North & South Essex
Local Medical Committees

New Patient Registration and Applications to Close Lists/Temporarily Cease New Patient Registration

A Guidance Document for Practices

Version 1 - Dated: 21 July 2023

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Introduction

Introduction
● The LMCs are receiving an increasing number of enquiries from practices for information on how to close their lists, either via a formal list closure application, or by temporarily ceasing to accept new patient registrations. The purpose of this guidance is to provide an easy reference for practices considering these options as a means of managing workload to ensure provision of a safe, accessible, and quality service to existing patients.

Formal List Closure

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● To formally close your list to new patient registrations, a formal application must be submitted to the ICB. GMS and PMS Regulations set out the provisions to make a formal application. Prior to making an application, practices are encouraged to enter discussions with the ICB to explore avenues of support that may be available to prevent a practice from taking this action. The LMC can be invited to participate in these discussions. ● If you decide to proceed with the application, it is important to adhere to the requirements of the Regulations, set out in **Appendix A** of this guidance. The Regulations also set out the process that the ICB must follow when considering an application for list closure. The ICB will either approve or reject the application.

Discuss your individual practice problems with the LMC, who will provide you with support in line with the rules and regulations.
Meet with the ICB team to discuss support available to keep your list open, i.e., Resilience Funds, staffing support from other services. Include the LMC in these discussions.
Discuss with your PPG, explaining how and why you have come to the decision to close your list.
Consider options for patient consultation.
Let neighbouring practices/PCN know the problems you are experiencing and seek their views.
Document the options you have considered in trying to address the problems and the outcomes of those considerations.

● If approved, during the period of closure, you can only register new babies or immediate family members of registered patients. Your list will be officially closed to assignment of patients and if the ICB wants to allocate a patient to your list, they can only do so in accordance with provisions set out in Regulations.

● If the ICB rejects a list closure application, they must notify you in writing, including details of the appeal process.

Temporarily Ceasing New Patient Registrations (Refusal to Register New Patients)

Temporarily Ceasing New Patient Registrations (Refusal to Register New Patients)
● GMS & PMS Regulations do not provide for informal list closure, but they do allow practices to decline new patient registrations, provided there are "reasonable and non-discriminatory grounds" for doing so (**Appendix B**). The most likely circumstances when a practice may decide to refuse all new requests for patient registrations are: a) You have reached patient and clinical capacity but do not wish to proceed with a formal application to close your list; or b) Your application to formally close your list has been refused but you cannot continue to safely manage the workload by accepting new patient registration requests. ● Where a practice decides that they cannot routinely accept any new patients, ICB approval is not required. It is, however, good practice to discuss the position with the ICB, to explore support available that would enable the list to remain open to new registrations. If option 'b' above applies, it is likely that all support options have been explored, but as a courtesy, confirm the position to the ICB. In both cases, it is recommended that you keep your PPG and neighbouring practices informed. It is also good practice to put up notices in the waiting room and on your website advising that you are temporarily unable to accept any new patients and explain the reasons why. ● When refusing requests to register, the Regulations require that you keep a list of refusals with the reason why and, if possible, provide the patient with a written notice, explaining the reason for the refusal and a template letter is included in the guidance in **Appendix C**. In these circumstances, you can only register new babies and immediate family members and the ICB can still assign patients to your list.

NHS England: Primary Medical Guidance

NHS England: Primary Medical Guidance
● NHS England Primary Medical Guidance (PMG) sets outs guidance for Commissioners when considering formal list closure applications and temporary suspension of new patient registrations. ● The guidance acknowledges that there are circumstances in which temporary suspension of new patient registrations may be appropriate, recognising that this is a symptom of rising pressures in general practice. Reasons that practices might find themselves in this position could be: ▪ A shortfall in staff (clinical & non-clinical). ▪ Difficulty in recruiting. ▪ An unprecedented surge in demand. ▪ An unexpected event in the practice. ● Practices are advised to approach the Commissioner to discuss support available. The Commissioner may suggest that the practice proceed with a formal list closure application, but this is a decision for the practice, bearing in mind that the application can be refused. ● The guidance does not prescribe a length of time for temporary suspension of new patient registrations as this will be dependent on individual circumstances. In the LMC experience, the Commissioner will try to suggest a length of time and apply pressure on a practice to make a formal list closure application; such pressure should be resisted, and support sought from the LMC. ● The guidance suggests certain circumstances when temporary suspension to register new patients is not appropriate, **which are not supported by the LMC:** ▪ When the practice considers its list is full. ▪ For long term sickness absence. ▪ For issues expected to continue for more than three months. ▪ Because a formal closure application has been refused. ● The full NHS England guidance, which also sets out support measures that the Commissioner can consider, is lengthy and not to be regurgitated here, but can be found in **Appendix D**.

Appendix A

Appendix A
PART 3 **Lists of patients:** **Application for closure of list of patients** **33.**— (1) Where a contractor wants to close its list of patients, the contractor must send a written application to that effect ("the application") to the Board. (2) The application must include the following information— (a)the options which the contractor has considered, rejected, or implemented in an attempt to alleviate 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) details of any discussions between the contractor and its patients and a summary of those discussions including whether or not, in the opinion of those patients, the list of patients should be closed. (c)details of any discussions between the contractor and the other contractors in the contractor's practice area and a summary of the opinion of the other contractors as to whether or not the list of patients should be closed. (d)the period of time, being a period of not less than three months and not more than 12 months, during which the contractor wants its list of patients to be closed. (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 the proposed closure to be minimised. (f)any plans which the contractor may have to alleviate the difficulties mentioned in the application during the period of the proposed closure in order for that list to re-open at the end of that 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.

(3) The Board must acknowledge receipt of the application before the end of the period of seven days beginning with the date on which the Board received the application.

(4) The Board must consider the application and may request other information from the contractor as the Board requires in order to enable it to determine the application.

(5) The Board must enter into discussions with the contractor concerning—

(a) the support which the Board may give to the contractor; or

(b) any changes which the Board or the contractor may make,

which would enable the contractor to keep its list of patients open.

(6) The Board and the contractor must, throughout the period of the discussions referred to in sub-paragraph (5), use reasonable endeavours to achieve the aim of keeping the contractor's list of patients open.

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

(8) 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 the Board does so, it must provide to the contractor a summary of the views expressed by those persons consulted in respect of the application.

(9) 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.

(10) A contractor may withdraw the application at any time before the Board makes a decision in respect of that application.

(11) The Board must, before the end of the period of 21 days beginning with the date on which the application was received by the Board (or within such longer period as the parties may agree), make a decision to—

(a) approve the application and determine the date from which the closure of the contractor's list is to take effect; or

(b) reject the application.

(12) The Board must give notice in writing to the contractor of its decision to—

(a) approve the application in accordance with paragraph 34; or

(b) reject the application in accordance with paragraph 35.

(13) A contractor may not submit more than one application to close its list of patients in any period of 12 months beginning with the date on which the Board makes its decision on the application unless—

(a) paragraph 36 applies; or

(b) there has been a change in the circumstances of the contractor which affects its ability to deliver services under the contract.

Approval of an application to close a list of patients

34.— (1) Where the Board approves an application to close a contractor's list of patients, the Board must—

(a)give notice in writing to the contractor of its decision as soon as possible and the notice ("the closure notice") must include the details specified in sub-paragraph (2); and

(b) at the same time as the Board gives notice to the contractor, send a copy of the closure notice to—

(I) the Local Medical Committee (if any) for the area in which the contractor provides services under the contract, and

(ii) any person who the Board consulted in accordance with paragraph 33(8).

(2) The closure notice must include—

(a) the period of time for which the contractor's list of patients is to be closed which must be—

(i) the period specified in the application, or

(ii) where the Board and the contractor have agreed in writing to a different period, that different period, and, in either case, the period must not be less than three months and not more than 12 months.

(b) the date on which the closure of the list of patients is to take effect ("the closure date"); and

(c) the date on which the list of patients is to re-open.

(3) Subject to paragraph 37, a contractor must close its list of patients with effect from the closure date and the list of patients must remain closed for the duration of the closure period as specified in the closure notice.

Rejection of an application to close a list of patients

35.— (1) Where the Board rejects an application to close a contractor's list of patients it must—

(a)give notice in writing to the contractor of its decision as soon as possible, including the Board's reasons for rejecting the application; and

(b) at the same time as it gives notice to the contractor, send a copy of the notice to—

(i) the Local Medical Committee (if any) for the area in which the contractor provides services under the contract, and

(ii) any person who the Board consulted in accordance with paragraph 33(8).

(2) Subject to sub-paragraph (3), if the Board rejects an application from a contractor to close its list of patients, the contractor must not make a further application to close its list of patients until whichever is the later of—

(a) the end of the period of three months beginning with the date on which the Board's decision to reject the application was made; or

(b) in a case where a dispute arising from the Board's decision to reject the application has been referred to the NHS dispute resolution procedure, the end of the period of three months beginning with the date on which a final determination to reject the application was made in accordance with that procedure (or any court proceedings).

(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 the contractor's ability to deliver services under the contract.

Application for an extension of a closure period

36.— (1) A contractor may apply to extend the closure period by sending a written application ("the application") to that effect to the Board no later than eight weeks before the date on which the closure period is due to expire.

(2) The application must include the following information—

(a) details of the options which the contractor has considered, rejected, or implemented in an attempt to alleviate 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 wants its list of patients to remain closed (which may not be longer than 12 months).

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

(d) details of any plans which 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 that 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.

(3) The Board must acknowledge receipt of the application before the end of the period of seven days beginning with the date on which the Board received the application.

(4) The Board must consider the application and may request other information from the contractor as it requires in order to enable it to decide the application.

(5) The Board may enter into discussions with the contractor concerning—

(a) the support which the Board may give to the contractor; or

(b) any changes which the Board or the contractor may make,

which would enable the contractor to re-open its list of patients.

(6) The Board must determine the application before the end of the period of 14 days beginning with the date on which the Board received that application (or before the end of such longer period as the parties may agree).

(7) The Board must give notice in writing to the contractor of its decision to approve or reject the application to extend the closure period as soon as possible after making that decision.

(8) Where the Board approves an application, the Board must—

(a) give notice in writing to the contractor of its decision ("the extended closure notice") which must include the details referred to in sub-paragraph (9); and

(b) at the same time as it gives notice in writing to the contractor, send a copy of the extended closure notice to—

(i) the Local Medical Committee (if any) for the area in which the contractor provides services under the contract, and

(ii) any person who the Board consulted in accordance with paragraph 33(8).

(9) The extended closure notice must include—

(a) the period of time for which the contractor's list of patients is to remain closed which must be—

(i) the period specified in the application, or

(ii) where the Board and contractor have agreed in writing a different period to the period specified in that application, that agreed period,

and, in either case, the period ("the extended closure period") must not be less than three months and not more than 12 months beginning with the date on which the extended closure period is to take effect.

(b) the date on which the extended closure period is to take effect; and

(c) the date on which the contractor's list of patients is to re-open.

(10) Where the Board rejects an application, it must—

(a) give notice in writing to the contractor of its decision including its reasons for rejecting the application; and

(b) at the same time as it gives notice to the contractor, send a copy of the notice to the Local Medical Committee (if any) for the area in which the contractor provides services under the contract.

(11) Where an application is made in accordance with sub-paragraphs (1) and (2), the contractor's list of patients is to remain closed pending whichever is the later of—

(a) the determination by the Board of that application; or

(b) in a case where a dispute arising from the Board's decision to reject the application to extend the closure period has been referred to the NHS dispute resolution procedure, the contractor ceasing to pursue that dispute through that procedure (or any court proceedings).

Re-opening of list of patients

37. The contractor may re-open its list of patients before the expiry of the closure period if the Board and the contractor agree that the contractor should do so.

Appendix B

Appendix B

The NHS (General Medical Services Contract) Regulations 2015
(These provisions are reflected in PMS Regulations)

Refusal of applications for inclusion in list of patients or for acceptance as temporary resident

21.—(1) The contractor may only refuse an application made under paragraph 18 or 20 if the contractor has reasonable grounds for doing so which do not relate to the applicant's age, appearance, disability or medical condition, gender or gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sexual orientation or social class.

(2) The reasonable grounds referred to in sub-paragraph (1) may, in the case of an application made under paragraph 18, include the ground that the applicant—

(a) does not live in the contractor's practice area; or

(b) lives in the outer boundary area (the area referred to in regulation 20(3).

(3) Where a contractor refuses an application made under paragraph 18 or 20, the contractor must give notice in writing of that refusal and the reasons for it to the applicant (or, in the case of a child or an adult who lacks capacity, to the person who made the application on their behalf) before the end of the period of 14 days beginning with the date of its decision to refuse.

(4) The contractor must—

(a) keep a written record of—

(i) the refusal of any application made under paragraph 18, and

(ii) the reasons for that refusal; and

(b) make such records available to the Board on request.

Appendix C

Appendix C

TEMPLATE LETTER – REFUSAL TO REGISTER AN APPLICATION FOR REGISTRATION

Dear Patient

Application for Registration

Thank you for your application to register at “name of practice.”

We are sorry that we are currently unable to accept your application. We are committed to providing a safe, accessible, and quality medical service to our patients. As a consequence of current “workload pressures/recruitment/GP vacancies, insert reasons,” our list is currently closed to new patient registrations/we have temporarily halted new patient registrations, in order that we can maintain a quality and safe service to our existing patients.

We will update our website www……. when we find ourselves in a position to open our list/take on new patients.

Yours sincerely

Appendix D

Appendix D
Temporary suspension to patient registration **Formal List Closure** 5.1.1 The GMS and PMS contracts allow for a Practice to request permission from its commissioner to close its list to new patients (Paragraph 33 of Schedule 3, Part 2 of the NHS (GMS Contracts) Regulations 2015 This option exists to give practices a degree of workload control over the management of their services, particularly when there is unusual and sustained demand from patients or in situations of workforce or recruitment difficulties that affect a practices ability to provide services to an acceptable and safe standard. 5.1.2 As the commissioner also has a duty to ensure the availability of primary care services for the resident population it has certain powers with regard to these requests including agreeing to the length of the closure and the conditions that would need to exist to trigger a re-opening of the list. The commissioner will also need to consider the availability of alternative provision for new patients and any impact on neighbouring practices. Following changes to the formal list closure process in 2012, the commissioner does not have the power to halt practices' delivery of additional and/or enhanced services as a means to reduce practice workload thereby keeping the patient list open. Therefore, list closure no longer carries such financial consequences for the practice as it was once thought to have and allows practices to continue to deliver holistic care to registered patients. 5.1.3 When a practice does formally close its list, the requirement is to close between three and twelve months; not less than three months. An approved closure notice must specify the time period. **'Informal' or 'Temporary' List closure** 5.2.1 While the GMS and PMS contracts do not allow for a 'temporary' or 'informal' list closure they do allow for a practice to refuse individual patient applications for inclusion in a contractors list of patients providing there are reasonable non-discriminatory grounds to do so (paragraph 21 of Part 2 of Schedule 3). See appendix A. In this guidance we distinguish a patient refusal on a case-by-case basis, based on the patient circumstances, from a refusal to allow a patient to join the list because of the circumstances surrounding the provider and so do not consider paragraph 17 to be appropriate in these circumstances. 5.2.2 Practices can, however, suffer unforeseen pressures that can reasonably be predicted to be short term. In these circumstances there may be a real or perceived risk to 'safe patient care' by accepting more new patients onto the list and action to address this by the practice should be received by the commissioner as a trigger for support and help. 5.2.3 NHS England has seen a significant rise in the number of practices suspending registration on a temporary basis causing a significant problem for patients, neighbouring practices, and commissioners in some areas. 5.2.4 Practices do not exist in isolation so when a practice restricts new patient registration, this has an impact not only on patients but on neighbouring practices. It is for these types of circumstances that the formal list closure. 5.2.5 procedure exists to allow for a considered and managed approach to list management across all practices.

5.2.6 Because of the potential impact of “temporary suspension” NHS England encourages practices to open a dialogue with their commissioner as early as possible when considering temporary suspension.
5.2.7 These guidelines for commissioners describe the circumstances where a temporary suspension by the contractor of patient registration may be appropriate and the conditions that should govern that decision such that the roles and responsibilities of both parties are not compromised. Overview of current activity.
5.3.1 The increase in a temporary suspension of patient registration is a symptom of rising pressure in primary care, which creates a risk to patients, neighbouring practices, and the commissioner; however, the risk to patients being registered with an oversubscribed practice should also be taken into account. Facts/Principles.
5.4.1 Addressing practices seeking to ‘Informally’ or ‘Temporarily’ suspend patient registration onto their list should be in the context of the General Practice Forward View and NHS England’s commitment to supporting practices in difficulty.
5.4.2 However, NHS England has a duty to ensure that patients have access to primary care.
• Core services include operating an open list by the fact of regulation and is how NHS England ensures access to services; the NHS Act confers a duty on the commissioner to ensure the provision of services
• Any actions considered by the commissioner should ensure system-wide, safe, quality, and accessible core services to patients and be proportionate and sensitive to the providers concerned.
• NHS England and CCGs/ICBs as Commissioners have a responsibility to address health inequalities
• Commissioners and providers must work together to ensure compliance with the Equality Act, ensuring the rights of those with protected characteristics are not directly or indirectly compromised.
• Good medical practice states that if a GP is aware that patient safety is being compromised, then they have a professional duty to act.
• The unintended impact of any action needs to be considered in relation to both registered patients and unregistered patients in the locality as well as the impact on other local providers of both primary (GP and pharmacy) and secondary care.
5.4.3 The commissioner has the right to assign patients throughout the period that the list is not formally closed having due regard to the quality and safety of services and the reasons behind the list closure in the first place Issues to be taken into consideration.
5.5.1 NHS England acknowledges that things can rapidly change within practices. These may include for example.
• An immediate and unpredicted shortfall in the availability of staff e.g., through sickness or a delay to a staff appointment
• An unpredicted surge in demand • An unexpected event affecting a practice’s ability in the short term to provide the full range of services normally available e.g., a flood or a fire (See Force Majeure provisions of the standard GMS, PMS and APMS contracts).
• Impact on a practice of an unfavourable CQC inspection where remedial action temporarily affects normal service provision.
5.5.2 In some circumstances the action required to remedy a problem may take several months and in others just a few weeks, for example, a planned short-term suspension of registration as part of a recovery plan through the vulnerable practice programme. Alternatively, practice capacity may be temporarily compromised by premises development or IT upgrades. Under these circumstances, it would be usual to expect planning and communication with patients in advance with a specific start and end date and disruption measured in weeks not months.
5.5.3 In all but exceptional circumstances Practices should approach the commissioner in advance so that an action plan that minimises the impact on patients can be considered jointly at the earliest opportunity and so that immediate support from the commissioner can be put into action. A request to temporarily suspend patient registration should be considered by the commissioner as a trigger for support as it should for a formal application to close the list.
5.5.4 This guidance does not prescribe what length of time approval of a temporary list suspension is appropriate as this will vary depending on the circumstances. The keywords are unpredictable and/or short term. In circumstances where there is a known history of difficulty in recruitment including the availability of locums or the circumstances affecting the practice can be predicted to last longer e.g., a planned refurbishment or a rebuilding programme scheduled to last month’s say following a flood or a fire, the formal list closure procedure should be encouraged.
5.5.5 In both cases the practice’s eligibility for support through the Practice Resilience Programme should be considered by the commissioner.

5.5.6 **Circumstances in which an 'informal' or 'temporary' list closure is not appropriate (list not exhaustive)**

- When the practice considers its list is full (a formal application should be made)
- For long term sickness absence (a formal application should be made)
- For issues expected to be longer term (e.g., over 3 months) • Because a formal closure application has been declined

Process to be adopted.

5.6.1 All practices should be encouraged to contact their commissioner at the earliest possible opportunity i.e., at the point that suspension to registration is being considered so that the provider and commissioner can work together to agree on what support is required.

5.6.2 At this point commissioners should

- seek to understand the reasons behind the action
- engage the LMC at the time of a decision as the LMC also carries a responsibility for representing all their affected parties

• Facilitate what action needs to take place by the practice and/or by the commissioner for the list to be re-opened. If actions can reasonably be expected to take longer than 3 months, then the Practice should be asked to make a formal application to close its list.

5.6.3 Actions should trigger consideration of the practice resilience programme or use of section 96 e.g., a diagnostic/review of the difficulties faced and recommended action.

5.6.4 At the end of the agreed period when a temporary suspension of patient registration has occurred, the list would normally re-open. There are only two alternative outcomes.

- If the situation is almost resolved for example an appointment has been made but the post not yet filled (for example by a week or two later) an extension to the temporary arrangement can be negotiated
- Despite support to deliver an action plan the practice continues to feel compromised. The commissioner should then consider an application for formal list closure, which will require wider consultation. The parties will need to agree on the status of the practice list during the formal process, whether, having regard to all local circumstances, the practice should continue to operate a temporary suspension to patient registration.

5.6.5 These guidelines have been drafted in recognition of the immediate pressures facing some practices; they do not, however, sanction the term 'open but full.' Where a practice is failing to engage with the commissioner, and unilaterally seeking to determine its own restrictions on patient access, without consideration of the impact on patient access generally or the implications for neighbouring practices, then contractual action may need to be considered.

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