentist is suspended, is the amount of the additional costs that the Board is satisfied that—

(a) the contractor has incurred in providing primary dental services during that month or part month that would have been provided by the suspended dentist, had the dentist not been suspended; and

(b) it would be unreasonable for the contractor to have to bear,

having regard to the suspended dentist's normal monthly NHS remuneration determined in accordance with direction 3(4).

### **Arrangements for payment**

**5.**—(1) Any sum payable under this Determination must be paid subject to any lawful deductions of income tax, national insurance and superannuation contributions by the Board.

(1) Any sum payable under this Determination to a suspended dentist who is employed or engaged by a contractor may be paid to that contractor (contractor payments will in any event be paid to the contractor)(37).

### **Conditions of payment**

**6.** No payment must be made pursuant to this Determination unless—

- (a) the Board is satisfied that the suspended dentist, or contractor that is otherwise entitled to a payment, is entitled to that specific sum;
- (b) the Board has been provided by the suspended dentist (unless received from another source) with accurate and reliable details of—
  - (i) the suspended dentist's monthly pensionable earnings immediately prior to the dentist's suspension and immediately prior to the circumstances that led to the dentist's suspension,

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(37) In practice, payments made to a contractor under a GDS contract or PDS agreement will generally be made by the NHS Business Services Authority on behalf of the Board.



- (ii) any insurance policy the suspended dentist has taken out in order to provide the dentist with payments if the dentist's work ceases or is reduced, and the suspended dentist has warranted that the information provided in accordance with this paragraph is accurate;
- (c) the suspended dentist provides the Board with accurate and reliable information about any alternative work the dentist undertakes during the period of suspension, and undertakes to inform the Board immediately where—
  - (i) the dentist takes on any such work, or
  - (ii) there is any other change to the dentist's circumstances that might affect the dentist's entitlement to payments under this Determination,

but the Board may make payments on account to, or in respect of, a suspended dentist of amounts that are likely to be payable to, or in respect of, the dentist under this Determination, in appropriate circumstances.

### **Overpayments**

7. If the Board makes a payment to, or in respect of, a suspended dentist pursuant to this Determination but the suspended dentist or the contractor was not entitled to receive all or any part of it, whether because—

- (a) the conditions relating to, or underlying entitlement to, the payment are or were not met; or
- (b) the payment was calculated incorrectly (including where a payment on account overestimates the amount that is to fall due),

the Board may recover the amount of the overpayment by deducting an equivalent amount from any other payment payable under this Determination to the person who received the overpayment (without prejudice to its other powers to recover the overpayment).

### **Revocation and saving**

8.—(3) Subject to paragraph (2), the Performers Lists (Suspended Dentists' NHS Earnings) Determination 2013 made on 27th March 2013 ("2013 Determination") is revoked.

(1) In a case where—

- (a) a determination was made before 1st April 2015 which would have continuing effect but for sub-paragraph (1), or
- (b) a determination is pending immediately before 1st April 2015 in respect of a suspension made under the Performers Lists Regulations,

the 2013 Determination continues to apply to the extent necessary to enable payments to be made, continue to be made and recovered in the case of any overpayment.

(2) For the purposes of the continued application of the 2013 Determination in accordance with paragraph (2), references to a Primary Care Trust must be read as if it were a reference to the Board.

Signed by authority of the Secretary of State for Health

Nick P Clarke  
A member of the Senior Civil Service  
Department of Health

21<sup>st</sup> May 2015