

Classification: Official

Publication reference: PRN00241



Standard Clauses For A Personal Dental Services Agreement Variation Notice

Revised: September 2023

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

Publishing approval number: PRN00241

Version number: 2.0

First published: April 2006

First updated: July 2018

Revised: September 2023

The text of the Standard Clauses For A Personal Dental Services (PDS) Agreement Variation Notice July 2023 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."

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 reflect changes introduced by the Health and Care Act 2022 and comply with:

- The National Health Service (General Dental Services Contracts and Personal Dental Services Agreements) (Amendment) Regulations 2019;
- The National Health Service (Amendments Relating to the Provision of Primary Care Services During a Pandemic etc) Regulations 2020;
- The National Health Service (Coronavirus) (Charges and Further Amendments Relating to the Provision of Primary Care Services During a Pandemic etc) Regulations 2020;
- The Sentencing Act 2020;
- The National Health Service (Primary Dental Services) (Amendment) Regulations 2022; and
- The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023;

which 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

General Variations

1. In the following provisions, **replace** all references to “the Board” with “*NHS England*”:
 - 1.1. In the following definitions in clause 1:
 - 1.1.1. “dental performers list”;
 - 1.1.2. “electronic form”;
 - 1.1.3. “NHS body”;
 - 1.1.4. “patient record”;
 - 1.1.5. “prescription form”;
 - 1.2. In clauses 47, 52.1, 53, 56.1, 151, 164, 176, 178.1, 182.2 and 260.
2. In clause 2.4, **replace** the reference to “the Board” with “the Commissioner or *NHS England*”.
3. In clause 2.9, **replace** the second reference to “the Board” with “the Commissioner or *NHS England*”.
4. In clause 221, **replace** the words “a form supplied by it” with “a form supplied by *NHS England*”.
5. **Replace** all other references to “the Board” with “the Commissioner”.

Clause 1

6. **Insert** the following new definitions:

““integrated care board” means an integrated care board established under Chapter A3 of Part 2 of the 2006 Act;”;

““NHS England” means the body corporate established under section 1H of the 2006 Act;”.

7. In the definition of “prison”, **replace** the words “under section 100 of the Powers of Criminal Courts (Sentencing) Act 2000 (offenders under 18: detention and training orders)” with the words “within the meaning given by section 233 of the Sentencing Code”.

Clause 2

8. Immediately after clause 2.11, **insert** the following new clauses:

“2.12 Where the Agreement makes reference to any announcement or advice of *NHS England* that relates to a disease being, or in anticipation of a disease being imminently, pandemic and a serious risk or potentially serious risk to human health, it is to that announcement or advice, which may be withdrawn at any time, as amended from time to time.

2.13 Where under section 65Z5 of *the 2006 Act* a relevant body (as defined therein) has arranged for functions exercisable by it to be exercised by or jointly with one or more other bodies, a reference to that relevant body shall, as the context requires, include a reference to the body or bodies exercising the functions in question (and vice versa).”.

Clause 52

9. Immediately after clause 52.1, **insert** the following new clauses:

- “52A. Where, by virtue of clauses 47 to 52.1, a person is required to include anything in a treatment plan or summary, or to ensure a patient signs a treatment plan, but as a consequence of disease being, or in anticipation of a disease being, pandemic and a serious risk or potentially a serious risk to human health, *the Secretary of State* has made an announcement to the effect that, in order to assist in the management of the serious risk or potentially serious risk to human health, for the period specified in the announcement, that requirement is to be waived or modified in the manner specified in the announcement, that requirement is waived or is as modified in the specified manner for the specified period.
- 52B. Modifications under clause 52A may include modifications imposing requirements on a person other than the person who, but for the announcement, would be required to include anything in a treatment plan or a summary or to ensure a patient signs a treatment plan.
- 52C. An announcement under clause 52A may be withdrawn or amended at any time.”.

Clause 62

10. Immediately after clause 62.2, **insert** the following new clause:

- “62A. The band in which a restoration specified in clause 62 falls shall be determined in accordance with *the NHS Charges Regulations* and, if such restoration falls within a *Band 2 course of treatment*, the applicable sub-band for the purpose of calculating the appropriate number of *units of dental activity* shall be determined in accordance with clauses 79 to 82D (including Table A and B).”.

Clause 79

11. In clause 79, **replace** the words “*banded course of treatment*” with the words “*Band 1 or Band 3 course of treatment, or a sub-band of a Band 2 course of treatment* as set out in clauses 82B to 82D”.

Clause 82

12. Immediately after clause 82A, but before Table A, **insert** the following new clauses:

“82B. The following *Band 2 courses of treatments* are within sub-band 2a:

82B.1 non-surgical periodontal treatment including root-planing, deep scaling, irrigation of periodontal pockets and subgingival curettage and all necessary scaling and polishing;

82B.2 surgical periodontal treatment, including gingivectomy, gingivoplasty or removal of an operculum;

82B.3 surgical periodontal treatment, including raising and replacement of a mucoperiostal flap, curettage, root planing and bone resection;

82B.4 free gingival grafts;

82B.5 sealant restorations;

82B.6 pulpotomy;

82B.7 apicectomy;

82B.8 transplantation of teeth;

82B.9 oral surgery including surgical removal of cyst, buried root, unerupted tooth, impacted tooth or exostosed tooth and alvealectomy;

82B.10 soft tissue surgery in relation to the buccal cavity and lips;

82B.11 frenectomy, frenoplasty and frenotomy;

82B.12 relining and rebasing dentures including soft linings;

82B.13 addition of tooth, clasp, labial or buccal flange to dentures;

82B.14 splints (other than laboratory fabricated splints) in relation to periodontally compromised teeth and in connection with external trauma;

82B.15 bite raising appliances (other than laboratory fabricated appliances);

82B.16 permanent fillings in amalgam, composite resin, synthetic resin, glass ionomer, compomers, silicate or silico-phosphate, including acid etch retention, if delivered to less than 3 teeth in single course of treatment;

82B.17 extraction of one or two teeth; and

82B.18 endodontic treatment of any retained deciduous teeth.

82C. The following *Band 2 courses of treatments* are within sub-band 2b:

82C.1 permanent fillings amalgam, composite resin, synthetic resin, glass ionomer, compomers, silicate or silico-phosphate, including acid etch retention, if delivered to 3 or more teeth in single course of treatment;

82C.2 endodontic treatment of any permanent teeth, excluding molar teeth; and

82C.3 extraction of three or more teeth.

82D. *The Band 2 course of treatment* within sub-band 2c is endodontic treatment of permanent molar teeth.”.

13. **Replace** Table A with the following:

Table A

Units of dental activity provided under the Contract in respect of *banded courses of treatment*

<i>Type of course of treatment</i>	<i>Sub-band</i>	<i>Units of dental activity provided</i>
<i>Band 1 course of treatment (excluding urgent treatment)</i>	-	1.0
<i>Band 1 course of treatment (urgent treatment only)</i>	-	1.2
<i>Band 2 course of treatment</i>	2a course of treatment	3.0
		5.0
	2b course of treatment	7.0
<i>Band 3 course of treatment</i>	2c course of treatment	
	-	12.0

Clause 210

14. Immediately after clause 210, **insert** the following new clauses:

- “210A. The Contractor must ensure that a comprehensive and accurate profile in respect of its practice is provided to *NHS England* for the purpose of display on the NHS.uk website.
- 210B. The Contractor must review the information contained in the profile referred to in clause 210A at least once in every period of 90 days from the date the profile is provided in accordance with clause 210A.
- 210C. If, on such a review, it appears to the Contractor that any of that information is inaccurate or incomplete, the Contractor must provide *NHS England* with an updated profile in respect of its practice.”.

Clause 249

15. In clause 249A, **replace** both references to “Health Education England” with “*NHS England*”.

Clause 262

16. **Replace** clauses 262.1.1 to 262.1.2 with the following:

- “262.1.1. *NHS England*;
- 262.1.2. the Commissioner; and
- 262.1.3. the *Health Service Commissioner*, and”.

Clause 338

17. Immediately after clause 338, **insert** the following heading and new clauses:

“Suspension of Agreement terms or of enforcement of Agreement terms while a disease is or in anticipation of a disease being imminently pandemic etc.

338A.1 Any term that is part of the Agreement as a consequence of action taken under Part 5 of *the Regulations* or by agreement between the parties is temporarily not part of the Agreement, in the particular circumstances mentioned in clause 338A.1.3 and during the period mentioned in 338A.1.3, in the following circumstances:

338A.1.1 As a consequence of a disease being, or in anticipation of a disease being imminently, pandemic and a serious risk or potentially a serious risk to human health, *NHS England* with the agreement of *the Secretary of State* has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;

338A.1.2 The prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;

338A.1.3 As part of the announcement, *NHS England* with the agreement of *the Secretary of State* has issued advice to the effect that contractors are not to comply with a specified type of term of personal dental services agreements in the area to which the announcement relates, in the particular circumstances specified in the announcement, and during the period specified in the announcement; and

338A.1.4 The Contractor is situated in the area to which the announcement relates and compliance with the term (it being of the specified type) would, but for

the effect of this clause, be a requirement of the Agreement.

338A.2 The Commissioner must not take enforcement action, as provided for in the Agreement, in respect of a breach of a term of the Agreement in the following circumstances:

338A.2.1 As a consequence of a disease being, or in anticipation of a disease being imminently, pandemic and a serious risk or potentially a serious risk to human health, *NHS England* with the agreement of *the Secretary of State* has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;

338A.2.2 The prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;

338A.2.3 As part of the announcement, *NHS England* with the agreement of *the Secretary of State* has issued advice to the effect that contractors need not comply with a specified type of term of personal dental services agreements in the area to which the announcement relates, in the particular circumstances specified in the announcement, and during the period specified in the announcement; and

338A.2.4 The Contractor is situated in the area to which the announcement relates, and has not complied with the term (it being of the specified type) in the

particular circumstances mentioned in clause 338A.2.3.”.