

Health & Social Services Committee

HSS(2)-01-06(p.2)

Date: Thursday 19 January 2006

Venue: Committee Rooms 3&4, National Assembly for Wales

Title: The Confidentiality and Disclosure of Information: General Medical Services and Alternative Provider Medical Services Directions 2006

Purpose

To ask the Committee to consider the draft directions on Confidentiality and Disclosure of Information for General Medical Services (GMS) and Alternative Provider Medical Services (APMS).

Summary / Recommendations

These Directions were identified for scrutiny from the list of forthcoming legislation at the Health and Social Services Committee business meeting on 23 November 2005.

The draft Directions and the draft Explanatory Memorandum are included as part of this paper and set out the detail of the proposed Direction. Although these documents are in draft form I have undertaken to provide the Committee with final versions of the documents as soon as they become available.

Background

The GMS contract was introduced throughout the UK in 2004 with the Assembly investing an additional £100m in Wales over 3 years. Part of the payments to practices is through the Quality and Outcomes Framework (QOF) which links payments to the quality of services provided. Under the contract LHBs need to verify the achievement submitted by practices through annual review visits.

The need for administrative direction and guidance was highlighted in 2005 and resulted from UK discussions between health departments and GPC lawyers. These Directions take account of issues around patient confidentiality, data protection and freedom of information.

Consideration

You are asked to consider the Confidentiality and Disclosure of Information: General Medical Services and Alternative Provider Medical Services Directions 2006

These Directions will require Local Health Boards (LHBs) to comply with the code of practice on Confidentiality and Disclosure of Information and allow them to validate GMS payments.

Financial Implications

There will be no financial implications for the Assembly resulting from these Directions.

Action for Subject Committee

The Committee is invited to:
consider this paper, the draft Directions and the draft Explanatory Memorandum
note the intention to proceed with the draft Directions in accordance with Standing Order 29.

Brian Gibbons

Minister for Health and Social Services

Contact Point: Jill Dummett, CPCHSPD, tel: 6967

Draft

To: Business Committee

From: Brian Gibbons AM

Minister for Health & Social Services

**Standing Order 29.3(iii) Explanatory Memorandum in Respect of:
The Confidentiality and Disclosure of Information: General Medical Services and
Alternative Provider Medical Services Directions 2006**

Summary

These Directions will require LHBs to comply with the Code of Practice on Confidentiality and Disclosure of Information and will take account of issues around patient confidentiality, data protection and freedom of information.

Enabling Powers

The power enabling these Directions to be made is contained in section 16BB(4) of the National Health Service Act 1977. This power has been transferred to the National Assembly for Wales and in turn, has

been delegated to my portfolio as Minister for Health & Social Services.

Background

The General Medical Services (GMS) contract was introduced throughout the UK in 2004 with the Assembly investing an additional £100m in Wales over 3 years. Part of the payments to practices is through the Quality and Outcomes Framework (QOF), which links payments to the quality of services provided. Under the contract LHBs need to verify the achievement submitted by practices through annual review visits.

The need for administrative direction and guidance was highlighted in 2005 and resulted from UK discussions between health departments and the General Practitioners Council (GPC) lawyers.

Effect

These Directions require Local Health Boards (LHBs) to comply with the Code of Practice on Confidentiality and Disclosure of Information.

The Code of Practice sets out guidance on the confidentiality of information held by contractors who provide General Medical Services (GMS) and Alternative Provider Medical Services (APMS). It also sets out guidance on the provision of contractor-held information to LHBs, and access by, and disclosure of, that information to LHBs or a person authorised in writing by LHBs.

The Code also makes explicit existing legal and ethical obligations of confidentiality, placing them in the context of new primary care contractual arrangements. It does not cover in detail all circumstances in which contractor-held information may be requested, but sets out principles of good practice for contractors of primary medical services and LHBs who commission services from them e.g. Contractors should provide a confidential and secure service for patients; Information should only be disclosed or shared by contractors when it is lawful to do so; Information should be disclosed or otherwise shared by contractors on a "need to know" basis. It also describes circumstances in which the Welsh Assembly Government may request access to certain contractor-held information. LHBs are required by the Directions to comply with the provisions of this Code when exercising certain functions i.e. it covers LHB access to, or requests for disclosure of, contractor held information. This includes information to support payments under the Quality and Outcomes Framework (QOF) in relation to GMS. LHBs should normally seek actively to involve and engage Local Medical Committees in relation to the Code where there are any potential issues of contention or where contractors may require additional support.

Target Implementation

It is intended that these Directions be made on 7 March 2006 and come into force on 8 March 2006. If the proposed dates are not met it would mean that LHBs will not have the appropriate authority and guidelines to validate GMS payments. The Department of Health Directions came into force in April

2005 and the Scottish Executive Directions came into force in September 2005.

Financial Implications

There are no financial implications for the Assembly, LHBs, GMS or APMS contractors resulting from these Directions.

Consultation:-

With Stakeholders

The Code of Practice, to which the Directions relate, was produced following UK negotiations between the General Practitioners Council (GPC) and the UK Health Departments. The Directions are being implemented by all UK countries. The Directions have subsequently been approved by the General Practitioners Council (Wales) (GPC(W)).

With Subject Committee

These Directions were notified to the Health and Social Services Committee on 23 November 2005, via the list of forthcoming legislation HSS(2)-12-05 (p.1a), HSS44(05). The Directions were identified for detailed scrutiny.

The Committee are due to scrutinise the Directions at its meeting on 19 January 2006.

National Health Service Act 1977

The Confidentiality and Disclosure of Information: General Medical Services and Alternative Provider Medical Services Directions 2006

The National Assembly for Wales, in exercise of the powers conferred on it by section 16BB(4) of the National Health Service Act 1977() and of all other powers enabling it in that behalf, hereby gives the following Directions:

Application, commencement and interpretation

1.— These Directions, which are called the Confidentiality and Disclosure of Information: General Medical Services and Alternative Provider Medical Services Directions 2006, are given to Local Health Boards in Wales and come into force on 8 March 2006.

(1) In these Directions—

"1977 Act" means the National Health Service Act 1977;

"APMS contract" means arrangements made under section 16CC(2)(b) of the 1977 Act for the provision of primary medical services();

"default contract" means a contract under article 13 of the General Medical Services Transitional and Consequential Provisions (Wales) Order 2004();

"GMS Contract" means a contract under section 28Q of the 1977 Act();

"GMS Contract Regulations" means the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004().

Compliance with the Code of Practice: Confidentiality and Disclosure of Information

2. In exercising any function, or in enforcing any right or obligation, pursuant to-

(a) a term of a GMS Contract that gives effect to paragraph 76 (provision of information) or 79 (annual review) of Schedule 6 to the GMS Contract Regulations;

(b) any equivalent terms to those specified in paragraph (a) in a default contract; or

(c) any equivalent terms to those specified in paragraph (b) in an APMS contract,

a Local Health Board must, insofar as it is relevant to its exercise of that function, or the enforcement of that right or obligation, act in accordance with paragraphs 19 to 23, 29, 30, 34 to 37 and 39 of the document entitled "Confidentiality and Disclosure of Information: General Medical Services (GMS) and Alternative Provider Medical Services (APMS) Code of Practice" dated 13 October 2005().

Signed by authority of the