

Briefing note – the new ophthalmic regulations

Issued: September 2007

1. Introduction

This note provides PCTs with information about the Department of Health's plans for new ophthalmic regulations under powers in the Health Act 2006.

The Department intends to make five regulations. Four will relate to ophthalmic services and a separate regulation will be made under the powers relating optical vouchers in the Health Act.

The four regulations on ophthalmic services will be as follows:

- General Ophthalmic Services Contracts Regulations 2007
- The Primary Ophthalmic Services Regulations 2007
- The National Health Service (Performers Lists) Amendment Regulations 2007
- The Primary Ophthalmic Services Transitional Provisions Regulations 2007

2. Background

The Department's objectives in bringing in these new powers are:

- **To allow PCTs to contract with anybody they consider appropriate to provide ophthalmic services subject to safeguards and quality**

This means that the existing restriction on whom PCTs may contract with will be removed and will allow direct contracts with dispensing optician and lay owned businesses for sight testing services. This development removes the requirement for grandfathering arrangements and recognises the reality of service provision in this area.

- **To create a more coherent framework for commissioning of enhanced services locally**

This gives PCTs powers to commission services over and above the sight test where they judge that a service best meets the needs of their population. These are discretionary services and will be funded by the PCT, not by the General Ophthalmic Services budget.

- To improve controls over who may redeem optical vouchers to prevent fraud

This gives PCTs the power, if necessary, to issue a notice to suppliers advising them they will no longer be able to redeem optical vouchers.

Under the new arrangements patients will continue to be able to choose the GOS contractor they go to for their NHS funded sight test. Also as now, NHS contractors will be able to have a GOS contract provided they meet agreed criteria subject to local decision on matters such as quality of service, eg: inspection of equipment and premises.

The Department also envisages continuing to have a centrally negotiated sight test fee with access to sight tests not being constrained locally by individual PCT budgets.

3. Key points of the new draft regulations

Broadly – with the exception of the new elements allowing for PCTs to contract with a wider range of providers - the Department is seeking, as far as possible, to maintain current arrangements.

The key points of the new draft regulations are:

General Ophthalmic Services Contracts Regulations 2007

- The Ophthalmic List will be replaced with contracts
- The new regulations will set out exclusions, ie: who cannot hold a contract and requirements
- The exclusions remain much as the existing ones for exclusion from Ophthalmic List, subject to national disqualification, criminal offences etc
- There is a positive requirement to employ appropriately clinically qualified staff to provide the service and to provide adequate resources to provide the service, ie: suitable premises, equipment, record keeping
- The regulations will set out what the contract must specify, eg: who the contract is between, sight testing obligations, ie: Opticians Act, 1989 Sight Testing Regulations
- Payment, records, right of entry, inspection etc
- Model contracts are to be developed for (a) sight testing from a practice and (b) mobile services
- Existing contractors will have the right to a new contract (assuming there are no outstanding issues).

The Primary Ophthalmic Services Regulations 2007

- The eligibility for NHS funded sight tests will remain unchanged
- Applications for a sight test will remain unchanged and patients may apply to any contractor
- Entitlements to additional services remain unchanged, ie: sight test at home, residential centres or day centres.

The National Health Service (Performers Lists) Amendment Regulations 2007

- Largely Supplementary List Regulations moved over, with each clinician currently on Ophthalmic Lists included on one Performers List
- A clinician must be on a Performers List to carry out sight tests under NHS
- A performer can only be on one list and can then work for a contractor anywhere in the country
- Business owners who are clinicians must be on a Performers List – decision needed on which Performers List current contractors should go onto – as well as having a contract in each area
- Determining which Performers List a contractor should go on if they are a clinician.

The Primary Ophthalmic Services Transitional Provisions Regulations 2007

- To ensure that service is maintained in move from ophthalmic list to contracts and to ensure new contracts and performers lists are in place for 1st April 2008.

4. Timescales

The Department is planning to lay regulations in December 2007 so that they come into force in April 2008, with the exception of the Transitional Regulations, which are envisaged coming into force 21 days after laying. This allows time for giving notice to the NHS and providers so they can prepare for the new regulations. It also means they can ensure that service is maintained and, for example, that businesses currently operating through grandfathering arrangements are able to make applications to PCTs, which can be decided by April 2008 to ensure that service provision is not disrupted.

The clauses relating to Local Optical Committees will start with effect from 1 April 2008 and have direct effect without the need for regulations as is the case with current arrangements under the 1977 Act. The Department anticipates issuing guidance on the new regulations by 2008 to help PCTs with implementation.

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