

WEBSITE UPDATE – 23 DECEMBER

New GMS Contract regulations, guidance, contract and Statement of Financial Entitlement

Drafts now published by Department of Health England

The contract documentation consists of:

- draft GMS contract regulations
- draft standard contract, together with an explanatory note for PCTs
- draft Statement of Financial Entitlement (SFE)
- guidance on the above three documents.

Draft regulations

The draft regulations were posted on the Department of Health website on 12 December. These can be found at www.doh.gov.uk/gmscontract/implementation.htm

The substantive issues have been resolved before publication of the draft. However, there may be some minor amendments in the New Year, before the regulations are laid before Parliament for approval and the final versions of all documents are published.

Draft standard contract

The draft standard contract was posted on the Department of Health website on 22 December, and can be found at www.doh.gov.uk/gmscontract/implementation

The draft standard contract is a long document. This is because it is a stand-alone document and must reflect all the mandatory terms from the regulations that will apply to the contract between practices and PCOs.

The standard contract has been drafted by Counsel, and Departmental and GPC lawyers have double-checked that it accords with the regulations which faithfully reflect the new contract as agreed between the negotiating parties. Practices that use the standard contract containing these terms are therefore protected.

Contract terms

A great many of the contract terms are mandatory and therefore cannot be amended. Practices and PCOs should not attempt to negotiate on these.

Other terms, whilst not mandatory, have been subject to the agreement between the negotiating parties and these terms should not therefore need amending in any way.

There are only quite a small number of terms which will be particular to each practice and will need to be tailored to reflect the agreement between the practice and the PCO, and which practices will therefore need to pay particular attention to. The main areas relate to:

- what additional services the practice will be opting out of, if any
- what enhanced services the practice will be providing
- what level of quality the practice will be aspiring to
- whether or not the practice will be opting out of out-of-hours services

Using the Standard GMS contract - explanatory note for PCTs

This explanatory note is intended for PCTs but should be read by all contractors and LMCs as it indicates where some adaptation of the standard terms will be needed to tailor the contract to the individual contractor.

Draft Statement of Financial Entitlements,

This sets out in detail the way in which payments will be calculated and made to practices, including the arrangements for:

- the Global Sum
- the Minimum Practice Income Guarantee
- quality payments
- some directed enhanced services
- the out-of-hours opt-out
- PCO-administered services.

The Statement of Financial Entitlements (SFE) takes the form of legal Directions. It will replace the Statement of Fees and Allowances in detailing the payments to which practices will be entitled. This document is of the order of 100 pages long.

Guidance

Accompanying these documents is detailed guidance. This has been drafted by the Department of Health and has been agreed between the GPC the NHS Confederation and the Department of Health. Chapters of the guidance focus on:

- a summary of the guidance – chapter 1
- the provision of services – chapter 2
- the quality framework – chapter 3
- HR and infrastructure issues – chapter 4
- Finance – chapter 5
- the contracting process - chapter 6
- timetables – chapter 7.

These chapters are not stand-alone documentation and must be read in conjunction with the source legal documents, i.e. the regulations, the standard contract and the SFE.

The Department will ensure that all practices receive a paper copy of the contract guidance. Paper copies are, however, very unlikely to be with practices before mid-January because of print timetables. We have pressed the Department to produce all documentation on CD-ROM both in their draft forms and when the final documentation is available.

What to do now

It is important that practices understand the new contract documentation. Not all doctors will want to read every word but LMC secretaries and practice managers, at the very least, should become fully familiar with them. This can be daunting given the combined length of the documents. We suggest breaking the reading down into manageable pieces and then continuing discussions with your Primary Care Organisation about reaching provisional agreements on your contract.

We would suggest the following in order of priority:

Step One

Read the contract guidance. Chapter one, which summarises everything in the guidance, and chapter seven, which sets out the various timetables for discussion and agreement on the contracts between practices and PCOs, are the best places to start.

Step Two

Consider the standard contract and continue discussions with your PCO about the services you will be providing under the new contract for agreement in your contract.

To help with this, read the explanatory note for PCTs on using the standard GMS contract. This indicates those few areas where the standard contract will need to be adapted to reflect the individual practice's contract. The other sections should not need to be amended.

Step Three

Aim to agree a practice contract with your PCT by the end of February. If contracts cannot be agreed, there will be arrangements for a 'default contract' to take effect. Default contracts should only be used as a very last resort and it is not anticipated that they will be used at all. If there are outstanding issues, such as final agreement over the price of a local enhanced service, or the exact level of the overall budget, it will be better to sign the standard practice contract, highlighting the areas of disagreement, so that the contract is in place by 1 April. This will benefit practices in two ways:

- it will deliver better financial rewards into the practice sooner than under the default contract
- it will enable you to use the contract dispute resolution mechanism if there is an outstanding problem.

Any areas of disagreement can be dealt with through the dispute resolution procedures which will be set out in the contract guidance.

We will be providing further information and guidance for practices very shortly.

Practice managers and LMCs

It is particularly important that LMC secretaries and practice managers DO read all documentation in detail.

Scotland, Wales and Northern Ireland

The timetable in the other three countries is different. Details of the progress in each of the four countries are set out in annexes to the recent joint implementation letter which can be found on the BMA website: www.bma.org.uk/gpcontract

PMS

We are being consulted about the information being sent to PMS practices by the Department. Their timetable is very tight and they currently plan to publish this shortly. We will keep you updated on this.