Annex 11

Fitness to Practice Matters

Part C

APMS Contracts

The wording below reflects Direction 6(1)(v) of the APMS Directions as of 1 June 2015

(1) The Board may serve notice in writing on the contractor terminating the APMS contract forthwith, or from such date as may be specified in the notice if–

(a) in the case of an APMS contract with an individual as a party, that individual;

(b) in the case of an APMS contract with a company–

(i) the company, or

(ii) any director or company secretary of the company,

(c) in the case of an APMS contract with a partnership-

(i) and individual member of the partnership, or

(ii) the partnership; or

(d) in the case of an APMS contract with an industrial and provident society, a friendly society, a voluntary organisation or any other body-

(i) the society, organisation or other body; or

(ii) an officer, trustee or any other person concerned with the management of the society, organisation of other body, falls within sub-paragraph (3) during the existence of APMS contract.

(2) Not used

(3) A person falls within this sub-paragraph if–

(a) he or it (in the case of a qualifying body) is the subject of a national disqualification;

(b) subject to sub-paragraph (4), he or it is disqualified or suspended (other than by an interim suspension order or direction pending an investigation or a suspension on the grounds of ill-health) from practising by any licensing body anywhere in the world;

(c) subject to sub-paragraph (5), he has been dismissed (otherwise than by reason of redundancy) from any employment by a health service body unless before the Boardhas served a notice terminating the agreement pursuant to this paragraph, he is employed by the health service body that dismissed him or by another health service body;

(d) he or it is removed from, or refused admission to, a primary care list by reason of inefficiency, fraud or unsuitability (within the meaning of section 151(2), (3) and (4) of the 2006 Act respectively) unless his name has subsequently been included in such a list;

(e) he has been convicted in the United Kingdom of murder;

(f) he has been convicted in the United Kingdom of a criminal offence and has been sentenced to a term of imprisonment of over six months;

(g) subject to sub-paragraph (6), he has been convicted elsewhere of an offence–

(i) which would, if committed in England and Wales, constitute murder, or

(ii) which would, if committed in England and Wales, constitute a criminal offence other than murder, and been sentenced to a term of imprisonment of over six months;

(h) he has been convicted of an offence referred to in Schedule 1 to the Children and Young Persons Act 1933;

(i) he or it has–

(i) been adjudged bankrupt or had sequestration of his estate awarded or is a person in relation to whom a moratorium period under a debt relief order (under Part 7A of the Insolvency Act 1986) applies unlesshe has been discharged **[** from the bankruptcy or the sequestrationor the bankruptcy order has been annulled,

(ii) been made the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986or Schedule 2A to the Insolvency (Northern Ireland) Order 1989, unless that order has ceased to have effect or has been annulled,

(iia) been made the subject of a debt relief restrictions order or interim debt relief restrictions order under Schedule 4ZB to the Insolvency Act 1986 unless that order has ceased to have effect or has been annulled, or

(iii) made a composition or arrangement with, or granted a trust deed for, his or its creditors unless he or it has been discharged in respect of it,

(iv) an administrator, administrative receiver or receiver appointed in respect of it,

(v) an administration order made in respect of it under Schedule B1 to the Insolvency Act 1986, or

(vi) been wound up under Part IV of the Insolvency Act 1986;

(j) he has been–

(i) removed from the office of charity trustee or trustee for a charity by an order made by the Charity commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated, or

(ii) removed under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (powers of the Court of Session to deal with management of charities) or under section 34 of the Charities and Trustee Investment (Scotland) Act 2005 (powers of Court of Session, from being concerned in the management or control of any body;

(k) he is subject to a disqualification order under the Company Directors Disqualification Act 1986, the Companies (Northern Ireland) Order 1986 or to an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order); or

(l) has refused to comply with a request by the relevant body for him to be medically examined on the grounds that it is concerned that he is incapable of adequately providing services under the agreement.

(4) The Boardshall not terminate the agreement pursuant to sub-paragraph (3)(b) where the Board is satisfied that the disqualification or suspension imposed by a licensing body outside the United Kingdom does not make the person unsuitable to be–

(a) a party to the agreement;

(b) in the case of an agreement with a qualifying body–

(i) a person both legally and beneficially owning a share in the qualifying body, or

(ii) a director or secretary of the qualifying body,

as the case may be.

(5) The Board shall not terminate the agreement pursuant to sub-paragraph (3)(c)–

(a) until a period of at least three months has elapsed since the date of the dismissal of the person concerned; or

(b) if, during the period of time specified in paragraph (a), the person concerned brings proceedings in any competent tribunal or court in respect of his dismissal, until proceedings before that tribunal or court are concluded,

andthe Boardmay only terminate the agreement at the end of the period specified in paragraph (b) if there is no finding of unfair dismissal at the end of those proceedings.

(6) The Board shall not terminate the agreement pursuant to sub-paragraph (3)(g) where the Board is satisfied that the conviction does not make the person unsuitable to be–

(a) a party to the agreement; or

(b) in the case of an agreement with a qualifying body–

(i) a person bothlegally and beneficially owning a share in the qualifying body, or

(ii) a director or secretary of the qualifying body,

as the case may be.