

# Standard Clauses For A Personal Dental Services Agreement Variation Notice



## Standard Clauses For A Personal Dental Services (PDS) Agreement Variation Notice

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The text of the Standard Clauses For A Personal Dental Services (PDS) Agreement Variation Notice May 2025 has been prepared by Hill Dickinson on behalf of NHS England.

It is prepared on the basis that the numbering adopted in the signed contract follows that used in the Standard Clauses for a Personal Dental Services Agreement dated July 2018.

### **Equalities and health inequalities statement**

Promoting equality and addressing health inequalities are at the heart of NHS England's values. Throughout the development of the policies and processes cited in this document, we have:

- given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as cited under the Equality Act 2010) and those who do not share it;
- given regard to the need to reduce inequalities between patients in access to, and outcomes from, healthcare services and in securing that services are provided in an integrated way where this might reduce health inequalities.

NHS ENGLAND  
Standard Clauses For A Personal Dental Services Agreement Variation Notice – July  
2025

Dear Sir/Madam

**Notice of Variation to your Personal Dental Services Agreement dated**

**[     ]**

We give you notice under paragraph 60(2) of Schedule 3 to The National Health Service (Personal Dental Services Agreements) Regulations 2005 (S.I. 2005/3373) that the terms of your personal dental services agreement dated [     ] are varied as set out below with effect from *[insert here date on which variations will take effect. Where reasonably practicable this should not be less than 14 days after the date on which this notice is served. This is a regulatory requirement.]*.

These variations are made to comply with:

- National Health Service (Primary Dental Services) (Amendment) Regulations 2023;
- Health and Care Act 2022 (Further Consequential Amendments) (No. 2) Regulations 2023; and
- National Health Service (Primary Dental Services and Dental Charges) (Amendment) Regulations 2024.

These regulations are published on the government website [legislation.gov.uk](https://www.legislation.gov.uk).

For the avoidance of doubt nothing in this notice shall affect accrued rights or liabilities up to the date of the variation.

We request you to acknowledge receipt of this notice by signing and returning the enclosed duplicate of it.

Dated:

Signed:

on behalf of NHS England

Print name:

## Wording of Variations

### Clause 288

1. In clause 288, after the words "*made in clauses 288*" **insert** the number "290A,".

### Clause 290A

2. Immediately after clause 290.2, **insert** the following new clauses:

#### **"Variation of the Agreement: rebasing for persistent under performance**

290A.1. In this clause—

*"contracted activity"* means the number of *units of dental activity* or *units of orthodontic activity* the Contractor is required to provide under the Agreement,

*"Covid years"* means the *financial years* ending on 31st March 2021 and 31st March 2022,

*"rebasings"* means a permanent variation of the Agreement pursuant to sub-clause 290A.2 and *"rebase"* is to be read accordingly,

*"rebasings date"* means the date, notified by the Commissioner under a *rebasings notice*, from which the *rebasings* takes effect,

*"rebasings notice"* means a notice in writing sent by the Commissioner to the Contractor, notifying the Contractor of the wording of a proposed *rebasings* and the *rebasings date*,

*"relevant financial years"* means any three consecutive *financial years*, save for the *Covid years*, which—

290A.1.1. are not before the *financial year* ending on 31st March 2020, and

290A.1.2. immediately precede the *financial year* in which the *rebasings notice* is served on the Contractor.

290A.2. If all the conditions in sub-clause 290A.3. are met, the Commissioner may *rebase* the Agreement to—

290A.2.1. reduce the *contracted activity*, and

NHS ENGLAND  
Standard Clauses For A Personal Dental Services Agreement Variation Notice – July  
2025

290A.2.2. carry out any related variations of the Agreement, including in relation to the monies to be paid to the Contractor under the Agreement, but the *rebasings* must not result in the *contracted activity* being reduced to less than the highest number of *units of dental or orthodontic activity* provided by the Contractor in any one of the *relevant financial years*.

290A.3 The conditions referred to in sub-clause 290A.2. are—

290A.3.1. in respect of each *relevant financial year*—

290A.3.1.1. The Commissioner invited the Contractor to participate in a mid-year review of its performance under the Agreement, pursuant to clause 132.2, whether the Contractor has engaged with this procedure or not,

290A.3.1.2. the Contractor provided less than 96% of *contracted activity*,

290A.3.1.3. there have not been circumstances to which clause 350 applies, which have caused the under delivery pursuant to sub-clause 290A.3.1.2,

290A.3.1.4. The Commissioner issued a breach notice to the Contractor by reason of under delivery pursuant to sub-clause 290A.3.1.2, which has not been set aside, and no formal dispute is pending in respect of the circumstances that have given rise to the breach notice, and

290A.3.2. The Commissioner has not been able to agree with the Contractor a permanent variation of the Agreement under clause 290.

290A.4 If the Commissioner decides to *rebase* the Agreement—

290A.4.1. it must serve a *rebasings notice* on the Contractor and allow a minimum of 28 days, starting with the day the

NHS ENGLAND  
Standard Clauses For A Personal Dental Services Agreement Variation Notice – July  
2025

*rebasing notice* is served on the Contractor, before taking any action pursuant to that notice, and

- 290A.4.2. it must specify in the *rebasing notice* a *rebasing date* it considers appropriate, which must be no earlier than 1st April in the *financial year* immediately following the *financial year* in which the *rebasing notice* is served on the Contractor.”.