

25 April 2025

8th Floor
10 South Colonnade
Canary Wharf
London
E14 4PU

FILE REF: SHA/26303

Tel: 020 3928 2000
Email: nhsr.appeals@nhs.net

COMMISSIONER: SUSSEX INTEGRATED CARE BOARD ("THE COMMISSIONER")

GMS CONTRACTOR: DR R DHILLON & PARTNERS

PREMISES: LIME TREE SURGERY
LIME TREE AVENUE
FINDON VALLEY
WORTHING
BN14 0DL

DISPUTE RESOLUTION: NHS (GENERAL MEDICAL SERVICES CONTRACT) REGULATIONS 2015

DIRECTIONS: NHS (GENERAL MEDICAL SERVICES – PREMISES COSTS) DIRECTIONS 2004

RE: NOTIONAL RENT

1 Outcome

- 1.1 I accept the recommendation on the notional rent of the subject premises with effect from 20 November 2018 which is £107,215.
- 1.2 I note that neither party has submitted a claim for interest with regard to this dispute so I make no determination in this regard.

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RE: **NOTIONAL RENT**

1 Introduction

- 1.1 As a GMS Provider, the above named Contractor has referred the matter of notional rent for dispute resolution under the provisions of Part 12 of the NHS (General Medical Services Contract) Regulations 2015 (the "Regulations").
- 1.2 The Secretary of State for Health and Social Care has directed that NHS Resolution exercise the functions of dispute resolution on their behalf. I, as an authorised officer of NHS Resolution, have made this determination.
- 1.3 The dispute resolution procedure also allows for advice to be sought.

2 The Following Points are relevant to this Application for Dispute Resolution

- 2.1 In a letter dated 5 September 2024, the Contractor through their representative, applied to NHS Resolution for dispute resolution. The letter stated that the Contractor remained dissatisfied with the revised figure of £100,123.76 as reported to NHS England and sought to argue that the notional rent in respect of the Contractor's surgery premises should have been assessed at a higher figure of £117,850 with effect from 20 November 2018.

2.2 I have had regard to the following documents made available to me in consideration of this matter:

2.2.1 Application dated 5 September 2024, with enclosures, from Primary Care Surveyors on behalf of the Contractor;

2.2.2 Representations dated 23 October 2024 from the District Valuation Service (DVS) on behalf of the Commissioner; and

2.2.3 The report from the Advisor.

3 Statutory Framework

3.1 I note the GMS Contracts Regulations 2015 apply in this case. Part 12, paragraph 83 of the Regulations, indicates with some exclusions, that the NHS dispute resolution procedure applies in the case of any dispute arising out of or in connection with the contract which is referred to the Secretary of State –

(a) in accordance with section 9(6) of the Act (where the contract is an NHS contract); or

(b) in accordance with paragraph 82(1) (where the contract is not an NHS contract).

3.2 I note that recurring premises costs such as notional rent payments are dealt with in the NHS (General Medical Services – Premises Costs) Directions 2004. Part 5, paragraph 42 of the Premises Costs Directions allows the Board to make payments to the contractor, and allows for a three yearly review. In the absence of argument to the contrary, I will proceed on the basis that these form part of the Contract and apply in this case.

4 Procedural matters

4.1 In order to be able to determine the dispute properly, I decided to consult and seek advice from an Advisor appointed by the President of the Royal Institution of Chartered Surveyors (RICS). This Advisor uses their knowledge on these matters to weigh the merits of the arguments presented but, importantly, has no pecuniary or budgetary interest in the outcome.

4.2 The Advisor provided a report that dealt with any factual matters in dispute e.g. the floor area of the premises, and addressed the issues raised by the parties. The report is in the form of a reasoned assessment and recommendation. NHS Resolution received the report, and the parties were provided with an opportunity to make observations upon it.

5 Consideration

5.1 As part of this consideration of the application for NHS dispute resolution, I required an up-to-date version of the contract in dispute containing all variations agreed since the contract was signed. I note that this was not provided and therefore I will assume that the Contract between the parties reflects the provisions of the relevant Regulations in force at the relevant time and proceed to determine the dispute on that basis.

5.2 I note that the DVS, in advice to the Commissioner, contended that the revised notional rent as at the date fixed for review was £100,123.76. I further note that the total figure upon which the Contractor seeks to rely is £117,850. I note that the Advisor appointed by NHS Resolution recommends the value to be £107,215.

- 5.3 I note that a copy of the Advisor's report was forwarded to parties for comment. The Commissioner responded to indicate that an arithmetic error had been made in the Advisor's proposed valuation. I note that this has now been amended and a copy forwarded to parties for information.
- 5.4 The Commissioner had also commented on wording at section 4.2 of the report and notes that it was unable to provide observations as no representations were submitted on behalf of the Contractor. I note that the Advisor has made an amendment to section 4.2 in this regard.
- 5.5 In my view, the rationale in the advice to me is robust and on this basis, I am not persuaded to depart from the advice to me.
- 5.6 For the reasons given in the report from the Advisor, I accept the recommendation on the notional rent of the subject premises with effect from 20 November 2018 which is £107,215.
- 5.7 I note that neither party has submitted a claim for interest with regard to this dispute so I make no determination in this regard.

Head of Appeals
NHS Resolution