
DIRECTIONS

NATIONAL HEALTH SERVICE ACT 2006

The Prototype Agreement Scheme Statement of Financial Entitlements (Amendment) Directions 2016

The Secretary of State for Health, having consulted in relation to direction 4 in accordance with section 103(4) of the National Health Service Act 2006(a), with the bodies appearing to the Secretary of State to be representative of persons to whose remuneration these Directions relate, gives the following Directions in exercise of the powers conferred by sections 103(1) and (3), 109(4) and (5), and 273(1) of that Act(b).

Citation, commencement and interpretation

1.—(1) These Directions may be cited as the Prototype Agreement Scheme Statement of Financial Entitlements (Amendment) Directions 2016.

(2) These Directions come into force immediately after they are signed, but have effect from 1st April 2015.

(3) In these Directions “the Prototype SFE” means the Prototype Agreement Scheme Statement of Financial Entitlements(c).

Amendment of Section 1 of the Prototype SFE

2.—(1) In Section 1 (introduction) of the Prototype SFE—

(a) in paragraph 1.9 (commencement and application), after “will be assigned to a Prototype Blend,” insert “unless the contractor is a CDS prototype contractor”; and

(b) in paragraph 1.10, after sub-paragraph (b) insert—

“(c) PDS agreement prior to the commencement of a CDS Prototype Agreement (within the meaning of paragraphs 7A.1 and 23A.1), or a Capitation and Quality Scheme Agreement or a Capitation and Quality Scheme 2 Agreement but the underlying agreement is a PDS agreement, the relevant Parts of Chapters 1 and 3 of this SFE apply; or

(d) GDS contract prior to the commencement of a CDS Prototype Agreement (within the meaning of paragraphs 7A.1 and 23A.1), or a Capitation and Quality Scheme Agreement or a Capitation and Quality Scheme 2 Agreement but the underlying agreement is a GDS agreement, the relevant Parts of Chapters 2 and 3 of this SFE apply.”.

(a) 2006 c.41. The Secretary of State must consult in accordance with section 103(4) of the National Health Service Act 2006 (“the 2006 Act”) on directions as to payments to be made under general dental services contracts, and section 103(4) applies where such contracts have been varied to make a Prototype Agreement. Section 103 of the 2006 Act has been amended by section 55(1) of, and paragraph 45 of Schedule 4 to, the Health and Social Care Act 2012 (c.7) (“the 2012 Act”).

(b) Section 109 of the 2006 Act has been amended by section 55(1) of, and paragraph 50 of Schedule 4 to, the 2012 Act. By virtue of section 271(1) of the 2006 Act, the powers conferred by these sections are exercisable by the Secretary of State only in relation to England.

(c) The Prototype Agreement Scheme Statement of Financial Entitlements, signed on 23rd of September 2015, is published on www.gov.uk. Hard copies of this document can be obtained by writing to Dental and Eye Care Services, Policy and Legislation Unit, NHS Group, Room 201 Richmond House, 79 Whitehall, London, SW1A 2NS.

Amendment of Section 2 of the Prototype SFE

3. In Section 2 (Negotiated Annual Prototype Value) of the Prototype SFE, in sub-paragraph 2.8(b) (dealing with under-delivery of units of dental activity in previous financial year or in the current financial year), for “which it was agreed would be carried forward” substitute “that was agreed between the Board and the contractor would be carried forward”.

Amendment of Section 3 of the Prototype SFE

4. In Section 3 (payment of Monthly Annual Prototype Value Payments) of the Prototype SFE, in sub-paragraph 3.2(b) for “agreed by the Board and the contractor; and minus” substitute “agreed by the Board and the contractor; minus”.

Amendment of Section 5 of the Prototype SFE

5. In Section 5 (Negotiated Annual Prototype Value) of the Prototype SFE, in sub-paragraph 5.8(b) (dealing with under-delivery of units of dental activity in previous financial year or in the current financial year), for “which it was agreed would be carried forward” substitute “that was agreed between the Board and the contractor would be carried forward”.

Amendment of Section 6 of the Prototype SFE

6. In Section 6 (payment of Monthly Annual Prototype Value Payments) of the Prototype SFE, in sub-paragraph 6.2(b) for “agreed by the Board and the contractor; and minus” substitute “agreed by the Board and the contractor; minus”.

Insertion of new Part 2A

7. After Section 7 (annual payment adjustment for capitation, activity and performance), of the Prototype SFE insert—

“PART 2A

CDS Prototype Agreements

7A. Negotiated Annual Prototype Value

7A.1 With effect from 1st April 2016, where a contractor has elected to enter into a Prototype Agreement with the Board as a CDS prototype contractor (referred to throughout this Part as a CDS Prototype Agreement), the PDS agreement held by the contractor which was considered to have a Negotiated Annual Agreement Value (NAAV) will be deemed to have a Negotiated Annual Prototype Value – CDS Prototype (NAPVC) beginning on the date the CDS Prototype Agreement commences.

7A.2 Payments under a CDS Prototype Agreement in respect of the agreed services specified in the CDS Prototype Agreement are to be based on a NAPVC.

7A.3 Each CDS Prototype Agreement must specify:

- (a) that the contractor will offer all mandatory NHS services in line with the underlying agreement; and
- (b) any other services to be provided.

Nomination of the first Negotiated Annual Prototype Value – CDS Prototype

7A.4 At the start of the financial year – or, if a CDS Prototype Agreement starts after the start of the financial year, from the date on which the CDS Prototype Agreement takes effect – the Board must calculate for each contractor the NAPVC. The value of the NAPVC

is the same as the value of the NAAV of the underlying PDS agreement held by the contractor immediately before the commencement of the CDS Prototype Agreement.

7A.5 The NAAV may have been updated by the percentage amount determined by the Secretary of State at the beginning of the financial year 2015 to 2016. If this has not taken place, the NAAV will need to be adjusted by the percentage increase determined by the Secretary of State for the financial year 2015 to 2016 which is 1.34%.

7A.6 If the payment, or any of the payments in the aggregate of payments, only relates to part of that financial year – for example, because the PDS agreement held prior to the commencement of the CDS Prototype Agreement takes effect for payment purposes after the start of the financial year, or is due to end before the end of the financial year – the part year payment or payments are to be annualised. The annualised amount of the nominated payment or aggregate of payments is to be used as the basis of the calculation of the first NAPVC for the contractor’s CDS Prototype Agreement.

Dealing with under-delivery of units of dental activity in previous financial year or in the current financial year

7A.7 Where a contractor held an underlying PDS agreement immediately prior to the commencement of the CDS Prototype Agreement, it may be the case that the number of units of dental activity the contractor was required to provide under that PDS agreement has not been delivered by the date on which the CDS Prototype Agreement commences. Where it is agreed between the Board and the contractor that any under-delivered units of dental activity are to be carried forward, then that number of units of dental activity will be carried forward and in effect the obligation to provide such activity is “stayed” for the duration of the CDS Prototype Agreement. The number of units of dental activity “stayed” must be set out in the CDS Prototype Agreement. The Board will need to agree with the contractor as to how the units of dental activity which have been “stayed” will be provided following the termination of the CDS Prototype Agreement.

7A.8 The number of units of dental activity that must be “stayed” is calculated as:

- (a) the pro-rated number of units of dental activity that should have been delivered for the financial year to date. (Where the Board and a contractor have agreed a specific profile for delivering units of dental activity during the year, this profile can be used instead of pro-rating the amount); plus
- (b) the number of under-delivered units of dental activity from the previous financial year that was agreed between the Board and the contractor would be carried forward; minus
- (c) the units of dental activity delivered up to the date on which the CDS Prototype Agreement commences.

New NAPVCs where a CDS Prototype Agreement is revised

7A.9 If, with the agreement of the Board and the contractor, the NHS commitment of the contractor changes or the services, or service levels, that a contractor is required to provide under its CDS Prototype Agreement are revised, a new NAPVC will have to be established for that contractor. If the variation takes effect during the financial year, the new NAPVC for that CDS Prototype Agreement must be an annualised amount for calculation purposes, even though only a proportion of that annualised amount will in fact be payable for the remaining part year.

7A.10 NHS commitment is the time and effort that a contractor devotes to providing NHS care. For CDS Prototype Agreements it is important that the results achieved are assessed in the context of the time and effort put in by the contractor. The intent is not to manage this at a detailed level but where necessary, the Board must look at indicators to assess NHS commitment. These key indicators of NHS commitment are:

- (a) the average weekly time given to appointments in which an element of NHS care is delivered and reported to the NHS BSA calculated on a quarterly basis. The Board must review the NAPVC where the key indicator, in the opinion of the Board, significantly decreases from the level agreed at the date of the commencement of the CDS Prototype Agreement and the Board considers that decrease to represent a significant reduction in NHS commitment. The review period runs from the date of the commencement of the CDS Prototype Agreement until the end of the financial year in which the CDS Prototype Agreement is made (with an equivalent period for future years); and
- (b) the historical capitated population number after any adjustment for past under-delivery, calculated on a quarterly basis. The Board must review the NAPVC if, in the opinion of the Board, this indicator significantly decreases from the level agreed at the date of the commencement of the CDS Prototype Agreement, and the Board considers that decrease to represent a significant reduction in NHS commitment. The review period runs from the date of the commencement of the CDS Prototype Agreement until the end of the financial year in which the CDS Prototype Agreement is made (with an equivalent period for future years).

Annual uprating of NAPVCs

7A.11 It is intended that at the start of each financial year that this SFE applies, this SFE will be amended so as to include the percentage increase in agreement value as determined by the Secretary of State for the duration of the Prototype Agreements Scheme. In practice, these adjustments will be factored into Monthly APVCPs by the NHS BSA on a national basis. The Board must not itself, therefore, adjust the amounts that it has loaded into the Payments On-Line (POL) system by these adjustments.

7B. Payment of Monthly Annual Prototype Value Payments

7B.1 At any point, there should be in respect of each CDS Prototype Agreement a NAPVC, determined in accordance with Section 7A. This, in all cases, is to be an annual (or annualised) amount. For each CDS Prototype Agreement, the contractor's Actual Annual Prototype Value – CDS Prototype (AAPVC) has to be established.

7B.2 The AAPVC is calculated as:

- (a) the NAPVC; minus
- (b) an amount of the NAPVC that is attributed to orthodontic activity, which will be paid for separately under the underlying PDS agreement. If the element relating to orthodontics is not explicitly stated in the underlying agreement then an amount should be agreed by the Board and the contractor; minus
- (c) an element of the NAPVC that is due to specified services. Specified services are defined in paragraph 10.1 (specified services). If the element relating to specified services is not explicitly stated in the underlying PDS agreement then an amount should be agreed by the Board and the contractor.

7B.3 The AAPVC provides the basis for the calculation of the Monthly Annual Prototype Value – CDS Prototype Payments (APVCP) payable under the CDS Prototype Agreement. These calculations are outlined in the rest of Section 7B

7B.4 Payments for orthodontics are made in accordance with the underlying PDS agreement. The CDS Prototype Agreement will specify the value of the orthodontic services element of the NAPVC and the number of units of orthodontic activity (“UOAs”) that the contractor is required to provide in the financial year.

7B.5 Payments for specified services are outlined in Section 10 (specified services).

Initial value of Monthly APVCPs

7B.6 The first initial value of a contractor's Monthly APVCPs is to be determined for the date on which its CDS Prototype Agreement takes effect for payment purposes. Once the contractor's AAPVC has been established, that amount is to be divided by twelve, and subject to paragraph 7B.7, the result is the first initial value of the contractor's Monthly APVCPs.

7B.7 If the contractor's CDS Prototype Agreement took effect for payment purposes other than on the first day of a month, the initial value of its Monthly APVCPs in respect of the first part-month of its CDS Prototype Agreement is to be adjusted by a factor which is produced by dividing:

- (a) the number of days during the month for which the CDS Prototype Agreement has effect for payment purposes; by
- (b) the total number of days in that month.

7B.8 That initial value (expressed as a monthly value, in cases where a CDS Prototype Agreement took effect for payment purposes other than on the first day of the month) will remain the basis for the calculation of the net value of the contractor's Monthly APVCPs, until that initial value is next revised.

Revision of the initial value of Monthly APVCPs

7B.9 The initial value of a contractor's Monthly APVCPs will have to be revised where, for any reason, its AAPVC is revised.

7B.10 If the contractor's AAPVC is revised for the start of a month, the new initial value of its Monthly APVCPs (until its AAPVC is next revised) is its new AAPVC divided by twelve. If its AAPVC changes during a month, the initial value of its Monthly APVCPs (until its AAPVC is next revised again) is:

- (a) for the month after the month during which its AAPVC changed, its AAPVC divided by 12; or
- (b) for the month during which its AAPVC changed, the aggregate of the following amounts—
 - (i) the amount produced by dividing the number of days during the month before the change by the total number of days in that month, and multiplying that fraction by the old initial value of the contractor's Monthly APVCPs, plus
 - (ii) the amount produced by dividing the number of days during the month for which the contractor had a new AAPVC by the total number of days in that month, and multiplying that fraction by the new initial value of the contractor's Monthly APVCPs.

7B.11 Once the initial value of a contractor's Monthly APVCPs has been established for any particular month, the Board must go on to establish the net value of the contractor's Monthly APVCPs, which is the amount actually to be paid.

Deductions in respect of NHS charges

7B.12 Deductions must be made in respect of NHS charges in line with paragraphs 8.1 to 8.3 in Part 3 of this SFE (deductions in respect of NHS charges).

7B.13 The Monthly APVCP value produced after the deduction described in paragraph 8.3 has been made is, subject to paragraph 7B.14, the gross value of the contractor's Monthly APVCP for that month (i.e. the value before the deduction of employee's superannuation contributions).

Deductions in respect of overpayments etc.

7B.14 Deductions may need to be made to the amount determined in accordance with paragraph 8.3 under the administrative provisions in Section 16 of this SFE (administrative provisions), to take account of matters such as overpayments. In accounting terms, these deductions may alter the gross value of the Monthly APVCP in question or the gross value of another payment, but either way they will alter the net value of the Monthly APVCP in question.

Deductions in respect of LDC levies

7B.15 Any agreed deductions for LDC levies in line with paragraph 8.4 (deductions in respect of LDC levies) must be deducted by the Board from the contractor's Monthly APVCPs.

Deductions in respect of employee's superannuation contributions

7B.16 Deductions must be made in respect of employees' superannuation contributions in line with paragraphs 8.5 to 8.7 in Part 3 of this SFE (deductions in respect of employees' superannuation contributions) where these deductions would apply in the underlying PDS Agreement and where they are not made as part of salary payments.

Applicability of other payments

7B.17—(1) The payments set out in paragraph (2) apply to CDS Prototype Agreements unless any such payments are made under other arrangements outwith this SFE.

(2) The payments referred to in paragraph (1) are:

- (a) employer's superannuation contributions (Section 9);
- (b) seniority payments (Section 11);
- (c) payments in respect of foundation training (Section 12);
- (d) payments in respect of maternity, paternity and adoption leave (Section 13);
- (e) payments in respect of long-term sickness absence (Section 14); and
- (f) reimbursement of non-domestic rates (Section 15).

Net value of the contractor's first Monthly APVCPs

7B.18 The gross value of a contractor's Monthly APVCPs, minus any necessary deductions as mentioned in paragraphs 7B.12 to 7B.16, and minus any voluntary deductions that the contractor has asked to be made, is the net value of the contractor's first Monthly APVCPs. That amount is the amount actually to be paid. It becomes payable on the contractor's Monthly Payment Date, which is the first working day of the month after the month to which the Monthly APVCP relates.

Conditions attached to Monthly APVCPs

7B.19 Monthly APVCPs, or any part of such payments, are only payable if the contractor satisfies the following conditions:

- (a) the contractor must make available any information which the Board does not have but needs, including the returns that are required under direction 14 (Dental Quality and Outcomes Framework) of the Prototype Directions, and which the contractor either has or could reasonably be expected to obtain, in order to calculate the contractor's Monthly APVCPs;
- (b) the contractor must make available to the Board a reasonable estimate of the net monthly Pensionable Earnings (i.e. net of any Pensionable Earnings that are attributable to any Monthly Seniority Payment) of each Dentist Performer who is

employed or engaged by it, and must notify the Board of any appropriate changes to that estimate; and

- (c) all information supplied pursuant to or in accordance with this paragraph must be accurate.

7B.20 If the contractor breaches any condition of its Monthly APVCPs that is set out in this SFE (including the conditions that are set out in paragraph 7B.19), the Board may, in appropriate circumstances, withhold payment of all or any part of a Monthly APVCP that is otherwise payable.

Monthly Payment Schedule

7B.21 On the due date for Monthly APVCPs, or as soon as reasonably practicable thereafter, the Board must send to the contractor a Monthly Payment Schedule which shall include (but not be limited to):

- (a) the contractor's AAPVC;
- (b) the amount of the initial value of the contractor's Monthly APVCPs, prior to any permitted deductions;
- (c) the amount of permitted deductions, which shall be specified in two parts:
 - (i) the amount of the NHS charges that the Board has determined, in accordance with paragraph 8.3, that the contractor should have collected in respect of treatment, and
 - (ii) the amount of any other deductions that need to be made to the Monthly APVCPs under the CDS Prototype Agreement or pursuant to this SFE (for example, the deductions mentioned in paragraphs 7B.14 to 7B.16), together with the reason for any such deduction;
- (d) the amount of the Monthly APVCP following the permitted deductions;
- (e) any other payments payable to the contractor pursuant to this SFE on that due date, including where relevant an indication that a particular payment is made in respect of a named Dentist Performer; and
- (f) the estimated net monthly Pensionable Earnings of each Dentist Performer who performs services under the CDS Prototype Agreement, i.e. net of any Pensionable Earnings that are attributable to any Monthly Seniority Payment.

7B.22 In practice, in accordance with entry 2(c) in column 2 of the Schedule to the Functions Regulations, the Monthly Payment Schedule will be sent to the contractor by the NHS BSA, who will also need to send a copy to the Board (entry 2(a) of column 3 of the Schedule to the Functions Regulations).”.

Amendment of Section 18 of the Prototype SFE

8. In Section 18 (Negotiated Annual Prototype Value) of the Prototype SFE, in sub-paragraph 18.8(b) (dealing with under-delivery of units of dental activity in previous financial year or in the current financial year), for “that was agreed would be carried forward” substitute “that was agreed between the Board and the contractor would be carried forward”.

Amendment of Section 19 of the Prototype SFE

9. In Section 19 (payment of Monthly Annual Prototype Value Payments) of the Prototype SFE, in sub-paragraph 19.2(b) for “agreed by the Board and the contractor; and minus” substitute “agreed by the Board and the contractor; minus”.

Amendment of Section 21 of the Prototype SFE

10. In Section 21 (Negotiated Annual Prototype Value) of the Prototype SFE, in sub-paragraph 21.8(b) (dealing with under-delivery of units of dental activity in previous financial year or in the current financial year), for “that was agreed would be carried forward” substitute “that was agreed between the Board and the contractor would be carried forward”.

Amendment of Section 22 of the Prototype SFE

11. In Section 22 (payment of Monthly Annual Prototype Value Payments) of the Prototype SFE, in sub-paragraph 22.2(b) for “agreed by the Board and the contractor; and minus” substitute “agreed by the Board and the contractor; minus”.

Insertion of new Part 7A

12. After Section 23 (annual payment adjustment for capitation, activity and performance), of the Prototype SFE insert —

PART 7A

CDS Prototype Agreements

23A. Negotiated Annual Prototype Value

23A.1 With effect from 1st April 2016, where a contractor has elected to enter into a Prototype Agreement with the Board as a CDS prototype contractor (referred to throughout this Part as a CDS Prototype Agreement), the GDS contract held by the contractor which was considered to have a Negotiated Annual Contract Value (NACV) will be deemed to have a Negotiated Annual Prototype Value – CDS Prototype (NAPVC) beginning on the date the CDS Prototype Agreement commences.

23A.2 Payments under a CDS Prototype Agreement in respect of the agreed services specified in the CDS Prototype Agreement are to be based on a NAPVC.

23A.3 Each CDS Prototype Agreement must specify:

- (a) that the contractor will offer all mandatory NHS services in line with the underlying GDS contract; and
- (b) any other services to be provided.

Nomination of the first Negotiated Annual Prototype Value – CDS Prototype

23A.4 At the start of the financial year – or, if a CDS Prototype Agreement starts after the start of the financial year, from the date on which the CDS Prototype Agreement takes effect – the Board must calculate for each contractor the NAPVC. The value of the NAPVC is the same as the value of the NACV of the underlying GDS contract held by the contractor immediately before the commencement of the CDS Prototype Agreement.

23A.5 The NACV may have been updated by the percentage amount determined by the Secretary of State at the beginning of the financial year 2015 to 2016. If this has not taken place, the NACV will need to be adjusted by the percentage increase determined by the Secretary of State for the financial year 2015 to 2016 which is 1.34%.

23A.6 If the payment, or any of the payments in the aggregate of payments, only relates to part of that financial year – for example, because the GDS contract held prior to the commencement of the CDS Prototype Agreement takes effect for payment purposes after the start of the financial year, or is due to end before the end of the financial year – the part year payment or payments are to be annualised. The annualised amount of the nominated

payment or aggregate of payments is to be used as the basis of the calculation of the first NAPVC for the contractor's CDS Prototype Agreement.

Dealing with under-delivery of units of dental activity in previous financial year or in the current financial year

23A.7 Where a contractor held an underlying GDS contract immediately prior to the commencement of the CDS Prototype Agreement, it may be the case that the number of units of dental activity the contractor was required to provide under that GDS contract has not been delivered by the date on which the CDS Prototype Agreement commences. Where it is agreed between the Board and the contractor that any under-delivered units of dental activity are to be carried forward, then that number of units of dental activity will be carried forward and in effect the obligation to provide such activity is "stayed" for the duration of the CDS Prototype Agreement. The number of units of dental activity "stayed" for the duration of the CDS Prototype Agreement must be set out in the CDS Prototype Agreement. The Board will need to agree with the contractor as to how the number of units of dental activity "stayed" will be provided following the termination of the CDS Prototype Agreement.

23A.8 The number of units of dental activity that must be "stayed" is calculated as:

- (a) the pro-rated amount of units of dental activity that should have been delivered for the financial year to date. (Where the Board and a contractor have agreed a specific profile for delivering units of dental activity during the year, this profile can be used instead of pro-rating the amount); plus
- (b) the number of under-delivered units of dental activity from the previous financial year that was agreed between the Board and the contractor would be carried forward; minus
- (c) the number of units of dental activity delivered up to the date on which the CDS Prototype Agreement commences.

New NAPVCs where a CDS Prototype Agreement is revised

23A.9 If, with the agreement of the Board and the contractor, the NHS commitment of the contractor changes or the services, or service levels, that a contractor is required to provide under its CDS Prototype Agreement are revised, a new NAPVC will have to be established for that contractor. If the variation takes effect during the financial year, the new NAPVC for that CDS Prototype Agreement must be an annualised amount for calculation purposes, even though only a proportion of that annualised amount will in fact be payable for the remaining part year.

23A.10 NHS commitment is the time and effort that a contractor devotes to providing NHS care. For CDS Prototype Agreements it is important that the results achieved are assessed in the context of the time and effort put in by the contractor. The intent is not to manage this at a detailed level but where necessary, the Board must look at indicators to assess NHS commitment. These key indicators of NHS commitment are:

- (a) the average weekly time given to appointments in which an element of NHS care is delivered and reported to the NHS BSA calculated on a quarterly basis. The Board must review the NAPVC where the key indicator, in the opinion of the Board, significantly decreases from the level agreed at the date of the commencement of the CDS Prototype Agreement and the Board considers that decrease to represent a significant reduction in NHS commitment. The review period runs from the date of the commencement of the CDS Prototype Agreement until the end of the financial year in which the CDS Prototype Agreement is made (with an equivalent period for future years); and

- b) the historical capitated population number after any adjustment for past under-delivery, calculated on a quarterly basis. The Board must review the NAPVC if, in the opinion of the Board, this indicator significantly decreases from the level agreed at the date of the commencement of the CDS Prototype Agreement, and the Board considers that decrease to represent a significant reduction in NHS commitment. The review period runs from the date of the commencement of the CDS Prototype Agreement until the end of the financial year in which the CDS Prototype Agreement is made (with an equivalent period for future years).

Annual uprating of NAPVCs

23A.11 It is intended that at the start of each financial year that this SFE applies, this SFE will be amended so as to include the percentage increase in contract value as determined by the Secretary of State for the duration of the Prototype Agreements Scheme, these adjustments will be factored into Monthly APVCPs by the NHS BSA on a national basis. The Board must not itself, therefore, adjust the amounts that it has loaded into the Payments On-Line (POL) system by these adjustments.

23B. Payment of Monthly Annual Prototype Value Payments

23B.1 At any point, there should be in respect of each CDS Prototype Agreement a NAPVC, determined in accordance with Section 23A. This, in all cases, is to be an annual (or annualised) amount. For each CDS Prototype Agreement, the contractor's Actual Annual Prototype Value – CDS Prototype (AAPVC) has to be established.

23B.2 The AAPVC is calculated as:

- (a) the NAPVC; minus
- (b) an amount of the NAPVC that is attributed to orthodontic activity, which will be paid for separately under the underlying GDS contract. If the element relating to orthodontics is not explicitly stated in the underlying contract then an amount should be agreed by the Board and the contractor; minus
- (c) an element of the NAPVC that is due to specified services. Specified services are defined in paragraph 26.1 (specified services). If the element relating to specified services is not explicitly stated in the underlying GDS contract then an amount should be agreed by the Board and the contractor.

23B.3 The AAPVC provides the basis for the calculation of the Monthly Annual Prototype Value – CDS Prototype Payments (APVCP) payable under the CDS Prototype Agreement. These calculations are outlined in the rest of Section 23B

23B.4 Payments for orthodontics are made in accordance with the underlying GDS contract. The CDS Prototype Agreement will specify the value of the orthodontic services element of the NAPVC and the number of units of orthodontic activity (“UOAs”) that the contractor is required to provide in the financial year.

23B.5 Payments for specified services are outlined in Section 26 (specified services).

Initial value of Monthly APVCPs

23B.6 The first initial value of a contractor's Monthly APVCPs is to be determined for the date on which its CDS Prototype Agreement takes effect for payment purposes. Once the contractor's AAPVC has been established, that amount is to be divided by twelve, and subject to paragraph 23B.7, the result is the first initial value of the contractor's Monthly APVCPs.

23B.7 If the contractor's CDS Prototype Agreement took effect for payment purposes other than on the first day of a month, the initial value of its Monthly APVCPs in respect of the first part-month of its CDS Prototype Agreement is to be adjusted by a factor which is produced by dividing:

- (a) the number of days during the month for which the CDS Prototype Agreement has effect for payment purposes; by
- (b) the total number of days in that month.

23B.8 That initial value (expressed as a monthly value, in cases where a CDS Prototype Agreement took effect for payment purposes other than on the first day of the month) will remain the basis for the calculation of the net value of the contractor's Monthly APVCPs, until that initial value is next revised.

Revision of the initial value of Monthly APVCPs

23B.9 The initial value of a contractor's Monthly APVCPs will have to be revised where, for any reason, its AAPVC is revised.

23B.10 If the contractor's AAPVC is revised for the start of a month, the new initial value of its Monthly APVCPs (until its AAPVC is next revised) is its new AAPVC divided by twelve. If its AAPVC changes during a month, the initial value of its Monthly APVCPs (until its AAPVC is next revised again) is:

- (a) for the month after the month during which its AAPVC changed, its AAPVC divided by 12; or
- (b) for the month during which its AAPVC changed, the aggregate of the following amounts:
 - (i) the amount produced by dividing the number of days during the month before the change by the total number of days in that month, and multiplying that fraction by the old initial value of the contractor's Monthly APVCPs, plus
 - (ii) the amount produced by dividing the number of days during the month for which the contractor had a new AAPVC by the total number of days in that month and multiplying that fraction by the new initial value of the contractor's Monthly APVCPs.

23B.11 Once the initial value of a contractor's Monthly APVCPs has been established for any particular month, the Board must go on to establish the net value of the contractor's Monthly APVCPs, which is the amount actually to be paid.

Deductions in respect of NHS charges

23B.12 Deductions must be made in respect of NHS charges in line with paragraphs 24.1 to 24.3 in Part 3 of this SFE (deductions in respect of NHS charges).

23B.13 The Monthly APVCP value produced after the deduction described in paragraph 24.3 has been made is, subject to paragraph 23B.14, the gross value of the contractor's Monthly APVCP for that month (i.e. the value before the deduction of employee's superannuation contributions).

Deductions in respect of overpayments etc.

23B.14 Deductions may need to be made to the amount determined in accordance with paragraph 24.3 under the administrative provisions in Section 32 of this SFE (administrative provisions), to take account of matters such as overpayments. In accounting terms, these deductions may alter the gross value of the Monthly APVCP in question or the gross value of another payment, but either way they will alter the net value of the Monthly APVCP in question.

Deductions in respect of LDC levies

23B.15 Any agreed deductions for LDC levies in line with paragraph 24.4 (deductions in respect of LDC levies) must be deducted by the Board from the contractor's Monthly APVCPs.

Deductions in respect of employee's superannuation contributions

23B.16 Deductions must be made in respect of employees' superannuation contributions in line with paragraphs 25.5 to 25.7 in Part 8 of this SFE (deductions in respect of employees' superannuation contributions) where these deductions would apply in the underlying GDS contract and where they are not made as part of salary payments.

Applicability of other payments

12B.17—(1) The payments set out in paragraph (2) apply to CDS Prototype Agreements unless any such payments are made under other arrangements outwith this SFE.

(2) The payments referred to in paragraph (1) are:

- (a) employer's superannuation contributions (Section 25);
- (b) seniority payments (Section 27);
- (c) payments in respect of foundation training (Section 28);
- (d) payments in respect of maternity, paternity and adoption leave (Section 29);
- (e) payments in respect of long-term sickness absence (Section 30); and
- (f) reimbursement of non-domestic rates (Section 31).

Net value of the contractor's first Monthly APVCPs

23B.18 The gross value of a contractor's Monthly APVCPs, minus any necessary deductions as mentioned in paragraphs 23B.12 to 23B.16, and minus any voluntary deductions that the contractor has asked to be made, is the net value of the contractor's first Monthly APVCPs. That amount is the amount actually to be paid. It becomes payable on the contractor's Monthly Payment Date, which is the first working day of the month after the month to which the Monthly APVCP relates.

Conditions attached to Monthly APVCPs

23B.19 Monthly APVCPs, or any part of such payments, are only payable if the contractor satisfies the following conditions:

- (a) the contractor must make available any information which the Board does not have but needs, including the returns that are required under direction 14 (Dental Quality and Outcomes Framework) of the Prototype Directions, and which the contractor either has or could reasonably be expected to obtain, in order to calculate the contractor's Monthly APVCPs;
- (b) the contractor must make available to the Board a reasonable estimate of the net monthly Pensionable Earnings (i.e. net of any Pensionable Earnings that are attributable to any Monthly Seniority Payment) of each Dentist Performer who is employed or engaged by it, and must notify the Board of any appropriate changes to that estimate; and
- (c) all information supplied pursuant to or in accordance with this paragraph must be accurate.

23B.20 If the contractor breaches any condition of its Monthly APVCPs that is set out in this SFE (including the conditions that are set out in paragraph 23B.19), the Board may, in appropriate circumstances, withhold payment of all or any part of a Monthly APVCP that is otherwise payable.

Monthly Payment Schedule

23B.21 On the due date for Monthly APVCPs, or as soon as reasonably practicable thereafter, the Board must send to the contractor a Monthly Payment Schedule which shall include (but not be limited to):

- (a) the contractor's AAPVC;
- (b) the amount of the initial value of the contractor's Monthly APVCPs, prior to any permitted deductions;
- (c) the amount of permitted deductions, which shall be specified in two parts:
 - (i) the amount of the NHS charges that the Board has determined, in accordance with paragraph 24.3, that the contractor should have collected in respect of treatment, and
 - (ii) the amount of any other deductions that need to be made to the Monthly APVCPs under the CDS Prototype Agreement or pursuant to this SFE (for example, the deductions mentioned in paragraphs 23B.14 to 23B.16), together with the reason for any such deduction;
- (d) the amount of the Monthly APVCP following the permitted deductions;
- (e) any other payments payable to the contractor pursuant to this SFE on that due date, including where relevant an indication that a particular payment is made in respect of a named Dentist Performer; and
- (f) the estimated net monthly Pensionable Earnings of each Dentist Performer who performs services under the Agreement, i.e. net of any Pensionable Earnings that are attributable to any Monthly Seniority Payment.

23B.22 In practice, in accordance with entry 2(c) in column 2 of the Schedule to the Functions Regulations, the Monthly Payment Schedule will be sent to the contractor by the NHS BSA, who will also need to send a copy to the Board (entry 2(a) of column 3 of the Schedule to the Functions Regulations).”.

Amendment of Section 34

13. In Section 34 (glossary of terms) of the Prototype SFE—

- (a) in paragraph 34(1) (acronyms), at the appropriate alphabetical place insert—
 - “AAPVC Actual Annual Prototype Value – CDS Prototype”;
 - “APVCP Monthly Annual Prototype Value – CDS Prototype Payments”;
 - and
 - “NAPVC Negotiated Annual Prototype Value – CDS Prototype”;
- (b) in paragraph 34(3) (definitions)—
 - (i) after the definition of “care pathway” insert—
 - “CDS prototype contractor” has the same meaning as in regulation 2 of the GDS Contracts Regulations(**a**) (in relation to a person who has entered into a GDS contract with the Board) and regulation 2 of the PDS Agreement Regulations(**b**) (in relation to a person who has entered into a PDS agreement with the Board); and
 - (ii) after the definition of “interim care plan” insert—
 - “mandatory NHS services” means the services described in regulation 14(2) to (4) of the GDS Contracts Regulations”.

Signed by authority of the Secretary of State

(a) S.I. 2005/3361; the definition of “CDS prototype contractor” was inserted by SI 2016/298, regulation 2.
(b) S.I. 2005/3373; the definition of “CDS prototype contractor” was inserted by SI 2016/298, regulation 14

P. J. Howitt

16th May 2016

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