Department of Health
An Roinn Sláinte
Männystrie O Poustie
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DEPARTMENT OF HEALTH

POLICY STATEMENT ON

FINANCIAL ASSISTANCE WHICH MAY BE PROVIDED TO GMS CONTRACTORS IN RESPECT OF PREMISES

Version and issue controls

Version	Date	Rationale
1.0	1/10/2024	Draft
1.1	16/9/2026	Final

INTRODUCTION

The Department of Health's policy statement on Financial Assistance which may be provided to GMS contractors in respect of Premises sets out the arrangements for making payments to contractors under GMS contracts in respect of premises developments and improvements, professional fees and costs relating to the same.

It applies with effect from 1st April 2022.

CONTEXT

On 16th April 2015 the Department of Health ("the Department") gave Directions to the Health and Social Care Board (HSCB) as to the exercise of its functions regarding making payments to contractors under GMS contracts in respect of premises developments and improvements, professional fees and costs relating to the same (called the Health and Personal Social Services (General Medical Services – Premises Costs Directions) (NI) 2015[a]). These Directions had effect until 31st March 2022 when (by virtue of the Health and Social Care Act (NI) 2022[b]) the HSCB was dissolved. Since then, the Directions are no longer valid or necessary given the fact that the functions of the HSCB in respect of their subject matter transferred to the Department.

PURPOSE

The Policy Statement sets out the arrangements for the provision of GP premises' costs which apply since the dissolution of the HSCB.

SCOPE

Payments to which the Policy Statement applies

The Policy Statement applies in relation to payments made to contractors in respect of the following:

- premises developments or improvements;

[a] 2015 No.6
[b] 2022 c.3

- professional fees and related costs incurred in occupying new or significantly refurbished premises under Part 3 of the Arrangements set out in the Annex to this Statement;

- the re-location of, or re-mortgaging by, the contractor; or

- recurring premises costs.

Payments to which the Policy Statement does not apply

The Policy Statement does not apply in relation to payments made to contractors under a GMS contract in respect of a plan drawn up in accordance with regulation 18(3) of the Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004[c] (services generally).

[c] S.R. 2004 No.140

ANNEX

Statement of Arrangements for the payments to contractors under GMS contracts in respect of premises developments and improvements, professional fees and costs relating to the same

PART 1

General duties of the Department

1. Before the Department makes a payment to a contractor under these Arrangements, it shall—

a. enquire of the contractor whether the contractor is registered for Value Added Tax purposes and, if so, obtain the contractor's VAT registration number, and

b. enquire of the contractor whether the contractor intends to claim a tax refund or allowance in respect of any element of the costs to which the application for financial assistance relates.

2. Where the Department makes a payment to a contractor under these Arrangements, it shall—

a. only make the payment in the circumstances specified in these Arrangements;

b. ensure that the payment is made under the terms of the contractor's GMS contract; and

c. that any conditions to which the payment is subject are included as terms of the GMS contract.

3. In exercising any of its functions under these Arrangements, the Department shall have regard to any relevant standards or guidance.

Financial assistance in circumstances not contemplated in these Arrangements

4. These Arrangements do not prevent the Department from providing such financial assistance as it thinks fit in order to pay, or contribute towards, the premises costs of a contractor in circumstances that are not contemplated by the payment arrangements set out in these Arrangements such as where –

a. the contractor is providing services under a temporary GMS contract;

b. an emergency need for financial assistance in respect of premises costs arises in circumstances that could not reasonably have been foreseen;

c. the contractor needs temporary accommodation (whether in the form of portable premises or an existing building) while new practice premises are being built or existing practice premises refurbished; or
d. the financial assistance relates to contractual arrangements for the provision of primary medical services under Article 56(2)(b) of the 1972 Order (Primary medical services).

PART 2

PREMISES DEVELOPMENT AND IMPROVEMENT

Premises development proposals

5. Where a contractor has a proposal for–

a. the building of new premises to be used for providing primary medical services;
b. the purchase of premises to be used for providing primary medical services;
c. the development of premises which are used or are to be used for providing primary medical services (or for significant changes to existing development proposals);
d. the sale and lease back of premises used for providing primary medical services;
e. the increase of the existing floor area of premises used for providing primary medical services which would lead to an increase of a payment made to the contractor under these Arrangements; or
f. premises improvements, which are the subject of a premises improvement grant application,

and it puts that proposal to the Department as part of an application for financial assistance in respect of the proposal the Department shall consider that application.

6. The Department shall not agree to fund any proposal under paragraph 5 where a contract has been entered into, or work has been commenced, and that contract or work has not been subject to prior agreement with the Department.

Projects that may be funded with premises improvement grants

7. The types of premises improvement projects that may be the subject of a premises improvement grant include—

a. improvements to practice premises in the form of building an extension to the premises, bringing into use rooms not previously used to support delivery of primary medical services or the enlargement of existing rooms;
b. improving physical access to and within practice premises, and alterations or additions for Disability Discrimination Act 1995[d] compliance;
c. improving lighting, ventilation and heating installations (including replacement of other forms of heating by central heating) of practice premises;
d. the reasonable extension of telephone facilities within practice premises (but not the initial purchase or replacement of telephone systems);
e. the provision of car parking required for patient and staff use, subject to the number of parking spaces being agreed with the Department (access and egress from each parking space shall be undertaken without the need to move other vehicles);
f. provision of suitable accommodation at the practice premises to meet the needs of children and elderly or infirm people;
g. fabric improvements to practice premises such as double glazing, security systems and work required for fire precautions and other statutory building requirements;
h. refurbishment of a building not previously used for the provision of primary medical services but which is to be used as practice premises on a temporary basis;
i. improvements which are necessary in connection with emergency planning, such as the provision of electronic storage facilities at a location remote from the practice premises or the installation of a connection for an emergency generator;
j. improvements which are necessary to meet infection control or decontamination requirements at practice premises, including the installation of specialist floor covering in areas used for the treatment of patients; and
k. installation of a water meter.

[d] 1995 c.50

Projects that shall not be funded with premises improvement grants

8. The Department shall not agree to fund the following expenditure with a premises improvement grant—

a. any cost elements in respect of which a tax allowance is being claimed;
b. the cost of acquiring land, existing buildings or constructing new buildings;
c. the repair or maintenance of premises, or the purchase, repair or maintenance of furniture, furnishings, floor covering (with the exception of specialist floor covering referred to in paragraph 7j and equipment);
d. restoration work in respect of structural damage or deterioration;
e. any work in connection with the domestic quarters or the residential accommodation of practitioners, caretakers or practice staff, whether or not it is a direct consequence of work on surgery accommodation;
f. any extension not attached to the main building by at least a covered passageway;
g. improvements designed solely to reduce the environmental impact of premises, such as the installation of solar energy systems, air conditioning, or replacement windows, doors or facades; and
h. work made necessary as a result of fair wear and tear.

Initial consideration of premises development or improvement proposals

9. Before determining whether a proposal from a contractor for premises development or improvement of a type mentioned in paragraphs 5 and 6 should be included in the Department's estates strategy for investment prioritisation, the Department shall—

a. consult the Local Medical Committee (if any), for its area in which the development or improvement is to take place, about the proposal;
b. satisfy itself that the proposal is required to support, and will support, the delivery of the services that the contractor has agreed to provide under its GMS contract, and will provide a safe and secure environment for the delivery of those services;
c. satisfy itself, where appropriate in consultation with Land and Property Services, that the proposal represents value for money;
d. if the premises are held on a lease or a licence—

i. satisfy itself that the contractor has adequate security of tenure, and for premises held on a lease, the unexpired portion is at least as long as the period of guaranteed use (see paragraph 14d i to iii), and

ii. satisfy itself that a contractor intends to occupy the premises for at least as long as the period of guaranteed use (see paragraph 14d i to iii)) and will enjoy protection under Part II of the Rent (Northern Ireland) Order 1978[e] for that period;

e. have regard to any relevant standards and where a contractor is proposing to depart from those standards, satisfy itself that the departure is reasonable in the circumstances, and the premises will nevertheless meet the minimum standards in Appendix 1.

Documentation required in respect of premises developments or improvements

10. The Department shall refuse an application for financial assistance in respect of a premises development or improvement proposal from a contractor unless—

a. where the nature of the work is such that, in the opinion of the Department, it requires architect's plans for the development or improvement to be drawn up, the contractor supplies the Department with such plans;

b. where the nature of the work requires building work, the contractor carries out a tendering process for a building contractor to undertake the work, resulting in at least three written quotes, and agrees with the Department which of those written quotes represents best value for money;

c. the contractor supplies to the Department copies of any necessary planning and building regulations consents; and

d. where the premises development or improvement is to premises that are held on a lease or a licence, the contractor supplies the Department with a copy of the written consent to the development or improvement of the landlord or licensor, as appropriate.

[e] SI 1978/1050 (N.I.20)

Priority funding projects and conditions attached to payments

11. Where the Department determines that a proposal from a contractor for premises development or improvement of a type mentioned in paragraphs 5 and 6 is to be included in the Department's estates strategy for investment prioritisation, and is to be one of its priority funding projects, the Department shall seek to finalise a project plan with the contractor.

12. Where the financial assistance is by way of a premises improvement grant, the Department shall not commit itself to covering less than 33% or more than 66% of the total cost of the premises improvement, plus any Value Added Tax for which the contractor cannot claim a refund.

13. The Department shall only agree to a finalised project plan with the contractor where the requirements specified in paragraph 14 are met.

14. The specified requirements are that the project plan includes—

a. a payment schedule ("the project payment schedule") setting out the financial assistance to which the Department has committed itself in respect of the project and that project payment schedule is included in any payment schedule in the contractor's GMS contract;

b. a condition which has the effect of making payments to the contractor under that payment schedule subject to a requirement that the contractor adheres both to the specifications for the project which are set out in the finalised project plan and to any standards to be met during the development or improvement work which are set out in the finalised project plan;

c. a condition which has the effect of making payments to the contractor under that payment schedule subject to a requirement that the contractor, when carrying out the development or improvement work, does not depart significantly, in the Department's view, from the version of the project in the finalised project plan (which may be varied with the consent of both parties);

d. a condition (unless such a condition is unreasonable in the circumstances) that has the effect of making the payments to the contractor under that payment schedule subject to a requirement that the contractor guarantees that the premises will, once the development or improvement work has been completed, remain in use for the delivery of health services—

    i. for projects costing up to £100,000 plus Value Added Tax, for at least 5 years; and

    ii. for projects costing between £100,000 and £250,000 plus Value Added Tax, for at least 10 years; and

    iii. for projects costing over £250,000 plus Value Added Tax, for at least 15 years.

e. where the development or improvement work is in respect of premises held on a lease or under a licence by the contractor, a condition (unless such a condition is unreasonable in the circumstances) that has the effect of committing the contractor to repaying a proportion of the grant ("the repayable amount") should the premises cease to be used to provide health services before that 5, 10 or, as the case may be, 15 year period of guaranteed use has expired.

15. In paragraph 14e, the repayable amount is to be calculated by multiplying the amount the Department has paid by the fraction produced by dividing the amount of time (expressed in whole and part years) left before the 5, 10 or, as the case may be, 15 year period of guaranteed use has expired by 5, 10 or, as the case may be, 15 years.

PART 3

PROFESSIONAL FEES AND RELATED COSTS INCURRED IN OCCUPYING NEW OR SIGNIFCANTLY REFURBISHED PREMISES

Reimbursement of legal and other professional costs incurred in occupying new or significantly refurbished premises

16. Where—

a. a contractor has procured newly built practice premises or refurbished existing practice premises;

b. actual or notional rent payments are to be paid to the contractor in respect of those premises by the Department pursuant to these Arrangements on completion of the building or refurbishment work; and

c. contractor makes an application to the Department for reimbursement in respect of the professional expenses referred to in paragraph 17,

the Department shall consider that application for financial assistance and, in appropriate cases (having regard, amongst other matters, to the budgetary targets it has set for itself), grant that application.

Types of professional expenses that may be reimbursed

17. In the case where—

a. notional rent payments are to be paid in respect of newly built or refurbished practice premises, the reimbursable professional expenses are—

   i. the reasonable costs of engaging a project manager to oversee the interests of and give advice to the contractor, up to a maximum reimbursable amount, which is 1% of the total reasonable contract sum relating to the construction or refurbishment work;

   ii. reasonable surveyors', architects' and engineers' fees, which, taken together, may be paid up to a maximum reimbursable amount, which is 12% of the total reasonable contract sum relating to the construction or refurbishment work; and

   iii. reasonable legal costs in connection with the purchase of a site (where applicable) and the construction or refurbishment work; or

b. the practice premises are, or are to be, leasehold premises, the reimbursable professional expenses are-

i. the reasonable costs of engaging a project manager to oversee the interests of and give advice to the contractor, up to a maximum reimbursable amount, which is 1% of the total reasonable contract sum relating to the construction or refurbishment work;

ii. the reasonable legal costs incurred by the contractor in connection with agreeing the lease or a contract for the lease.

Value Added Tax on professional expenses

18. Where—

a. the Department decides to grant an application for reimbursement in respect of the professional expenses mentioned in paragraph 17**;** and

b. Value Added Tax has been properly charged in respect of the amount that the Department has decided to reimburse,

the Department shall provide the contractor with financial assistance, under its GMS contract, to cover the cost to the contractor of that Value Added Tax (but excluding any Value Added Tax for which a refund can be claimed by the contractor).

PART 4

GRANTS RELATING TO RELOCATION OF, OR RE-MORTGAGING BY, A CONTRACTOR

Repayment mortgage or deficit grants

19. Where a contractor–

a. agrees to relocate to leasehold premises approved by the Department in its estates strategy for investment prioritisation; and

b. makes an application in writing to the Department for a mortgage redemption or deficit grant in respect of a repayment mortgage to cover all or a proportion of the following-

i. a mortgage deficit which arises, after owner-occupied practice premises are sold, because the actual sale price of the premises was not sufficient to clear the outstanding mortgage on the property, or

ii. mortgage redemption fees that the contractor may incur as a result of the sale or remortgage of such premises; and

c. includes in that application all reasonable information required of it by the Department to determine the application, including details of the amount of the outstanding mortgage that was used to build or improve the property,

the Department shall consider that application for financial assistance and, in appropriate cases (having regard, amongst other matters, to the budgetary targets it has set itself), grant that application.

20. Where a contractor re-mortgages practice premises and—

a. the contractor is in receipt of financial assistance under paragraph 45 in respect of those premises;
b. the existing mortgage is a repayment mortgage at a fixed rate of interest;
c. the new mortgage is a repayment mortgage at a lower rate of interest than the existing mortgage, and for no more than the amount outstanding under the existing mortgage;
d. the contractor makes an application, in writing, to the Department for a mortgage redemption grant to cover all or a proportion of mortgage redemption fees that the contractor may incur as a result of the re-mortgage; and
e. includes in that application all reasonable information required of it by the Department to determine the application, including details of the existing mortgage and the new mortgage,

the Department shall consider that application for financial assistance and in appropriate cases, (having regard, amongst other matters, to the budgetary targets it has set itself, and to the likely savings to be made in the level of financial assistance given under paragraph 45 as a result of the re-mortgage), grant that application.

Costs that may not be funded with mortgage or deficit grants

21. The Department shall not agree to cover the following costs or liabilities of a contractor with a mortgage redemption or deficit grant—

a. any proportion of a mortgage deficit that has arisen through—
   i. arrangements entered into by the contractor which result in mortgage repayments not being made for any period (“payment holidays”), or

ii. reduced loan payments not reflected in the amount the Department pays in respect of borrowing costs under paragraph 49;

b. any borrowing or redemption charges not connected with the original purchase of land, building works or subsequent improvements to the premises (for example furnishings, fittings and equipment, including IT and telephone systems).

Matters that shall be considered before determining mortgage redemption or deficit grant applications

22. Before determining an application for a mortgage redemption or deficit grant from a contractor, the Department shall obtain professional advice and be satisfied that—

a. negotiations with the lender have limited the extent of any deficit or redemption charges;
b. options for change of use for the property have been considered and where appropriate, outline planning permission sought or obtained;
c. a proper process has been undertaken to identify a suitable third party developer and a site for the new leasehold premises;
d. the timing of the grant is appropriate to maximising the opportunity for a sale which will coincide with completion and occupation of the new leasehold premises; and
e. the sale of the premises is adequately advertised and the best price obtained,

and the Department shall deduct from any amount that it would otherwise be prepared to pay by way of a mortgage redemption or deficit grant the surrender value of any endowment policy cover linked to the mortgage on the premises.

Conditions attached to mortgage redemption or deficit grants

23. Although, for accounting purposes, a mortgage redemption/deficit grant is to be treated as a payment to the contractor, the Department shall ensure that payment of the grant is made subject to the following conditions—

a. the contractor shall consent to the Department sending the grant directly to the lender;
b. the contractor shall provide the Department with sufficient details to enable it to do so;

c. the contractor shall provide the Department with the information it needs from the lender to determine whether any endowment policy cover is linked to the mortgage on the premises, and if so, its surrender value; and
d. the contractor shall not be in receipt of financial assistance under paragraph 26 in respect of the same mortgage.

Borrowing costs relating to mortgage redemption or deficit costs

24. Where a contractor, which is not in receipt of a mortgage redemption or deficit grant—

a. agrees to relocate to leasehold premises approved by the Department in its estates strategy for investment prioritisation;
b. takes out a loan to cover—
    i. a mortgage deficit which arises, after owner-occupied practice premises are sold, because the actual sale price of the premises was not sufficient to clear the outstanding mortgage on the property, or
    ii. mortgage redemption fees that the contractor may incur as a result of the sale or remortgage of such premises, or a third party takes out a loan to cover those costs or fees on its behalf and the contractor is obliged to meet the third party's liabilities in respect of the repayment of that loan;
c. makes an application in writing to the Department for financial assistance towards meeting its, or the third party's regular payments to repay the loan; and
d. includes in that application all reasonable information required of it by the Department to determine the application, including details of the amount of the outstanding mortgage that was used to build or improve the property,

the Department shall consider that application for financial assistance and, in appropriate cases (having regard, amongst other matters, to the budgetary targets it has set itself), grant that application.

25. Where a contractor re-mortgages practice premises and—

a. the contractor is in receipt of financial assistance under paragraph 45 in respect of those premises;
b. the existing mortgage is a repayment mortgage at a fixed rate of interest;

c. the new mortgage is a repayment mortgage at a lower rate of interest than the existing mortgage, and for no more than the amount outstanding under the existing mortgage;
d. the contractor takes out a loan to cover mortgage redemption fees that the contractor may incur as a result of the re-mortgage of the premises, or a third party takes out a loan to cover those fees on its behalf and the contractor is obliged to meet the third party's liabilities in respect of the repayment of that loan;
e. the contractor makes an application in writing to the Department for financial assistance towards meeting its, or the third party's regular payments to repay the loan; and
f. includes in that application all reasonable information required of it by the Department to determine the application, including details of the amount of the existing mortgage and the new mortgage,

the Department shall consider that application for financial assistance and, in appropriate cases (having regard, amongst other matters, to the budgetary targets it has set itself, and to the likely savings to be made in the level of financial assistance given under paragraph 45 as a result of the re-mortgage), grant that application.

Costs that shall not be funded under paragraphs 24 and 25

26. The Department shall refuse an application of a type mentioned in paragraphs 24 and 25 if the loan covers —

a. any proportion of a mortgage deficit that has arisen through—
    i. arrangements entered into by the contractor which result in mortgage repayments not being made for any period ("payment holidays"), or
    ii. reduced loan repayments not reflected in the cost rent reimbursement;
b. any borrowings or redemption charges not connected with the original purchase of land, building works or subsequent improvements to the premises (for example furnishings, fittings and equipment, including IT or telephone systems).

Matters that shall be considered before determining applications under paragraphs 24 and 25

27. Before determining an application of the type mentioned in paragraphs 24 and 25, the Department shall obtain professional advice and be satisfied that—

a. negotiations with the lender have limited the extent of any deficit or redemption charges;
b. options for change of use for the property have been considered and where appropriate, outline planning permission sought or obtained;
c. a proper process has been undertaken to identify a suitable third party developer and a site for the new leasehold premises;
d. the timing of the loan is appropriate to maximising the opportunity for a sale which will coincide with completion and occupation of the new leasehold premises; and
e. the sale of the premises is adequately advertised and the best price obtained,

and the Department shall deduct from any regular payments that it would otherwise be prepared to pay, in granting the application, a regular and appropriate proportion of the surrender value of any endowment policy cover linked to the mortgage on the premises.

Conditions attached to payments under paragraphs 24 and 25

28. Although, for accounting purposes, regular payments that the Board makes on granting an application of the type mentioned in paragraphs 24 and 25 are to be treated as a payment to the contractor, the Department shall ensure that the payments are made subject to the following conditions—

a. the contractor shall consent to the Department sending the payments directly to the lender;
b. the contractor shall provide the Department with sufficient details to enable it to do so;
c. the contractor shall provide the Department with the information it needs from the lender to determine whether any endowment policy cover is linked to the mortgage on the premises, and if so, its surrender value; and
d. the contractor shall not be in receipt of a mortgage redemption or deficit grant from the Department in respect of the same mortgage.

Guaranteed minimum sale price payments

29. Where—

a. a contractor agrees with the Department to relocate to leasehold premises approved by the Department in its estates strategy for investment prioritisation;
b. the relocation will, in the opinion of the Department, result in an improvement in the range and quality of services to be provided to patients by the contractor;
c. the Department and the contractor have agreed a guaranteed minimum sale price for owner-occupied practice premises that are being sold ("the previous premises");
d. the Department is satisfied that the previous premises were placed on the open market with active marketing to sell them at the maximum price achievable on a date to coincide with the contractor's move to new premises;
e. the Department is satisfied, having taken professional advice, that an increased offer (being an offer that was better than the one that was in fact accepted for the previous premises) could not reasonably have been achieved;
f. the Department is satisfied that the previous premises have not been sold to—
    i. the contractor, or where the contractor is an individual, a family member of the contractor,
    ii. a present or former partner in, shareholder in or employee of the contractor;
    iii. a family member of a present or former partner in or shareholder in or employee of the contractor; or
    iv. the employee of a family member of a present or former partner in or shareholder in or employee of the contractor; and
g. in appropriate circumstances (such as where the future planning use of the property is unclear)—
    i. the agreement for sale of the previous premises includes a clawback arrangement, and
    ii. the contractor has agreed with the Department an enforceable undertaking in the form of a condition in its GMS contract that it will use any clawback monies to repay all or a proportionate part (as is appropriate) of any payment from the Department pursuant to this direction,

if the sale price for the previous premises is less than the agreed guaranteed minimum sale price for the premises, the Department shall provide to the contractor under his GMS contract financial assistance in the form of a payment equal to the difference between those two prices.

Agreement of a guaranteed minimum sale price

30. If the Department is considering agreeing a guaranteed minimum sale price with a contractor, it shall—

a. seek the advice of the Land and Property Services on the actual sale price of the premises to be sold; and
b. only agree a guaranteed minimum sale price with the contractor—
    i. on the basis of the advice about the actual sale price of the property that it has received, and
    ii. having taken into account the options for change of use of the premises.

Grants relating to the cost of reconverting former residential property

31. Where a contractor has a proposal for reconverting practice premises which were previously the contractor's (or a partner in or shareholder in the contractor's) owner-occupied residential property back to residential use, and—

a. the property is no longer suitable for the delivery of modern primary medical services; and
b. the contractor has agreed to—
    i. move to premises suitable for the delivery of modern primary medical services, and
    ii. rent out the reconverted premises through arrangements made by the contractor directly or through a registered housing association for a minimum period of time, which is to be set by the Department and which the Department shall set for a period that is commensurate to the level of grant awarded pursuant to an application of the type mentioned in this direction; and
    iii. the contractor makes an application to the Department for a residential property reconversion grant towards the cost of the reconversion,

the Department shall consider that application for financial assistance and, in appropriate cases (having regard, amongst other matters, to the budgetary targets that it has set for itself), grant that application.

Circumstances where residential property reconversion grants are not payable

32. The Department shall ensure that payment of a residential property reconversion grant is made subject to conditions to the following effect—

a. for the minimum period of time set by the Department in accordance with paragraph 31b ii**,** any registered provider of social housing through whom the premises are or will be rented out, and any tenant to whom all or part of the premises are or will be rented out, shall not be—
    i. the contractor or, where the contractor is an individual, a family member of the contractor,
    ii. a present or former partner in, shareholder in or employee of the contractor;
    iii. a family member of a present or former partner in or shareholder in or employee of the contractor; or
    iv. the employer of a family member of a present or former partner in or shareholder in or employee of the contractor; and
b. the contractor shall not occupy all or part of the premises during the minimum period of time that has been set by the Department in accordance with paragraph 31b ii.

Grants towards the cost of surrendering or assigning leases or to meet vacated leasehold premises costs and condition to be attached

33. Where a contractor which is moving or has moved to premises that are suitable for the delivery of primary medical services makes an application to the Department for a grant towards—

a. the costs reasonably incurred (including reasonable legal costs) that relate to—
    i. surrendering a lease with no more than five years of its term left to run, or
    ii. assigning a lease where surrender of the lease was not realistically possible,

of leasehold premises that are or were practice premises but are not suitable for the delivery of primary medical services; or

b. vacated leasehold premises costs, for the 12 month period immediately following the contractor's vacation of the premises, that relate to the contractor's ongoing liabilities (or a partner in or shareholder in the contractor's ongoing liabilities) in respect of practice premises that are being or have been vacated because they are not suitable for the delivery of primary medical services,

the Department shall consider that application for financial assistance and, in appropriate cases (having regard, amongst other matters, to the budgetary targets that it has set for itself), grant that application.

34. In the case of vacated leasehold premises costs, the Department shall ensure that any financial assistance given is subject to a condition to the effect that the contractor shall continue to take all reasonable steps to surrender or assign the lease to a third party on reasonable terms.

Circumstances where an application of the type mentioned in paragraph 33 shall be refused

35. The Department shall refuse an application of the type mentioned in paragraph 33 where—

a. the costs to which the application relate were incurred without the prior approval of the Department;
b. the leasehold premises are owned by or leased from a health services body;
c. the leasehold premises are wholly or partly owned by, or are leased from—
    i. the contractor or, where the contractor is an individual, a family member of the contractor,
    ii. a present or former partner in, shareholder in or employee of the contractor;
    iii. a family member of a present or former partner in, shareholder in or employee of the contractor; or
    iv. the employer of a family member of a present or former partner in, shareholder in or employee of the contractor;

d. in the case of costs of assigning a lease, surrender could be agreed with the landlord, unless professional advice has been obtained and the conclusion of that advice is that surrender or assignment is not cost-effective;
e. in the case of vacated leasehold premises costs—
    i. surrender could be agreed with the landlord, or
    ii. assignment to a third party could be agreed with the landlord and is realistically possible,
    iii. unless professional advice has been obtained and the conclusion of that advice is that surrender or assignment is not cost-effective; or
    iv. the costs relating to liabilities in respect of the vacated leasehold premises have not been agreed with the landlord.

Stamp Duty Land Tax payable on agreeing a new lease

36. Where a contractor—

a. agrees with the Department to relocate to or additionally occupy leasehold practice premises approved by the Department in its estates strategy for investment prioritisation;
b. the relocation or additional premises will, in the opinion of the Department, result in an improvement in the range and quality of services to be provided to patients by the contractor; and
c. the contractor makes an application to the Department for financial assistance to cover the cost of any Stamp Duty Land Tax incurred by the contractor as a consequence of signing a lease to occupy premises,

the Department shall consider that application for financial assistance and, in appropriate cases (having regard, amongst other matters, to the budgetary targets it has set itself), grant that application.

PART 5

RECURRING PREMISES COSTS

Leasehold premises rental costs

37. Subject to the following provisions of this Part, where—

a. a contractor which rents its practice premises makes an application to the Department for financial assistance towards its rental costs; and

b. the Department is satisfied (before the lease is agreed or varied), where appropriate in consultation with Land and Property Services, that the terms on which the new or varied lease is to take effect represents value for money,

the Department shall consider that application and, in appropriate cases (having regard, amongst other matters, to the budgetary targets it has set itself), grant that application.

Amount of leasehold premises rental costs payable

38. Subject to the following provisions of this Part, where the Department grants the application, the amount it shall pay in respect of a contractor's rental costs for its practice premises is—

a. the current market rent for the premises, plus any Value Added Tax payable by the contractor if this is properly charged to the contractor by the landlord (but excluding any Value Added Tax for which the contractor can claim a refund); or
b. the actual lease rent for the premises, plus any Value Added Tax payable by the contractor if this is properly charged to the contractor by the landlord (but excluding any Value Added Tax for which the contractor can claim a refund),

whichever is the lower amount.

Current market rents

39. The Department shall determine the amount of the current market rent of leasehold premises in accordance with Parts 1 and 2 of Appendix 2**.**

40. Having regard to the fact that current market rent levels in some areas of deprivation may be too low to provide—

a. sufficient returns to support new capital investment in practice premises; or
b. sufficient support for existing premises that meet the minimum standards set out in Appendix 1,

the Department may in such circumstances, having taken advice from Land and Property Services, add an appropriate supplement to the amount it would otherwise pay as the current market rent of practice premises, in order to provide sufficient returns or support.

41. The Department shall reduce payments of the supplement in paragraph 40 in line with any increases in the market rent until such time as the supplement is extinguished.

Premiums affecting the lower rent rate

42. Where the actual lease rent for practice premises, plus any properly chargeable Value Added Tax, is only lower than the current market rent for those premises because, in the calculation of the current market rent for the premises, the Department includes the value of a premium paid by the tenant, the amount to be paid by the Department pursuant to paragraph 38 is the current market rent for the premises rather than the actual lease rent.

43. In considering the actual lease rent in paragraph 42, the Department shall disregard any element of that rent which would not be included in an assessment of current market rent, and shall, when adding any properly charged Value Added Tax, disregard any part of that Value Added Tax for which the contractor can claim a refund.

Equipment lease costs for leasehold practice premises

44. Where—

a. a contractor has entered into an agreement (whether as part of an agreement to lease practice premises or otherwise) to lease equipment, furniture and furnishings; and
b. the nature and level of the costs of leasing the equipment, furniture and furnishings (including any arrangements for increasing the amounts payable), together with the period of time for which these costs are payable, were agreed by the contractor and the Department before the agreement was made, and—
    i. the period of time does not exceed the remaining term of the lease of the practice premises, and
    ii. the Department obtained professional advice before reaching agreement with the contractor, and
    iii. the contractor makes an application to the Department for financial assistance towards those costs,

the Department shall consider that application for financial assistance and, in appropriate circumstances (having regard, amongst other matters, to the budgetary targets it has set for itself), grant that application.

Borrowing costs

45. Subject to the following provisions of this Part, where a contractor—

a. incurs borrowing costs as a result of purchasing, building or significantly refurbishing its practice premises; and
b. makes an application to the Department for financial assistance towards meeting those costs,

the Department shall consider that application for financial assistance and, in appropriate circumstances (having regard, amongst other matters, to the budgetary targets it has set for itself), grant that application.

Conditions to be met if applications for financial assistance in respect of borrowing costs are to be granted

46. Where the contractor's borrowing costs relate to new premises or the significant refurbishment of an existing building, the Department shall only grant an application of the type mentioned in paragraph 45 if the conditions in paragraph 47 are met.

47. The conditions referred to in paragraph 46 are—

a. in respect of the building work, the contractor carries out or carried out a tendering process for a firm to undertake the work, resulting in at least three written quotes, and agrees or agreed with the Department which of those written quotes represents or represented best value for money;
b. the amount of financial assistance applied for has been calculated by applying the prescribed percentage to the necessary level of loan incurred (or that would have been incurred had the contractor not wholly or partly funded the project with its, or its partners' or shareholders', own resources) and agreed with the Department, to meet the aggregated cost elements to build, fit-out and equip the premises; and
c. the loan (being any loan actually taken out by the contractor) is secured by the contractor and is for a term of no more than 25 years.

The prescribed percentage and aggregated cost elements

48. For the purposes of paragraph 47b**—**

a. the prescribed percentage is—

i. if the loan is a fixed interest rate loan (for the duration of the loan period), the 20 high year gilt rate issued by the Bank of England[f] plus 1.5%; or

ii. if the loan is not a fixed interest rate loan (for the duration of the loan period), the Bank of England Base Interest Rate[g] plus 1%; or

iii. if the contractor is financing the building or refurbishment scheme wholly or mainly from its (or its partners' or shareholders') own resources, that which the Board determines as representing best value for money;

b. the costs elements that may be aggregated include—

i. site purchase,

ii. building works,

iii. reasonable surveyors', architects' and engineers' fees, and reasonable legal fees arising out of the purchase of the site (where applicable) and the building or refurbishment, which, taken together, may be paid up to a maximum reimbursable amount, which is 12% of the total reasonable contract sum relating to the construction or refurbishment work,

iv. the reasonable costs of engaging a project manager to oversee the interests of and give advice to the contractor, up to the maximum reimbursable amount, which is 1% of the total reasonable contract sum relating to the construction or refurbishment work,

v. any rolled-up interest incurred on loans taken out to procure the premises,

vi. local council and planning application fees necessarily incurred,

vii. purchase or lease costs of adequately fitting-out and equipping the new premises, and,

viii. Value Added Tax and Stamp Duty Land Tax, where properly charged in relation to the above, but excluding any part of the Value Added Tax for which the contractor can claim a refund.

[f] The 20 high year gilt rate may be obtained at the Bank of England's website, www.bankofengland.co.uk and entering the code IUMLNPY in the search box

[g] The Base Interest Rate may be obtained at the Bank of England's website, www.bankofengland.co.uk and entering the code IUMBEDR in the search box.

Amounts payable in respect of borrowing costs

49. Where the Department has decided to grant an application from a contractor for financial assistance in respect of borrowing costs pursuant to paragraph 45, and the Department has calculated the amount of financial assistance in accordance with paragraph 47b ("the annual amount") in respect of the contractor's borrowing costs, the Department shall each month provide financial assistance to the contractor in respect of those borrowing costs, based on one twelfth that annual amount, until—

a. the loan is paid off;
b. in the case of a loan that is not a fixed interest rate loan (for the duration of the loan period) twelve months have elapsed since the annual amount was last established, at which point a new annual amount is to be established for the next twelve months, based on a re-determined prescribed percentage, which is the Bank of England Base Interest Rate at the time the annual amount is recalculated plus 1%, being applied to the agreed level of borrowing;
c. alternative borrowing arrangements are entered into by the contractor, and where a contractor changes lender or re-negotiates lower loan costs, the amount payable by the Department shall be recalculated using the appropriate prescribed percentage in force at the time that the changed loan arrangements come into effect; or
d. the contractor elects not to receive any further payments under these arrangements (for example, in order to receive notional rent payments),

and the monthly amount is to be paid on the last day of the month, unless alternative payment arrangements are agreed between the Department and the contractor.

Condition attached to payments in respect of borrowing costs based on a fixed interest rate loan

50. Where a contractor is to receive payments in respect of borrowing costs under this Part, and those borrowing costs arise as a result of a of a fixed interest rate loan, the Department shall ensure that the making of the payment is subject to a condition to the effect that the contractor shall advise the Department of any change of lender or any reduction in the level of interest charged to its loan.

Notional rent payments

51. Subject to the following provisions of this Part, where a contractor that is an owner occupier of his practice premises—

either—

i. has repaid the loans secured on its practice premises, or

ii. incurs borrowing costs as a result of purchasing, building or significantly refurbishing practice premises (or would have incurred such costs had the contractor not funded the project with its, or its partners' or shareholders', own resources) but elects not to receive any payments from the Department in respect of those borrowing costs; and

iii. makes an application to the Department for notional rent payments,

the Department shall consider that application and, in appropriate circumstances (having regard, amongst other matters, to the budgetary targets it has set for itself), grant that application. If a contractor has been in receipt of payments in respect of its borrowing costs pursuant to paragraph 49 but elects not to receive further payments pursuant to that paragraph and makes an application in accordance with this paragraph, the Department shall grant that application and make notional rent payments to the contractor under its GMS contract at an appropriate level and frequency.

Amount of notional rent payments

52. Where the Department grants an application of the type mentioned in paragraph 51**,** subject to the following provisions of this Part, the amount that it shall pay to a contractor in respect of notional rent is the current market rental value of its practice premises, as determined in accordance with Parts 1 and 3 of Appendix 2.

53. The Department shall review the amount in paragraph 52 as part of a three yearly review of the contractor's notional rent, although this review may be brought forward if—

a. there is a change to the purposes for which the premises are used; or

b. there is a further capital investment in the premises which has been agreed by the Department and payments are to be made by the Department to the contractor in respect of that investment under its GMS contract.

Abatement of notional rent payments

54. Where—

a. capital has contributed to the cost of building or refurbishment work done in respect of the practice premises of a contractor, and
b. that capital was not borrowed or otherwise provided by the contractor,

on completion of the building or refurbishment work, the amount of the notional rent payable by the Department shall be the abated notional rent for those premises, calculated in accordance with Part 1 of Appendix 3, rather than the full notional rent, determined in accordance with paragraphs 52 and 53, but after the abatement period the full notional rent again becomes payable.

55. The abatement period in paragraph 54 is, where the cost of the building or refurbishment work is—

a. up to £100,000 plus Value Added Tax, a period of 5 years;
b. between £100,000 and £250,000 plus Value Added Tax, a period of 10 years;
c. more than £250,000 plus Value Added Tax, a period of 15 years.

Notional rent supplements

56. If a contractor—

a. is an owner-occupier of its practice premises and is in receipt of payments in respect of its borrowing costs which are paid by the Department pursuant to paragraph 49 , and—
    i. the contractor makes further capital investment in the practice premises and that investment (including the details of the finalised project plan) had the prior approval of the Department but
    ii. the current market rent (and so the notional rent) for the practice premises remains lower than the repayments in respect of borrowing costs being made; or
b. rents its practice premises, is in receipt of payments in respect of its actual lease rent which are paid by the Department pursuant to paragraph 37, and
    i. the contractor makes further capital investment in the practice premises, and
    ii. that investment (including the details of the finalised project plan) had the prior approval of the Department

and the contractor makes an application to the Department for a notional rent supplement, the Department shall grant that application and make notional rent supplement payments to the contractor under its GMS contract at an appropriate level and frequency.

Amount of notional rent supplements

57. Where the Department grants an application of the type mentioned in paragraph 56, the amount that it shall pay to the contractor as a notional rent supplement is the value of the enhancement of the current market rent for the premises arising from the further capital investment, which is to be determined (and abated) in accordance with Appendix 2 and Part 1 of Appendix 3.

Payments in respect of running costs

58. Where—

a. a contractor is in receipt of payments pursuant to this Part in respect of leasehold rental costs or borrowing costs, or by way of notional rent payments;
b. the contractor actually and properly incurs the costs which are or relate to—
    i. business rates,
    ii. water and sewage charges,
    iii. charges in respect of the collection and disposal of clinical waste, or
    iv. a utilities and service charge which covers the matters in paragraph 59
c. those costs are not covered in the other payments that the contractor is receiving pursuant to these Arrangements, and

the contractor makes an application to the Department for financial assistance towards meeting any or all of these costs, subject to paragraph 61, the Department shall consider that application and, in appropriate circumstances (having regard, amongst other matters, to the budgetary targets it has set for itself), grant that application.

59. The utilities and services charge in paragraph 58b iv—

a. may include a service charge under a lease or a charge levied under separate arrangements made by a contractor which is an owner-occupier,
b. shall cover—
    i. fuel and electricity charges,
    ii. building insurance costs,

iii. costs of internal or external repairs, and
iv. plant, building and grounds maintenance costs.

Financial assistance towards service charges

60. The Department shall deduct from any amount that it would otherwise be required to pay in respect of a service charge pursuant to an application of the type mentioned in paragraphs 58 and 59—

a. an average (calculated on the basis of the previous year's costs) amount that the contractor (or, prior to 1st April 2004, the antecedent practice) paid in respect of–
   i. fuel and electricity charges,
   ii. insurance costs,
   iii. costs of internal or external repairs, and
   iv. plant, building and grounds maintenance costs,

calculated by reference to the same time period as the period in respect of which the service charge is payable; or

b. if suitable and sufficient information is not (or does not become) available to calculate the average referred to in paragraph (a), 40% of the amount otherwise payable.

Abatements in respect of contributions towards recurring premises costs from third parties

61. Where a contractor's practice premises, or any part thereof, are or form part of premises that are owned or rented by any person other than the contractor, and that person—

a. is required by any agreement (which includes a licence or a lease) to make or makes any contribution towards any recurring premises costs in respect of which the Department is providing financial assistance to the contractor in accordance with this Part; or
b. is required by any agreement (which includes a licence or a lease) to pay or pays to the contractor any amount—
   i. by way of rent in respect of the practice premises or any part thereof, or
   ii. in respect of the running costs of the practice premises,

the Department shall set off that contribution or that amount, equitably, against the payments made to the contractor pursuant to this Part.

Payments in kind

62. Where a payment that is to be made pursuant to this Part would be abated, or abated by a greater amount, if instead of receiving or obtaining a pecuniary advantage a contractor, or a member or employee of a contractor, receives a payment in kind, the Department shall take into account the value of the payment in kind in determining the amount of the payment to be made pursuant to this Part.

63. The Department is to take all reasonable steps to agree with the contractor the value of the payment in kind and shall justify the value it does determine.

Minimum standards condition attached to all payments under this Part

64. If a payment is to be made by the Department pursuant to this Part, the Department shall ensure that the making of the payment is subject to a condition to the effect that the practice premises in respect of which the payment is made meet the minimum standards set out in Appendix 1.

65. If this condition in paragraph 64 is breached but the breach is capable of remedy by refurbishment of the premises—

a. a remedial notice should not be served in respect of the breach if, pursuant to a plan drawn up in accordance with regulation 18(3) of the Health and Personal Social Services(General Medical Services Contracts) Regulations (Northern Ireland) 2004[h], action is already due to be taken which will remedy that breach and the timescale for taking that action under that plan has not yet elapsed;
b. before serving a remedial notice in respect of the breach, the Department shall consult the Local Medical Committee (if any) for its area; and
c. if a remedial notice is served, the notice period shall be no more than 3 months unless in the Department's opinion the breach will require a longer period to rectify.

[h] S.R. 2004 No.140

Accurate information condition attached to all payments under this Part

66. Where the Department grants an application under this Part, it shall ensure that the payment is made subject to conditions to the following effect—

a. the contractor shall make available to the Department any information which the Department does not have but needs, and the contractor either has or could reasonably be expected to obtain, in order for the Department to calculate the appropriate amount of financial assistance to be provided; and
b. all information supplied by a contractor to the Department pursuant to or in accordance with the condition set out in paragraph a shall be accurate.

PART 6
MISCELLANEOUS PROVISIONS

Direct payments to third parties

67. Where a contractor and the Department agree, the Department shall pay any amount that is due to the contractor as financial assistance under these Arrangements to a third party instead of the contractor, subject to a condition that the contractor ensures that it treats the payment for accounting purposes as a payment to it.

68. If—

a. the payment from the Department to the third party is less than the amount that is due from the contractor to the third party; and
b. the contractor is due other payments from the Department as financial assistance under these Arrangements which are greater than or equal to the amount of the shortfall,

where the contractor and the Department agree, the Department shall pay all or part of those other payments to the third party instead of to the contractor, subject to a condition that the contractor ensures that it treats the payment for accounting purposes as a payment to it.

Time limit for making applications

69. The Department shall only grant an application of a type mentioned in these Arrangements if the application is made within 6 years of the premises costs to which the application relates falling due.

PART 7
REVOCATION

70. The Health and Personal Social Services (General Medical Services – Premises Costs) Directions (Northern Ireland) 2004 ("the 2004 Directions") were revoked by The Health and Personal Social Services (General Medical Services – Premises Costs Directions) (Northern Ireland) 2015 ("the 2015 Directions") and therefore no longer apply.

The 2015 Directions had effect until 31st March 2022 when (by virtue of the Health and Social Care Act (NI) 2022) the Health and Social Care Board was dissolved. Since then, the Directions are no longer valid or necessary given the fact that the functions of the Health and Social Care Board in respect of their subject matter transferred to the Department. The 2015 Directions are hereby revoked and therefore no longer apply.

The 2004 Directions, as in force immediately before 15th April 2015, continue to apply for the purposes of assessing entitlement to, and any recovery of, payments arising under those Directions. The 2015 Directions, as in force immediately before 1st April 2022, also continue to apply for the purposes of assessing entitlement to, and any recovery of, payments arising under those Directions.

APPENDIX 1

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 shall comply with any obligations he has to his own members (where applicable), staff, contractors and to persons to whom he provides primary medical services under the Health and Safety at Work (Northern Ireland)Order 1978[i] (and legislation under that Order) 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. There should be adequate fire precautions, including provision for safe exit from the premises, designed in accordance with any requirements of Part E of the Building Regulations (Northern Ireland) 2012[j] and agreed, where necessary, with the Northern Ireland Fire and Rescue Service.

3. The contractor shall comply with any applicable requirements of the Lifting Operations and Lifting Equipment Regulations (Northern Ireland) 1999[k] ("the LOLER Regulations") or the Control of Substances Hazardous to Health Regulations (Northern Ireland) 2003[l]("the COSHH Regulations") which apply to the premises.

Miscellaneous requirements

4. The contractor shall comply with any applicable statutory requirements relating to—

[i] S.I. 1978/1039 (N.I. 9)

[j] S.R. 2012 No. 192
[k] S.R.1999 No. 304
[l] S.R. 2003 No. 34

a. the carrying out of a risk assessment and preparation of a management plan with regards to any risk of Legionella;
b. the carrying out of a risk assessment and preparation of a management plan with regards to any risk connected with or attributed to the presence of asbestos;
c. the testing of electrical equipment or appliances; and
d. the testing of gas appliances or pressure systems (including systems for medical gas).

5. 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 hygiene facilities which meet appropriate infection control standards.

6. If the premises have a treatment room, this should be properly equipped. An additional treatment room may be required where enhanced minor injury services are provided.

7. The arrangements for instrument decontamination should comply with national guidelines as appropriate to primary care.

8. 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 Department.

9. The access arrangements for the building should be convenient for all users.

10. There should be washbasins connected to running hot and cold water (ideally distributed through elbow, knee or sensor-operated taps) in consulting rooms and treatment areas.

11. There should be adequate internal waiting areas with—

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.

12. There should be adequate standards of lighting, heating and ventilation.

13. The premises, fittings and furniture should be in good repair and (when being used for the provision of primary medical services) clean and hygienic

14. The arrangements for the storage and disposal of clinical waste should comply with current legislative requirements and national guidelines.

15. There should be adequate fire precautions, including provision for safe exit from the premises, designed in accordance with the Building Regulations agreed with the Northern Ireland Fire and Rescue Service.

16. There should be adequate security for drugs, records, prescription pads and pads of doctors' statements.

17. 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.

APPENDIX 2

CURRENT MARKET RENTS AND NOTIONAL RENT ABATEMENTS

PART 1
FACTORS COMMON TO ALL CURRENT MARKET RENT CALCULATIONS

1. Current market rent calculations for notional rent purposes differ from current market rent calculations for actual leasehold premises pursuant to paragraphs 39 to 41.

2. However, in both cases, the Land and Property Services shall consider what might reasonably be expected to be paid by a tenant for the premises at the valuation date. The aim will be to arrive at a rent which can be agreed between the contractor (or his or her representative) and a third party in willing negotiation. For these purposes, it shall be assumed that neither party is seeking to take advantage of the fact that—

a) the contractor's remuneration is so arranged that this rent and any Value Added Tax payable is reimbursed separately; and
b) at any one time only one contractor is permitted to be in the market to use the premises for practice purposes.

3. In determining a figure for any current market rent, the following will also apply—

a) where the practice accommodation forms part of an owner-occupied residence but does not include areas which are used regularly but not exclusively for practice purposes, the current market rent will be assessed for the practice accommodation only, but as part of the whole premises and not increased or reduced to reflect any advantage or disadvantage there may be in the fact that the practice accommodation is not in separate premises;
b) where the practice accommodation forms part of a residence owned or rented by a person not connected with the contractor, the current market rent will be assessed in respect of the practice accommodation only and is to reflect any advantage or disadvantage there may be in the fact that it is not in separate premises;
c) where the practice accommodation forms part of an owner-occupied residence and includes areas which are used regularly but not exclusively for practice purposes, the current market rent will be assessed as at a) above but with an

agreed percentage added of the current market rental value of any area used regularly but not exclusively for practice purposes having regard to the extent and frequency of such use and any modifications made to facilitate that use;

d) subject to paragraph 4 e), where car parking spaces are provided at the practice accommodation, the number of car parking spaces to be included for the purposes of assessing the current market rent shall be limited to the number of spaces agreed by the Department (access and egress from each parking space shall be undertaken without the need to move other vehicles);

e) where improvements have been made to the practice accommodation and those improvements are designed solely to reduce the environmental impact of the premises, such as the installation of solar panels, air conditioning or replacement windows or doors, those improvements shall be disregarded for the purposes of assessing the current market rent.

PART 2

FACTORS WHICH ONLY APPLY IN RELATION TO LEASEHOLD PREMISES

4. Land and Property Services shall first have regard to the actual terms of the lease. In the case of the payment provisions—

a) the amounts payable shall be adjusted to take account of appropriate deductions in respect of the following—

   i. any amount referable to residential accommodation, except where this is to be taken into account in accordance with paragraph 3;

   ii. other non-practice accommodation (unless the Department has specifically agreed that no deduction is to be made in respect of it);

   iii. furniture or moveable equipment included in the rent costs;

   iv. services or other facilities included in the rent costs;

   v. the value of any responsibility of the landlord in respect of internal repairs or decoration;

   vi. any amount referable to water rates, where the tenant is responsible for paying the landlord's share and recovers that share from the landlord;

b) the amounts payable shall be adjusted to take account of appropriate additions in respect of the following—

   i. the value of any responsibility of the tenant in respect of external repairs and maintenance, or for insurance of the building;

ii. any premium paid by the tenant;

iii. any Value Added Tax paid by the tenant where properly charged to the tenant by the landlord (but excluding any part of the Value Added Tax for which the contractor can claim a refund) and approved by the Department prior to payment by the tenant);

c) relating to reviewing rental payments, the Department shall—

i. review its assessment of the current market rent for the property when the landlord undertakes a rent review provided for in the lease, unless the landlord's review does not result in a change to the level of rent charged (an assessment on the basis of vacant possession will not be appropriate on a rent review, unless the terms of the lease so provide or the property market can be shown not to distinguish between vacant and tenanted premises);

ii. review its assessment of the current market rent for the property when the terms and conditions of the lease are varied, even if this variation does not result in any change to the level of rent charged;

iii. if the rent review is linked to an index (for example, the Retail Price Index), adjust the amount it pays in accordance with that Index, provided it received a copy of the lease on offer before it was agreed and it agreed to the indexing arrangement, having taken advice from Land and Property Services as to its appropriateness; and

iv. when reviewing its assessment of the current market rent under paragraph i**,** require a rent review memorandum, signed by the landlord and the contractor, recording the change in the level of rent charged, and have regard to that change as so recorded (but no other) when carrying out its review;

d) if the lease rent is inclusive of rates (including water rates), the current market rent shall also be inclusive of the rates so included; and

e) where, in the case of existing leasehold premises, a rental value for car parking spaces has been included in the rent charged by the landlord, this rental value will continue to be included in the assessment of the current market rent until the term of the lease expires or the lease is varied to exclude that rental value from the rent charged.

PART 3

FACTORS WHICH ONLY APPLY IN RELATION TO NOTIONAL RENT CASES

5. If the premises are owner-occupied premises, the following assumptions are to be made by Land and Property Services about the nature of the notional lease upon which the notional rent payments are to be based. This notional lease—

a) is to be for a term of 15 years, with rent reviews every three years (but subject to the assumption that if the rent falls as a result of such a review it does not fall below the level of the rent initially charged);
b) includes a covenant that the tenant undertakes to bear the cost of internal repairs and decoration and the landlord undertakes to bear the cost of insuring the building and of carrying out external repairs and maintenance;
c) does not include a service charge, or like payment for such items as upkeep, maintenance (including lift maintenance where appropriate), cleaning and heating of common parts;
d) is for vacant possession (for the purposes of the initial assessment but not for the purposes of the notional rent review, unless the terms of the lease so provide or the property market can be shown not to distinguish between vacant and tenanted premises);
e) is exclusive of rates;
f) includes a right for the tenant to assign or sublet the whole premises, subject to landlord's consent which is not to be unreasonably withheld;
g) allows the premises to be used for practice purposes only.

APPENDIX 3

NOTIONAL RENT ABATEMENTS AND NOTIONAL RENT SUPPLEMENTS

PART 1
NOTIONAL RENT ABATEMENTS

1. Where capital has contributed to the cost of building or refurbishment work done in respect of practice premises, and the capital was not borrowed by or provided by the contractor, the notional rent payable in respect of those payments is to be abated (in proportion to the level of the capital contribution) as follows—

a. determine the current market rent for the premises prior to improvement ***(Pu)***;
b. determine the current market rent for the whole of the improved premises ***(Pi)***;
c. subtract one from the other ***(Pi - Pu)***, which will produce the current market rent value of the enhancement ***(I)***;
d. determine the amount of the capital provided by the contractor as a proportion of the whole cost of the improvement, expressed as a percentage ***(A)***;
e. ***(A)*** is then to be enhanced by adding 10% to cover normal landlord expenses, which is then applied to ***(I)*** and the resultant is added to ***(Pu)***.

2. Accordingly, expressed as a formula, the post-improvement notional rent is—

I **x (*A*+10)% + *Pu***

PART 2
NOTIONAL RENT SUPPLEMENTS

3. Where a notional rent supplement is to be calculated, the amount of that supplement, expressed as a formula, is: ***I* × *(A+10)%*** .

INTERPRETATION

In these Arrangements—

"the 1972 Order" means the Health and Personal Social Services (Northern Ireland) Order 1972[m]

"contractor" unless the context otherwise requires, means a person entering into, or who has entered into, a GMS contract with the Department or a person who is party to a GMS contract with the Department as a consequence of a property transfer scheme made under Article 23 of the Health and Social Care (Reform) Act (Northern Ireland) 2009[n];

"District Valuer Service" means the District Valuer Service of the Land and Property

Services[o], and "District Valuer" is to be construed accordingly;

"family member" of a person (P) means—

a) P's husband, wife or civil partner;
b) a person who, not being married to P or P's civil partner, has a relationship with P which shares the characteristics of marriage or civil partnership;
c) a person who, in relation to P, formerly fell within paragraphs a) or b);
d) P's grandparent, parent, step-parent, child, step-child or grandchild;
e) P's brother, step-brother, sister, step-sister, aunt, uncle, nephew, niece or first cousin; and
f) the husband, wife or civil partner of any family member falling within paragraph d) or e);

"GMS contract" means a general medical services contract under Article 57 of the 1972 Order (General medical services contracts; introductory);

"HSC Trust" means a Health and Social Care trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991[p];

[m] S.I. 1972/1265 (N.I. 14)
[n] 2009 c. 1
[o] Land and Property Services is part of the Department of Finance for Northern Ireland
[p] S.I. 1991/194 (N.I.1)

“Local Medical Committee” means a committee recognised under Article 55B of the 1972 Order (Local Medical Committees);

“practice premises” means the premises specified in a GMS contract as premises at which services are to be provided under the contract; and

“registered housing association” means a housing association registered under Article 14 of the Housing (Northern Ireland) Order 1992[q].

[q] S.I. 1992/1725 (N.I.15)