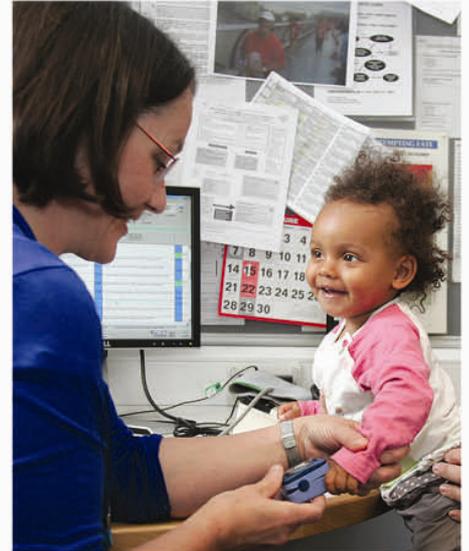
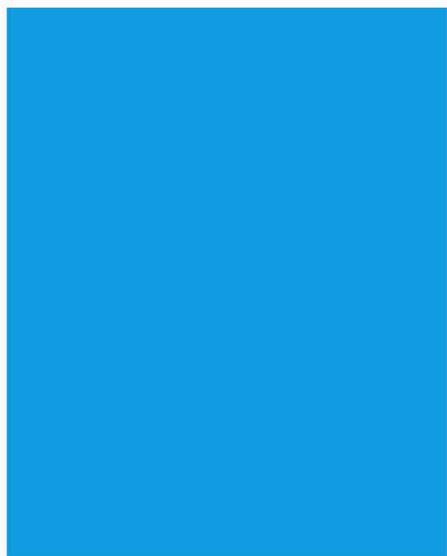


**Standard
operating policies
and procedures
for primary care**



**Procedure for the
variation of General
Ophthalmic
Services contracts**



Procedure for the variation of General Ophthalmic Services contracts

*Standard operating policies and procedures for
primary care*

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Purpose of policy

- 1) The NHS Commissioning Board (NHS CB) is responsible for direct commissioning of services beyond the remit of clinical commissioning groups, namely primary care, offender health, military health and specialised services.
- 2) This document forms part of a suite of policies and procedures to support commissioning of primary care. They have been produced by Primary Care Commissioning (PCC) for use by NHS CB's area teams (ATs).
- 3) The policies and procedures underpin NHS CB's commitment to a single operating model for primary care – a “do once” approach intended to ensure consistency and eliminate duplication of effort in the management of the four primary care contractor groups from 1 April 2013.
- 4) All policies and procedures have been designed to support the principle of proportionality. By applying these policies and procedures, Area Teams are responding to local issues within a national framework, and our way of working across the NHS CB is to be proportionate in our actions.
- 5) The development process for the document reflects the principles set out in *Securing excellence in commissioning primary care*¹, including the intention to build on the established good practice of predecessor organisations.
- 6) Primary care professional bodies, representatives of patients and the public and other stakeholders were involved in the production of these documents. NHS CB is grateful to all those who gave up their time to read and comment on the drafts.
- 7) The authors and reviewers of these documents were asked to keep the following principles in mind:
 - Wherever possible to enable improvement of primary care
 - To balance consistency and local flexibility
 - Alignment with policy and compliance with legislation
 - Compliance with the Equality Act 2010
 - A realistic balance between attention to detail and practical application
 - A reasonable, proportionate and consistent approach across the four primary care contractor groups.
- 8) This suite of documents will be refined in light of feedback from users.

¹ *Securing excellence in commissioning primary care* <http://bit.ly/MJwrfA>

This document should be read in conjunction with the Contract Applications Policy and the Contract Terminations Policies

Background

The following section of the policy looks at the most common contract variation requests and the approach that the NHS Commissioning Board (NHS CB) needs to take when issuing contract variations for these.

This section does not cover all eventualities so a generic variation template is included in annex 2. This can be tailored to fit the requirements of the General Ophthalmic Services Contracts Regulations 2008. The template also contains detailed guidance notes for completion.

Scope of the policy

This section looks at the most common contract variations and is limited to:

- Partnerships – individual to partnership and partnership to individual and death in service of a partner. Termination due to death is looked at in more detail further on in the policy.
- Corporate body – director changes.
- Relocation of premises.
- 24-hour retirements.

There is also guidance on issuing contract variations. A generic template and guidance notes are included in the annexes.

Partnerships

General Ophthalmic Services Contracts Regulations 2008, Schedule 1 part 7 deals specifically with this type of variation and states the requirements and process that a contractor must follow. Provided the contract holder satisfies all the requirements specified in the regulations the variation should be granted.

Individual contractor request to become a partnership

In the case of an individual contractor wishing to take on a partner the contract holder must notify NHS CB in writing of:

- the name of the person or persons with whom it proposes to practise in partnership; and
- the date on which the contractor wishes to change its status as a contractor from that of an individual practitioner to that of a partnership, which shall be not less than 28 days after the date upon which it has served the notice on NHS CB.

The notice must also contain the following information regarding the person or persons that the contractor proposes to go into partnership with:

- confirmation that he/she is an ophthalmic practitioner;
- a section B director declaration form from that person;
- confirmation that he/she is a person who satisfies the conditions imposed by regulation 4 and quoted in the section B director declaration form; and
- whether or not it is to be a limited partnership, and if so, who is to be a limited and who is to be a general partner.

The notice must be signed by the contract holder and all proposed parties. The contract holder must also ensure that any person who will be practising in partnership is bound by the contract whether by virtue of a partnership deed or any other form of agreement.

On receipt of the completed notice, the NHS CB should ensure it is satisfied with the accuracy and content within the notice. Once done, it must then give notice in writing to the contractor confirming that the contract will continue with the partnership proposed by the contractor and its partners. The contract will start from a date the NHS CB specifies in that notice. Where reasonably

practicable this should be the date given by the contract holder subject to the correct 28-day notice period having been given.

See annexes 2 and 3 for standard variations and letters.

Partnership changes – Two or more individuals practising in partnership returning to that of an individual

Where a contractor consists of two or more individuals practising in partnership, and the partnership is terminated or dissolved, the contract shall only continue with one of the former partners if that partner is:

- nominated by the remaining partner(s).

Provided this requirement is met, the contractor is required to:

- notify NHS CB in writing at least 28 days before the date on which the contractor proposes to change its status from that of a partnership to that of an individual contract holder.

The notice must:

- specify the date on which the contractor proposes to change its status from a partnership to that of an individual ophthalmic practitioner;
- specify the name of the individual with whom the contract will continue, this must be one of the existing partners; and
- be signed by all the persons who are practising in partnership.

On receipt of the completed notice, NHS CB should ensure it is satisfied with the accuracy and content within the notice.

Once it has assured itself, it must give notice in writing to the contractor confirming that the contract will continue with the individual as proposed by its partners. The contract will start from a date that the NHS CB specifies in that notice. Where reasonably practicable this should be the date given by the contract holder subject to the correct 28-day notice period having been given.

See annexes 2 and 4 for standard templates and letters.

Partnership changes – Two or more individuals practising in partnership increasing the number of partners

In the case of two or more existing partners wishing to take on an additional partner. the contract holder must notify NHS CB in writing of:

- the name of the new person or persons with whom it proposes to practise in partnership;
- the date on which the contractor wishes to add the new partner or partners to the contract, which shall be not less than 28 days after the date upon which it has served the notice on NHS CB.

The notice must also contain the following information regarding the person or persons that the contractor proposes to go into partnership with:

- confirmation he/she is an ophthalmic practitioner;
- a section B director declaration form from that person;
- confirmation that he/she is a person who satisfies the conditions imposed by regulation 4 and quoted in the section B director declaration form; and
- whether or not it is to be a limited partnership, and if so, who is to be a limited partner and who is to be a general partner.

The notice must be signed by the contract holder and all proposed parties. The contract holder must also ensure that any person who will be practising in partnership is bound by the contract. This may be by virtue of a partnership deed or any other form of agreement.

On receipt of the completed notice, NHS CB should ensure it is satisfied with the accuracy and content within the notice. Once done, the NHS CB must give notice in writing to the contractor confirming the date the contract will continue with the partnership proposed by the contractor and its partners. This date will usually be the date requested by the contractor/partnership unless for some reason the NHS CB is not advised of the change until long after the event. In such cases the contractor must still provide a notice as above and explain the circumstance of the omission but without including a proposed start date.

Where the NHS CB is not satisfied that a new partner meets the conditions of regulation 4, it shall notify the contractor and the contractor shall:

- remove the new partner within 28 days; and

- if the contractor does not do so, the NHS CB shall terminate the contract in accordance with the provisions of Schedule 1 paragraph 45 – Immediate Termination by the NHS CB.

See annexes 2 and 3 for standard templates and letters.

Partnership changes due to the death of a partner

There are specific rules regarding the death of a contractor partner.

Where one of the partners has died the contract continues with the individual who has not died and that individual must notify the NHS CB as soon as is reasonably practicable of their former partner's death.

When the NHS CB receives such a notice it must give a written acknowledgement of this and must vary the contract, but only as much as necessary to reflect the change in status of the contractor from a partnership to an individual. Where the contract is with a partnership with more than two individuals practising in partnership it may vary the contract to the extent it is satisfied is necessary to reflect the change in the partners. When the NHS CB does this it must notify the contractor of the wording of the proposed variation and the date when that variation is to take effect.

See annex 2 for standard template

Body corporate contracts – director changes

Whenever a new director, chief executive or secretary of a corporate body is appointed, the contractor must inform the NHS CB immediately and before the new appointee takes office.

New appointees must complete a form titled: Section B – Declaration to support application for a Contract to Provide Ophthalmic Services as a Corporate Body. It confirms that the appointee meets the conditions imposed by regulation 4 of the General Ophthalmic Services Contracts Regulation 2008.

The only actions to be taken are to carry out the usual director checks and, if these are satisfactory, to confirm in writing with the corporate body that the director has been approved.

If the director checks are unsatisfactory e.g. the appointee has been sentenced to a term of imprisonment of over six months, then the corporate body should be notified immediately and given 14 days to remove the unsuitable director from office. Failing that, the NHS CB must terminate the contract immediately.

Death of an individual contractor

There are specific rules regarding the death of an individual contractor. This is covered in further detail in a separate policy: Termination of General Ophthalmic Services contracts because this is a termination and not a variation.

Relocation of premises

Mandatory ophthalmic contracts are location dependent, i.e. the details of the location from which ophthalmic services are provided are contained within the mandatory services contract. Failure to seek agreement with NHS CB before change of premises could constitute a breach and possibly lead to the termination of the contract.

The contractor cannot submit claims from the new premises' address until the contract has been varied. The contract should not be varied until the new practice premises have been visited and they, together with equipment, record keeping facilities and staffing arrangements have been found to be suitable. This is covered in further detail in a separate policy: Approval of Applications for General Ophthalmic Services contracts

See annexes 2 and 5 for standard variations and letters.

24-hour retirement

It is possible in some instances for a contract holder who is an individual contractor ophthalmic medical practitioner (OMP) to retire for 24 hours and then return to work and claim their NHS pension. There are certain conditions that must be met if this is to happen.

If a request is received from a contract holder who is an individual then this would automatically terminate the contract.

This section looks at the approaches that must be taken when dealing with requests for 24-hour retirement.

Individual contract holder request for 24-hour retirement

If NHS CB receives a request from an individual contractor to take 24-hour retirement then their contract should be terminated. The normal agreed termination route would apply as defined in the General Ophthalmic Services Contracts Regulations 2008 Schedule 1 Part 7 paragraph 37.

See annex 6 for standard letter.

A 24-hour retirement does not preclude the individual contractor from applying for a new GOS contract following retirement. He/she would need to apply to NHS CB for a new contract. The individual would need to complete a new application to provide ophthalmic services and return this application together with the standard information prescribed in schedule 3 of the General Ophthalmic Services Contracts Regulations 2008.

This could be done in advance of the planned retirement date to ensure continuity of care just as, for instance, in the case of a practice sale.

Annex 1: abbreviations and acronyms

A&E	accident and emergency
APHO	Association of Public Health Observatories (now known as the Network of Public Health Observatories)
APMS	Alternative Provider Medical Services
AT	area team (of the NHS Commissioning Board)
AUR	appliance use reviews
BDA	British Dental Association
BMA	British Medical Association
CCG	clinical commissioning group
CD	controlled drug
CDAO	controlled drug accountable officer
CGST	NHS Clinical Governance Support Team
CIC	community interest company
CMO	chief medical officer
COT	course of treatment
CPAF	community pharmacy assurance framework
CQC	Care Quality Commission
CQRS	Calculating Quality Reporting Service (replacement for QMAS)
DAC	dispensing appliance contractor
Days	calendar days unless working days is specifically stated
DBS	Disclosure and Barring Service
DDA	Disability Discrimination Act
DES	directed enhanced service
DH	Department of Health
EEA	European Economic Area
ePACT	electronic prescribing analysis and costs
ESPLPS	essential small pharmacy local pharmaceutical services
EU	European Union
FHS	family health services
FHS AU	family health services appeals unit
FHSS	family health shared services
FPC	family practitioner committee
FTA	failed to attend
FTT	first-tier tribunal
GDP	general dental practitioner
GDS	General Dental Services
GMC	General Medical Council
GMS	General Medical Services

GP	general practitioner
GPES	GP Extraction Service
GPhC	General Pharmaceutical Council
GSMP	global sum monthly payment
HR	human resources
HSE	Health and Safety Executive
HWB	health and wellbeing board
IC	NHS Information Centre
IELTS	International English Language Testing System
KPIs	key performance indicators
LA	local authority
LDC	local dental committee
LETB	local education and training board
LIN	local intelligence network
LLP	limited liability partnership
LMC	local medical committee
LOC	local optical committee
LPC	local pharmaceutical committee
LPN	local professional network
LPS	local pharmaceutical services
LRC	local representative committee
MDO	medical defence organisation
MHRA	Medicines and Healthcare Products Regulatory Agency
MIS	management information system
MPIG	minimum practice income guarantee
MUR	medicines use review and prescription intervention services
NACV	negotiated annual contract value
NCAS	National Clinical Assessment Service
NDRI	National Duplicate Registration Initiative
NHAIS	National Health Authority Information System (also known as Exeter)
NHS Act	National Health Service Act 2006
NHS BSA	NHS Business Services Authority
NHS CB	NHS Commissioning Board
NHS CfH	NHS Connecting for Health
NHS DS	NHS Dental Services
NHS LA	NHS Litigation Authority
NMS	new medicine service
NPE	net pensionable earnings
NPSA	National Patient Safety Agency
OJEU	Official Journal of the European Union
OMP	ophthalmic medical practitioner
ONS	Office of National Statistics
OOH	out of hours
PAF	postcode address file

PALS	patient advice and liaison service
PAM	professions allied to medicine
PCC	Primary Care Commissioning
PCT	primary care trust
PDS	personal dental services
PDS NBO	Personal Demographic Service National Back Office
PGD	patient group direction
PHE	Public Health England
PLDP	performers' list decision panel
PMC	primary medical contract
PMS	Personal Medical Services
PNA	pharmaceutical needs assessment
POL	payments online
PPD	prescription pricing division (part of NHS BSA)
PSG	performance screening group
PSNC	Pharmaceutical Services Negotiating Committee
QOF	quality and outcomes framework
RCGP	Royal College of General Practitioners
RO	responsible officer
SEO	social enterprise organisation
SFE	statement of financial entitlements
SI	statutory instrument
SMART	specific, measurable, achievable, realistic, timely
SOA	super output area
SOP	standard operating procedure
SPMS	Specialist Personal Medical Services
SUI	serious untoward incident
UDA	unit of dental activity
UOA	unit of orthodontic activity

Annex 2: General contract variation

Standard GOS mandatory contract/GOS additional contract variation notice

[Delete contract type as appropriate] – [month and year]

Standard General Ophthalmic Services contract variation notice for *[name of contractor and practice address(es)]*

[title/explanation for variation being issued]

This variation forms part of your standard General Ophthalmic Services contract made on *[date, month and year of original contract issue – see p4, top, of contractor's contract]* and the contents within the variation document supersede previous contracts' clauses as from the date of agreed effectiveness or the date of the variation document if no timescale is contained within it.

Standard GOS mandatory contract/GOS additional contract variation

Notice for *[name of contractor and practice address(es)]*

[Delete contract type as appropriate] – [month and year]

Dear *[contract holder's name]*

Notice of variation to your General Ophthalmic Services contract dated *[date]* relating to clause (s)

[original clause number and text]

Is replaced by the following:

[amended text to the clause]

Commencing from: *[date]*

This variation is made to reflect change of circumstances (e.g. opening hours) to the standard General Ophthalmic Services contract you hold. This is to ensure compliance with the terms of the regulations, and with other required terms arising from the NHS Commissioning Board (NHS CB).

Please acknowledge receipt of this notice by signing and returning the enclosed duplicate.

Dated: *[date]*

Signed by NHS CB authorised signatory:

Print NHS CB authorised signatory's name:

On behalf of *[name of area team]*

I/We *[name of contract holder(s)]* acknowledge receipt of the notice of variation dated *[date]* of which the above is a duplicate. I/We agree that this notice will take effect from *[date]*.

The signatory below is authorised to bind the contract holder to this variation.

Signed by the contract holder: _____

Print authorised signatory's name: _____

Date signed: _____

Annex 3: Partnership acknowledgement letter and partnership schedule

[Date]

[Name and address]

Dear [Name]

Partnership request

Thank you for your recent letter and notice informing the NHS Commissioning Board (NHS CB) of your intention of becoming a partnership from *[date given in the notice subject to it meeting the 28-day notice period]*.

I confirm that your request satisfies the requirements of schedule 1 paragraph 34 of the General Ophthalmic Services Contracts Regulations 2008 and clauses 127 to 129 of your contract. So please sign both copies of the enclosed partnership schedule and variation documents.

If your bank account details have changed please provide us with your new partnership bank account details to make sure you continue to receive payments.

If you have any queries on this or any other matter please contact me on the above number.

Yours sincerely

[name]

[title]

NB: Make sure you also include two copies of the relevant schedule from the GOS contract and the signature schedule

Schedule 1 (partnership)

Part 1

Name, address, telephone number, fax number and email address (if any) of the NHS CB:

[details]

Part 2

The contractor is a [limited] partnership under the name of *[partnership]* carrying on business at *[address]*.

The telephone number, fax number and email address (if any) of the contractor are:

[details]

If there is any change to the addresses and contact details specified in Part 1 or Part 2 of this schedule, the party whose details have changed must give notice in writing to the other party as soon as is reasonably practicable.

The names of the partners at the date of signature of this contract are:

	*General / Limited

**delete as appropriate*

The contract is made with the partnership as it is from time to time constituted and shall continue to subsist notwithstanding:

- (1) the retirement, death or expulsion of any one or more partners; and/or
- (2) the addition of any one or more partners.

The contractor shall ensure that any person who becomes a member of the partnership after the contract has come into force is bound automatically by the contract whether by virtue of a partnership deed or otherwise.

Schedule 2

Signatures of the parties to the contract

Dated: [*date*]

Signed by NHS CB authorised signatory:

Print NHS CB authorised signatory's name:

On behalf of [*name of area team*]

Print name:

Contractor signature

Print name:

Contractor signature

Print name:

Contractor signature

Signed in the presence of:

Print name

Signed

The contract must be signed by a person with power to bind the contractor. If the contractor is a partnership, it is recommended that all of the partners comprising the partnership at the date the contract is signed (whether those partners are general partners or limited partners) sign the contract.

Annex 4: Letter for reversion from a partnership to a contract with an individual

[Date]

[Name and address]

Dear [Name]

Partnership request to revert to a contact with an individual

Thank you for your recent letter and notice informing the NHS Commissioning Board (NHS CB) of your intention to dissolve your partnership. I note that you have nominated *[continuing contractor's name]* to continue the contract as an individual contractor.

I can confirm that your request satisfies the requirements of schedule 1 paragraph 35 of the General Ophthalmic Services Contracts Regulations 2008 and clauses 133 to 134 of your contract. So please sign both copies of the enclosed schedule and variation documents.

If your bank account details have changed please provide us with your new bank account details to make sure you continue to receive payments.

If you have any queries on this or any other matter please contact me on the above number.

Yours sincerely

[name]

[title]

NB: Make sure you also include two copies of the relevant schedule from the GOS contract and the signature schedule.

Annex 5: Relocation letters

Initial letter

[Date]

[Name and address]

Dear *[Name]*

Relocation

Thank you for your recent letter informing the NHS Commissioning Board (NHS CB) of your intention to relocate your ophthalmic premises. You will be aware that your contract is specific to the premises from which you currently practice (see clauses 24 and 29 of your General Ophthalmic Services contract).

So we can further consider your request, please provide the following information to us within two weeks of the date of this letter *[date]*:

- How this would benefit your existing patients.
- Patients' views.
- Benefit to patients (e.g. improved access, facilities or range of services available).
- Distance from current practice.
- How you would manage any displaced patients that would not wish to or could not access the new premises.

If you have any queries on this or any other matters please contact me on the above number.

Yours sincerely

[name]

[title]

Refusal letter

[Date]

[Name and address]

Dear *[Name]*

Relocation

Thank you for returning your proposal for relocation to the NHS Commissioning Board (NHS CB). On review of your proposal, the NHS CB regrets to inform you that we are unable to agree to the relocation of your premises for the following reason(s):

[reasons e.g. no obvious benefit to patients, patients' views are adverse, too far from current address and so on.]

If you wish to dispute our decision, please contact me on the above telephone number and I will be happy to discuss the disputes process with you.

Yours sincerely

[name]

[title]

Agreement letter

[Date]

[Name and address]

Dear *[Name]*

Relocation

Thank you for returning your proposal for relocation to the NHS Commissioning Board (NHS CB). Having considered the proposal, I am pleased to inform you that the NHS CB has approved it.

The *relocation of or *closure of or *opening of additional premises [**delete as appropriate*] will take place on *[date]*.

Please sign and return both copies of the contract variations enclosed with this letter no later than *[date]*.

Should you have any queries on this or any other matter please contact me.

Yours sincerely

[name]

[title]

NB: You will need to insert two copies of the generic contract variation in annex 1 updating clauses 24 and 29.

Annex 6: 24-hour retirement contract with an individual

[Date]

[Name and address]

Dear *[Name]*

Notice of 24-hour retirement

Thank you for your recent notice informing the NHS Commissioning Board (NHS CB) of your intention to take 24-hour retirement. This means you are required to relinquish your *mandatory and/or *additional [**delete as appropriate*] General Ophthalmic Services contract under the NHS pension rules.

We are required to process this request as an agreed termination as defined by the General Ophthalmic Services Contracts Regulations 2008 Schedule 1 Part 7 paragraph 37.

We also need to agree a mutually acceptable date for the termination of your contract. Please contact me on the above telephone number so we can discuss this further.

Be advised that taking 24-hour retirement does not prevent you from applying for and holding a new GOS contract. You will be required to complete new application forms to provide ophthalmic services.

I have included [*application form title*], please return this together with the standard information prescribed in schedule 3 of the General Ophthalmic Services Contracts Regulations 2008 to me at the above address should you wish to apply to hold a GOS contract.

Should you have any queries on this or any other matter please contact me.

Yours sincerely

[name]

[title]

NB: On receipt of an agreed date you will need to issue the termination notice in accordance with the GOS.

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