

# The new GMS contract explained

## FOCUS ON PREMISES COSTS

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### INTRODUCTION

The long, and often confusing, sections of the Statement and Fees and Allowances relating to practice premises costs will from 1 April 2004 be replaced by the **National Health Service (General Medical Services – Premises Costs) Directions 2004**. These are currently available at

<http://www.dh.gov.uk/PolicyAndGuidance/HumanResourcesAndTraining/ModernisingPay/GPContracts/fs/en>

and will be referred to in this guidance note as the Directions.

The Welsh version of the Directions are available on the NHS Wales website

<http://www.wales.gov.uk/healthplanonline/gms/legislation-e.htm>

The Scottish and Northern Irish versions were not available on the internet at the time of writing but are due to be published on the websites of the devolved health departments shortly.

<http://www.show.scot.nhs.uk/sehd>

<http://www.dhsspsni.gov.uk>

This guidance note gives GPs, practice staff and LMCs a brief and readable overview of the Directions. Readers are strongly advised also to refer to the Directions themselves when investigating specific issues, as this note does not replicate the Directions in full.

Readers may note the repeated use of the phrase “PCTs must consider applications for financial assistance towards...”. This must be seen in the context of the new premises funding arrangements, whereby all new developments and projects are prioritised on the basis of need. The goal of PCTs’ estate strategies is to deliver year on year improvements in the quality of primary care estates. This is an NHS plan obligation, and so funding will follow the projects considered most urgent. The funding for new projects and developments will be held by a lead PCT in each Strategic Health Authority area.

The new premises funding arrangements are explained in full in the Department of Health briefing paper “*New GMS contract and changes to the GP premises funding arrangements*”, which is at **Appendix A** to this guidance note, and in the joint

Department of Health/National Primary and Care Trusts Development Programme guidance "Future funding for Primary Care Premises: A guide to the role of lead PCTs and SHAs". The latter is available at

<http://www.dh.gov.uk/PolicyAndGuidance/HumanResourcesAndTraining/ModernisingPay/GPContracts/fs/en>

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## 1. STRUCTURE OF THE DIRECTIONS

The Directions simplify the SFA premises sections but retain most core concepts. They incorporate the premises flexibilities, which were first agreed between the GPC and the DoH in 2002.

There are six **parts** to the directions. **Part 1** is a general introduction. **Part 6** relates to transitional provisions. The remaining **parts 1 to 5** divide premises payments into four categories within which the flexibilities are subsumed.

- **premises developments and improvements - Part 2**
- **professional fees and related costs incurred in occupying new or refurbished premises - Part 3**
- **relocation payments - Part 4** (mortgage redemption or deficit grants, guaranteed minimum sale price, grants towards reconversion of former residential property, grants towards surrendering or assigning leases, stamp duty land tax)
- **recurring premises costs – Part 5** (notional rent, cost rent, which is now referred to as "borrowing costs", equipment lease costs, running costs, service charges)

There are also three **schedules relating to previous parts of the Directions**

- **Schedule 1 – Minimum Standards for Practice Premises**
- **Schedule 2 – Current Market Rents and Notional Rent Abatements**

This schedule sets out some general District Valuer assumptions in assessing current market rents and additions and reductions to be made.

- **Schedule 3 – Notional Rent Abatement and Notional Rent Supplements**

This schedule explains how to calculate notional rent abatements where NHS funds have contributed to the cost of building or refurbishing and notional rent supplements.

There now follows a more detailed commentary on the four categories of premises payment (see section 5.4 below).

## 2. PREMISES DEVELOPMENTS AND IMPROVEMENTS (PARAGRAPHS 7 – 12 OF THE DIRECTIONS)

### 2.1 Eligible and ineligible improvements

The Directions give eight examples of the types of improvements that may be funded by an improvement grant, including extensions, alterations to comply with the Disability Discrimination Act, car parking, accommodation to meet the needs of children or elderly or infirm people (para 8)

Improvements started without the prior agreement of the PCT will not be eligible for a grant. Nor will the acquisition of land, existing or new buildings, repairs, restoration work, any work on domestic quarters in residential accommodation or extensions not attached to the main building by a covered passageway at least. (para 9)

### 2.2 Proposals for improvement grants: the PCTs' obligations

- **consult LMCs** on improvement or development proposals
- **be satisfied** that proposals are necessary to support the delivery of services under its GMS contract and represent value for money
- **have regard to** the standards set out in "Primary and Social Care Premises – Planning and Design Guidance" which can be found at [www.primarycare.nhsestates.gov.uk](http://www.primarycare.nhsestates.gov.uk).

### 2.3 Proposals for improvement grants: the contractor's obligations

- **provide** architects' or surveyors' plans (if appropriate)
- **provide** evidence of competitive tendering process for building work, including three written quotes
- **provide** planning and building regulations consents
- if premises are leasehold, **provide** copy of the landlord's or licensor's written consent to the development/improvement.

### 2.4 Project plans and conditions for payment

If a PCT decides that a proposal from a contractor is a priority project for inclusion in its estates strategy, it must aim to finalise a **project plan** with that contractor. It may only pay an improvement grant of between 33% and 66% of the cost of the improvement.

The project plan must include project specifications and a **payment schedule**. The payment schedule must specify that payments are conditional on the project specifications included in the plan being met. If the improvement/development is for premises held on a lease or a licence, the payments must be conditional on the contractor guaranteeing that the premises will remain in use for

- at least five years for projects up to £100,000 plus VAT
- at least ten years for projects costing over £100,000 plus VAT

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If those premises cease to be used for NHS services before the 5 or 10 year period is up, the contractor will have to repay the relevant proportion of the grant (paragraph 12. b. iv).

### 3. PROFESSIONAL FEES AND RELATED COSTS INCURRED IN OCCUPYING NEW OR SIGNIFICANTLY REFURBISHED PREMISES (PARAGRAPHS 13-15 OF THE DIRECTIONS)

Under the Directions PCTs must consider applications for financial assistance towards **legal and professional fees incurred in occupying new or significantly refurbished premises.**

Where **notional rent payments** are being made for **newly built or refurbished premises**, these costs may be reasonable surveyors' or architects' fees and legal costs arising from the purchase of the site and the construction or refurbishment work. In the case of **leasehold premises**, the costs may be any **reasonable** costs of engaging a project manager and reasonable legal costs incurred in agreeing the lease. Agreed payments by the PCT to the contractor to cover these costs must cover VAT.

### 4. RELOCATION GRANTS (PART 4, PARAGRAPHS 16 – 30)

#### 4.1 Mortgage redemption or deficit grants

Contractors may make a written application to the PCT for a grant to cover mortgage redemption or deficit grants in the following circumstances;

- if the practice agrees to relocate to modern leasehold, PCT-approved premises
- if the practice has a mortgage deficit due to the market value of the premises being too low to pay off the outstanding mortgage
- if the practice must pay mortgage redemption fees as a result of selling the premises
- if the practice includes all reasonable information that the PCT requires to decide on the application.

In order for a grant to be approved, the practice must be able to show that it has made every attempt to solve the problem by other means. This includes negotiating with the lender, exploring options for **alternative use** of the property, making a thorough attempt to identify a third party developer and site for the new leasehold premises and carrying out active marketing of the premises to achieve the **best sale price.**

If a grant is approved, the contractor must agree for it to be sent directly to the lender and must provide the PCT with enough details for it to do so. It must also provide enough detail for the PCT to establish whether there is any **endowment policy cover** linked to the mortgage and, if so its **surrender value.** This is because the PCT is required to deduct the surrender value from any grant it pays.

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The same terms apply to contractors that have taken out a loan to cover mortgage deficits or redemption penalties (paragraphs 20-22).

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## 4.2 Guaranteed minimum sale price payments

If a contractor has agreed **to move to PCT-approved modern leasehold premises** it can agree a **guaranteed minimum sale price** for the previous premises with the PCT. The PCT may then, on request, provide financial assistance towards the difference between that minimum price and the sale price for the previous premises. The following conditions, amongst others (see paragraph 24) must be met:

- the PCT must be convinced that the relocation will improve the range and quality of services
- the previous premises must have been placed on the open market and every effort made to achieve a maximum sale price
- the PCT must receive professional advice on the market value of the property and be satisfied that this maximum is the highest achievable sale price
- the sale is not to one of the persons mentioned in paragraph 24, (f).

## 4.3 Grants towards reconversion of former residential property

PCTs must consider applications for financial assistance towards reconverting former residential property back to residential use if

- the contractor has agreed to move from premises no longer thought suitable for providing GP services to more suitable premises
- the contractor has agreed to rent out the reconverted premises, through a registered social landlord or through its own arrangements, for a minimum period of time to be set by the PCT.
- the tenant or social landlord is not one of the persons mentioned in paragraph 27 (a).

## 4.4 Grants towards the cost of surrendering or assigning leases or to meet vacated leasehold premises costs

PCTs must consider applications for financial assistance towards these costs if the contractor is moving to more suitable premises from leasehold premises no longer considered suitable for providing GP services. Meeting the costs of assigning a lease is only possible where surrender is not an option.

These grants are not payable if the previous leasehold premises are owned by or leased from an NHS body, or are wholly or partly owned by or leased from the contractor or any of the persons set out in paragraph 29 (c).

## 4.5 Stamp duty land tax

PCTs must consider applications for financial assistance towards the payment of stamp duty land tax where the contractor has agreed to move to **modern leasehold practice premises approved by the PCT**.

The obligation of a contractor to pay stamp duty land tax is not conditional on whether or not the contractor is an NHS body.

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## 5. RECURRING PREMISES COSTS (PARAGRAPHS 31 – 49)

This section of the directions allows for the payment of what was previously known as **cost rent – here referred to as owner-occupier borrowing costs – actual leasehold rent, current market rents and notional rents, notional rent supplements, abated notional rent, running costs and equipment lease costs**. It simplifies the corresponding premises paragraphs of the Statement of Fees and Allowances.

### 5.1 Leasehold rent

PCTs must consider applications for financial assistance towards a contractor's rental costs. If it grants the application, the amount it must pay is the current market rent or the actual lease rent plus VAT, whichever is the lowest.

In some areas of deprivation, where prevailing rents are too low to provide sufficient returns on new capital investment or to meet the minimum standards set out in Schedule 1 of the Directions, PCTs may supplement the current market rent payable. The uplift factor will be provided by the Valuation Office Agency.

### 5.2 Owner-occupier borrowing costs ("cost rent")

PCTs must consider applications for financial assistance from owner-occupiers who have incurred borrowing costs from purchasing, building or significantly refurbishing its premises. Contractors who have financed the project with their own resources may also make such applications.

The contractor must have obtained three written quotes for the building work and must agree with the PCT which one represents best value for money. Applications may cover the following cost elements:

- site purchase and reasonable associated legal costs
- building works
- reasonable surveyor' and architects' fees
- rolled-up interest incurred on loans taken out to purchase the premises
- local authority and planning application fees
- costs to adequately fit-out and equip the new premises
- VAT and stamp duty land tax

When calculating the amount applied for, a **prescribed percentage** must be applied to the necessary level of loan taken out to cover these costs. NHS Estates will no longer issue

revised prescribed percentages as they do now. Instead, PCTs will calculate the percentages themselves.

The prescribed percentages will be

- for **fixed rate loans**, the 20 high year gilt rate issued by the Bank of England, plus 1.5%
- for **variable rate loans**, the Bank of England Interest Rate plus 1%
- for **projects financed wholly or mainly by the contractor**, the percentage which the PCT considers best value for money.

If an application is granted, the PCT will pay the contractor monthly payments, based on an agreed annual amount, to cover the agreed borrowing costs. These will be payable on the last day of the month. They will end if the loan is paid off or if the contractor opts to switch to notional rent payments.

If a contractor changes lender or renegotiates lower loan costs, the PCT will recalculate the payments using the prevailing prescribed percentage (i.e. that in force at the time the loan or lender was changed).

If a contractor has a variable rate loan, the annual amounts from which the monthly payments are calculated will, at the end of every twelve months since the previous calculation, be recalculated using the prevailing Bank of England Base Interest Rate plus 1%.

If a contractor is receiving borrowing cost payments resulting from a fixed interest loan, it **must** inform the PCT of any change of lender or reduction in the level of interest it is being charged.

### 5.3 Notional rent

A contractor may have repaid its loans or may prefer to receive a notional rent instead of borrowing costs payments. In such cases it may apply to the PCT for notional rent payments. PCTs **must** grant the application if the contractor chooses to switch from borrowing cost payments to notional rent.

The amount must be reviewed every three years. The review will be brought forward if there is a change to the purpose for which the premises are used or if there is further capital investment in the premises which will be reflected in the payments the contractor is receiving under its contract.

### 5.4 Notional rent abatement and supplements

Notional rent payments will be **abated** (i.e. reduced in value) where improvements have been made to the premises and NHS capital has contributed to the cost of the building or refurbishment work (but only after 18 September 2003). The formula given in Part 1 of Schedule 3 of the Directions will be used to calculate the abatement.

Notional rent supplements are designed to ensure that contractors **many benefit financially** from enhancements to the value of the premises resulting from improvements that they themselves fund.

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PCTs **must** grant applications for notional rent supplements if

- a) a contractor receiving actual lease rent payments makes further capital investments in its premises that had the prior approval of the PCT
- or b) a owner-occupying contractor receiving borrowing costs makes further capital investment in the premises that had the prior approval of the PCT but which does not raise the current market rent above the level of borrowing cost payments.

The value of the supplement is calculated in accordance with Schedule 2, Part 2 of Schedule 3 of the Directions.

## 5.5 Running costs

If contractors are receiving payments from the PCT for lease rental costs, notional rent or borrowing costs it **must grant** applications for financial assistance towards the following, provided they are not receiving payments for these costs under other Directions.

- business rates
- water and sewage charges or
- in the case of modern practice premises, a **service charge** if this covers
  - fuel and electricity charges
  - insurance costs
  - costs of internal or external repairs
  - building and grounds maintenance

There may be circumstances where service charges are already rolled up in the lease or other payments, and so the PCT is already providing financial assistance towards service charges. To avoid double payment when payments are made under this Direction, the PCT must deduct from the other, possibly hidden, service charge payment either

- an average amount that the contractor paid for the four service charge items listed above (the average amount must be calculated from the previous year's costs) or
- 40% of the amount otherwise payable.

## 5.6 Equipment lease costs in modern leasehold premises

The PCT must consider, and if appropriate grant, an application for financial assistance towards equipment lease costs if the costs were agreed with the PCT before the equipment lease agreement was made.

## 5.7 Minimum standards

All the payments under **part 4** of the Directions – those listed in this section – are subject to the **minimum standards** set out in Schedule 1 of the Directions, which is replicated in full at Appendix B to this guidance note.

If the minimum standards are breached, but capable of remedy by refurbishing the premises, the PCT and contractor should revert to a plan as described in paragraph 18(3) of the GMS regulations below.

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(3) Where, on the date on which the contract is signed, the Primary Care Trust is not satisfied that all or any of the premises specified in accordance with paragraph (1)(b) meet the requirements set out in paragraph 1 of Schedule 6, the contract must include a plan, drawn up jointly by the Primary Care Trust and the contractor, which specifies -

- (a) the steps to be taken by the contractor to bring the premises up to the relevant standard;
- (b) any financial support that may be available from the Primary Care Trust; and
- (c) the timescale on which the steps referred to in sub-paragraph (a) will be taken.

If the timescale mentioned in (c) has not yet elapsed, the PCT should not issue a remedial notice. If it has elapsed and the PCT wish to issue a remedial notice, it must **consult the LMC** first.

## 5.8 Abatements for private income and commercial contracts

Any recurring notional rent or borrowing cost payments may be reduced by an abatement percentage (see the table in paragraph 49 of the Directions) if any part of the premises are used for or associated with the provision of medical services to private patients or under arrangements with any personal who is not a public authority. The value of any payments in kind will be taken into account in the calculation of private income percentages.

There is a threshold of 10% private income below which no abatement will be made.

## 6. TRANSITIONAL ARRANGEMENTS

The PCT must continue to provide financial assistance if it was making payments to a practitioners under the SFA immediately prior to 1 April 2004 for any of the recurring costs mentioned in section 5 of this guidance note. Those practitioners must either be a contractor, or partner or shareholder in a contractor and must own or be part owner of the leasehold or freehold interest in practice premises. From 1 April, the payments must be made to the contractor rather than the practitioner, unless the practitioner is a contractor. The PCT may simply continue with the existing payment levels without considering a new application.

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**APPENDIX A**  
**DEPARTMENT OF HEALTH BRIEFING NOTE**  
**– RELEASED NOVEMBER 2003**

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**New GMS Contract & Changes to the  
GP Premises Funding Arrangements**

The new general medical services contract introduces new arrangements for premises funding. This note, prepared by the Department of Health, explains the process for cash limiting GP premises spending. It is our intention to ensure that sufficient funding is available to cover all existing developments, planned LIFT developments and any other developments approved through the new arrangements in order of priority.

Premises allocations will take account of existing spend, existing commitments and funds for growth. The cut-off point for the baseline of commitments contractually entered into is the end of September 2003. It is intended that allocations will be made in the New Year.

The funds available for growth will need to be prioritised and allocated locally. It is from within this element that costs of new schemes not committed by the end of September 2003 would need to be identified. We do not anticipate known projects failing to proceed due to lack of growth monies, although of course there may be other reasons for non-completion.

This note addresses the concerns that are currently being raised about the new funding arrangements. This will also be posted on the NHS Estates website primary care section<sup>1</sup> and then into the New GMS Contract Guidance and will also be included in an electronic Newsletter for SHA new contract leads being produced to report developments under the new Contract.

**What are the changes?**

When the new Contract is introduced there will be a single unified funding stream to meet all general practice costs, including payments in respect of GP premises.

**How will PCTs Access this New Funding Stream?**

From April 2004, for new GMS Contract practices, PCTs allocations will include three elements in respect of GP premises costs:

a baseline of existing premises spend

an additional element to meet the cost of new agreed premises developments (ie those ready for occupation, under construction and others contractually agreed between the practice and the provider) contractually agreed before 30 September 2003

a further element weighted to take account of premises inflation to meet costs of, for example, use of flexibilities and new premises developments which are agreed after 30 September

The first two elements will be allocated direct to individual PCTs. The third element will be allocated using a modified weighted capitation formula, which includes a premises market forces factor, to lead-PCTs for onward cascade to support premises new initiatives agreed with the Strategic Health Authority.

For PMS practices, baseline funding is already in PCT allocations which will be topped-up as described above for the other two elements.

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## What Guarantees of Sufficient Funding?

Work is being completed on how the new arrangements will operate and the detail of individual allocations is not yet available. The aim is to allocate as much as possible of the funding for the new contract at the same time. The date for announcing the allocations is not yet known, but we are aiming for this to be some time in the New Year. However, significant new funding was secured as part of the 2002 Spending Review. As described above, this will be added to baselines and matched against planned premises programmes.

The 'further allocations' described under the third bullet point will take into account government priorities and initiatives which are supported by SHAs through approved SSDPs and are at advanced stages of delivery.

Baseline and commitment information is being collected by the Department from a number of sources. We are currently asking PCTs to confirm their existing GMS premises spend and anticipate full validation to be completed by 12 December. A separate exercise will also be conducted to verify the Valuation Office Agency records of those new developments which reached contractual agreement by 30th September. This will be done under cover of an Allocation Working Paper expected to be released w/c 17 November.

## Will PCTs be Able to Add to Their Premises Fund?

Yes, they will be able to vire-in from other elements of their allocations.

## What is the role of the Lead-PCT and how are they to be Identified by SHA?

There will be two main roles. First, to act as the conduit on behalf of the SHA for new premises funding to pass to other PCTs and hold funds yet to re/allocated. Second, to advise SHAs on primary care estate procurement, management and disposal.

Identifying a single PCT to effect the first role should be relatively straightforward but SHAs will wish to ensure that the PCT is sufficiently resourced. For the second role, SHAs may have one PCT with the necessary experience and expertise to advise on primary care estate matters. Alternatively, the SHA could consider bringing together those skills from more than one PCT.

## APPENDIX B

### EXTRACT (SCHEDULE 1) OF THE NATIONAL HEALTH SERVICE (GENERAL MEDICAL SERVICES – PREMISES COSTS) (ENGLAND) DIRECTIONS 2004

#### MINIMUM STANDARDS FOR PRACTICE PREMISES

1. As regards the design or construction of the premises, or of the approach or access to the premises, to which the payments relate, the contractor must comply with any obligations it has to its own members (where applicable), staff, contractors and to persons to whom it provides primary medical services under the Health and Safety at Work Act 1974 (and legislation under that Act) and the Disability Discrimination Act 1995. The requirements of the 1995 Act include taking such steps as are reasonable to—
  - (a) provide for ease of access to the premises and ease of movement within the premises for all users of the premises (including wheelchair users);
  - (b) provide adequate sound and visual systems for the hearing and visually impaired; and
  - (c) remove barriers to the employment of disabled people.
2. Adequate facilities should also be provided for the elderly and young children, including nappy-changing and feeding facilities. There should also be adequate lavatory and hand washing facilities which meet current infection control standards.
3. If the premises has a treatment room, this should be properly equipped (an additional treatment room may be required where enhanced minor injury services are provided).
4. The premises should have a properly equipped consulting room for use by the practitioners with adequate arrangements to ensure the privacy of consultations and the right of patients to personal privacy when dressing or undressing, either in a separate examination room or in a screened-off area around an examination couch within the treatment room or the consulting room. However, in the case of branch surgeries, this standard need not be fully met if the contractor provides outlying consultation facilities using premises usually used for other purposes, and these meet with the approval of the PCT,
5. The access arrangements for the building should be convenient for all users.
6. There should be washbasins connected to running hot and cold water (possibly distributed through mixer taps) in consulting rooms and treatment areas or, if this is not possible, then in an immediately adjacent room.
7. There should be adequate internal waiting areas with—

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- (a) enough seating to meet all normal requirements, either in the reception area or elsewhere; and
  - (b) the facility for patients to communicate confidentially with reception staff, including by telephone.
8. There should be with adequate standards of lighting, heating and ventilation.
  9. The premises, fittings and furniture should be in good repair and (when being used for the provision of primary medical services) clean.
  10. There should be adequate arrangements for the storage and disposal of clinical waste.
  11. There should be adequate fire precautions, including provision for safe exit from the premises, designed in accordance with the Building Regulations agreed with the local fire authority.
  12. There should be adequate security for drugs, records, prescription pads and pads of doctors' statements.
  13. If the premises are to be used for minor surgery or the treatment of minor injuries, there should be a room suitably equipped for the procedures to be carried out.

1 Surrender of a lease is where a lessee (tenant) gives up the lease altogether. Assignment of a lease is where the lessor (landlord) or lessee (tenant) assigns their interest in the lease to another person, subject to the terms of the lease.

1 [http://www.nhsestates.gov.uk/primary\\_care/index.asp](http://www.nhsestates.gov.uk/primary_care/index.asp)