



**Guidance on Primary  
Ophthalmic Services  
Transitional Regulations 2008**

DH INFORMATION READER BOX	
Policy HR / Workforce Management Planning / Clinical	Estates <span style="border: 1px solid red; background-color: #e0ffff; padding: 2px;">Commissioning</span> IM & T Finance Social Care / Partnership Working
<b>Document Purpose</b>	Best Practice Guidance
<b>Gateway Reference</b>	9876
<b>Title</b>	Guidance on Primary Ophthalmic Services Transitional Regulations 2008
<b>Author</b>	Department of Health
<b>Publication Date</b>	07 May 2008
<b>Target Audience</b>	PCT CEs, Directors of Finance
<b>Circulation List</b>	
<b>Description</b>	This document provides guidance on transitional provisions to introduce the General Ophthalmic Services Contract Regulations 2008 and the National Health Service (Performers List) Amendment Regulations 2008.
<b>Cross Ref</b>	Guidance on NHS Performers List Amendment and Transitional Provisions Regulations 2008, guidance on General Ophthalmic Services Contracts Regulations 2008 and Guidance on Primary Ophthalmic Services Regulations 2008
<b>Superseded Docs</b>	N/A
<b>Action Required</b>	Award of contracts to those on the current ophthalmic list and creation of Ophthalmic Performers List by transfer from existing supplementary list.
<b>Timing</b>	<b>By 01 Aug 2008</b>
<b>Contact Details</b>	Derek Busby Eye Care Services Department of Health 11-018, New King's Beam House 22 Upper Ground, London SE1 9BW 020 7633 4159
<b>For Recipient's Use</b>	

© Crown copyright 2008  
 First published 12/05/2008  
 Published to DH website, in electronic PDF format only.  
<http://www.dh.gov.uk/publications>

# Contents

Contents.....	3
Introduction .....	4
Key Points .....	4
Contracts.....	5
Contracts for providers currently working through “grandfathers”.....	6
Contracts for Additional (ie Mobile (Domiciliary) Services .....	6
Ophthalmic Performers List.....	7
Timing .....	9

# Introduction

1. This note provides guidance to Primary Care Trusts on the transitional arrangements which have been put in place to facilitate the introduction of contracts between Primary Care Trusts and providers for the provision of NHS funded sight tests (defined as Mandatory and Additional Services in the relevant Regulations) and the creation of Ophthalmic Performers Lists.
2. The guidance has been developed to help PCTs with implementation and to ensure continuity of service provision.
3. This guidance should be read alongside the relevant regulations and is not a substitute for reading those regulations.

## Key Points

4. You should bear the following points in mind:
  - i. Existing contractors have a right to a contract, subject to specific exceptions, and simply have to notify PCTs that they would like a contract – there is no requirement to apply;
  - ii. clinicians on supplementary lists automatically transfer to performers lists and do not have to apply;
  - iii. In order to ensure continuity of service and to facilitate decisions on contract applications by providers currently acting through “grandfathers” and other persons wishing to be providers who are not or could not be included in ophthalmic lists by 1 August 2008, the Transitional Provisions allow PCTs to act in advance of 1 August 2008 as if the National Health Service (General Ophthalmic Services Contracts) Regulations 2008 were in force.

# Contracts

5. All current contractors on a PCT's ophthalmic list, with the exception of those:
  - i. working through grandfathering arrangements;
  - ii. suspended from that list;
  - iii. contingently removed from that list or whose inclusion in it was subject to a condition;
  - iv. subject to any inquiry or investigation as to his suitability for inclusion in that list or in the register; or
  - v. included in that list in errorhave the right to a contract under the new arrangements (providing they are not subject to any disciplinary processes - see regulation 4).
6. The contractor simply needs to notify the Primary Care Trust in writing that they would like a contract under the new arrangements no less than one month before the National Health Service (General Ophthalmic Services Contracts) Regulations 2008 come into force on 1st August 2008 i.e. by 1st July 2008. There is no requirement for an application to be made beyond that notification and PCTs have no power to require an application. However, if the contractor fails to notify the PCT that they want a contract then they cannot be awarded a contract under the transitional arrangements and would have to apply as a new applicant. PCTs may wish to contact all contractors on their ophthalmic list as soon as possible so that difficulties do not arise due to delays and communication problems.
7. Contractors must have contracts in place in all areas where they wish to provide NHS funded sight tests after 1st August 2008. As this power only applies to existing contractors, the process should be simply one of contractors transferring to the new arrangements in each PCT area where they are currently on the ophthalmic list (unless there are disciplinary issues, where a grandfathering arrangement had been in place or where the contractor had been included in error) and signing contracts (model contracts are being provided by the Department and PCTs are strongly recommended to use these models to facilitate implementation).
8. The arrangements as to premises and hours in existing arrangements will automatically be included in the new contract (regulation 4(3)).
9. If there are disagreements about a particular term of the contract then the dispute resolution provisions in the National Health Service (General Ophthalmic Services Contracts) Regulations 2008 will apply as if those regulations were in force.

## Contracts for providers currently working through “grandfathers”

10. For those who wish to be contractors who have been working through “grandfathering arrangements” there will need to be an application process, as the people who are proposing to be contractors will not have been considered previously by the PCT. There will have been no checks on suitability i.e. criminal convictions etc; and these checks will need to be made as this will be a new application. However, if the grandfathering arrangement has been working satisfactorily the PCT may be sufficiently familiar with the practice and the premises, equipment and record keeping arrangements to allow, in these respects, for a more rapid and streamlined application process than is normal.
11. Contractors who have been working through “grandfathers” should be identified from the contractor list, approached as soon as possible, and invited to make an application. PCTs will be able to do this by reference to the copies of the grandfathers’ contracts, which they hold, which will identify the person working through the grandfather. If they wish to have a contract under the new arrangements such contractors should seek to agree contracts by 1 June 2008 to avoid any transitional problems.

## Contracts for Additional (ie Mobile (Domiciliary)) Services

12. Separate and/or additional contracts will be required for contractors who offer mobile services. However, the same process will apply to providers listed by PCTs, as mobile providers i.e. the contractor simply needs to notify the Primary Care Trust in writing that they would like a contract for Additional Services under the new arrangements no less than one month before the National Health Service (General Ophthalmic Services Contracts) Regulations 2008 come into force on 1st August 2008 i.e. by 1st July 2008. This is the only requirement on existing contractors. PCTs have no powers to require additional or supplementary applications.
13. Contractors must have contracts in place in all areas where they wish to provide NHS funded domiciliary sight tests after 1st August 2008. As this power only applies to existing contractors then the process should be simply one of transferring to the new arrangements in each PCT area where they are currently on the domiciliary list unless there are disciplinary issues or where the contractor had been included in error.
14. If there are disagreements about a particular term of the contract then the dispute resolution provisions in the National Health Service (General Ophthalmic Services Contracts) Regulations 2008 will apply as if those regulations were in force.

# Ophthalmic Performers List

15. Transitional arrangements in relation to the listing arrangements for individual performers are set out in Schedule 1 to National Health Service (Performers Lists) Amendment Regulations 2008.
16. Where a practitioner was included in a PCT's ophthalmic supplementary list immediately before 1 August 2008, their name is to be entered into the PCT's ophthalmic performers list. Practitioners on an ophthalmic supplementary list should be automatically transferred to the ophthalmic performers list of the same Primary Care Trust. There is no application process but a simple transfer from the supplementary list to the performers' list.
17. An optometrist (other than a corporate optician) or an ophthalmic medical practitioner included in a PCT's ophthalmic performers list, is to be included in that PCT's ophthalmic performers list if the PCT is satisfied that a practitioner's name is not included in the ophthalmic list of any other PCT. The best way to establish this is to write to each such individual to get their confirmation that they are not included in any other ophthalmic list. Of course, in cases where it is known that the individual was only included in that single ophthalmic list, then they would simply be placed on the ophthalmic performers list in that area.
18. Where a practitioner's name was entered into more than one ophthalmic list the regulations set out the procedure to be followed. The practitioner should be asked which PCT's ophthalmic performers list he would like to be included in and then, subject to the following paragraphs, included in that list.
19. If the practitioner holds or is going to hold a contract with the PCT he should be included on the ophthalmic performers list of the PCT with which he holds a contract. However, if he holds or is going to hold a contract with more than one PCT, on all of whose ophthalmic lists he was included, again the practitioner should be asked on which ophthalmic performers list he wishes to be included. The practitioner must choose a PCT list as he may only be on the performers list of one PCT.
20. The principles to be applied are:
  - i. If the contractor is also a performer he must be included in the ophthalmic performers list of the PCT with whom he has a contract;
  - ii. If he was on the ophthalmic list of more than one PCT with whom he will have a contract then he chooses which PCT's performers list he is to be on (subject to the usual caveats about ongoing disciplinary proceedings).

21. If an application to be entered into a PCT's ophthalmic or supplementary list is still outstanding on 1st August 2008 then it should be deemed an application to be entered into the PCTs ophthalmic performers list i.e. there will be no need for a new application. If such an applicant was already on another ophthalmic or supplementary list and had not notified his intention to withdraw from that list then the application will be void and the PCT should notify him of this. He would then be placed on the ophthalmic performers list of the PCT where he had previously been on the ophthalmic or supplementary list in accordance with the principles set out above.
22. As individuals who wish to perform ophthalmic services must be on a performers list, it is essential that any practitioner currently included in an ophthalmic list or ophthalmic supplementary list is placed on an ophthalmic performers list.
23. Where a PCT has begun procedures against an individual on their ophthalmic or supplementary list that person should be entered onto the performers list of that PCT and the proceedings should continue. They should not be given the option of seeking entry onto another PCTs list.
24. In any case where someone included in an ophthalmic list (whether or not they are included in more than one) or an ophthalmic supplementary list, is suspended from that list or whose inclusion in that list is subject to any condition or any contingent removal, then that suspension or condition shall equally apply in relation to the ophthalmic performers list in which that person's name is included.

# Timing

25. PCTs need to complete the process of awarding contracts to providers who notify that they would like to have contracts and complete the performers list by 1 August 2008. They should also aim to determine applications from providers who had been working through grandfathers by no later than that date and if possible by 1 July 2008 to allow any transitional issues to be resolved by 1 August 2008.
26. To ensure the move to the new arrangements goes as smoothly as possible PCTs may wish to discuss local implementation arrangements with their LOCs as soon as possible to avoid any local misunderstandings.