

Item: 8.4

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| Report to: | Primary Care Commissioning Committee |
| Date of Meeting: | 15 th December 2017 |
| Subject: | Criteria to be used in considering applications to close practice lists |
| Presented by: | Hayley Patterson, Commissioning Lead Primary Care, NHS E Phil Davis Head of Primary Care, NHS Hull CCG |
| Author: | Hayley Patterson, Assistant Primary Care Contracts Manager, NHS E Phil Davis Head of Primary Care, NHS Hull CCG |

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| STATUS OF THE REPORT: | |
| To approve <input checked="" type="checkbox"/> | To endorse <input type="checkbox"/> |
| To ratify <input type="checkbox"/> | To discuss <input type="checkbox"/> |
| To consider <input type="checkbox"/> | For information <input type="checkbox"/> |
| To note <input type="checkbox"/> | |

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| PURPOSE OF REPORT: |
| The purpose of this report is to set out criteria to be used by the Primary Care Committee when considering applications from practices to close their lists. |
| RECOMMENDATIONS: |
| It is recommended that the Primary Care Commissioning Committee: |
| <ol style="list-style-type: none"> Note the process for considering applications to close practice lists; Approve the use of the criteria listed when considering list closure applications. |

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| REPORT EXEMPT FROM PUBLIC DISCLOSURE | No <input checked="" type="checkbox"/> | Yes <input type="checkbox"/> |
| If yes, grounds for exemption (FOIA or DPA section reference) | | |

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| CCG STRATEGIC OBJECTIVE (See guidance notes below) | ASSURANCE FRAMEWORK SPECIFIC OBJECTIVE (See guidance notes below) |
| The report links with 21st Century Primary Care and to ensure that patients receive clinically commissioned, high quality services. | <ul style="list-style-type: none"> • 21st Century Primary Care • Patients receive clinically commissioned, high quality services |

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| IMPLICATIONS: (summary of key implications, including risks, associated with the paper), | |
| Finance | None |
| HR | None |
| Quality | None |
| Safety | None |

ENGAGEMENT: (Explain what engagement has taken place e.g. Partners, patients and the public prior to presenting the paper and the outcome of this)

The process for list closure applications and criteria against which these should be assessed are set out in NHS England guidance documents.

LEGAL ISSUES: (Summarise key legal issues / legislation relevant to the report)

None.

EQUALITY AND DIVERSITY ISSUES: (summary of impact, if any, of CCG's duty to promote equality and diversity based on Equality Impact Analysis (EIA). **All** reports relating to new services, changes to existing services or CCG strategies / policies **must** have a valid EIA and will not be received by the Committee if this is not appended to the report)

| | Tick relevant box |
|--|--------------------------|
| An Equality Impact Analysis/Assessment is not required for this report. | √ |
| An Equality Impact Analysis/Assessment has been completed and approved by the lead Director for Equality and Diversity. As a result of performing the analysis/assessment there are no actions arising from the analysis/assessment. | |
| An Equality Impact Analysis/Assessment has been completed and there are actions arising from the analysis/assessment and these are included in section xx in the enclosed report. | |

THE NHS CONSTITUTION: (How the report supports the NHS Constitution)

The report supports the delivery of the NHS Constitution as the commissioning of primary care services will aid in the delivery of the following principles, rights and NHS pledges:

- 1) The NHS aspires to the highest standards of excellence and professionalism
- 2) NHS works across organisational boundaries and in partnership with other organisations in the interests of patients
- 3) Quality of care
- 4) You have the right to expect NHS organisations to monitor, and make efforts to improve, the quality of healthcare they commission or provide.

Criteria to be used in considering applications to close practice lists

1 Introduction

The purpose of this report is to set out criteria to be used by the Primary Care Committee when considering applications from practices to close their lists.

2 Background

At the Primary Care Commissioning Committee in August 2017 it was requested that a rationale behind the decision to support, or decline, a practice application to close their list or extend their current list closure be developed. The process for considering applications by practices to close their lists followed by NHS England and NHS Hull CCG is set out within the *Primary Medical Care Policy and Guidance Manual (PGM)*. This was first published in January 2016 and updated in November 2017 following changes in legislation, contracts and central policy and guidance. It provides policies and templates to support a consistent approach to primary care commissioning across England. The relevant extract from the PGM is included as Appendix 1 to this paper. In addition *Managing Closed Lists* was published by NHS England in July 2013 and also describes the process to follow regarding application to close a practice list and extend closure of a list.

3 Applications to close a practice list

3.1 Process for managing applications to close practice list

The process for managing applications to close a practice list is summarised as follows:

Standard template is completed by the practice and is received by the Commissioner
(in this instance the commissioner is the CCG due to the delegated commissioning arrangements that are in place but applications currently come into NHS England)



Commissioner must acknowledge application within 7 working days of receipt



Practice visit to explore alternative options to list closure



Commissioner must make decision within 21 working days of receipt (or longer if agreed) and write to contractor as soon as possible after the decision has been made



Approval

send closure notice as soon as possible using template notice within PGM (cc LMC and other people involved in decision making)

Contractor closes on the date in the notice and



Rejection

Send rejection of closure notice as soon as possible using template notice within PGM stating the reasons for rejection (cc LMC and other people involved in decision making)

Contractor not able to make a further application

remains closed unless agree with commissioner to re-open before the expiry period

until 3 months after the date of rejection or, if a dispute is brought by the practice, 3 months after a decision from the dispute process or if there is a change in circumstance which affects its ability to deliver services under the contract

A similar process is followed, with different timeframes, for considering applications to extend list closures.

3.2 Criteria to use in considering an application to close a practice list

In considering an application to close a practice list the following criteria are recommended to be used:

- The options that have been considered, rejected or implemented in an attempt to address the difficulties arising from an open list. For any options implemented the level of success in addressing the difficulties
- The outcome of any discussions between the practice and its patients including whether those patients believe the list should or should not be closed
- The views of other practices in the area ascertained either by discussions between the practice and other practices in the practice or following NHS England communication of the application to other practices in the practice area
- The support offered to the practice by NHS England or the CCG to enable the practice list to remain open
- The plans to address the difficulties identified that the practice has developed for implementation during the period of closure

4 Recommendation

It is recommended that the Primary Care Commissioning Committee:

1. Note the process for considering applications to close practice lists;
2. Approve the use of the criteria listed when considering list closure applications.

Appendix 1

Extract from Primary Medical Care Policy and Guidance Manual (PGM) Nov 2017

3.5 Part C: Managing Closed Lists

3.5.1 Scope

3.5.1.1 This Part C sets out the processes to be implemented when managing applications to close patient lists and to extend a closure period.

3.5.1.2 At all stages throughout these processes, it is essential that the Commissioner works with the contractor and the LMC to ensure clear and transparent decision making and that all decisions are made in line with internal governance arrangements.

3.5.2 Applications to Close a Patient List

3.5.2.1 Sometimes a contractor may wish to close its list to new registrations e.g. where there are internal capacity issues or premises refurbishments. The contractor must seek approval from the Commissioner by a written application (the "Application") before this may happen. A template Application for the contractor to complete is attached in Annex 1. The contractor should use the template Application to ensure it completes all the required information. The contractor may obtain the application itself (for example by accessing this policy) or it may be requested by the contractor. An example covering letter from the Commissioner to the contractor enclosing an application form is in Annex 2.

3.5.2.2 The Commissioner must acknowledge receipt of the Application within seven days of its receipt and may request further information from the contractor to enable it to consider the Application thoroughly.

3.5.2.3 With a view to possibly enabling the contractor to keep its list of patients open, the Commissioner and the contractor must talk openly to establish:

- what support the Commissioner may give the contractor; or
- changes the Commissioner or contractor may make.

3.5.2.4 The contractor or the Commissioner may at any time throughout these discussions invite the appropriate LMC to be included in the dialogue about the application.

3.5.2.5 The Commissioner should ensure compliance with the general duties of NHS England. Please refer to the chapter on General duties of NHS England for further information.

3.5.2.6 The contractor may withdraw the application at any time before the Commissioner makes its decision on the proposed list closure.

3.5.2.7 The Commissioner must make a decision, within a period of 21 days starting on the date of receipt of the Application (or within a longer period as the parties may agree):

- 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
- to reject the Application.

3.5.2.8 The Commissioner must notify the contractor of its decision in writing as soon as possible after the 21 day period.

3.5.3 Approval of Patient List Closure: Closure Notice

3.5.3.1 Where the Commissioner has granted approval for closure of the patient list, a closure notice must be issued to the contractor as soon as possible after the decision is reached, with a copy to the LMC for its area (if any) and to any person consulted in the decision-making process. The Commissioner should use the template notice in Annex 4 to ensure it responds to the contractor with all the required information.

3.5.3.2 The contractor must close the list on the date in the notice and the list should remain closed for the time specified unless the Commissioner and the contractor agree that the list should be re-opened to patients before the expiry of the closure period.

3.5.4 Rejection of Application for List Closure

3.5.4.1 When the Commissioner decides to reject an application to close a list of patients it must as soon as possible:

- provide the contractor with a notification including the reasons why the application was rejected. The Commissioner should use the template in Annex 5 to ensure it responds to the contractor with all the required information; and
- at the same time, send a copy of the notification to any affected LMC for its area and to any person it consulted in the decision-making process.

3.5.4.2 When the Commissioner decides to reject a contractor's application to close its list of patients, the contractor must not make a further application until:

- the end of the three-month period, starting on the date of the decision of the Commissioner to reject; or
- the end of the three months, starting on the date of the final determination regarding a dispute arising from the decision to reject the application made pursuant to the NHS dispute resolution procedure (or any court proceedings) (please refer to the chapter on managing disputes for further information on the NHS dispute resolution procedure),
whichever is the later.

3.5.4.3 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.

3.5.5 Application to Extend a Closure Period

3.5.5.1 A contractor wishing to extend an agreed closure period must submit an application to the Commissioner no less than eight weeks before the closure period is due to end.

3.5.5.2 A template for completion by the contractor is attached in Annex 6. An example covering letter from the Commissioner to the contractor enclosing an application form is in Annex 7.

3.5.5.3 The Commissioner must acknowledge receipt of the application within seven days, then if necessary, discuss potential support that could be offered to the contractor, discuss with any affected LMC and consult other affected parties before reaching a decision on the application to extend within 14 days from receipt of the application. The Commissioner should use the template consultation letter in Annex 8.

3.5.5.4 If the decision is to accept the application the Commissioner must issue an extended closure notice as soon as possible after the decision is reached to the Contractor, with a copy to the LMC for its area (if any) and to any person it consulted in the decision-making process. The Commissioner should use the template in Annex 9 to ensure that the contractor receives all the relevant information.

3.5.5.5 If the decision is to reject the application then the Commissioner must provide the contractor with a notification, including the reasons for the rejection of the application, with a copy to the LMC for its area (if any) and to any person it consulted in the decision-making process. The Commissioner should use the template in Annex 10.

3.5.5.6 The contractor may re-open its list of patients before the closure period expires if Commissioner and contractor agree.

3.5.5.7 Where an application for the extension of the closure period has been made in accordance with this policy, and that application has been rejected, the list of patients will remain closed until such time as any dispute arising from the application has been resolved through the NHS dispute resolution procedure (or any court proceedings) or until such time as the expiry of the original closure notice. Please refer to the chapter on managing disputes for further information on the NHS dispute resolution procedure.