

2024 No. WG24-28

NATIONAL HEALTH SERVICE, WALES

**The Alternative Provider Medical Services (Wales) Directions
2024**

Made - - - - *01 July 2024*
Coming into force - - - *02 July 2024*

The Welsh Ministers, in exercise of the powers conferred by section 12(3), 41(2)(b) and 203(9) and (10) of the National Health Service (Wales) Act 2006(a) give the following Directions:

**PART 1
GENERAL**

Title, commencement, application and interpretation

1.—(1) The title of these Directions is the Alternative Provider Medical Services (Wales) Directions 2024.

(2) These Directions come into force on 2 July 2024.

(3) These Directions are given to all Local Health Boards in Wales.

(4) In these Directions—

“the 2006 Act” means the National Health Service (Wales) Act 2006;

“APMS” means arrangements made under section 41(2)(b) of the 2006 Act (primary medical services) for the provision of primary medical services and “APMS contract” and “APMS contractor” is to be construed accordingly;

“core hours” has the same meaning as in regulation 3 of the GMS Regulations;

“GMS Regulations” means the National Health Service (General Medical Services Contracts) (Wales) Regulations 2023(b);

“licensing body” means any body that licences or regulates any profession;

“list of patients” means in relation to an APMS contractor, the list maintained in respect of that contractor by the Local Health Board under direction 11;

“NHS contract” has the meaning given to it in section 7 of the 2006 Act(c);

“out of hours services” has the same meaning as in regulation 3 of the GMS Regulations;

(a) 2006 c. 42

(b) S.I. 2023/953 (W. 155).

(c) Section 7 was amended by section 306(4) of, and paragraph 21 of Schedule 7, paragraph 11 of Schedule 17 and paragraphs 13(a), (b), (c), (d), (e), (f) of Schedule 21 to, the Health and Social Care Act 2012 (c.7), section 186(6) of, and paragraph 1(1) of Schedule 1 and paragraph 140 of Schedule 4 to the Health and Care Act 2022 (c. 31), sections 95 and 170 of, and paragraph 87 of Schedule 5 to the Health and Social Care Act 2008 (c. 14), S.I. 2022/1174, and S.I. 2023/98

“patient” means a person to whom the APMS contractor is required to provide primary medical services under its APMS contract;

“primary care list” has the same meaning as in regulation 3 of the GMS Regulations;

“unified services” means the services described in regulation 17 of the GMS Regulations (unified services) or services that are equivalent to those services and which are provided during core hours;

(5) For the purposes of the requirement in these Directions for an APMS contract to include terms which have the effect specified in provisions of the GMS Regulations, the definitions referred to in paragraph (4) and those terms are to be read as if references in the GMS Regulations to—

- (a) “a contract” or “the contract” were to “an APMS contract” or “the APMS contract”;
- (b) “the contractor” or “a contractor” were to “the APMS contractor” or “an APMS contractor”;
- (c) a particular provision of the GMS Regulations were to a corresponding provision of these Directions where these Directions require an equivalent term to be included in an APMS contract.

Minimum standards

2. Nothing in these Directions prevents a Local Health Board agreeing contractual terms of an APMS contract which:

- (a) require a higher level of performance, or the performance of more extensive obligations, by the APMS contractor; or
- (b) provide the Local Health Board with rights that are more extensive than would otherwise be required pursuant to these Directions.

PART 2

PROVIDER CONDITIONS

Provider Conditions

3.—(1) — The Local Health Board must not enter into an APMS contract with an individual if that individual falls within regulation 6(2) of the GMS Regulations.

(2) A Local Health Board must not enter into an APMS contract with a company if—

- (a) that company; or
- (b) any director or secretary of that company,

falls within regulation 6(2) of the GMS Regulations.

(3) A Local Health Board must not enter into an APMS contract with a partnership if—

- (a) any individual member of that partnership; or
- (b) that partnership,

falls within regulation 6(2) of the GMS Regulations.

(4) A Local Health Board must not enter into an APMS contract with an industrial and provident society (**a**), a co-operative society, a community benefit society (**a**), a friendly society, a voluntary organisation (**b**) or any other body if—

(a) An industrial and provident society is an organisation which was registered under the Industrial and Provident Societies Act 1965 (c.12), now repealed. Such societies are treated as a registered society under the Co-operative and Community Benefit Societies Act 2014 (c.14).

- (a) the society, organisation or body; or
- (b) any officer, trustee or any other person concerned with the management of the society, organisation or body,

falls within regulation 6(2) of the GMS Regulations.

(5) For the purposes of directions 1(1) to 3(4):

- (a) regulation 6 in the GMS Regulations is to be interpreted as if, in regulation 6(3), the following was inserted immediately after regulation 6(3)(b)(iii)—
 - “(iv) in the case of an industrial and provident society, friendly society, voluntary organisation or other body, an officer, trustee or other person concerned with the management of such a society, organisation or other body entering into an APMS contract.”; and
- (b) regulation 6(2) in the GMS Regulations is to be interpreted in accordance with regulations 6(4) and 6(5) of the GMS Regulations.

PART 3

MANDATORY TERMS FOR ALL APMS CONTRACTS

General terms

4.—(1) A Local Health Board which enters into an APMS contract must ensure that the APMS contract—

- (a) specifies the duration of the APMS contract, subject to any provisions that allow for earlier termination, or for extension of the duration, of the APMS contract;
- (b) states that it is an NHS contract where the contract is to be an NHS contract because the APMS contractor is an NHS body or is to be regarded as such a body by virtue of Part 4 of the GMS Regulations;
- (c) specifies who the APMS contractor is to provide services to under the APMS contract, including where appropriate by reference to an area within which a person resident would be entitled to receive services under the APMS contract;
- (d) requires the APMS contractor to comply (as if, for these purposes only, the APMS contract is a GMS contract and the APMS contractor is a GMS contractor) with any directions given by the Welsh Ministers for the purposes of section 46 of the Act as to the drugs, medicines or other substances which may or may not be ordered for patients in the provision of medical services under the APMS contract;
- (e) requires the APMS contractor to notify the Local Health Board as soon as possible in the event that any health care professional employed or engaged by the APMS contractor is:
 - (i) referred to the relevant professional body for alleged misconduct; or
 - (ii) removed from the relevant register;
- (f) specifies that the APMS contractor must not sell, assign or otherwise dispose of the benefit of any of its rights under the APMS contract without the prior written consent of the Local Health Board;
- (g) subject to direction 5(1)(b)(viii), specifies the circumstances (if any) in which any obligations under the APMS contract may be sub-contracted;

(a) Co-operative societies and community benefit societies are organisations registered under the Co-operative and Community Benefit Societies Act 2014 (c.14).

(b) “voluntary organisation” is defined in section 206(1) of the National Health Service (Wales) Act 2006.

- (h) specifies the grounds (in addition to those required by direction 5(1)(b)) in which the APMS contract may or must be terminated (by either the Local Health Board or the APMS contractor) and any contract sanctions imposed;
- (i) specifies in the case of a contract which is not an NHS contract, the procedures that are to apply in the event of a contractual dispute;
- (j) includes, in the case of a contract which as an NHS contract, terms that ensure that—
 - (i) terms equivalent to paragraphs 106(1) to (4) and 108 of Schedule 3 to the GMS Regulations apply (and the Local Health Board and APMS contractor are required to use their best endeavours to ensure that paragraphs 106(5) to (14) and 107(1) of Schedule 3 to the GMS Regulations apply) in the event that the parties are unable to resolve between them any disputes that arise out of or in connection with the APMS contract;
 - (ii) the Local Health Board and APMS contractor are required to use their best endeavours to ensure that section 7(12) and (13) of the 2006 Act apply in the same manner as those subsections apply to a dispute referred for determination in accordance with section 7(6) of the Act, and
 - (iii) the Local Health Board and APMS contractor are required to use their best endeavours to ensure that where the adjudicator makes a direction as to payments under section 7(11) of the 2006 Act (as it has effect as a result of section 7 of the 2006 Act or direction 4(1)(j)(ii)) that direction is to be enforceable in a county court (if the court so orders) as if it were a judgment or order of the court;
- (k) specifies the circumstances (if any) in which a party will not be responsible to the other party for any failure or delay in performance of its obligations and duties under this APMS contract;
- (l) states the arrangements for the payments by the Local Health Board to the APMS contractor for the services it provides, and any rights the Local Health Board may have to set off against any amount payable to the APMS contractor any amount that is owed by the APMS contractor to the Local Health Board; and
- (m) specifies any warranties that either party is giving to each other in connection with the APMS contract.

Other contractual terms

5.—(1) A Local Health Board which enters into an APMS contract must ensure that the APMS contract contains terms which have the effect specified in the following provisions of the GMS Regulations—

- (a) regulation 18(1)(a) and (b) (services to be provided and address of practice premises);
- (b) In Schedule 3:
 - (i) paragraph 1 (premises) and, where relevant, regulation 18(5);
 - (ii) paragraphs 2 (except sub-paragraph 2(2)(a)) and 3 (telephone services and cost of relevant calls);
 - (iii) paragraph 10 (clinical reports), but as if for sub-paragraph (2) the following were substituted—
 - “(2) The Local Health Board shall send any report received under sub-paragraph (1)—
 - (a) to the person with whom the patient is registered for the provision of unified services or their equivalent; or
 - (b) if the person referred to in paragraph (a) is not known to it, the Local Health Board, Health Board, Integrated Care Board or Health and Social Services Board in whose area the patient is resident unless it is that Local Health Board.
 - (3) This paragraph does not apply in relation to out of hours services provided by a contractor.”;

- (iv) paragraph 11 (storage of vaccines) and 12 (infection control);
- (v) paragraph 21 (Welsh Language);
- (vi) Part 5 (prescribing and dispensing) but as if the following was also included in the list at paragraph 52(8):
 - “in the case of a Contract with an industrial and provident society, a friendly society, a voluntary organisation or any other body, any *medical practitioner* who is an officer, trustee or any other person concerned with the management of the society, organisation or body”;
- (vii) Part 6 (persons who perform services) but as if paragraphs 61(3)(a), 70, 71, 72 and 75(2) and (3) were omitted and sub-paragraph 75(1)(a) is replaced with “participates in an appropriate appraisal system”;
- (viii) paragraph 76(11) and (12) (sub-contracting clinical matters);
- (ix) paragraphs 78(1), (3), (4), (12) and (13), 82, 83, 85, 86, 90, 91, 92, 93, 94 (other than 94(1)(d) and (3)), 95, 96 (where the APMS contractor is a company limited by shares, except that sub-paragraph 96(2)(a) is omitted and the reference in 96(2)(b) and 96(3) to regulations 5 and/or 6 are replaced with a reference to direction 3), 97 (where the APMS contractor is a partnership, except that sub-paragraph 97(3)(b) is omitted and the reference in sub-paragraph 97(3)(c) to regulations 5 and 6 is replaced with a reference to direction 3), 98 and 100(1) and (2);
- (x) Part 9 (concerns, complaints and investigations);
- (xi) paragraph 109 (variation of a contract: general), but as if—
 - (aa) in sub-paragraph (1), the references to “and paragraphs 76(8), 110, 111 and 124 of this Schedule” were replaced with a reference to any provisions within the APMS contract dealing with contract sanctions, and
 - (bb) in sub-paragraph (2), the words “In addition to the specific provision made in paragraphs 110(6), 111(11) and 124,” were replaced with a reference to any provisions within the APMS contract dealing with contract sanctions;
- (xii) where the APMS contractor is an individual medical practitioner, paragraph 113 (termination on the death of an individual medical practitioner);
- (xiii) paragraph 118 (termination by the Local Health Board for the provision of untrue etc information) but as if the reference to “regulation 5 and 6” was to “direction 3”;
- (xiv) paragraph 119 (other grounds for termination by the Local Health Board) but as if sub-paragraphs 3(a) and 3(v) were omitted and-
 - (aa) sub-paragraphs (1) and (2) were substituted as follows—

“**119.**—(1) The Local Health Board may serve notice in writing terminating the APMS contract forthwith, or from such date as may be specified in the notice if sub-paragraph (3) applies to the contractor.

- (2) References in sub-paragraph (3) to the contractor are to be interpreted as to—
 - (a) in the case of an APMS contract with an individual, that individual;
 - (b) in the case of an APMS contract with a company—
 - (i) the company, or
 - (ii) any director or company secretary of the company;
 - (c) in the case of an APMS contract with a partnership—
 - (i) any member of the partnership, or
 - (ii) the partnership; or
 - (d) in the case of an APMS contract with and industrial and provident society, a friendly society, a voluntary organisation or any other body—
 - (i) the society, organisation or other body, or

- (ii) an officer, trustee or any other person concerned with the management of the society, organisation or body.”;
- (bb) the following text is substituted for sub-paragraphs 119(4)(a) to (c) and 119(6)(a) to (c)-
 - “(a) the Contractor, if the Contract is with an individual;
 - (b) if the Contract is with a company, a person legally or beneficially owning a share in that company, or any director or company secretary of that company;
 - (c) if the Contract is with a partnership, a partner in the partnership; or
 - (d) if the Contract is with an industrial and provident society, a friendly society, a voluntary organisation or any other body, an officer, trustee or any other person concerned with the management of the society, organisation or body;”
- (xv) paragraph 120 (termination by the Local Health Board where patients’ safety is seriously at risk or where there is risk of material financial loss to the Local Health Board);
- (xvi) paragraphs 121 (termination by the Local Health Board for unlawful sub-contracting);
- (xvii) where the APMS contractor is a body corporate, paragraph 123(1) (Termination by the Local Health Board: additional provisions specific to contracts with two or more individuals practising in partnership and companies limited by shares), but as if the reference in paragraph 123(1) to “company limited by shares” is to “body corporate”;
- (xviii) where the APMS contractor is a partnership, paragraph 123(2) (Termination by the Local Health Board: additional provisions specific to contracts with two or more individuals practising in partnership and companies limited by shares); and
- (xix) Part 12 except sub-paragraphs 128(3) and (4) and as if in paragraph 130(3) “is” replaces “may be”.

Certificates

6. A Local Health Board which enters into an APMS contract must ensure that the APMS contract contains terms having the effect specified in regulation 19 (certificates) of, and Schedule 1 (List of Prescribed Medical Certificates) to, the GMS Regulations.

Fees, charges & financial interests

7. A Local Health Board which enters into an APMS contract must ensure that the APMS contract contains terms having the same effect as those specified in regulations 21(2) to (9) and 22 of the GMS Regulations (except that regulations 21(5) and (6) and 22(e) are only required for APMS contracts under which unified services are to be provided).

Consequences of termination of an APMS contract

8. A Local Health Board which enters into an APMS contract must ensure that the APMS contract makes suitable provision for the arrangements on termination of an APMS contract, including the requirements on the APMS contractor in the period preceding termination and the consequences (whether financial or otherwise) of the APMS contract ending.

PART 4

MANDATORY TERMS OF AN APMS CONTRACT UNDER WHICH UNIFIED SERVICES ARE TO BE PROVIDED

Mandatory terms of an APMS contract under which unified services are to be provided

9.—(1) Subject to direction 9(2), a Local Health Board which enters into an APMS contract under which unified services are to be provided must ensure (in addition to the requirements specified in directions 4 to 8, 10 and 11) that the APMS contract contains terms which have the effect specified in the following provisions of the GMS Regulations—

- (a) regulation 17, regulation 18(2), (3), (4) and (7) and Schedule 2;
- (b) regulation 23, 24 and 25;
- (c) In schedule 3:
 - (i) paragraph 2(2)(a) (telephone calls);
 - (ii) paragraph 4 (access);
 - (iii) paragraph 5 (attendance at practice premises);
 - (iv) paragraph 6 (attendance outside practice premises);
 - (v) paragraph 7 (newly registered patients);
 - (vi) paragraph 8 (patients not seen within 3 years);
 - (vii) paragraph 9 (patients aged 75 years and over);
 - (viii) paragraphs 13, 14 and 20 (duty of co-operation);
 - (ix) paragraphs 15, 16, 17, 18 and 19 (clusters and collaboratives);
 - (x) Part 2 (patients) (other than paragraph 22(1));
 - (xi) paragraphs 70, 71 and 72;
 - (xii) paragraphs 78(2), (5), (6), (7), (8), (9), (10) and (11), 79, 80, 81, 84, 87, 88, 89, 94(1)(d) and (3) and Schedule 4;
 - (xiii) paragraph 99 (notifications to patients following variation of the agreement), but as if the words “in accordance with Part 11 of this Schedule” were a reference to the Part of the APMS contract dealing with the variation of the APMS contract; and
 - (xiv) paragraph 128(3) and (4).

(2) The requirements in direction 9(1) do not apply to the extent that the services to be provided by the APMS contractor relate to services to be provided in a prison.

(3) The Local Health Board must ensure that any APMS contract under which unified services are to be provided makes provision as to the circumstances (if any) in which the Local Health Board may assign patients to the contractor and where appropriate, as to whether the APMS contractor’s list of patients is to be regarded as open or closed and in what circumstances the status of the list may change.

(4) The Local Health Board must ensure that such an APMS contract makes provision as to the circumstances (if any) in which the APMS contractor is required to attend a patient otherwise than at the contractor’s premises.

PART 5

MANDATORY TERM FOR AN APMS CONTRACT UNDER WHICH OUT OF HOURS SERVICES ARE TO BE PROVIDED

Mandatory term for an APMS contract under which out of hours services are to be provided

10. Where a Local Health Board enters into an APMS contract under which out of hours services are to be provided it must ensure that (in addition to the requirements specified in directions 4 to 9) the APMS contract requires the APMS contractor, in the provision of such services, to meet the latest standards and quality indicators set out in guidance issued from time to time by the Welsh Government.

PART 6

PATIENT LISTS

Patient lists

11.—(1) Where an APMS contract requires an APMS contractor to provide unified services and to have a list of patients, the Local Health Board must prepare and keep up to date a list of the patients—

- (i) who have been accepted by the APMS contractor for inclusion in the APMS contractor's list of patients in accordance with the terms of the APMS contract and who have not subsequently been removed from that list in accordance with the terms of the APMS contract; and
- (ii) where applicable, who have been assigned to the APMS contractor in accordance with the terms of the APMS contract and whose assignment has not been rescinded.

PART 7

MISCELLANEOUS

APMS contracts entered into before the coming into force of these Directions

12.—(1) Where a Local Health Board has entered into an APMS contract, before the coming into force of these Directions, which does not comply with these Directions it must, where it has power under that APMS contract to impose a variation of the APMS contract, exercise that power so as to ensure that the APMS contract is compatible with these Directions.

(2) In cases where the Local Health Board has entered into an APMS contract, before the coming into force of these Directions, which does not comply with these Directions but it does not have the power to impose the necessary variation(s), it shall enter into negotiations with the APMS contractor with a view to agreeing variations to the APMS contract to make it compatible with these Directions.

PART 8
REVOCATIONS

Revocations

13. The Alternative Provider Medical Services (Wales) Directions 2008(a) which came into force on 16 September 2008 are revoked.

A handwritten signature in black ink that reads "Paul Casey". The signature is written in a cursive style with a long horizontal stroke underneath.

Signed by Paul Casey, Deputy Director of Primary Care under the authority of the Minister for Health and Social Services, one of the Welsh Ministers

Date: 1 July 2024