

Primary Care Support Services Framework Agreement

Schedule 5.2

Dispute Resolution Procedure

OFFICIAL - SENSITIVE - COMMERCIAL
PCSS Framework Agreement
Schedule 5.2 (Dispute Resolution Procedure)

1. General Requirements

- 1.1 Nothing in this Dispute Resolution Procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining any other Party from doing any act or compelling any other Party to do any act.
- 1.2 Any court proceedings which are instituted in respect of any dispute shall be commenced and conducted in accordance with Clause 38 (Disputes) of the Framework Agreement.
- 1.3 Where any meeting is to take place at a time and location reasonably required by the Framework Authority pursuant to this Schedule, it shall be at a location within England and shall take place within normal business hours.
- 1.4 In relation to any Dispute, the representatives of a Party identified in this Schedule shall have the authority to settle such Dispute on behalf of that Party.

2. Referral to Representatives

Either Party may invoke this procedure with respect to any dispute by notice in writing to the other setting out the nature of the Dispute ("**Procedure Initiation Notice**"), whereupon the Dispute shall be referred to the individuals nominated for the receipt of communications in Clause 37 (Notices) of the Framework Agreement. The representatives of the Parties shall meet within ten (10) Working Days of service of the Procedure Initiation Notice (or such other period of time as the Parties may agree) at a time and location reasonably required by the Framework Authority and shall negotiate in good faith in an attempt to resolve the Dispute.

3. Referral to Management

If the Dispute is not resolved between the Parties pursuant to the procedure set out in Paragraph 2, then either Party shall be entitled to require, by serving notice in writing upon the other ("**Management Referral Notice**"), that the Dispute be referred to the Programme Director or equivalent, of the Parties (together "**Management**"). The Management shall meet within ten (10) Working Days of service of the Management Referral Notice (or such other period of time as the Parties may agree) at a time and location reasonably required by the Framework Authority and shall negotiate in good faith in an attempt to resolve the Dispute. Both Parties may bring to the meeting such representation as they deem necessary to explain and resolve the Dispute.

4. Mediation

- 4.1 If the Dispute is not resolved between the Parties through either of the procedures provided for under Paragraphs 2 and 3, then the Parties will consider using mediation in an attempt to settle the Dispute in accordance with the CEDR's model mediation procedure.
- 4.2 The Parties agree that:
 - 4.2.1 the mediation shall be conducted by a single mediator who shall be appointed by agreement in writing between the Parties;
 - 4.2.2 the mediation shall be conducted in London and in the English language;

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- 4.2.3 the mediation shall be conducted in private and without prejudice to the rights of the Parties in any proceedings;
- 4.2.4 the Parties are not obliged to reach a binding settlement by mediation or negotiation; and
- 4.2.5 the cost of the mediation will be borne equally by the Parties.
- 4.3 To initiate the mediation either Party must give notice in writing to the other Party requesting mediation in accordance with the procedures set out in this Paragraph 4. The initiating Party shall send a copy of such request to CEDR.
- 4.4 If there is any issue on the conduct of the mediation (including as to the appointment of the mediator) upon which the Parties cannot agree within a reasonable time or if the mediator approved is unwilling or unable to act then CEDR will, at the request of any Party, decide the issue for the Parties having consulted with them.
- 4.5 In the event of a conflict between any provision of Paragraph 4.2 and the CEDR model mediation procedure, the relevant provision of Paragraph 4.2 shall prevail.
- 4.6 If the Dispute is not resolved within thirty (30) Working Days of the initiation of the mediation or if the Parties have not agreed to participate in mediation pursuant to Paragraph 4.1 then either Party may institute court proceedings in respect of the Dispute.

5. Court Proceedings

Except in relation to the matters referred to in Paragraph 1.1, neither Party shall be entitled to institute court proceedings in respect of any Dispute unless and until they have attempted to resolve the Dispute in accordance with the procedures in this Schedule 5.2 (Dispute Resolution Procedure).

6. Urgent Relief

Nothing in this Schedule shall prevent either Party from seeking injunctive relief at any time.