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Standard General Medical Services Contract Variation Notice

November 2022

Standard General Medical Services (GMS) Contract Variation Notice

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Prepared by Hill Dickinson on behalf of NHS England

The text of the Standard General Medical Services (GMS) Contract Variation Notice November 2022 has been prepared by Hill Dickinson on behalf of NHS England.

It is prepared on the basis that the signed contract to be varied is in the form of the NHS England Standard General Medical Services Contract and is up to date with all prior variation notices (up to and including the NHS England Standard General Medical Services Contract Variation Notice July 2022).

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."

Dated:

Signed:

on behalf of [INSERT ICB NAME]

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:

1.1.1. “batch issue”;

1.1.2. “cervical screening services”;

1.1.3. “chemist”;

1.1.4. “default contract”;

1.1.5. “the detained estate healthcare service”;

1.1.6. “GP2GP facility”;

1.1.7. “home oxygen order form”;

1.1.8. “listed medicines voucher”;

1.1.9. “Local Medical Committee”;

1.1.10. “medical card”;

1.1.11. “medical performers list”;

1.1.12. “National Diabetes Audit”;

1.1.13. “non-electronic repeatable prescription”;

1.1.14. “prescription form”;

1.1.15. “repeatable prescription”;

1.1.16. “Summary Care Record”;

1.1.17. “supply form”;

1.2. Clause 7.7AA.4;

- 1.3. Clause 7.9B;
- 1.4. Clause 7.13A.2(c);
- 1.5. Clause 11A.1.2(b);
- 1.6. Clause 11A.2.2;
- 1.7. Clause 11A.5.2(a);
- 1.8. Clause 14.2.5(a);
- 1.9. Clause 14.2.6;
- 1.10. Clause 14.6.3(c)(ii);
- 1.11. Clause 14.7.2(c)(iii)(bb);
- 1.12. Clause 15.1.3(c);
- 1.13. Clause 15.2.3(a);
- 1.14. Clause 16.1.2(a);
- 1.15. Clause 16.5.1;
- 1.16. Clause 16.7B.1;
- 1.17. Clause 16.8C.1;
- 1.18. Clause 16.8G.1.1;
- 1.19. Clause 19.1.2(k);
- 1.20. Clause 20.1.2;
- 1.21. Clause 23.1.1;
- 1.22. Clause 24.2.1(i);
- 1.23. Clause 24.2.2;
- 1.24. Clause 26.21.1;

- 1.25. Clause 26.21.3;
- 1.26. Clause 26.21.4;
- 1.27. Clause 26.21.5(a);
- 1.28. Clause 26.21.5(c);
- 1.29. Schedule 7;
- 1.30. Paragraph 3(3) of Schedule 8; and
- 1.31. Paragraph 3(7) of Schedule 8.

2. **Replace** all other references to “the Board” with “the Commissioner”.

3. **Replace** all references to “CCG” with “*integrated care board*”.

Part 1

4. In clause 1.1:

4.1. **Delete** the definition of “CCG”;

4.2. In the definition of “clinical correspondence” before the words “patient attendance and treatment” **insert** the words “the provision of a *remote service* or”;

4.3. **Insert** the following definitions:

“**the Commissioner**” means the party whose name and address appears at Part 1 of Schedule 1;

“**directly bookable appointment**” means an appointment of a type which, in line with the guidance entitled “Directly bookable appointments — guidance for practices” issued by *NHS England*, is available for booking by a *registered patient* or an *appropriate person* on their behalf;

“**GPIT Operating Model**” means the document entitled “Securing Excellence in Primary Care (GP) Digital Services: The Primary Care (GP) Digital Services Operating Model 2021-23 V5” issued by NHS England”;

“**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*;

"remote consultation" means a consultation under the Contract in which a *patient*, or their representative, participates by any means permitted under the Contract, other than in person;

"remote service" means a service under the Contract which is:

- (a) an online consultation under clause 16.5ZD;
- (b) a secure electronic communication under clause 16.5ZE;
- (c) a video consultation under clause 16.5ZF;
- (d) a telephone consultation;
- (e) an *electronic prescription*;
- (f) any other service which can be provided through a digital or telecommunications method, including administrative tasks in support of the Contract;.

5. After clause 1.2.12, **insert** the following:

"1.2.13 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).";

Part 5

6. **Replace** clause 5.1 with the following:

"Reserved.";

Part 7

7. In the footnote attached to clause 7.2.1, before the words ". This clause is required", **insert** the words ", or premises where services are provided under clause 7.2A (remote provision outside practice premises)";

8. After clause 7.2.4, **insert** the following:

"7.2A. Remote provision outside *practice premises*

7.2A.1. Without prejudice to clauses 7.6 and 8.1.2(b)(iii), the Contractor and any sub-contractor may provide a *remote service* from a

location which does not constitute *practice premises*, if the requirements in clause 7.2A.2 are met.

- 7.2A.2. The requirements referred to in clause 7.2A.1 are that:
- (a) the service is provided from an appropriate location;
 - (b) the service is provided through an appropriate digital or telecommunications method; and
 - (c) the service is appropriate for provision outside of *practice premises*.
- 7.2A.3. For the purposes of clause 7.2A.2(a), a location is not appropriate if:
- (a) the location or its environment is not conducive to ensuring the confidentiality of *patient information*, in connection with the service to be provided from that location;
 - (b) the location or its environment is not conducive to ensuring appropriate provision of the service from that location.
- 7.2A.4. For the purposes of clause 7.2A.2(b), a digital or telecommunications method is appropriate if it meets:
- (a) the requirements in the *GPIT Operating Model* relevant to that method, including any requirements as to software, or
 - (b) requirements which are equivalent in their effect to the relevant requirements in the *GPIT Operating Model*.
- 7.2A.5. For the purposes of clause 7.2A.2(c) the service is not appropriate for provision outside of *practice premises* if:
- (a) it would not be clinically appropriate for the *patient* on that occasion; or
 - (b) it is otherwise not appropriate to the needs or circumstances of the *patient*.
- 7.2A.6. For the purposes of clause 7.2A.3(a), “patient information” means information which relates to the physical or mental health or condition of a *patient*, to the diagnosis of their condition, to their care and treatment, or information which is to any extent derived, directly or indirectly, from such information.”;

9. **Replace** clause 7.5.1(b) with the following:

- “(b) the *patient* is:
- (i) offered an appointment, for a time which is appropriate and reasonable having regard to all the circumstances, to attend the Contractor’s *practice premises* again or participate in a telephone or video consultation; or
 - (ii) the *patient* is invited to make a request via an online consultation system, and the *patient*’s health would not thereby be jeopardised.”;

10. In clause 7.7.1, before the words “a consultation either at” **insert** the words “a *remote consultation* or”;
11. In clause 7.9.2, before the words “. Clauses 7.9.1 and 7.9.2” **insert** the words “or to participate in a *remote consultation*”;
12. In clauses 7.9A.1 to 7.9A.5 and 7.13.2(c)(i) **replace** each reference to “*practice premises*” with “*practice*”;

Part 11A

13. In clause 11A.1.2, after the words “local authorities”, **insert** the words:
- “; and
- (e) *integrated care boards.*”;

Part 13

14. **Replace** clause 13.5.3 with the following:

“Subject to clause 13.5.4, an application for inclusion in the Contractor’s list of patients may be made by the applicant or a person authorised by the applicant submitting a medical card or an application form, including an electronic application form, to the Contractor.”;

Part 15

15. In clause 15.9.3(d) **replace** the words “for the provision of services” with the words “as *practice premises*”;
16. In clause 15.10.3(b) **replace** the words “for the provision of services” with the words “as *practice premises*”;

Part 16

17. **Replace** clause 16.1.4(a) with the following:

“the computer system upon which the Contractor proposes to keep the records meets the requirements set out in the *GPIT Operating Model*”;

18. In clause 16.1.4(b) **replace** the words “as accredited in accordance with sub clause (a)” with the words “and compliant with the *GPIT Operating Model*”;

19. In clause 16.5.3(a) **replace** the words “a minimum of 25% of its appointments per day during *core hours*” with the words “all of its *directly bookable appointments*”;

20. **Delete clause 16.5ZG.2;**

21. After clause 16.5A.2, insert the following:

“16.5B **Patient access: other availability of *directly bookable appointments***

16.5B.1 The Contractor must ensure that all of its *directly bookable appointments* are made available for booking by telephone or in person.”;

22. In clause 16.8AA.3(b), **delete** the words “subject to sub-clause (ba),”;

23. **Delete** clause 16.8AA.3(ba);

24. In clause 16.8AA.3(b)(i), **replace** the word “2020” with the word “2022”;

25. **Replace** clause 16.8AA.3(c)(i) with the following:

“(ii) Reserved;”;

26. **Replace** clause 16.8AA.4 as well as subclauses (a) and (b) with the following:

“For the purposes of sub-clause 16.8AA.3(a) “*the disclosure date*”, in relation to a *relevant financial year*, is 30 April in the financial year which begins immediately after the end of the *next financial year*.”;

27. In clause 16.8AA.8(b), **replace** the words “this clause comes into force” with the words “the term in clause 16.8AA.7 is incorporated in the contract”;

28. In clause 16.8AA.9(a) **delete** the final word “and”;

29. In clause 16.8AA.9(b), after the words “in which *I’s*” **insert** the word “*NHS*”;

30. After clause 16.8AA.9(b)(ii), **insert** the following:

“; and

(c) a term which requires S to use reasonable endeavours to ensure that any sub-contract entered into before the term in clause 16.8AA.9(b) was incorporated into that sub-contract is amended to:

- (i) include the term in clause 16.8AA.9(b)(i) in a sub-contract between S and I; and
- (ii) include the term in clause 16.8AA.9(b)(ii) in a sub-contract between S and a partnership.”;

31. In the heading of clause 16.8AB and in clause 16.8AB.1, **replace** references to “clause 16.8AA” with “clauses 16.8AA and 16.8AC”;

32. In clause 16.8AB.3(b)(ii), after the words “including any” insert the word “other”;

33. After clause 16.8AB.3(b)(ii), insert the following:

- “(ba) in relation to a *jobholder* who does not fall within clauses 16.8AB.3(a) or 16.8AB.3(b), means:
 - (i) any remuneration, salary, wages, fees, director’s remuneration or dividends received in respect of the financial year in question under the *contract of engagement* and any other *contract of engagement* under which the *jobholder* provides services in respect of a contract or an agreement for primary medical services made under section 83(2) or 92 of the *2006 Act*; and
 - (ii) any other income which would be treated as practitioner income under Schedule 10 to the NHS Pension Scheme Regulations as modified in accordance with clause 16.8AB.4 in respect of the financial year in question if the *jobholder*:
 - (aa) were an *active member* of the *Scheme*, and
 - (bb) a *medical practitioner* or *non-GP provider*,”;

34. In clause 16.8AB.4(a) **insert** the word “and” at the end;

35. In clause 16.8AB.4(b) **delete** the final word “and”;

36. **Delete** clause 16.8AB.4(c);

37. After clause 16.8AB.4(b), insert the following:

- “16.8AB.4A For the purposes of this clause 16.8AB, where the Contractor has sub-contracted any obligations under the Contract, any payments made:
 - (a) under the sub-contract; or
 - (b) under any sub-contract which the sub-contractor has entered into with another person, as permitted under clause 15.9.9A,

are to be treated as income derived from the Contract.”;

38. After clause 16.8AB.5, insert the following:

“16.8AC Disclosure of information about NHS earning: jobholders

16.8AC.1 In this clause 16.8AC:

- (a) “*disclosure obligation*”, “*relevant financial year*”, “*relevant threshold*”, “*the disclosure date*” and “*sub-contractor*” have the meanings given in clause 16.8AA;
- (b) “*NHS earnings*” has the meaning given in clause 16.8AB.

16.8AC.2 In this clause 16.8AC and, where applicable, in clause 16.8AB:

- (a) “*contract of engagement*” means a contract of employment or other agreement under which a *jobholder* is engaged;
- (b) “*jobholder*” means:
 - (i) an individual employed by a *relevant person*;
 - (ii) an individual engaged by a *relevant person* under a contract for services to provide services which enable the *relevant person* to fulfil its obligations under the Contract or sub-contract, as the case may be;
 - (iii) an individual engaged by a third party to provide clinical services;
 - (iv) where the *relevant person* is a company, a director or company secretary of that company;
- (c) “*relevant person*” means:
 - (i) the Contractor;
 - (ii) a *sub-contractor*;
 - (iii) a person to whom the *sub-contractor* has sub-contracted obligations as permitted by clause 15.9.9A (“*P*”);
- (d) “*third party contract*” means a contract or other agreement under which a *relevant person* is provided with a *jobholder* to provide clinical services under the Contract or sub-contract, as the case may be, and which is between:
 - (i) the Contractor and a person other than a *jobholder* or *sub-contractor*;
 - (ii) a *sub-contractor* and a person other than a *jobholder*, the Contractor, or a person (“*P*”) to

- whom the *sub-contractor* has sub-contracted obligations as permitted by clause 15.9.9A; or
- (iii) *P* and a person other than a *jobholder* or *sub-contractor*;
- (e) “*third party*” is to be construed in accordance with the definition of “*third party contract*”.
- 16.8AC.3 The Contractor shall not enter into a *contract of engagement* unless it requires the *jobholder* to comply with the *disclosure obligation* for each *relevant financial year* in which the *jobholder’s NHS earnings* exceed the *relevant threshold*.
- 16.8AC.4 The Contractor shall not sub-contract any of its obligations to provide clinical services under the Contract unless:
- (a) the sub-contract entered into by the Contractor requires the *sub-contractor* (“*S*”) to:
- (i) include the term specified in clause 16.8AC.6 in any *contract of engagement* *S* enters into with a *jobholder* on or after entering into the sub-contract; and
- (ii) use reasonable endeavours to include that term in any *contract of engagement* which *S* has entered into prior to entering into the sub-contract; and
- (b) the sub-contract prevents *S* from sub-contracting to *P* any of the clinical services *S* has agreed with the Contractor to provide under the sub-contract unless the sub-contract *S* enters into with *P* includes the term specified in clause 16.8AC.5.
- 16.8AC.5 The term requires *P* to:
- (a) include the term specified in clause 16.8AC.6 in any *contract of engagement* which *P* enters into with a *jobholder* on or after entering into the sub-contract with *S*; and
- (b) use reasonable endeavours to include that term in any *contract of engagement* which *P* has entered into prior to entering into that sub-contract.
- 18.8AC.6 The term requires the *jobholder* to comply with the *disclosure obligation* for each *relevant financial year* in which the *jobholder’s NHS earnings* exceed the *relevant threshold*.
- 16.8AC.7 The Contractor shall use reasonable endeavours to ensure that any *contract of engagement*, which the Contractor entered into before the term in clause 16.8AC.3 is incorporated into the Contract, is amended to include the term specified in clause 16.8AC.6.
- 16.8AC.8 The Contractor shall use reasonable endeavours to ensure that any sub-contract, which the Contractor entered into before the term in clause 16.8AC.4 is incorporated into the

Contract, is amended to include the terms specified in clause 16.8AC.9.

16.8AC.9

The terms are:

- (a) a term which requires *S* to:
 - (i) include the term specified in clause 16.8AC.6 in any *contract of engagement* *S* enters into with a *jobholder* on or after the amendment of the sub-contract;
 - (ii) use reasonable endeavours to include the term specified in clause 16.8AC.6 in any *contract of engagement* which *S* entered into before the amendment of the sub-contract; and
 - (iii) use reasonable endeavours to include the term specified in clause 16.8AC.5 in any sub-contract which *S* has entered into with *P* before the amendment of the sub-contract pursuant to clause 16.8AC.8;
- (b) a term which prevents *S* from sub-contracting to *P* obligations to provide clinical services under the Contract unless the sub-contract entered into by *S* includes the term specified in clause 16.8AC.5.

16.8AC.10

The Contractor shall use reasonable endeavours to include in a *third party contract* (whenever entered into) a term requiring the *third party* ("*T*") to include the term specified in clause 16.8AC.6 in any contract of engagement to which *T* is a party.

18.8AC.11

The Contractor shall not sub-contract any of its obligations to provide clinical services under the Contract, unless the sub-contract requires *S* to use reasonable endeavours to:

- (a) include in a *third party contract* (whenever entered into) a term requiring *T* to include the term specified in clause 16.8AC.6 in any contract of engagement to which *T* is a party; and
- (b) include in any sub-contract between *S* and *P* a term requiring *P* to include in any *third party contract* (whenever entered into) the term specified in clause 16.8AC.12.

16.8AC.12

The term is one which requires *T* to include the term specified in clause 16.8AC.6 in any *contract of engagement* to which *T* is a party.

16.8AC.13

Nothing in this clause 16.8AC requires a *jobholder* to comply with the *disclosure obligation* for any *relevant financial year* which:

- (a) ends before the *jobholder* enters into a *contract of engagement*; or
- (b) begins after the *jobholder's* contract of engagement has terminated.”;

Part 24

39. After clause 24.2.1(a)(i), **replace** subclause (ii) with:

“(ii) the Commissioner; or

“(iii) the Health Service Commissioner; and”

Schedule 4

40. In the Outcomes Framework table **delete** the Indicator IDs “Clinical domain” and “MH005” as well as the Indicator Description corresponding to MH005;

Schedule 8

41. In paragraph 3(7)(d), after the words “arrangements made under section 7A” **insert** the words “or 7B”.

I/We [] acknowledge receipt of the notice of variation dated [] of which the above is a duplicate. I/We acknowledge that this notice will take effect from [].

Signed:

[on behalf of]:

Print name:

Date:

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