

2007 No. 14

**NATIONAL HEALTH
SERVICE, WALES**

**NATIONAL HEALTH
SERVICE (WALES) ACT 2006**

**The NHS Business Services
Authority (Awdurdod
Gwasanaethau Busnes y GIG)
(Wales) Directions 2007**

Made 20 March 2007

Coming into force 1 April 2007

The National Assembly for Wales gives the following directions in exercise of the powers conferred on it by sections 23, 24, 140(6), 203(10) and 204(3) of the National Health Service (Wales) Act 2006(1).

PART 1

General

Application, commencement and interpretation

1.—(1) These Directions apply to the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG).

(2) These Directions apply in relation to Wales.

(3) These Directions come into force on 1 April 2007.

(4) In these Directions—

(1) 2006 c.42. References in the Act to “Welsh Ministers” are to have effect until the end of the initial period, within the meaning of the Government of Wales Act 2006 (c.32), as references to the National Assembly for Wales, constituted by the Government of Wales Act 1989 (c.38), by virtue of section 5 of and paragraph 10 of Schedule 3 to the National Health Service (Consequential Provisions) Act 2006 (c.43). The Secretary of State has issued separate directions to the Authority in relation to England.

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

“the Assembly” (“y *Cynulliad*”) means the National Assembly for Wales⁽¹⁾;

“the Authority” (“yr *Awdurdod*”) means the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG);

“financial year” (“*blwyddyn ariannol*”) means a period of twelve months ending with 31 March;

“NHS Injury Benefits Scheme” (“*Cynllun Bydd-daliadau Anaf y GIG*”) means any scheme making provision for benefits for health staff in respect of injury or disease and established pursuant to section 10 of the Superannuation Act 1972⁽²⁾, but excluding any scheme making provision for the early payment of a pension, allowance or gratuity in respect of ill-health;

“NHS Pension Scheme” (“*Cynllun Pensiwn y GIG*”) means, any scheme making provision for pensions, allowances, gratuities or compensation for premature retirement for health staff and established pursuant to section 10 or section 24 of the Superannuation Act 1972, but excluding the NHS Injury Benefits Scheme;

“personal dental services agreement” (“*cytundeb gwasanaethau deintyddol personol*”) means an agreement made under section 64 of the Act for the provision of primary dental services; and

“relevant primary dental services” (“*gwasanaethau deintyddol sylfaenol perthnasol*”) means services provided under—

- (i) section 56(2) of the Act;
- (ii) a general dental services contract; or
- (iii) a personal dental services agreement.

PART 2

Functions of the Authority

Accounts

2.—(1) The Authority must prepare and keep annual accounts in respect of each financial year which must give a true and fair view of the income and expenditure and cash flows of the Authority for the financial year, and the state of affairs as at the end of the financial year.

⁽¹⁾ Functions of the National Assembly for Wales are to transfer to Welsh Ministers immediately after the end of the initial period under section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

⁽²⁾ 1972 c.11.

(2) The accounts must, except where agreed with the Assembly in which case the exception must be disclosed in the notes to the accounts, be prepared in accordance with—

- (a) the Department of Health Special Health Authority Manual for Accounts⁽¹⁾; and
- (b) any other requests made by the Assembly.

Audit

3. The Authority must put in place arrangements for internal audit which are in accordance with the Internal Audit Standards for the NHS in Wales⁽²⁾.

Annual reports

4. The Authority must prepare an annual report in relation to its activities and send a copy of its report to the Assembly by 30 November in the financial year following the financial year to which the report relates.

Land transactions

5.—(1) Subject to sub-paragraphs (2) to (5) of this paragraph, the Authority may exercise the powers of the Assembly under section 159(1) to (3) of the Act (acquisition, use and maintenance of property), in so far as it is necessary to enable it to secure and maintain such accommodation as it requires for the proper discharge of its functions.

(2) The powers mentioned in sub-paragraph (1) of this paragraph do not include the power of the Assembly to acquire land compulsorily.

(3) The Authority must not without the prior approval of the Assembly—

- (a) acquire or dispose of any land, or any interest in land, not falling within paragraph (3)(b) of this direction, the value of which exceeds £50,000; or
- (b) acquire a leasehold interest where either—
 - (i) the term of the lease is less than one year and the rent payable exceeds £50,000; or
 - (ii) the term of the lease is not less than one year and the product of multiplying the number of years in the term by the amount of rent payable in the first year of the term exceeds £250,000.

⁽¹⁾ This document is incorporated in the NHS Finance manual and is available on the website <http://www.info.doh.gov.uk/doh/finman.nsf/ManualDownload?OpenView>.

⁽²⁾ These standards were issued under Welsh Health Circular (2003) 119.

(4) In sub-paragraph (3)(a) above, “value” means the value on a disposal by sale of the freehold interest with vacant possession on the open market.

(5) In sub-paragraph (3)(b) above, “the term” in relation to a leasehold interest acquired by way of assignment means the unexpired term.

6. The Authority must exercise the powers conferred on it by paragraph 5 consistently with—

- (a) the procedures and instructions for the time being in force and issued by the Department of Health Estates and Facilities⁽¹⁾ except in so far as such procedures and instructions are inconsistent with the provisions of these Directions or by their nature could not be applicable to the Authority; and
- (b) the Authority’s Standing Financial Orders.

7. Where the exercise by the Authority of any power conferred on it by paragraph 5 requires—

- (a) the execution under seal of any document, the Authority must execute such document on behalf of the Assembly, under its own seal; or
- (b) the execution of a document otherwise than under seal, the Authority must make arrangements for an officer of the Authority who has been duly authorised for that purpose to sign the document for the Authority on behalf of the Assembly.

Chapter 2 – Specific Functions

Functions of the Authority in relation to the NHS Injury Benefits Scheme and the NHS Pension Scheme

8. The Authority must exercise the functions in relation to the NHS Injury Benefits Scheme and the NHS Pension Scheme specified in Schedule 1 to these Directions.

Functions of the Authority in relation to Pharmaceutical Claims Processing and Pharmaceutical Services

9. The Authority must exercise the functions in relation to pharmaceutical claims processing and pharmaceutical services specified in Schedule 2 to these Directions.

(1) See DH Estates and Facilities Knowledge and Information published at http://www.dh.gov.uk/PolicyAndGuidance/OrganisationPolicy/EstatesAndFacilitiesManagement/EstatesAndFacilitiesArticle/fs/en?CONTENT_ID=4118956&chk=gz0VFG.

Functions of the Authority in relation to Relevant Primary Dental Services

10. The Authority must exercise the functions in relation to relevant primary dental services specified in Schedule 3 to these Directions.

Functions of the Authority in relation to the European Health Insurance Card

11. The Authority must exercise the function of administering the European Health Insurance Card Scheme⁽¹⁾.

Other functions of the Authority

12. The Authority may exercise functions under—
- (a) section 10 of the Act (voluntary organisations and other bodies); and
 - (b) section 38 of the Act (supply of goods and services by the Assembly).

PART 3

Revocations

Revocations

13. The directions specified in Schedule 4 are revoked.

Signed on behalf of the National Assembly for Wales

20 March 2007

D.Elis-Thomas

The Presiding Officer of the National Assembly for Wales

(1) Established pursuant to regulation (EC) No 631 2004

SCHEDULE 1

Direction 8

Functions of the Authority in relation to the NHS Injury Benefit Scheme and the NHS Pension Scheme

Functions in relation to the NHS Injury Benefits Scheme and the NHS Pension Scheme

Interpretation

1. In this Part—

“the Schemes” (“y *Cynlluniau*”) means the “NHS Injury Benefits Scheme” (“*Cynllun Budd-daliad Anaf y GIG*”) and the “NHS Pension Scheme” (“*Cynllun Pensiwn y GIG*”).

Functions

2. Exercise all functions in relation to the Schemes conferred on the Assembly except the functions of making regulations and giving directions relating to the Schemes.

3. In exercising the functions in paragraph 2 the Authority must seek such appropriate and timely actuarial and legal advice as it considers necessary in connection with—

- (a) the interpretation of the legislation and procedures relating to the administration of the Schemes;
- (b) the conduct of litigation, (whether actual or threatened); and
- (c) the conduct of matters in connection with the Pensions Ombudsman.

4. Notify the Assembly forthwith of any matter (including actual or threatened litigation), which may, in the Authority’s opinion—

- (a) challenge or cast doubt upon the existing legislation, its interpretation or application; or
- (b) raise issues of financial or public policy in relation to the Schemes.

5. Where the Authority notifies the Assembly of a matter in accordance with paragraph 4, it must—

- (a) consult with the Assembly about the conduct of the matter; and

(b) ensure that the Assembly is kept informed of developments in, and the progress of, the matter.

6. Provide advice to the Assembly in relation to all matters concerning the Schemes, including in particular actual or threatened litigation where issues of public policy or finance (including actuarial matters) may arise.

7. Provide advice and guidance to employers operating within the Schemes.

8. Give advice and make recommendations to the Assembly about the exercise by it of its functions of making regulations and giving directions relating to the Schemes

9. Keep and maintain records of the members of the Schemes.

10. Promote awareness of the Schemes.

SCHEDULE 2

Direction 9

Functions of the Authority in relation to Pharmaceutical Claims Processing and Pharmaceutical Services

Interpretation

1. In this Schedule—

- (a) “Charges Regulations” (*“Rheoliadau Ffioedd”*) means the National Health Service (Free Prescriptions and Charges for Drugs and Appliances) (Wales) Regulations 2007(a);
- (b) the following terms have the meaning given in regulation 2 (interpretation) of the Charges Regulations—
 - (i) “batch issue” (*“swp-ddyroddiad”*);
 - (ii) “Welsh prescription form” (*“ffurflen bresgripsiwn Gymreig”*);
 - (iii) “Welsh repeatable prescription form” (*“ffurflen bresgripsiwn amlroddadwy Gymreig”*);
- (a) “the Pharmaceutical Services Regulations” (*“Rheoliadau'r Gwasanaethau Fferyllol”*) means the National Health Service (Pharmaceutical Services) Regulations 1992(b);
- (b) “the Travelling Expenses and Remission of Charges Regulations” (*“y Rheolidau Treuliau Teithio a Pheidio â Chodi Tâl”*) means the National Health Service (Travelling Expenses and Remission of Charges) Regulations 2007(c);
- (c) “Local Pharmaceutical Committee” (*“Pwyllgor Fferyllol Lleol”*) means a committee recognised under section 90(1) of the Act (which relates to recognition of Local Pharmaceutical Committees);
- (d) “prescriptions” (*“presgripsiynau”*) means a Welsh prescription form or a Welsh repeatable prescription form.

(a) S.I.2007/121 (W.11).

(b) S.I. 1992/662 as amended.

(c) S.I. 2007/ 1104 (W.116).

Functions

2. Examine, check, price and store for a period to be determined from time to time by the Assembly, batch issues and prescriptions, for drugs, medicines and listed appliances supplied as part of pharmaceutical services under the Act.

3. Subject to making any deductions pursuant to section 90 of the Act, or regulations made under section 121 of the Act, to make to chemists the payments referred to in regulation 18 of the Pharmaceutical Services Regulations.

4. Pay deductions made pursuant to section 90 of the Act or regulations made under section 121 of the Act to the Local Pharmaceutical Committee.

5. Pay such amounts as are due to chemists under arrangements made between Local Health Boards and chemists in accordance with paragraphs 3(1) or 4(1) of the Pharmaceutical Services (Advanced and Enhanced Services) (Wales) Directions 2005.

6. Where requested by Local Health Board recover in accordance with regulation 24(2) of the Pharmaceutical Services Regulations overpayments made to a chemist or doctor.

7. Exercise the functions of the Assembly under the Travelling Expenses and Remission of Charges Regulations other than the function referred to in regulation 11(1)(c) of those Regulations.

8. Exercise the functions of the Assembly under regulation 9 of the Charges Regulations (functions in connection with certificates of exemption from prescription charges).

9.—(1) Publicise—

- (a) arrangements for claiming remission or repayment of charges under the Travelling Expenses and Remission of Charges Regulations; and
- (b) arrangements for claiming travel expenses that are payable under the Travelling Expenses and Remission of Charges Regulations, other than NHS foreign travel expenses within the meaning of regulation 3(2) of those Regulations.

(2) Before any material is published by the Authority pursuant to this paragraph it must be approved by the Assembly.

10. Taking into account the recommendation of the Counter Fraud and Security Management Service Division of the Authority, pay, under regulation 18B(2) of the Pharmaceutical Services Regulations such amounts, if any, as the Authority considers are

due to chemists in respect of claims made under regulation 18B(1) of those Regulations.

11. Approve the lists of appliances and chemical reagents for the purposes of section 80 of the Act, and to determine the prices and the basis of which the payment for such appliances and chemical reagents ordinarily supplied is to be calculated.

12. Compile, in accordance with regulation 18 of the Pharmaceutical Services Regulations, material to be approved by the Assembly (except material to be approved by the Authority in accordance with paragraph 9 above), for inclusion in the Statement known as “the Drug Tariff” and to publish and distribute that statement.

SCHEDULE 3

Direction 10

Functions in relation to Relevant Primary Dental Services

Functions of the Authority in respect of Dental Charges

Interpretation

1. In this Part—

“Dental Charges Regulations” (*“Rheoliadau Ffioedd Deintyddol”*) means the National Health Service (Dental Charges) (Wales) Regulations 2006(a);

“relevant Local Health Board” (*“Bwrdd Iechyd Lleol perthnasol”*) has the meaning given in the Dental Charges Regulations; and

“Travelling Expenses and Remission of Charges Regulations” (*“Rheolidau Treuliau Teithio a Pheidio â Chodi Tâl”*) means the National Health Service (Travelling Expenses and Remission of Charges) Regulations 2007(b).

Functions

2.—(1) Exercise the functions of the Assembly under the following provisions of the Dental Charges Regulations—

- (a) regulation 4(8) (determining into which Schedule an appliance or treatment should fall);
- (b) regulation 7(1)(b) (requiring that specified evidence be supplied) and 7(4) (accepting evidence other than specified evidence);
- (c) regulation 8(4) (recovery of charges);
- (b) regulation 10(3) (receipt of claims, allowing further period of time, requiring evidence and determining of claims), 10(5) (accepting claims made on behalf of another) and 10(6) (causing a repayment to be made); and
- (d) regulation 11(1) and (3) (considering and determining of charge not payable or amount of reduction of charge) and Schedule 6 (manner of determining charge for replacement).

(a) S.I. 2006/491.

(b) S.I. 2007/1104 (W.116).

(2) Process, assess and monitor the information received pursuant to regulations 4(8), 7(1)(b) and (4), 10(3), (5) and (6) and 11(1) and (3) of, and Schedule 6 to the Dental Charges Regulations.

(3) Provide timely reports to—

- (a) the relevant Local Health Board in respect of information received pursuant to regulations 4(8), 7(1)(b), 10(3), (5) and (6) and 11(1) and (3) of, and Schedule 6 to the Dental Charges Regulations, setting out in particular information which the Authority considers might be evidence of a breach of contract, an unlawful activity or an irregularity or which is otherwise unusual; and
- (b) the Assembly in respect of information received pursuant to regulation 4(8) to the Dental Charges Regulations, setting out in particular information which the Authority considers would assist the Assembly in any review of the items listed or not listed in Schedules 1 to 4 to those Regulations.

3.—(1) Exercise the functions of the Assembly under the following provisions of the Travelling Expenses and Remission of Charges Regulations—

- (a) regulation 10(2) (determining a claim for repayment);
- (b) regulation 10(3) (allowing for longer period for claim for repayment); and
- (c) regulation 11(1)(a) (calculating the amount payable and notifying) or (c) (causing a repayment to be made).

(2) Process, assess and monitor the information received under regulations 11(2) and (3) of the Travelling Expenses and Remission of Charges Regulations in respect of claims for repayment of charges for dental appliances and dental treatment.

(3) Provide timely reports in respect of information received pursuant to regulations 11(2) and (3) and 12(1)(a) or (c) to the relevant Local Health Board setting out, in particular any information that the Authority considers might be evidence of a breach of contract, unlawful activity or an irregularity or which is otherwise unlawful.

4. Where a person fails to pay any amount referred to in section 141(1)(a) or (b) of the Act (penalties), the Authority must prepare and serve a penalty notice, calculate and determine a penalty charge and surcharge pursuant to the National Health Service (Penalty Charge) (Wales) Regulations 2001(a) and must take enforcement action to recover the relevant penalties and surcharges as civil debts.

(a) S.I. 2001/1300.

SCHEDULE 4

Direction 13

Directions revoked

1. The NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) Directions 2005 dated [1 October 2005]

2. Directions to the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Wales) 2006 dated 31 March 2006.

3. The Notification to and Co-operation with the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) Directions 2005.