

To: All Practices in Surrey and Sussex LMCs

25 June 2018

Dear Colleagues

**Expectations in relation to Care and Extended Hours and the reasonable needs of patients**

I am writing to all practices as, either from NHS England, or, if your CCG is delegated, on behalf of NHS England via your CCG, all practices are likely to receive a spreadsheet to complete which focuses on your core hours, Extended Hours DES, and what are described as the reasonable needs of your registered patients in terms of delivering your contractual services.

**Please note not all CCGs are sending out the questionnaire; if your practice has not received it, this letter is currently not required**

The spreadsheet completion request may not be identical across all CCGs, but there will be some common themes that practices will be invited to answer. As an introduction the LMC does agree that the following advice from NHS England complies with the Regulations:

- That practices core contract hours are between 8.00am and 6.30pm on weekdays except Bank Holidays
- That practices are not eligible to undertake the Extended Hours DES if they close on a half day on a weekly basis (unless this is agreed with NHS England/CCG).
- Sub-contracting arrangements on the Contractor's behalf require reporting to the Commissioner, CCG/NHS England. The Regulations **do not** say that these arrangements require approval by the Commissioner, but they do give grounds under which NHS England/CCGs may object to the sub-commissioning arrangements, given in writing to the practice, with reasons
- Alternative arrangements in place during core hours must allow patients to access essential services which meet the reasonable needs of patients.

One key element of NHS England's advice is what is meant by the reasonable needs of patients, which is not further defined within the contract; NHS England has circulated guidance that states that the following services should be available to patients during core hours.

- Ability to attend a pre-bookable appointment face to face
- Ability to book/cancel appointments
- Ability to collect/order a prescription
- Access urgent appointments/advice as clinically necessary
- Home visits, where clinically necessary
- Ring for telephone advice

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

The White House    **T:** 01372 389270  
18 Church Road    **F:** 01372 389271  
Leatherhead  
Surrey KT22 8BB    [www.sslmcs.co.uk](http://www.sslmcs.co.uk)

And, if a sub-contracting arrangement is in place:

- Patients should have access to a receptionist/clinician over the phone and not be given an answerphone message
- Patients should not have to redial a further number
- The sub-contractor should have access to the patient's clinical record, over and above the Summary Care Record
- The alternative should be local and easily accessible by public transport

Colleagues will appreciate that some of these points overlap with, for example, on-line services already accessible by patients. I have written to David Geddes noting a strict adherence to this guidance could compromise locality work and the Protected Learning Times Events supported by many CCGs, and had reassurance that NHS England's guidance is not intended to undermine these events.

However, more significantly, colleagues should note that the LMC and GPC do not agree that this guidance correctly or appropriately interprets the current GMS/PMS contract, and, accordingly, practices should not accept this list as representing their contractual obligation. In consequence, practices should not, on the LMC's advice (which NHS England and CCGs are aware) feel under any obligation to complete those sections of the spreadsheet which confirms whether or not such services are available to patients. The GPC's advice is available as below:

<https://www.bma.org.uk/advice/employment/gp-practices/service-provision/access-to-gps-for-patients>

There are details that practices can feel are appropriately reportable to NHS England (or CCG as Commissioner); taking the example of the NHS spreadsheet, the LMC would provide the following advice; if your CCG seeks to ask additional questions, please contact the LMC for advice.

### **1. Was the eDEC submission made by the practice in respect of its opening hours correct/accurate?**

Comment: NHS England/CCG is deriving its information from the practices eDEC: this should be accurate at the time it was submitted, but if there have been more recent changes, you can give updated details.

### **2. Is a reception accessible to patients either physically or by phone during any period of closure? i.e. own or subcontracted surgery?**

Comment: The LMC recommends practices do not answer this question directly, and instead say that "arrangements are in place to meet the reasonable needs of patients during core hours"



**3. What arrangements are in place for patients to access services (i.e. meet the reasonable needs of patients in accordance with the contract) during periods of closure within contracted hours?**

**If the practice have any subcontracting arrangements in place - please provide:**

- Name & Address of the subcontractor
- Address of premises used for service provision
- Distance from main surgery
- Duration of sub-contract

Comment: The LMC recommends practices who have formal sub-contracting arrangements for cover, for example with OOHs services, provide such details as they can of the questions listed; however, these arrangements may be renewable annually. If the practice has no formal sub-contracting arrangement the LMC recommends instead that you say *"arrangements are in place to meet the reasonable needs of patients during core hours"*

There is no Question 4 in the template provided to the LMC

**5. What services are provided under the sub-contracting arrangements?**

**6. As part of the sub-contracting arrangements are patients able to**

- a) Visit the reception of the sub-contracting provider
- b) Attend a pre-bookable appointment (face to face)
- c) Book/cancel appointment?
- d) Collect/order a prescription
- e) Access urgent appointments/advice as clinically necessary
- f) Request a Home Visit (where clinically necessary)?
- g) Receive telephone advice?
- h) Access the alternative service locally by public transport
- i) Be referred to other services where clinically urgent?
- j) Access urgent diagnostics and take action in relation to urgent results

**7. When the alternative providing is operating, what are the arrangements when a patient needs to speak to either a receptionist or clinician?**

**8. Can the sub-contractor have access to the patient's clinical record (not just the summary care record?)**

Comment: The LMC recommends practices provide no details under these questions, unless a formal sub-contacting agreement is in place: if it is practices should respond accurately. Whether these questions are answered in detail (because there is a formal sub-contracting arrangement) or not (because there is not) the LMC recommends practices [also] say *"arrangements are in place to meet the reasonable needs of patients during core hours"*

**9. Has the practice consulted the PPG to determine whether its current opening hours and subcontracting arrangements meet the reasonable needs of the patients?**

Comment: the LMC recommends practices say *"arrangements are in place to meet the reasonable needs of patients during core hours"* but supplement this with any evidence of discussion or engagement with their PPG regarding practice opening times, including (if undertaken) the Extended Hours DES, if such evidence exists.

**10. When did the practice last make this assessment and engage with the PPG?**

Comment: the LMC suggests linking the response to (9) with any dates

**11. Do patients understand the arrangements?**

Comment: the LMC recommends this question is left blank since it does not seem one to which an accurate answer can be provided with complete assurance.

**12. Do patients have any concerns with service provision during core hours when the alternative service is operating?**

Comment: If the practice has any evidence, either positive or negative, about patient views when an alternative service within core hours is operating (this does not apply to OOHs arrangements, since these are outside core hours) in ..... of comments, complements, complaints or other feedback, the LMC suggest including this (for the previous year or so).

**13. How are patients informed of opening hours?**

Comment: Please describe the information provided to patients across all modes about your core hours opening

**14. Please describe the patient demographics of the PPG?**

Comment: Under Para. 26(2) practices must make, annually, "reasonable efforts" to review their PPGs membership in order to ensure that the Group is representative of its registered patients.

As this is a contractual requirement the LMC's view is that a commissioner is entitled to receive answers to the questions under (13) as it represents a demonstration that a practice is making such "reasonable efforts", including whether there are any difficulties. Practices with virtual PPGs should indicate if this creates any difficulties in answering these questions.

**15. How has the practice reflected on any trends in its GP Patient Survey results?**

Comment: This may be answered with reference to any practice/partnership meetings that have covered this point

**16. Have the practice completed any analysis of patient behaviour when the practice is closed/subcontracted?**

Comment: There is no contractual requirement to undertake this analysis so unless it has been fortuitously undertaken for other reasons, practices should either say 'no', or 'no the LMC advises there is no contractual requirement to undertake such an analysis', depending on how you are feeling.

**17. Have the practice completed any analysis in relation to patient flows to A&E or urgent care services when the practice is closed or subcontracted?**

Comment: There is no contractual requirement to undertake this analysis so unless it has been fortuitously undertaken for other reasons, practices should either say 'no', or 'no the LMC advises there is no contractual requirement to undertake such an analysis', depending on how you are feeling.

**18. How many complaints has the practice received regarding access in 17/18?**

Comment: The LMC recommends this question is answered, in relation only to core hours.

**19. Has the practice had any significant events arising that could be attributed to its current pattern of opening/ subcontracting arrangements?**

Comment: The LMC recommends this question is answered, in relation only to core hours.

NHS England has requested the following are prioritised for identification by the Commissioner:

- Practices undertaking the Extended Hours DES if they are not eligible to do so
- Practices closed on a regular, weekly basis for a half day
- Practices regularly closed > 7.5 hours during each week's core hours

I hope this background and advice from the LMC is helpful: practices are welcome to contact the LMC if the response

With best wishes

Yours sincerely

A handwritten signature in black ink, appearing to be 'JP', followed by a long horizontal line extending to the right.

Dr Julius Parker  
Chief Executive



## Appendix

Details of the relevant GMS Regulations for the main issues highlighted in the above sections.

Regulations - core hours and service delivery

### **GMS (Part 1, General)**

#### **Interpretation**

3. In these Regulations— ...

"core hours" means the period beginning at 8.00am and ending at 6.30pm on any day from Monday to Friday except Good Friday, Christmas Day or bank holidays;

### **GMS (Part 5, Contracts: required terms)**

#### **Services: general**

20.—...

1. A contract must also—

- a. state the period (if any) for which the services are to be provided except where those services are—
  - i. essential services,
  - ii. additional services funded under the global sum, and
  - iii. out of hours services;
- b. contain a term which requires the contractor to provide—
  - i. essential services, and
  - ii. additional services funded under the global sum,
 

at such times, within core hours, as are appropriate to meet the reasonable needs of patients; and
- c. contain a term which requires the contractor to have in place arrangements for its patients to access essential services and additional services funded under the global sum throughout the core hours in case of emergency.

Regulations - subcontracting arrangements during core hours

### **GMS (Schedule 3, Part 5, Sub contracting)**

(1) Subject to sub-paragraph (2), the contractor must not sub-contract any of its rights or duties under the contract in relation to clinical matters to any person unless-

(a) In all cases, including those duties relating to out of hours services to which paragraph 45 applies, it has taken reasonable steps to satisfy itself that-

(i) It is reasonable in all the circumstances to do so, and

(ii) The person to whom any of those rights or duties is sub-contracted is qualified and competent to provide the service; and

(b) Except in cases to which paragraph 45 applies, the contractor has given notice in writing to the board of its intention to sub contract as soon as reasonably practicable before the date on which the proposed sub-contract is intended to come into effect

(2) Sub-paragraph (1)(b) does not apply to a contract for services with a health care professional for the provision by that professional personally of clinical services

(3) A notice given under sub-paragraph (1)(b) must include-

(a) the name and address of the proposed sub-contractor;

(b) the duration of the proposed sub-contract

(c) the services to be covered by the proposed sub-contract; and

(d) the address of any premises to be used for the provision of services under the proposed sub-contract

(4) On receipt of a notice given under sub-paragraph (1)(b), the Board may request such further information relating to the proposed sub-contract as appears to it to be reasonable and the contractor must supply such information to the Board promptly.

(5) The contractor must not proceed with a sub-contract or, if the sub-contract has already taken effect, the contractor must take steps to terminate it, where—

(a) the Board gives notice in writing of its objection to the sub-contract on the grounds that the sub-contract would—

(i) put the safety of the contractor's patients at serious risk, or

(ii) put the Board at risk of material financial loss, and notice is given by the Board before the end of the period of 28 days beginning with the date on which the Board received a notice from the contractor under sub-paragraph (1)(b); or

(b) the sub-contractor would be unable to meet the contractor's obligations under the contract.

(6) A notice given by the Board under sub-paragraph (5)(a) must include a statement of the reasons for the Board's objection

## Regulations - patient participation

26.— (1) The contractor must establish and maintain a group known as a "Patient Participation Group" comprising some of its registered patients for the purposes of-

- a. obtaining the views of patients who have attended the contractor's practice about the services delivered by the contractor; and
  - b. enabling the contractor to obtain feedback from its registered patients about those services.
1. The contractor is not required to establish a Patient Participation Group if such a group has already been established by the contractor in accordance with any directions about enhanced services which were given by the Secretary of State under section 98A of the 2006 Act(1) (exercise of functions) before 1st April 2015.
  2. The contractor must make reasonable efforts during each financial year to review the membership of its Patient Participation Group in order to ensure that the Group is representative of its registered patients.
  3. The contractor must—
    - a. engage with its Patient Participation Group, at such frequent intervals throughout the financial year as the contractor must agree with that Group, with a view to obtaining feedback from the contractor's registered patients, in an appropriate and accessible manner which is designed to encourage patient participation, about the services delivered by the contractor; and
    - b. review any feedback received about the services delivered by the contractor, whether by virtue of sub-paragraph (a) or otherwise, with its Patient Participation Group with a view to agreeing with that Group the improvements (if any) which are to be made to those services.

The contractor must make reasonable efforts to implement such improvements to the services delivered by the contractor as are agreed between the contractor and its Patient Participation Group.