

Primary Care Commissioning Committee

26 October 2016

Details	Part 1	✓	Part 2		Agenda Item No.	5
Title of Paper:	Practice List Closure Procedure					
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Please indicate:	For Decision		For Information	✓	For Discussion	

Executive Summary

Summary	<p>This paper describes the process and considerations in relation to an application for a practice to close their list.</p> <p>Applications for closed lists must be considered within 21 days of receipt. It is therefore important that all member of the PCCC are aware of the process and able to make an informed decision if an application needs to be presented virtually.</p>					
Risk	High		Medium		Low	✓
	There are no particular risks associated with this paper. The paper is designed to inform the committee to ensure effective decisions are made.					
Recommendations	<p>The Primary Care Commissioning Committee is asked to:</p> <ul style="list-style-type: none"> To familiarise themselves with the content of this paper 					

Strategic themes

To deliver improved outcomes and reduce health inequalities for patients through better preventative strategies	
To deliver service re-design in priority areas through innovation	
To develop primary care to become excellent and high performing commissioners	✓
To develop the CCG leadership to work with the Local Authority to be excellent integrated commissioners	
To develop robust and effective working relationships with all stakeholders and partners to drive integrated commissioning	
To deliver long term financial sustainability through effective commissioning and innovative investment across the wider system	
To develop and influence the provider landscape through development of a Locality Care Organisation (LCO)	
Equality Analysis Assessed?	Supports NHS Bury CCG Governance arrangements ✓

Practice List Closure Procedure

1. Introduction and background

Contractors of Primary Medical Services provide services to the following:

- Registered patients
- Temporary Residents
- Persons who require immediately necessary treatment
- Persons who the contractor is responsible for that require treatment out of hours and the contractor has not opted out of this provision
- Any other person as agreed in the contract

Practices normally operate an open list system that allows any person that is a permanent or temporary resident in their practice boundary area to register with them unless the practice has reasonable grounds to refuse. The most common reasons for refusal are:

- The commissioner has agreed that they can close their list to new patients
- The patient lives outside the practice boundary and the practice considers that their registration is clinically or practically inappropriate

This paper explains the contractual requirements with regards to applications to close a practice list. The General Medical Services (GMS) contract requires the commissioner to make a decision within 21 days of receiving an application to close a practice list. This time period may be extended if both parties agree. Due to the timescales involved it is likely that the Primary Care Commissioning Committee will be required to make a decision on application virtually, it is therefore important all members are aware of the relevant contractual clauses that must be considered.

This paper refers to clauses in the GMS contract the Personal Medical Services (PMS) agreement and Alternative Provider Medical Services (APMS) contract contain the same mandatory clauses though with different clause numbers.

2. Application Process

Clause 13.18- 13.22 of the GMS contract describe the processes associated with closed list applications. These have been included in appendix one for ease of reference. Applications for a closed list are processed by NHS England with the decision making process delegated to the CCG. The key elements of the application process are as follows:

- A decision must be made by the commissioner within 21 days of receipt of the application
- The application must contain the following information:
 - the options which the Contractor has considered, rejected or implemented in an attempt to relieve the difficulties
 - any discussions the Contractor has had with their patients and the outcome of these conversations
 - any discussions the Contractor has had with neighbouring practices and the outcome of these conversations
 - the time period the Contractor wishes to close their list
 - any plans the Contractor has to alleviate the pressures whilst the list is closed
 - any further relevant information
- The commissioner may consult with any relevant stakeholders. Within Greater Manchester the following stakeholders are consulted as routine:

- Practices within 1 mile of the Contractor
- The Local Medical Committee
- Healthwatch
- The application must be for more than 3 months and for less than 12 months

3. Considerations

There is no national or local guidance for commissioners on what to consider when reviewing applications to close a practice list beyond the process described in the GMS contract (appendix one). There is no contractual reason preventing contractors from providing Directed Enhanced Services (DES) whilst operating a closed list. Local Enhanced Services may be withdrawn depending on the local contract, though none of the LES contain such a clause. The commissioner may be minded of the potential future impact on patients if a number of practices successfully apply to close their list.

The Family Health Services Appeals Unit (FHSAU) Dispute Resolution Panel outcomes often provide insight into the decisions made by commissioners and the rationale why the FHSAU supported or rejected a commissioner's decision. A review of decisions from 2013 show no decisions have been made by the FHSAU with regards to closed lists.

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13.18. Application for closure of list of patients

13.18.1. Where the Contractor wishes to close its list of patients, the Contractor must send a written application (“the Application”) to close its list to the Board and the Application must include the following details—

- (a) the options which the Contractor has considered, rejected or implemented in an attempt to relieve the difficulties which the Contractor has encountered in respect of its open list and, if any of the options were implemented, the level of success in reducing or extinguishing such difficulties;
- (b) any discussions between the Contractor and its patients and a summary of those discussions including whether in the opinion of those patients the list of patients should or should not be closed;
- (c) any discussions between the Contractor and other contractors in the practice area and a summary of the opinion of the other contractors as to whether the list of patients should or should not be closed;
- (d) the period of time during which the Contractor wishes its list of patients to be closed and that period must not be less than 3 months and not more than 12 months;
- (e) any reasonable support from the Board which the Contractor considers would enable its list of patients to remain open or would enable the period of proposed closure to be minimised;
- (f) any plans the Contractor may have to alleviate the difficulties mentioned in the Application during the period the list of patients may be closed in order for that list to reopen at the end of the proposed closure period without the existence of those difficulties; and
- (g) any other information which the Contractor considers ought to be drawn to the attention of the Board.

13.18.2. The Board must—

- (a) acknowledge receipt of the Application within a period of 7 days starting on the date the Application was received by the Board; and
- (b) consider the Application and may request such other information from the Contractor which it requires to enable it to consider the Application.

13.18.3. The Board must enter into discussions with the Contractor concerning—

- (a) the support which the Board may give the Contractor; or
- (b) changes which the Board or Contractor may make, to enable the Contractor to keep its list of patients open.

13.18.4. The Board and Contractor must, throughout the discussions referred to in clause 13.18.3 use its reasonable endeavours to achieve the aim of keeping the Contractor’s list of patients open.

13.18.5. The Board or the Contractor may, at any stage during the discussions, invite the Local Medical Committee for the area in which the Contractor provides services under the Contract (if any) to attend any meetings arranged between the Board and Contractor to discuss the Application.

13.18.6. The Board may consult such persons as it appears to the Board may be affected by the closure of the Contractor’s list of patients, and if it does so, the Board must provide the Contractor with a summary of the views expressed by those consulted in respect of the Application.

13.18.7. The Board must enable the Contractor to consider and comment on all the information before the Board makes a decision in respect of the Application.

13.18.8. A Contractor may withdraw its Application at any time before the Board makes a decision in respect of that Application.

13.18.9. Within a period of 21 days starting on the date of receipt of the Application (or within such longer period as the parties may agree), the Board must make a decision—

- (a) to approve the Application and determine the date the closure is to take effect and the date the list of patients is to reopen; or
- (b) to reject the Application.

13.18.10. The Board must notify the Contractor of its decision to approve the Application in accordance with clauses 13.19.1 to 13.19.3, or in the case where the Application is rejected, in accordance with clauses 13.20.1 to 13.20.3.

13.18.11. A Contractor must not submit more than one application to close its list of patients in any period of 12 months starting on the date of which the Board makes its decision on the Application unless-

- (a) clauses 13.20.1 to 13.20.3 apply; or
- (b) there has been a change in the circumstances of the Contractor which affects its ability to deliver services under the Contract.

13.19. Approval of an application to close a list of patients

13.19.1. Where the Board approves an application to close a list of patients, it must—

- (a) notify the Contractor of its decision in writing as soon as possible and the notification (“the closure notice”) must include the details referred to in clause 13.19.2; and
- (b) at the same time as it notified the Contractor, send a copy of the closure notice to the Local Medical Committee for the area in which the Contractor provides services under the Contract (if any) and to any person it consulted in accordance with clause 13.18.6.

13.19.2. The closure notice must include—

- (a) the period of time for which the Contractor’s list of patients will be closed which must be—
 - (i) the period specified in the application to close the list of patients; or
 - (ii) in the case where the Board and Contractor have agreed in writing a different period, that different period,

and in either case, the period must be not less than 3 months and not more than 12 months;

- (b) the date from which the closure of the list of patients is to take effect; and
- (c) the date from which the list of patients is to re-open.

13.19.3. Subject to clause 13.22, a Contractor must close its list of patients with effect from the date the closure of the list of patients is to take effect and the list of patients must remain closed for the duration of the closure period as specified in the closure notice.

13.20. Rejection of an application to close a list of patients

13.20.1. Where the Board rejects an application to close a list of patients it must—

- (a) notify the Contractor of its decision in writing as soon as possible and the notification must include the reasons for the rejection of the application; and

(b) at the same time as it notified the Contractor, send a copy of the notification to the Local Medical Committee for the area in which the Contractor provides services under the Contract (if any) and to any person it consulted in accordance with clause 13.18.6.

13.20.2. Subject to clause 13.20.3, if a Board makes a decision to reject a Contractor's application to close a list of patients, the Contractor must not make any further application until—

(a) the end of the period of 3 months, starting on the date of the decision of the Board to reject; or

(b) the end of the period of 3 months, starting on the date of the final determination in respect of a dispute arising from the decision to reject the application made pursuant to the NHS dispute resolution procedure (or any court proceedings),

whichever is the later.

13.20.3. A Contractor may make a further application to close its list of patients where there has been a change in the circumstances of the Contractor which affects its ability to deliver services under the Contract.

13.21. Application for an extension of a closure period

13.21.1. The Contractor may apply to extend a closure period by sending a written application to extend the closure period no later than 8 weeks before the date that period is due to expire.

13.21.2. The application to extend the closure period must include-

(a) details of the options the Contractor has considered, rejected or implemented in an attempt to relieve the difficulties which have been encountered during the closure period or which may be encountered when the closure period expires;

(b) the period of time during which the Contractor wishes its list of patients to remain closed, which extended period of desired closure must not be more than 12 months;

(c) details of any reasonable support from the Board which the Contractor considers would enable its list of patients to re-open or would enable the proposed extension of the closure period to be minimised;

(d) details of any plans the Contractor may have to alleviate the difficulties mentioned in the application to extend the closure period in order for the list of patients to re-open at the end of

the proposed extension of the closure period without the existence of those difficulties; and

(e) any other information which the Contractor considers ought to be drawn to the attention of the Board.

13.21.3. The Board must acknowledge receipt of the application for an extension to the closure period within a period of 7 days starting on the date the application was received by the Board.

13.21.4. The Board must consider the application for an extension to the closure period and may request such other information from the Contractor which it requires to enable it to consider that application.

13.21.5. The Board may enter into discussions with the Contractor concerning—

(a) the support which the Board may give the Contractor; or

(b) changes which the Board or Contractor may make,

to enable to Contractor to re-open its list of patients.

13.21.6. Within a period of 14 days starting on the date of receipt of the application to extend the closure period (or within such longer period as the parties may agree), the Board must make a decision.

13.21.7. The Board must notify the Contractor of its decision to approve or reject the application to extend the closure period as soon as possible after making its decision.

13.21.8. Where the Board approves the application to extend the closure period, it must—
(a) notify the Contractor of its decision in writing and the notification (“the extended closure notice”) shall include the details referred to in clause 13.21.9; and
(b) at the same time as it notifies the Contractor, send a copy of the extended closure notice to the Local Medical Committee for the area in which the Contractor provides services under the Contract (if any) and to any person it consulted in accordance with clause 13.18.6.

13.21.9. The extended closure notice must include—
(a) the period of time for which the Contractor’s list of patients will remain closed which must be—
(i) the period specified in the application to extend the closure period; or
(ii) the case where the Board and Contractor have agreed in writing a different period to the period specified in the application to extend the closure period, the period which is agreed, and in either case, the period (“the extended closure period”), must be not less than 3 months and not more than 12 months;
(b) the date from which the extended closure period is to take effect; and
(c) the date on which the list of patients is to re-open.

13.21.10. Where the Board rejects an application to extend the closure period it must—
(a) notify the Contractor of its decision in writing and the notification must include the reasons for the rejection of the application; and
(b) at the same time as it notifies the Contractor, send a copy of the notification to the Local Medical Committee for the area in which the Contractor provides services under the Contract (if any).

13.21.11. Where an application for an extension of the closure period is made in accordance with clauses 13.21.1 and 13.21.2, the list of patients will remain closed pending—
(a) the determination by the Board of the application for an extension of the closure period; or
(b) the Contractor ceasing to pursue any dispute arising from the application for an extension of the closure period pursuant to the NHS dispute resolution procedure (or any court proceedings),
whichever is the later.

13.22. Re-opening of list of patients 13.22.1. The Contractor may re-open its list of patients before the expiry of the closure period if the Board and Contractor agree that the Contractor should re-open its list of patients.