

**Date:** Thursday 12 February 2004

**Venue:** Committee Room 3, National Assembly for Wales

**Title:** Regulations to Implement the New General Medical Services Contract

## **Purpose**

1. To consider the regulations required to implement the new General Medical Services (GMS) Contract from 1<sup>st</sup> April 2004.

## **Summary/Recommendations**

2. The regulations, which have been tabled at this meeting, will provide the legislative basis for the contract to become operative in Wales from 1<sup>st</sup> April 2004. The regulations are still in draft form, and apart from the Transitional and Consequential Provisions Order, it is not thought that there will be any major drafting amendments. You should be aware that these regulations are still working drafts and have not been approved by the Minister of State for Health in England or by the General Practitioners Committee (Wales). You are therefore invited to consider and approve the regulations in their current format.

## **Background**

3. The new UK GMS contract was agreed on 17<sup>th</sup> February 2003 after negotiations between the NHS Confederation, acting as agents for the 4 health departments, and the British Medical Association. GPs were balloted on the contract and the final result, on 20<sup>th</sup> June, was an endorsement of the contract by 80% of GPs who voted. The new contract will provide benefits to GPs, other primary care professionals and patients.

4. The relevant clauses to implement the contract were introduced into the Health and Social Care (Community Health and Standards) Bill on the 3<sup>rd</sup> July. The Bill did not receive Royal Assent until late November and the drafting of the various regulations to implement the contract began. Given the

significant task of amending the legislative base, which will govern the way that the new GMS contract will operate, and the short timetable for the primary and secondary legislation, I was always aware that the timetable would be extremely tight for implementing the contract.

5. I have advised you at previous HSSC meetings that although, where possible, it would be avoided, that there may be a possibility that some of the regulations will have to be made by way of Executive Procedures as final drafts of the regulations wouldn't be available in time. This has proved to be the case for some of the regulations and as agreed at our HSSC Business Management Meeting, I have therefore tabled drafts of the regulations for you to consider.

## **Consideration**

6. You are asked to consider the following Regulations:-

### **7. The Health and Social Care (Community Health and Standards) Act 2003 (Commencement No 1) (Wales) Order 2004**

#### **Executive Procedure – to come into Force 28<sup>th</sup> February 2004**

- This Order commences the regulation powers within the Health and Social Care (Community Health and Standards) Act 2003 necessary to implement the new contract.
- The commencement of the provisions will enable the six other regulations to be made as listed below.

### **8. The National Health Service (General Medical Services Contracts) (Wales) Regulations 2004 (Coming into Force 1<sup>st</sup> March 2004**

#### **Executive Procedure – to come into force 1<sup>st</sup> March 2004**

8.1 These are the main regulations and will provide the framework for the new GMS contracts and the movement to a practice-based contract. They will:-

- set out the framework for general medical services contracts under section 28Q of the National Health Service Act 1977 ("the Act").
- prescribe the conditions which, in accordance with section 28S of the Act, must be met by a contractor before the Local Health Board may enter into a general medical services contract with it.
- prescribe the procedure for pre-contract dispute resolution, in accordance with section 28W(2) of

the Act.

- sets out the procedures, in accordance with section 28W(3) of the Act, by which the contractor may obtain health service body status.
- prescribes a function for Local Medical Committees
- prescribes the terms which, in accordance with sections 28V and W of the Act, must be included in a general medical services contract (in addition to those contained in the Act). Including a description of the services, which must be provided to patients under general medical services contracts pursuant to section 28R of the Act.
- The prescribed terms include terms relating to—

- (a) the type and duration of the contract
- (b) the services to be provided, the manner in which they are to be provided and the procedures for opting out of additional and out of hours services
- (c) the issuing of medical certificates
- (d) finance, fees and charges
- (e) patient registration and removal, lists closures and assignments
- (f) prescribing and dispensing
- (g) the conditions to be met by those who perform services or are employed or engaged by the contractor
- (h) patient records, the provision of information and rights of entry
- (i) complaints
- (j) procedures for dispute resolution and
- (k) procedures for variation and termination of contracts

8.2 I provided you with a copy of these draft regulations in November and whilst there have been some changes to the draft (which I list below) there have also been numerous minor changes amending legal terminology which does not affect the contents.

8.3 Changes between the November draft and the draft tabled now include:-

- An index outlining the arrangements of the regulations;
- A paragraph dealing with arrangements on termination of a contract including the consequences (whether financial or otherwise) of the contract ending (Page 27 Reg 25 refers);
- Further details in relation to the functions of a Local Medical Committee, (Page 27 Reg 27 refers) including:-
- reporting the outcome of a complaint made against a medical practitioner to the LHB which

- would raise concerns relating to the efficiency of services provided under the contract;
- the making of arrangements for the medical examination of a medical practitioner and making a written report to the capability of the medical practitioner of adequately providing services under the contract;
- providing the written report to the medical practitioner concerned , the contractor and the LHB with whom the contractor holds a contract;
- A new paragraph in relation to checks for patients aged 75 years and over requesting a consultation if they have not participated in a consultation in the period of twelve months prior to the date of the patient's request (Page 49 Reg 6 refers);
- The regulation in relation to the 'Terms relating to the provision of dispensing services' has been extended to ensure that Contractors who have been granted the right to provide dispensing services do so in accordance with the regulations as set out in Reg 49, Page 73;
- The regulations surrounding a contractor employing or engaging a health care professional has been extended to ensure the health care professional meets certain requirements including experience and training (Page 76 Reg 57 refers);
- A new regulation has been included which requires the contractor to keep a register of all gifts received which appears to have an individual value of more than £100 and the contractor shall make the register available to the LHB on request (Page 101 Reg 122 refers). This regulation has been included as part of the post Shipman reforms;
- A new Schedule has been included on Out of Hours which outlines the temporary arrangements for transfer of obligations and liabilities in relation to certain out of hours services (Page 103 Schedule 7);
- You should also be aware that the regulations referring to 'Requests for Information from Patients' Forum' has been removed from this latest draft. We do not have Patient Forums in Wales but reference to this was included originally in the previous draft as it was thought that there maybe some cross border issues. After further consideration, legal advice suggests that this will not now be the case hence the regulations referring to this being removed.

## **9. The General Medical Services Transitional Provisions Order (Wales) 2004**

### **Executive Procedure – to come into force 1<sup>st</sup> March 2004**

9.1 This Order deals with transitional provisions in relation to:-

- Entitlements and circumstances in which a GMS contract or default contract may be entered into;

- The appeal arrangements if a LHB will not enter into a contract with a person for reasons such as that person currently being suspended from the medical register, medical list or performer list or where temporary arrangements are currently in place;
- The Order also deals with vacancy appeals under the old arrangements and appeals against LHBs for the failure to enter into a GMS contract;
- The arrangements for continuing with the temporary provision of primary medical services to a Contractor's patients;
- Arrangements and Services to be provided under Default or GMS contracts;
- Financial Arrangements in relation to Default Contracts.

## **10. The General Medical Services Transitional and Consequential Provisions (Wales) Order 2004**

### **Executive Procedure – to come into force on 1<sup>st</sup> April 2004**

10.1 It should be noted that the draft tabled is a very early draft and a substantial amount of drafting is still required. However, these regulations provide for:-

- Transitional provisions in relation to General Medical Services;
- Transitional provisions for General Medical Services Contracts, which follow Default Contracts; and
- Transitional Provisions relating to Out of Hours arrangements and Services.
- Consequential amendments to other regulations which has yet to be drafted.

## **11. The General Medical Services Goodwill (Wales) Regulations 2004**

### **Executive Procedure – to come into force on 1<sup>st</sup> April 2004**

11.1 Unfortunately no draft is available of these regulations at this time but I will send you a copy as soon as they are available. It is anticipated that these regulations will establish the rules around the sale of GMS practices as it is illegal to include an element of goodwill in the price when these businesses are sold.

## **12. The National Health Service (Performer Lists) (Wales) Regulations 2004**

### **Standard Procedure – to come into force on 1<sup>st</sup> April 2004**

12.1 You also had sight of these regulations in November and I can confirm that there have only been inconsequential changes involving amendments to the legal terminology and does not affect the contents.

- Currently GPs have to be on the medical list or the supplementary medical list of a LHB. The new regulations provide for a single primary medical performer list to be created in each LHB.

## **13. The National Health Service (GMS Contracts) (Prescription of Drugs) (Wales) Regulations 2004**

### **Standard Procedure – to come into force on 1<sup>st</sup> April 2004**

- Schedule 1 of the above regulation will replace Schedule 10 to the National Health Service (General Medical Services) Regulations 1992. This Schedule refers to those drugs and other substances that are not to be prescribed under the NHS Pharmaceutical Services.
- Schedule 2 to the above regulations will replace Schedule 11 to the National Health Service (General Medical Services) Regulations 1992. This Schedule refers to drugs and other substances, which may only be, prescribed under the NHS Pharmaceutical Services, for a specified treatment in certain circumstances.

## **Financial Implications**

14. The new contract provides unprecedented levels of investment in primary care – an increase of 33% over the next 3 years which will be accommodated within the existing and planned budget for "GP Contract" in the Payments to Contractors BEL.

## **Action for Subject Committee**

15. To consider and approve the regulations in their current format.

**Jane Hutt**  
**Minister for Health and Social Services**

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