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## DIRECTIONS

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# NATIONAL HEALTH SERVICE, ENGLAND

## The Primary Medical Services (Patient Choice Extension Scheme) Directions 2013

The Secretary of State for Health gives the following directions in exercise of the powers conferred by sections 98A, 272(7) and (8) and 273(1) of the National Health Service Act 2006<sup>(a)</sup>.

### Citation, commencement, duration and application

1.—(1) These Directions may be cited as the Primary Medical Services (Patient Choice Extension Scheme) Directions 2013 and come into force on 1st April 2013.

(2) These Directions will cease to have effect on 1st April 2014.

(3) These Directions are given to the Board.

### Interpretation

2. In these Directions—

“the 2012 Act” means the Health and Social Care Act 2012<sup>(b)</sup>;

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

“the Board” means the National Health Service Commissioning Board<sup>(c)</sup>;

“contractor’s list of patients” means, in respect of the period immediately before the coming into force of section 34 (abolition of Primary Care Trusts) of the 2012 Act, the list of patients prepared and maintained by a Primary Care Trust in accordance with—

(a) paragraph 14 of Schedule 6 to the National Health Service (General Medical Services Contracts) Regulations 2004<sup>(d)</sup>;

(b) paragraph 13 of Schedule 5 to the National Health Service (Personal Medical Services Agreements) Regulations 2004<sup>(e)</sup>; or

(c) direction 14 of the Alternative Provider Medical Services Directions 2010<sup>(f)</sup>;

“general practitioner” means a medical practitioner whose name is included in the medical performers list prepared and maintained by the Board in accordance with regulations made under section 91 of the Act<sup>(g)</sup>;

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(a) 2006 c.41. Section 98A of the Act is inserted by section 49(1) of the 2012 Act. By virtue of section 271(1) of the Act, the powers conferred by these sections are exercisable by the Secretary of State only in relation to England.

(b) 2012 c.7.

(c) The National Health Commissioning Board is established by section 1H of the 2012 Act. Section 1H is inserted into the Act by section 9(1) of the 2012 Act.

(d) S.I. 2004/291.

(e) S.I. 2004/627.

(f) The Alternative Provider Medical Services Directions 2010 signed on 13th April 2010 and amended by the Alternative Provider Medical Services (Amendment) Directions 2012 signed on 26th April 2012. Both Directions are published on [www.dh.gov.uk](http://www.dh.gov.uk).

(g) Section 91 is amended by section 55(1) of, and paragraph 35 of Schedule 4 to, the 2012 Act.

“health care professional” means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002(a);

“Participating Primary Medical Services Contractor” means a primary medical services contractor which enters into a Patient Choice Extension Scheme Arrangement with the Board;

“Patient Choice Extension Scheme” means the Scheme of that name which the Secretary of State has developed to enable the Patient Choice Scheme to be extended in respect of only those patients who are registered patients under the Patient Choice Scheme of a contractor who entered into the Patient Choice Scheme(b);

“Patient Choice Extension Scheme Arrangement” means an arrangement which has been entered into as part of the Patient Choice Extension Scheme in accordance with these Directions and which forms a temporary part of—

(a) a general medical services contract made under section 84 (general medical services contracts: introductory) of the Act(c);

(b) a personal medical services agreement entered into under section 92 (arrangements by the Board for the provision of primary medical services) of the Act(d); or

(c) a contractual arrangement entered into under section 83(2) (primary medical services) of the Act(e);

“Patient Choice Scheme” means the scheme of that name which the Secretary of State developed to assist in continuing to promote and secure improvement in the provision of primary medical services in accordance with the Act(f);

“Patient Choice Scheme Arrangement” means an arrangement entered into as part of the Patient Choice Scheme in accordance with the Patient Choice Scheme Directions 2012 and which formed a temporary part of—

(a) a general medical services contract made under section 84 of the Act;

(b) a personal medical services agreement entered into under section 92 of the Act ; or

(c) a contractual arrangement entered into under section 83(2)(b) of the Act,

immediately before the coming into force of section 34 (abolition of Primary Care Trusts) of the 2012 Act;

“Patient Choice Scheme Directions 2012” means the Primary Medical Services (Patient Choice Scheme) Directions 2012(g);

“practice area” means—

(a) the area referred to in regulation 18(1)(d) of the National Health Service (General Medical Services Contracts) Regulations 2004;

(b) the area specified in the personal medical services agreement entered into under section 92 of the Act as the area in which essential services are to be provided; or

(c) the area specified in the primary medical services contractor’s leaflet in accordance with directions made under section 98A of the Act in respect of contractual arrangements entered into under section 83(2) of that Act;

“primary medical services contract” means—

(a) a general medical services contract;

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- (a) 2002. c.17; relevant amendments are sections 113, 116 and 127 of, and paragraph 17 of Schedule 10 and Part 2 of Schedule 15 to, the Health and Social Care Act 2008 (c.14), article 68 of, and paragraph 10 of Schedule 4 to, S.I. 2010/231 and sections 22(5), 22(6), 222, 223, 224 and 230 of, and paragraph 62 of Schedule 15 to, the 2012 Act.
- (b) Details of the Patient Choice Extension Scheme are published on the Department of Health website [www.dh.gov.uk](http://www.dh.gov.uk).
- (c) Section 84 is amended by section 55(1) of, and paragraph 31 of Schedule 4 to, the 2012 Act.
- (d) Section 92 is amended by section 55(1) of, and paragraph 36 of Schedule 4 to, the 2012 Act.
- (e) Section 83 is amended by section 55(1) of, and paragraph 30 of Schedule 4 to, the 2012 Act.
- (f) See Guidance for PCTs “Choice of GP Practice – Patient Choice Scheme” published on [www.dh.gov.uk](http://www.dh.gov.uk)
- (g) The Patient Choice Scheme Directions signed on 28th March 2012 and published on the Department of Health website [www.dh.gov.uk](http://www.dh.gov.uk).

- (b) section 92 arrangements<sup>(a)</sup> which require the provision of primary medical services; or
- (c) contractual arrangements for the provision of primary medical services under section 83(2) of the Act;

“primary medical services contractor” means a person with whom the Board—

- (a) has entered into a general medical services contract under section 84 of the Act as a consequence of section 300 (transfer schemes) of the 2012 Act;
- (b) as a consequence of section 300 of the 2012 Act has entered into section 92 arrangements which require the provision by that person of primary medical services; or
- (c) has made contractual arrangements for the provision of primary medical services under section 83(2) of the Act as a consequence of section 300 of the 2012 Act; and

“registered patient” means—

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

### **Circumstances in which the Board may enter into a Patient Choice Extension Scheme Arrangement**

3. The Board must only enter into a Patient Choice Extension Scheme Arrangement in accordance with the following Directions.

### **Establishing a Patient Choice Extension Scheme Arrangement**

4.—(1) The Board must consider entering into a Patient Choice Extension Scheme Arrangement only with a primary medical services contractor—

- (a) who was a party to the Patient Choice Scheme Arrangement on 31st March 2013; and
- (b) who provided primary medical services to persons who fell within the description of persons in direction 4(1)(a) or (c)(i) (establishing a Patient Choice Scheme Arrangement) of the Patient Choice Scheme Directions 2012 on 31st March 2013 and—
  - (i) those persons were on that contractor’s list of patients on 31st March 2013 under the Patient Choice Scheme Arrangement; and
  - (ii) any of those persons wish to remain a registered patient of that contractor on or after 1st April 2013.

(2) The Board may offer to the primary medical services contractor the opportunity to enter into arrangements under the Patient Choice Extension Scheme only if the Board is satisfied that—

- (a) the primary medical services contractor can meet the eligibility conditions specified in direction 5; and
- (b) the Board satisfies itself that the primary medical services contractor—
  - (i) understands the objectives of participating in the Patient Choice Extension Scheme;
  - (ii) understands the requirements being placed upon the primary medical services contractor as a consequence of entering into a Patient Choice Extension Scheme Arrangement; and
  - (iii) is capable of meeting its obligations under the Patient Choice Extension Scheme Arrangement.

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(a) See section 92(8) of the Act.

(3) The Patient Choice Extension Scheme Arrangement which the Board enters into with a primary medical services contractor—

- (a) must be in writing;
- (b) must contain terms that have the same effect as those terms and conditions specified in directions 7, 9 and 10;
- (c) must be of a duration that does not extend to any period after 31st March 2014; and
- (d) must start at the beginning of a day and end at the end of a day.

#### **Eligibility conditions relating to participation in the Patient Choice Extension Scheme**

5. The Board must only enter into a Patient Choice Extension Scheme Arrangement with a primary medical services contractor—

- (a) who provided primary medical services to persons who fell within the description of persons in direction 4(1)(a) or (c)(i) of the Patient Choice Scheme Directions 2012 on 31st March 2013; and
  - (i) those persons are registered patients of the contractor under that Scheme on 31st March 2013; and
  - (ii) any of those persons wish to remain a registered patient of that contractor on or after 1st April 2013;
- (b) if it satisfies itself that the contractor with which it proposes to enter into those arrangements—
  - (i) is capable of continuing to meet its obligations under direction 5(b)(iii) of the Patient Choice Scheme Directions 2012;
  - (ii) is capable of meeting its obligations under the Patient Choice Extension Scheme Arrangement;
  - (iii) in particular, has the necessary facilities, equipment and properly trained and qualified general practitioners, health care professionals and staff to carry out those obligations; and
  - (iv) is agreeable to participating in the evaluation of the Patient Choice Scheme,

and nothing in these Directions shall be taken as requiring the Board to enter into such arrangements with a primary medical services contractor if it has not been able to satisfy itself in this way about the contractor.

#### **Requirement on the Board to provide information**

6. The Board must provide to any person in respect of which primary medical services are to be provided under the Patient Choice Extension Scheme, details in writing of the arrangements it has in place for the provision of primary medical services for any period during which that person may not be able to access primary medical services from the Participating Primary Medical Services Contractor and requires such services in the practice area in which that person resides.

#### **Information for Patients**

7. The Board must ensure that the Participating Primary Medical Services Contractor has arrangements in place so that the Participating Primary Medical Services Contractor—

- (a) informs patients who receive primary medical services under a Patient Choice Extension Scheme Arrangement of the duration of the Patient Choice Extension Scheme;
- (b) explains the purpose of the Patient Choice Extension Scheme, the need to monitor the Scheme and the manner in which monitoring will take place; and
- (c) explains the range of primary medical services available to patients and the arrangements in place at the end of the Patient Choice Extension Scheme.

### **Variation of contractual terms**

**8.**—(1) The Board must vary the primary medical services contract so that the arrangements made in accordance with the Patient Choice Extension Scheme Arrangement and the terms and conditions which are specified in these directions 7, 9 and 10 comprise part of the Participating Primary Medical Services Contractor's primary medical services contract.

(2) The Board may vary the terms and conditions of the Patient Choice Extension Scheme Arrangement without the Participating Primary Medical Services Contractor's consent but only to the extent that it is necessary to vary the primary medical services contract so as to comply with the Act, any regulations made pursuant to the Act or any directions given by the Secretary of State pursuant to the Act.

### **Provision relating to termination of a Patient Choice Extension Scheme Arrangement**

**9.**—(1) The Board and the Participating Primary Medical Services Contractor may withdraw from the Patient Choice Extension Scheme Arrangement but each must give a period of not less than 28 days notice to the other.

(2) The Board must make suitable arrangements on termination of the Patient Choice Extension Scheme Arrangement to ensure that patients who participated in the arrangements are notified of the termination of the arrangements and provision is made to ensure that primary medical services are available to them.

### **Breach**

**10.** The Patient Choice Extension Scheme Arrangement must provide that breach of the terms and conditions made as a consequence of these Directions by the Participating Primary Medical Services Contractor may lead to the termination of the Patient Choice Extension Scheme Arrangement by the Board with that Participating Primary Medical Services Contractor.


### **Revocation and savings**

**11.**—(1) Subject to paragraph (2), the Patient Choice Scheme Directions 2012 are revoked.

(2) Direction 10 (payments) shall continue to apply to the extent necessary to assess any entitlement to payment in respect of primary medical services provided under the Patient Choice Scheme Arrangement in accordance with that direction.

Signed by authority of the Secretary of State

A Member of the Senior Civil Service



Date 11/02/2013

Department of Health