To all practices Surrey and Sussex LMCs

28th March 2022

Dear Colleagues

Regulatory procedure if a practice wishes to apply to close its list

All practices are entitled to apply to the CCG to close their list to new patient registrations, and there is a clear process to be followed. The applicable Regulations are included as Appendix A

A summary of the process is as follows:

1. Although not required under the Regulations, the LMC recommends all practices contact their CCG Contract Manager to discuss any list closure application. This is because, within the SSLMC area, CCG colleagues acknowledge the challenges facing GP practices at present and may informally support a 'list capping' process which whilst less restrictive than a formal application to closure, may be helpful as a temporary measure especially if capacity is limited for the foreseeable short term. CCG colleagues recognise a 'list capping' approach which is non-discriminatory and a substitute for a list closure application. The LMC has a "list capping" pack available from the LMC Office on request

2. If an application to close the list is being considered, this will need to include the following information: -

    a. Options the GP practice have considered as an alternative to an application to close the list, as the underlying assumption is NHS GP lists remain open. The options are not specified but as the issue is the difficulty in maintaining an open list, this may include personnel recruitment, building infrastructure capacity, and use of remote consultations. In the LMCs view it could also include 'list capping'. If any options were implemented, this should then also include whether they were successful, or (more likely given the application being made) why they were not, or why the options were not implemented.
    b. Details of patient engagement; this should be via the practice PPG. Practices should obtain the support of their PPG for any list closure application.
    c. Details of discussions with any other practices in the practice boundary [if any] and their opinion on the list closure application. There is no requirement to have had any such discussions, so it is permissible to say none have been had, the requirement is to report on the outcome of any such discussions. This is a matter for each practice; in many but not all cases it is unlikely neighbouring practice(s) within the practices boundary will support list closure as it will inevitably, if successful, increase the number of registration applications made to such practice(s)
    d. The period of time the list closure is required: this must be between three and twelve months and should reflect the underlying reason(s) and the likelihood of any resolution(s) within a given timescale

Local Medical Committees for
Croydon, Kingston & Richmond, Surrey,
East Sussex and West Sussex

The White House
18 Church Road
Leatherhead
Surrey KT22 8BB

T: 01372 389270
F: 01372 389271

www.sslmcs.co.uk

e. What support the practice considers the CCG could offer to mean a list closure application need no longer be made, or be made for a shorter period
f. What plans the GP practices has to try and address the reason(s) for applying to close the list; this is likely to follow on from (a)
g. Any other issues the practice wish to raise

3. The CCG must acknowledge the application within seven days of receiving it, and must respond in writing within twenty-one days, although this timescale can be extended by mutual agreement

4. During this period the CCG must: -

    a. Consider the application and any further information it wishes to request from the practice, which the practice should provide as the premise is that both parties should endeavour to see how the list could be kept open
    b. Consider what assistance and support could be given to the practice which would enable the list to be kept open (this therefore should be reflected in point (e) above in the list closure application). This may include changes to the current practice boundary, especially in situations where some of the current boundary is not overlapped by any other practice.
    c. Involve the LMC in any meetings between the CCG and practice; any practice is welcome to contact the LMC at any stage, including before any application being made
    d. The CCG may consult such persons as it appears may be affected by the list closure; in practice this would normally be expected to include neighbouring practices. The CCG may contact others, but in any event, it must provide a summary of any views obtained via this process to the applying practice
    e. The practice is entitled to consider and comment on all the information available prior to the CCG making a decision

5. The application can be withdrawn at any stage

6. The CCGs written decision must be to:

    a. Approve the application, giving the date from which, the list closure commences, and the date at which the list will reopen, which may be different to the original application if both the practice and CCG agreed this in writing, but cannot be for less than three months or longer than twelve months
    b. Reject the application

7. If the CCG rejects a list closure application, it must do so in writing, and include the CCGs reasons for refusing the application.

8. Normally a further application to close a list cannot be made until after three months from the date of the CCGs refusal to allow the list to be closed, although this timescale can be waived if there are changes in the practices' circumstances which affect its ability to deliver the contract. These are not defined, but in the LMCs view would need to be new; that is, having arisen after the application was made and not included in any discussion prior to the CCGs decision

9. There are also clauses relating to an application to extend the period of list closure if this is agreed.

10. Once a practice list is closed, they should not accept any applications to register, except of first degree/same household relatives, such as new-born babies and adopted children. There is no provision in the Regulations to stipulate other exceptions, such as residents of local Care and Residential Homes. The CCG cannot allocate patients to a closed list without convening a formal Panel to do so. If a practices' list is "capped" allocations are still allowable

This describes the regulatory position; all practices are entitled to consider an application to close their lists based on their individual circumstances; it maybe particularly pertinent to do so if a period of 'list capping' has failed to alleviate any pressures of capacity within the practice. There is no link between list capping and the practices entitlement to deliver non-core services, such as Locally Commissioned Services.

GP colleagues may be aware of other GPC publicity in relation to list closure and will be aware this was an option with the Indicative Ballot undertaken in Autumn 2021. However, the LMC is providing this guidance for information only and so that each practice may consider this option carefully as a contractual entitlement, based on their individual circumstances.

With best wishes

Dr Julius Parker
Chief Executive

APPENDIX A

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 such 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[1]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