Annex 5

Breach Notice Flowchart

|  |  |  |
| --- | --- | --- |
| The Commissioner believes that the contractor may have breached the contract | | |
| Macintosh HD:Users:denisehampson:Documents:1 - Hampson Solutions:0 - Contracts:NHS England:Primary Care Documents:Performance Concerns Toolkit:pink arrown down.png | | |
| Contact the contractor to discuss the breach and any possible action (e.g. Remedial or Breach Notice) | | |
| Macintosh HD:Users:denisehampson:Documents:1 - Hampson Solutions:0 - Contracts:NHS England:Primary Care Documents:Performance Concerns Toolkit:pink arrown down.png | | |
| Investigate the breach including consideration of evidence and any contractor representations | | |
| Macintosh HD:Users:denisehampson:Documents:1 - Hampson Solutions:0 - Contracts:NHS England:Primary Care Documents:Performance Concerns Toolkit:pink arrown down.png |  | Macintosh HD:Users:denisehampson:Documents:1 - Hampson Solutions:0 - Contracts:NHS England:Primary Care Documents:Performance Concerns Toolkit:pink arrown down.png |
| Breach is capable of remedy |  | Breach is not capable of remedy |
| Macintosh HD:Users:denisehampson:Documents:1 - Hampson Solutions:0 - Contracts:NHS England:Primary Care Documents:Performance Concerns Toolkit:pink arrown down.png |  | Macintosh HD:Users:denisehampson:Documents:1 - Hampson Solutions:0 - Contracts:NHS England:Primary Care Documents:Performance Concerns Toolkit:pink arrown down.png |
| Consider issuing a Remedial Notice *(Refer to Annex 1)* |  | Consider issuing a Breach Notice |
|  |  | Macintosh HD:Users:denisehampson:Documents:1 - Hampson Solutions:0 - Contracts:NHS England:Primary Care Documents:Performance Concerns Toolkit:pink arrown down.png |
| Draft Breach Notice including all mandatory information *(Refer to paragraph 3.30)* | | |
| Macintosh HD:Users:denisehampson:Documents:1 - Hampson Solutions:0 - Contracts:NHS England:Primary Care Documents:Performance Concerns Toolkit:pink arrown down.png | | |
| Obtain sign off from appropriate person | | |
| Macintosh HD:Users:denisehampson:Documents:1 - Hampson Solutions:0 - Contracts:NHS England:Primary Care Documents:Performance Concerns Toolkit:pink arrown down.png | | |
| Serve Breach Notice | | |
| Macintosh HD:Users:denisehampson:Documents:1 - Hampson Solutions:0 - Contracts:NHS England:Primary Care Documents:Performance Concerns Toolkit:pink arrown down.png | | |
| |  | | --- | | Submit Notice Return to NHS England primary care inbox (england.primarycareops@nhs.net) | | Macintosh HD:Users:denisehampson:Documents:1 - Hampson Solutions:0 - Contracts:NHS England:Primary Care Documents:Performance Concerns Toolkit:pink arrown down.png | | | |
| If the contractor repeats the breach that was the subject of the Breach Notice or otherwise breaches the contract resulting in either a Remedial Notice or a Breach Notice, the Commissioner has the right to terminate the contract provided that the Commissioner is satisfied that the cumulative effect of the breaches is such that the Commissioner considers that to allow the contract to continue would be prejudicial to the efficiency of the services to be provided under the contract | | |