

## **LMC Guidance – Registering New Patients**

### **Registration of New Patients**

When approached by a new patient wishing to register with your practice, it is important that you always operate a fair and consistent policy with regard to the registration. So long as you are operating within the bounds of your policies, your contractual obligations and do not discriminate your practice can register, or refuse, as they see appropriate against registering a patient on the grounds of:

- race
- gender
- social class
- age
- religion
- sexual orientation
- appearance
- disability
- medical condition

There are some proposed draft policies which you may wish to consider at the end of this guidance.

The link below will take you to the relevant part of the GMS regulations which cover your contractual obligations with regard to patient registration.

<http://www.legislation.gov.uk/ukxi/2004/291/schedule/6/part/2/made>

Extensive amendments have been made with regard to closed list arrangements (enforced as of 30 April 2012). At the end of this guidance you will find an extract from Schedule 6, Part 2 – Patients. This will provide you with the full Regulations with regard to registering patients and I have highlighted the new Regulations with regard to closed list arrangements for your ease.

### **Refusing Registration of New Patients**

Whether or not a patient's request for registration can be refused by a practice is a complex area but the golden rule is that you must always use a consistent approach. A practice can refuse to register any patient as long as the grounds are not discriminatory (see list above). Any other reasonable reason is acceptable and this may include the inability of the practice to provide the service because of resource issues. It is, however, imperative that any application of a non-discriminatory reason is applied consistently to all applicants.

There is also a requirement to notify the applicant in writing of the refusal and the reason for it, and to keep a record of refusals and the reasons for them and make them available to the PCT on request. There is one important proviso in all this, and that is the definition of an application. The regulations are clear that an application is made by delivering to the practice premises a medical card or an application signed by the applicant or a person authorised by the applicant to sign on his behalf; in practice this means that the majority of refusals do not follow an 'application' as they are oral applications with oral refusals. Whether or not the application is a

formal written one or an oral one we must stress that there should be no discrimination and that a consistent approach is required.

### Open but Full Lists

This is a term that is confusing and disliked by many but in essence it covers the situations where the surgery is not formally closed to new patients but it is not, in practice, accepting new registrations except in exceptional circumstances such as from patients allocated by the PCT or from family members of existing patients. A practice has a right to say their list is open but full - but it is important to remember you may be called upon to justify any decisions taken and that those decisions are seen to be fair. Therefore, it is a good idea to identify criteria, which you use to make decisions for declining patient applications.

### Closed Lists

The new Regulations which came into force 30 April 2012 (highlighted at the end of this guidance) reduce the contractual implications of closing a list and reduce the necessity for 'open but full' lists. Practices which do not wish to have patients assigned to their list by the PCT will still be required to work through a list closure procedure as set out in the General Medical Services (GMS) contract whereby the practice must apply to the local PCT and the closure period will then be for a minimum of 3 months and a maximum of 12 months (though an extension to a closure period, so long as it does not exceed the 12 months maximum, can be requested). It should also be easier to re-open lists prior to expiry of the closure period with PCT agreement.

### Registering Overseas Patients

When approached by an overseas visitor who does not require emergency or immediately necessary treatment, practices have some degree of discretion under the contract regulations about whether to register the person. Practices, if their list of patients is open, may accept overseas visitors as temporary residents, if they will be in the area for 24 hours to three months, or may accept an overseas visitor's application for inclusion in their patient list. Persons applying for registration cannot be turned down for reasons relating to the applicant's race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition.

Overseas visitors have no formal obligation to prove their identity or immigration status to register with a practice. However, asylum seekers may be able to show an Immigration Service issued 'Application Registration Card' (ARC) or official documents that confirm their status. Where practices have a policy of asking applicants for identification then it should be for all patients and not just overseas visitors. We advise practices to use their discretion and consider the individual circumstances of an overseas visitor who can not provide documents that they would normally require for patient registration.

### Fraudulent Registration by Patients

Fraudulent registration by patients occurs when patients register at multiple practices, usually providing false personal details with a view to obtaining prescriptions from each. Though not prescriptive, the points below give an idea of occasions when extra care should be taken to ensure the identity of an individual and the veracity of his or her claims:

- temporary residents unable to provide identity or unsure of their current GP's details

- patients who claim to be 'just in the area' and have a specific complaint that they have forgotten medicine for
- together with the above, the use of 'easy-to-remember' dates of birth (e.g. 1/1, 25/12, 31/12). These enable someone who is using different names to ensure that they always remember the date of birth given (such dates may also be used on the rare occasions where patients are not aware of their date of birth).

**The above should not be taken in isolation as being evidence of an attempt to obtain drugs by deception but are more an indication of how offences are perpetrated.**

Where a practice has a concern, local counter fraud specialists can be contacted via the PCT for queries or assistance. In addition, anyone with concerns about patients registering with false identities within the NHS can call the confidential NHS Fraud and Corruption Reporting Line on 0800 028 40 60 or email [nhsfraud@cfsms.nhs.uk](mailto:nhsfraud@cfsms.nhs.uk). Reports can be made anonymously. Alternatively, concerns can be put in writing to:

Practitioner Services Unit  
Charter House  
Parkway  
Welwyn Garden City  
Herts  
AL8 6JL

All reported cases are investigated.

## Draft Policies

### XXXXX PRACTICE

#### Policy for accepting patients on to the practice list

##### Introduction

The practice is committed to providing health care on the basis of need and will not tolerate discrimination on grounds of race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition.

The practice aims to have a list of **xxxxx** patients but because of a relative shortage of GPs in the area, recognises that at times it is necessary to restrict access to the list to those who have no access to regular primary medical services in the area.

##### Permanent patients

The following patients will always be accepted (Category 1):

- Babies born to existing patients (either parent, but the baby must be resident with existing practice patient)
- Children adopted by existing patients
- Household members of existing patients (must be related to existing patient or co-habitee of either sex).
- Parents and children of existing patients moving into the practice area, but not already registered with a local GP irrespective of residence with existing patient
- Patients registered with the practice in the past two years who have moved outside the area and returned to the practice area

The practice manager will regularly assess the list size.

- The practice will operate a “full” list for any applications, other than those in category 1, when the list is above **xxxx+30**.
- When the list is between **xxxx** and **xxxx+30** the practice will accept patients in category 1 and those applying who have recently (past 3 months) moved into the area and are not already registered with a local practice. (known as **Restricted**)
- If the list falls below **xxxx** all patients applying will be accepted. (Known as **Open**)

The current status will be notified to practice staff by email. All patients declined registration **MUST** be given the appropriate letter and brief details recorded

NB reference to “All Patients” does NOT include patients removed from the list at any time because of violence, and does not include patients removed from the list in the previous two years for other reasons.

**Temporary residents**

- The practice will accept any temporary resident in Category 1.
- All other patients requiring immediately necessary treatment must be offered an appointment or, sent to the “on call” practice in the health centre according to the rota.

All temporary patients declined registration MUST be given the appropriate letter and brief details recorded

**Telephone enquiries**

The practice does not accept applications by telephone, email or post. Any telephone application should receive the following response.

- We do not accept application other than in person, by at least one member of the family.
- At present our list is Full (give details of category 1)/restricted (give details)/open. If you do attend you may find your application is not accepted.

## **XXXXX PRACTICE**

### **Policy for accepting patients on to the practice list**

#### **Introduction**

The practice is committed to providing health care on the basis of need and will not tolerate discrimination on grounds of race, creed, colour, sexual orientation or health.

The practice aims to have list of **xxxx** patients, but because of a relative shortage of GPs in the area recognises that at times it is necessary to restrict access to the list to those who have no access to regular primary medical services in the area.

### **AT PRESENT OUR LIST IS FULL**

#### **We only accept applications from:**

- Babies born to existing patients (either parent, but the baby must be resident with existing practice patient)
- Children adopted by existing patients
- Household members of existing patients (must be related to existing patient or co-habitee of either sex).
- Parents and children of existing patients moving into the practice area, but not already registered with a local GP irrespective of residence with existing patient
- Patients registered with the practice in the past two years who have moved outside the area and returned to the practice area

## **XXXXX PRACTICE**

### **Policy for accepting patients on to the practice list**

#### **Introduction**

The practice is committed to providing health care on the basis of need and will not tolerate discrimination on grounds of race, creed, colour, sexual orientation or health.

The practice aims to have list of **xxxx** patients, but because of a relative shortage of GPs in the area recognises that at times it is necessary to restrict access to the list to those who have no access to regular primary medical services in the area.

#### **AT PRESENT OUR LIST IS RESTRICTED**

#### **We only accept applications from:**

- Babies born to existing patients (either parent, but the baby must be resident with existing practice patient)
- Children adopted by existing patients
- Household members of existing patients (must be related to existing patient or co-habitee of either sex).
- Parents and children of existing patients moving into the practice area, but not already registered with a local GP irrespective of residence with existing patient
- Patients registered with the practice in the past two years who have moved outside the area and returned to the practice area
- Those applying who have recently (past 3 months) moved into the area and are not already registered with a local practice.

## **XXXXX PRACTICE**

### **Policy for accepting patients on to the practice list**

#### **Introduction**

The practice is committed to providing health care on the basis of need and will not tolerate discrimination on grounds of race, creed, colour, sexual orientation or health.

The practice aims to have list of **xxxx** patients, but because of a relative shortage of GPs in the area recognises that at times it is necessary to restrict access to the list to those who have no access to regular primary medical services in the area.

#### **AT PRESENT OUR LIST IS OPEN**

#### **We accept applications from all prospective patients with the exception of:**

- Those people removed from our list at any time because of violence
- Those people removed from our list at our request for other reasons in the previous two years.



**XXXXX PRACTICE**

**Line 1**

**Line 2**

**Line 3**

**Postcode**

**Tel: xxxx xxxxxxxx**

**Fax: xxxx xxxxxxxx**

Dear Applicant/s

Thank you for asking to join our practice's list of patients. At present we are not accepting any applications except from immediate family members of existing patients. The reason is:

- Your address is outside our practice area.
- Our list is full and we do not have the resources to look after any more patients.
- Our list is restricted because we do not have the resources to accept all applicants
- One or more of our key practice team is away from work.
- We are undergoing significant building works.
- We have a strict Zero Tolerance policy in respect of behaviour towards our staff and feel unable to accept you.

For help with finding a practice able to accept you visit NHS Choices ([www.nhs.uk](http://www.nhs.uk)) or contact the Patient Registration Department at the North East Primary Care Services Agency (01325 553 000) to help with finding a practice able to accept you. Their Patient Advice and Liaison Service (PALS) can also be contacted on 0800 0130 500.

NHS Direct (0845 46 47) is available 24 hours a day to give advice on medical matters.

Yours sincerely

*Insert scanned signature*

Practice Manager

For xxxxxx Practice

# New Regulations, 30 April 2012

## PART 2 PATIENTS

### List of patients

14. The Primary Care Trust shall prepare and keep up to date a list of the patients—

(a) who have been accepted by the contractor for inclusion in its list of patients under paragraph 15 and who have not subsequently been removed from that list under paragraphs 19 to 27; and

(b) who have been assigned to the contractor under paragraph 32 or 33 and whose assignment has not subsequently been rescinded.

### Application for inclusion in a list of patients

15.—(1) The contractor may, if its list of patients is open, accept an application for inclusion in its list of patients made by or on behalf of any person whether or not resident in its practice area or included, at the time of that application, in the list of patients of another contractor or provider of primary medical services.

(2) The contractor may, if its list of patients is closed, only accept an application for inclusion in its list of patients from a person who is an immediate family member of a registered patient whether or not resident in its practice area or included, at the time of that application, in the list of patients of another contractor or provider of primary medical services.

(3) Subject to sub-paragraph (4), an application for inclusion in a contractor's list of patients shall be made by delivering to the practice premises a medical card or an application signed (in either case) by the applicant or a person authorised by the applicant to sign on his behalf.

(4) An application may be made—

(a) on behalf of any child—

(i) by either parent, or in the absence of both parents, the guardian or other adult who has care of the child,

(ii) by a person duly authorised by a local authority to whose care the child has been committed under the Children Act 1989(1), or

(iii) by a person duly authorised by a voluntary organisation by which the child is being accommodated under the provisions of that Act; or

(b) on behalf of any adult who is incapable of making such an application, or authorising such an application to be made on their behalf, by a relative or the primary carer of that person.

(5) A contractor which accepts an application for inclusion in its list of patients shall notify the Primary Care Trust in writing as soon as possible.

(6) On receipt of a notice under sub-paragraph (5), the Primary Care Trust shall—

(a) include that person in the contractor's list of patients from the date on which the notice is received; and

(b) notify the applicant (or, in the case of a child or incapable adult, the person making the application on their behalf) of the acceptance.

### **Temporary residents**

**16.**—(1) The contractor may, if its list of patients is open, accept a person as a temporary resident provided it is satisfied that the person is—

(a) temporarily resident away from his normal place of residence and is not being provided with essential services (or their equivalent) under any other arrangement in the locality where he is temporarily residing; or

(b) moving from place to place and not for the time being resident in any place.

(2) For the purposes of sub-paragraph (1), a person shall be regarded as temporarily resident in a place if, when he arrives in that place, he intends to stay there for more than 24 hours but not more than three months.

(3) A contractor which wishes to terminate its responsibility for a person accepted as a temporary resident before the end of—

(a) three months; or

(b) such shorter period for which it agreed to accept him as a patient,

shall notify him either orally or in writing and its responsibility for that patient shall cease 7 days after the date on which the notification was given.

(4) At the end of three months, or on such earlier date as its responsibility for the temporary resident has come to an end, the contractor shall notify the Primary Care Trust in writing of any person whom it accepted as a temporary resident.

### **Refusal of applications for inclusion in the list of patients or for acceptance as a temporary resident**

**17.**—(1) The contractor shall only refuse an application made under paragraph 15 or 16 if it has reasonable grounds for doing so which do not relate to the applicant's race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition.

*(2) The reasonable grounds referred to in paragraph (1) may, in the case of an application made under paragraph 15, 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 18(1A)).*

(3) A contractor which refuses an application made under paragraph 15 or 16 shall, within 14 days of its decision, notify the applicant (or, in the case of a child or incapable adult, the person making the application on their behalf) in writing of the refusal and the reason for it.

(4) The contractor shall keep a written record of refusals of applications made under paragraph 15 and of the reasons for them and shall make this record available to the Primary Care Trust on request.

#### **Patient preference of practitioner**

**18.—**(1) Where the contractor has accepted an application for inclusion in its list of patients, it shall—

(a) notify the patient (or, in the case of a child or incapable adult, the person who made the application on their behalf) of the patient's right to express a preference to receive services from a particular performer or class of performer either generally or in relation to any particular condition; and

(b) record in writing any such preference expressed by or on behalf of the patient.

(2) The contractor shall endeavour to comply with any reasonable preference expressed under sub-paragraph (1) but need not do so if the preferred performer—

(a) has reasonable grounds for refusing to provide services to the patient; or

(b) does not routinely perform the service in question within the practice.

#### **Removal from the list at the request of the patient**

**19.—**(1) The contractor shall notify the Primary Care Trust in writing of any request for removal from its list of patients received from a registered patient.

(2) Where the Primary Care Trust—

(a) receives notification from the contractor under sub-paragraph (1); or

(b) receives a request from the patient to be removed from the contractor's list of patients,  
it shall remove that person from the contractor's list of patients.

(3) A removal in accordance with sub-paragraph (2) shall take effect—

(a) on the date on which the Primary Care Trust receives notification of the registration of the person with another provider of essential services (or their equivalent); or

- (b) 14 days after the date on which the notification or request made under sub-paragraph (1) or (2) respectively is received by the Primary Care Trust,

whichever is the sooner.

(4) The Primary Care Trust shall, as soon as practicable, notify in writing—

- (a) the patient; and
- (b) the contractor,

that the patient's name will be or has been removed from the contractor's list of patients on the date referred to in sub-paragraph (3).

(5) In this paragraph and in paragraphs 20(1)(b) and (10), 21(6) and (7), 23 and 26, a reference to a request received from or advice, information or notification required to be given to a patient shall include a request received from or advice, information or notification required to be given to—

- (a) in the case of a patient who is a child, a parent or other person referred to in paragraph 15(4)(a); or
- (b) in the case of an adult patient who is incapable of making the relevant request or receiving the relevant advice, information or notification, a relative or the primary carer of the patient.

#### **Removal from the list at the request of the contractor**

**20.—**(1) Subject to paragraph 21, a contractor which has reasonable grounds for wishing a patient to be removed from its list of patients which do not relate to the applicant's race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition shall—

- (a) notify the Primary Care Trust in writing that it wishes to have the patient removed; and
- (b) subject to sub-paragraph (2), notify the patient of its specific reasons for requesting removal.

(2) Where, in the reasonable opinion of the contractor—

- (a) the circumstances of the removal are such that it is not appropriate for a more specific reason to be given; and
- (b) there has been an irrevocable breakdown in the relationship between the patient and the contractor,

the reason given under sub-paragraph (1) may consist of a statement that there has been such a breakdown.

(3) Except in the circumstances specified in sub-paragraph (4), a contractor may only request a removal under sub-paragraph (1), if, within the period of 12 months prior to the date of its request to the Primary Care Trust, it has warned the patient that he is at risk of removal and explained to him the reasons for this.

- (4) The circumstances referred to in sub-paragraph (3) are that—
- (a) the reason for removal relates to a change of address;
  - (b) the contractor has reasonable grounds for believing that the issue of such a warning would—
    - (i) be harmful to the physical or mental health of the patient, or
    - (ii) put at risk the safety of one or more of the persons specified in sub-paragraph (5);
- or
- (c) it is, in the opinion of the contractor, not otherwise reasonable or practical for a warning to be given.

- (5) The persons referred to in sub-paragraph (4) are—
- (a) the contractor, where it is an individual medical practitioner;
  - (b) in the case of a contract with two or more individuals practising in partnership, a partner in that partnership;
  - (c) in the case of a contract with a company, a legal and beneficial owner of shares in that company;
  - (d) a member of the contractor's staff;
  - (e) a person engaged by the contractor to perform or assist in the performance of services under the contract; or
  - (f) any other person present—
    - (i) on the practice premises, or
    - (ii) in the place where services are being provided to the patient under the contract.

- (6) The contractor shall record in writing—
- (a) the date of any warning given in accordance with sub-paragraph (3) and the reasons for giving such a warning as explained to the patient; or
  - (b) the reason why no such warning was given.

- (7) The contractor shall keep a written record of removals under this paragraph which shall include—
- (a) the reason for removal given to the patient;
  - (b) the circumstances of the removal; and
  - (c) in cases where sub-paragraph (2) applies, the grounds for a more specific reason not being appropriate,

and shall make this record available to the Primary Care Trust on request.

(8) A removal requested in accordance with sub-paragraph (1) shall, subject to sub-paragraph (9), take effect from—

(a) the date on which the Primary Care Trust receives notification of the registration of the person with another provider of essential services (or their equivalent); or

(b) the eighth day after the Primary Care Trust receives the notice referred to in sub-paragraph (1)(a),

whichever is the sooner.

(9) Where, on the date on which the removal would take effect under sub-paragraph (8), the contractor is treating the patient at intervals of less than seven days, the contractor shall notify the Primary Care Trust in writing of the fact and the removal shall take effect—

(a) on the eighth day after the Trust receives notification from the contractor that the person no longer needs such treatment; or

(b) on the date on which the Primary Care Trust receives notification of the registration of the person with another provider of essential services (or their equivalent),

whichever is the sooner.

(10) The Primary Care Trust shall notify in writing—

(a) the patient; and

(b) the contractor,

that the patient's name has been or will be removed from the contractor's list of patients on the date referred to in sub-paragraph (8) or (9).

#### **Removals from the list of patients who are violent**

**21.—**(1) A contractor which wishes a patient to be removed from its list of patients with immediate effect on the grounds that—

(a) the patient has committed an act of violence against any of the persons specified in sub-paragraph (2) or behaved in such a way that any such person has feared for his safety; and

(b) it has reported the incident to the police,

shall notify the Primary Care Trust in accordance with sub-paragraph (3).

(2) The persons referred to in sub-paragraph (1) are—

(a) the contractor where it is an individual medical practitioner;

(b) in the case of a contract with two or more individuals practising in partnership, a partner in that partnership;

(c) in the case of a contract with a company, a legal and beneficial owner of shares in that company;

(d) a member of the contractor's staff;

(e) a person engaged by the contractor to perform or assist in the performance of services under the contract; or

(f) any other person present—

(i) on the practice premises, or

(ii) in the place where services were provided to the patient under the contract.

(3) Notification under sub-paragraph (1) may be given by any means including telephone or fax but if not given in writing shall subsequently be confirmed in writing within seven days (and for this purpose a faxed notification is not a written one).

(4) The Primary Care Trust shall acknowledge in writing receipt of a request from the contractor under sub-paragraph (1).

(5) A removal requested in accordance with sub-paragraph (1) shall take effect at the time that the contractor—

(a) makes the telephone call to the Primary Care Trust; or

(b) sends or delivers the notification to the Primary Care Trust.

(6) Where, pursuant to this paragraph, the contractor has notified the Primary Care Trust that it wishes to have a patient removed from its list of patients, it shall inform the patient concerned unless—

(a) it is not reasonably practicable for it to do so; or

(b) it has reasonable grounds for believing that to do so would—

(i) be harmful to the physical or mental health of the patient, or

(ii) put at risk the safety of one or more of the persons specified in sub-paragraph (2) .

(7) Where the Primary Care Trust has removed a patient from the contractor's list of patients in accordance with sub-paragraph (5) it shall give written notice of the removal to that patient.

(8) Where a patient is removed from the contractor's list of patients in accordance with this paragraph, the contractor shall record in the patient's medical records that the patient has been removed under this paragraph and the circumstances leading to his removal.

#### **Removals from the list of patients registered elsewhere**

**22.—**(1) The Primary Care Trust shall remove a patient from the contractor's list of patients if—



(a) he has subsequently been registered with another provider of essential services (or their equivalent) in the area of the Primary Care Trust; or

(b) it has received notice from another Primary Care Trust, a Local Health Board, a Health Board or a Health and Social Services Board that he has subsequently been registered with a provider of essential services (or their equivalent) outside the area of the Primary Care Trust.

(2) A removal in accordance with sub-paragraph (1) shall take effect—

(a) on the date on which the Primary Care Trust receives notification of the registration of the person with the new provider; or

(b) with the consent of the Primary Care Trust, on such other date as has been agreed between the contractor and the new provider.

(3) The Primary Care Trust shall notify the contractor in writing of persons removed from its list of patients under sub-paragraph (1).

#### **Removals from the list of patients who have moved**

**23.**—(1) Subject to sub-paragraph (2), where the Primary Care Trust is satisfied that a person on the contractor's list of patients has moved and no longer resides in that contractor's practice area, the Primary Care Trust shall—

(a) inform that patient and the contractor that the contractor is no longer obliged to visit and treat the person;

(b) advise the patient in writing either to obtain the contractor's agreement to the continued inclusion of the person on its list of patients or to apply for registration with another provider of essential services (or their equivalent); and

(c) inform the patient that if, after the expiration of 30 days from the date of the advice mentioned in paragraph (b), he has not acted in accordance with the advice and informed it accordingly, the Primary Care Trust will remove him from the contractor's list of patients.

(2) If, at the expiration of the period of 30 days referred to in sub-paragraph (1)(c), the Primary Care Trust has not been notified of the action taken, it shall remove the patient from the contractor's list of patients and inform him and the contractor accordingly.

**24.** Where the address of a patient who is on the contractor's list of patients is no longer known to the Primary Care Trust, the Primary Care Trust shall—

(a) give to the contractor notice in writing that it intends, at the end of the period of six months commencing with the date of the notice, to remove the patient from the contractor's list of patients; and

(b)at the end of that period, remove the patient from the contractor's list of patients unless, within that period, the contractor satisfies the Primary Care Trust that it is still responsible for providing essential services to that patient.

**Removals from the list of patients absent from the United Kingdom etc.**

**25.—**(1) The Primary Care Trust shall remove a patient from the contractor's list of patients where it receives notification that that patient—

- (a)intends to be away from the United Kingdom for a period of at least three months;
- (b)is in Her Majesty's Forces;
- (c)is serving a prison sentence of more than two years or sentences totalling in the aggregate more than that period;
- (d)has been absent from the United Kingdom for a period of more than three months; or
- (e)has died.

(2) A removal in accordance with sub-paragraph (1) shall take effect—

- (a)in the cases referred to in sub-paragraph (1)(a) to (c) from the date of the departure, enlistment or imprisonment or the date on which the Primary Care Trust first receives notification of the departure, enlistment or imprisonment whichever is the later; or
- (b)in the cases referred to in sub-paragraph (1)(d) and (e) from the date on which the Primary Care Trust first receives notification of the absence or death.

(3) The Primary Care Trust shall notify the contractor in writing of patients removed from its list of patients under sub-paragraph (1).

**Removals from the list of patients accepted elsewhere as temporary residents**

**26.—**(1) The Primary Care Trust shall remove from the contractor's list of patients a patient who has been accepted as a temporary resident by another contractor or other provider of essential services (or their equivalent) where it is satisfied, after due inquiry—

- (a)that the patient's stay in the place of temporary residence has exceeded three months; and
- (b)that he has not returned to his normal place of residence or any other place within the contractor's practice area.

(2) The Primary Care Trust shall notify in writing of a removal under sub-paragraph (1)—

- (a)the contractor; and
- (b)where practicable, the patient.

(3) A notification to the patient under sub-paragraph (2)(b) shall inform him of—

(a) his entitlement to make arrangements for the provision to him of essential services (or their equivalent), including by the contractor by which he has been treated as a temporary resident; and

(b) the name and address of the Primary Care Trust in whose area he is resident.

#### **Removals from the list of pupils etc. of a school**

**27.**—(1) Where the contractor provides essential services under the contract to persons on the grounds that they are pupils at or staff or residents of a school, the Primary Care Trust shall remove from the contractor's list of patients any such persons who do not appear on particulars of persons who are pupils at or staff or residents of that school provided by that school.

(2) Where the Primary Care Trust has made a request to a school to provide the particulars mentioned in sub-paragraph (1) and has not received them, it shall consult the contractor as to whether it should remove from its list of patients any persons appearing on that list as pupils at, or staff or residents of, that school.

(3) The Primary Care Trust shall notify the contractor in writing of patients removed from its list of patients under sub-paragraph (1).

#### **Termination of responsibility for patients not registered with the contractor**

**28.**—(1) Where a contractor—

(a) has received an application for the provision of medical services other than essential services—

(i) from a person who is not included in its list of patients,

(ii) from a person whom it has not accepted as a temporary resident, or

(iii) on behalf of a person mentioned in sub-paragraph (i) or (ii), from one of the persons specified in paragraph 15(4); and

(b) has accepted that person as a patient for the provision of the service in question,

its responsibility for that patient shall be terminated in the circumstances referred to in sub-paragraph (2).

(2) The circumstances referred to in sub-paragraph (1) are—

(a) the patient informs the contractor that he no longer wishes it to be responsible for provision of the service in question;

(b)in cases where the contractor has reasonable grounds for terminating its responsibility which do not relate to the person's race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition, the contractor informs the patient that it no longer wishes to be responsible for providing him with the service in question; or

(c)it comes to the notice of the contractor that the patient—

(i)no longer resides in the area for which the contractor has agreed to provide the service in question, or

(ii)is no longer included in the list of patients of another contractor to whose registered patients the contractor has agreed to provide that service.

(3) A contractor which wishes to terminate its responsibility for a patient under sub-paragraph (2)(b) shall notify the patient of the termination and the reason for it.

(4) The contractor shall keep a written record of terminations under this paragraph and of the reasons for them and shall make this record available to the Primary Care Trust on request.

(5) A termination under sub-paragraph (2)(b) shall take effect—

(a)from the date on which the notice is given where the grounds for termination are those specified in paragraph 21(1); or

(b)in all other cases, 14 days from the date on which the notice is given.

#### **Application for closure of lists of patients**

**29A.—***(1) A contractor which wishes to close its list of patients must send a written application ("the Application") to close its list to the Primary Care Trust 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 Primary Care Trust 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 that 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 Primary Care Trust.*

*(2) The Primary Care Trust must acknowledge receipt of the Application within a period of 7 days starting on the date the Application was received by the Primary Care Trust.*

*(3) The Primary Care Trust must consider the Application and may request such other information from the contractor which it requires to enable it to consider the Application.*

*(4) The Primary Care Trust must enter into discussions with the contractor concerning—*

*(a) the support which the Primary Care Trust may give the contractor; or*

*(b) changes which the Primary Care Trust or contractor may make,*

*to enable the contractor to keep its list of patients open.*

*(5) The Primary Care Trust and contractor must, throughout the discussions referred to in subparagraph (4), use its reasonable endeavours to achieve the aim of keeping the contractor's list of patients open.*

*(6) The Primary Care Trust or the contractor may, at any stage during the discussions, invite the Local Medical Committee for its area (if any) to attend any meetings arranged between the Primary Care Trust and contractor to discuss the Application.*

*(7) The Primary Care Trust may consult such persons as it appears to the Primary Care Trust may be affected by the closure of the contractor's list of patients, and if it does so, the Primary Care Trust must provide to the contractor a summary of the views expressed by those consulted in respect of the Application.*

*(8) The Primary Care Trust must enable the contractor to consider and comment on all the information before the Primary Care Trust makes a decision in respect of the Application.*

*(9) A contractor may withdraw its Application at any time before the Primary Care Trust makes a decision in respect of that Application.*

*(10) 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 Primary Care Trust 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.

(11) The Primary Care Trust must notify the contractor of its decision to approve the Application in accordance with paragraph 29B, or in the case where the Application is rejected, in accordance with paragraph 29C.

(12) 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 on which the Primary Care Trust makes its decision on the Application unless—

(a)paragraph 29C 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**

**29B.**—(1) Where the Primary Care Trust 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 sub-paragraph (2); and

(b)at the same time as it notifies the contractor, send a copy of the closure notice to the Local Medical Committee for its area (if any) and to any person it consulted in accordance with paragraph 29A(7).

(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 Primary Care Trust 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.

(3) Subject to paragraph 29E, 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.

#### **Rejection of an application to close a list of patients**

**29C.**—(1) *Where a Primary Care Trust 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 notifies the contractor, send a copy of the notification to the Local Medical Committee for its area (if any) and to any person it consulted in accordance with paragraph 29A(7).*

*(2) Subject to sub-paragraph (3), if a Primary Care Trust makes a decision to reject a contractor's application to close its list of patients, the contractor must not make a further application until—*

*(a) the end of the period of 3 months, starting on the date of the decision of the Primary Care Trust 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.*

*(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.*

***Application for an extension of a closure period***

**29D.**—(1) *A 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.*

*(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 Primary Care Trust 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 Primary Care Trust.*

*(3) The Primary Care Trust 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 Primary Care Trust.*

*(4) The Primary Care Trust 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.*

*(5) The Primary Care Trust may enter into discussions with the contractor concerning—*

*(a) the support which the Primary Care Trust may give the contractor; or*

*(b) changes which the Primary Care Trust or contractor may make,*

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

*(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 Primary Care Trust must make a decision.*

*(7) The Primary Care Trust 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.*

*(8) Where the Primary Care Trust 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 sub-paragraph (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 its area (if any) and to any person it consulted in accordance with paragraph 29A(7).*

*(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) in the case where the Primary Care Trust 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.*

*(10) Where a Primary Care Trust 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 its area (if any) .*

*(11) Where an application for an extension of the closure period is made in accordance with sub-paragraphs (1) and (2), the list of patients will remain closed pending—*

*(a)the determination by the Primary Care Trust 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.*

#### ***Re-opening of list of patients***

***29E.*** *The contractor may re-open its list of patients before the expiry of the closure period if the Primary Care Trust and contractor agree that the contractor should re-open its list of patients..*

#### **Assignment of patients to lists: open lists**

**32.—**(1) A Primary Care Trust may, subject to paragraph 34, assign a new patient to a contractor whose list of patients is open.

(2) In this paragraph and in paragraphs 33 and 35 to 37, a “new” patient means a person who—

(a)is resident (whether or not temporarily) within the area of the Primary Care Trust;

(b)has been refused inclusion in a list of patients of, or has not been accepted as a temporary resident by, a contractor whose premises are within such an area; and

(c)wishes to be included in the list of patients of a contractor whose practice premises are within that area.

#### **Assignment of patients to lists: closed lists**

**33.—**(1) A Primary Care Trust may not assign a new patient to a contractor which has closed its list of patients except in the circumstances specified in sub-paragraph (2).

(2) A Primary Care Trust may, subject to paragraph 34, assign a new patient to a contractor whose practice premises are within the Primary Care Trust's area and which has closed its list of patients, if—

- (a) most or all of the providers of essential services (or their equivalent) whose practice premises are within the Primary Care Trust's area have closed their lists of patients;
- (b) the assessment panel has determined under paragraph 35(7) that patients may be assigned to the contractor in question, and that determination has not been overturned either by a determination of the Secretary of State under paragraph 36(13) or (where applicable) by a court; and
- (c) the Primary Care Trust has entered into discussions with the contractor in question regarding the assignment of a patient if such discussions are required under paragraph 37.

#### **Factors relevant to assignments**

**34.** In making an assignment to a contractor under paragraph 32 or 33, the Primary Care Trust shall have regard to—

- (a) the wishes and circumstances of the patient to be assigned;
- (b) the distance between the patient's place of residence and the contractor's practice premises;
- (c) whether, during the six months ending on the date on which the application for assignment is received by the Primary Care Trust, the patient's name has been removed from the list of patients of any contractor in the area of the Primary Care Trust under paragraph 20 or its equivalent provision in relation to a section 28C provider in the area of the Primary Care Trust;
- (d) whether the patient's name has been removed from the list of patients of any contractor in the area of the Primary Care Trust under paragraph 21 or its equivalent provision in relation to a section 28C provider in the area of the Primary Care Trust and, if so, whether the contractor has appropriate facilities to deal with such a patient;
- (e) such other matters as the Primary Care Trust considers to be relevant.

#### **Assignments to closed lists: determinations of the assessment panel**

**35.—(1)** This paragraph applies where most or all of the providers of essential services (or their equivalent) whose practice premises are within the area of a Primary Care Trust have closed their lists of patients.

(2) If the Primary Care Trust wishes to assign new patients to contractors which have closed their lists of patients, it must prepare a proposal to be considered by the assessment panel which must include details of those contractors to which the Primary Care Trust wishes to assign patients.

(3) The Primary Care Trust must ensure that the assessment panel is appointed to consider and determine its proposal made under sub-paragraph (2), and the composition of the assessment panel shall be as described in *sub-paragraph (3a)*.

*(3A) The members of the assessment panel must be—*

*(a) the Chief Executive of the Primary Care Trust of which the assessment panel is a committee or sub-committee;*

*(b) a person representative of patients in an area other than that of the Primary Care Trust which is a party to the contract;*

*(c) a person representative of a Local Medical Committee which does not represent practitioners in the area of the Primary Care Trust which is a party to the contract.*

(4) The Primary Care Trust shall notify in writing—

(a) the relevant Strategic Health Authority;

(b) contractors or section 28C providers whose practice premises are within the Primary Care Trust's area which—

(i) have closed their list of patients, and

(ii) may, in the opinion of the Primary Care Trust, be affected by the determination of the assessment panel; and

(c) the Local Medical Committee (if any) for the area of the Primary Care Trust,

that it has referred the matter to the assessment panel.

(5) In reaching its determination, the assessment panel shall have regard to relevant factors including—

(a) whether the Primary Care Trust has attempted to secure the provision of essential services (or their equivalent) for new patients other than by means of their assignment to contractors with closed lists of patients; and

(b) the workload of those contractors likely to be affected by any decision to assign such patients to their list of patients.

(6) The assessment panel shall reach a determination within the period of 28 days beginning with the date on which the panel was appointed.

(7) The assessment panel shall determine whether the Primary Care Trust may assign patients to contractors which have closed their lists of patients; and if it determines that the Primary Care Trust may make such assignments, it shall also determine those contractors to which patients may be assigned.

(8) The assessment panel may determine that the Primary Care Trust may assign patients to contractors other than those contractors specified by the Primary Care Trust in its proposal under sub-paragraph (2), as long as the contractors were notified under sub-paragraph (4)(b).

(9) The assessment panel's determination shall include its comments on the matters specified in sub-paragraph (5), and shall be notified in writing to—

(a) the relevant Strategic Health Authority; and

(b) those contractors which were notified under sub-paragraph (4)(b).

**Assignments to closed lists: NHS dispute resolution procedure relating to determinations of the assessment panel**

**36.**—(1) Where an assessment panel makes a determination under paragraph 35(7) that the Primary Care Trust may assign new patients to contractors which have closed their lists of patients, any contractor specified in that determination may refer the matter to the Secretary of State to review the determination of the assessment panel.

(2) Where a matter is referred to the Secretary of State in accordance with sub-paragraph (1), it shall be reviewed in accordance with the procedure specified in the following sub-paragraphs.

(3) Where more than one contractor specified in the determination in accordance with paragraph 35(7) wishes to refer the matter for dispute resolution, those contractors may, if they all agree, refer the matter jointly, and in that case the Secretary of State shall review the matter in relation to those contractors together.

(4) Within the period of 7 days beginning with the date of the determination by the assessment panel in accordance with paragraph 35(7), the contractor (or contractors) shall send to the Secretary of State a written request for dispute resolution which shall include or be accompanied by—

(a) the names and addresses of the parties to the dispute;

(b) a copy of the contract (or contracts); and

(c) a brief statement describing the nature and circumstances of the dispute.

(5) Within the period of 7 days beginning with the date on which the matter was referred to him, the Secretary of State shall—

(a) give to the parties notice in writing that he is dealing with the matter; and

(b) include with the notice a written request to the parties to make in writing within a specified period any representations which they may wish to make about the dispute.

(6) The Secretary of State shall give, with the notice given under sub-paragraph (5), to the party other than the one which referred the matter to dispute resolution a copy of any document by which the dispute was referred to dispute resolution.

(7) The Secretary of State shall, upon receiving any representations from a party, give a copy of them to the other party, and shall in each case request (in writing) a party to which a copy of the representations

is given to make within a specified period any written observations which it wishes to make on those representations.

(8) For the purpose of assisting it in its consideration of the matter, the Secretary of State may—

(a) invite representatives of the parties to appear before him to make oral representations either together or, with the agreement of the parties, separately, and may in advance provide the parties with a list of matters or questions to which he wishes them to give special consideration;  
or

(b) consult other persons whose expertise he considers will assist him in his consideration of the dispute.

(9) Where the Secretary of State consults another person under sub-paragraph (8)(b), he shall notify the parties accordingly in writing and, where he considers that the interests of any party might be substantially affected by the result of the consultation, he shall give to the parties such opportunity as he considers reasonable in the circumstances to make observations on those results.

(10) In considering the dispute, the Secretary of State shall consider—

(a) any written representations made in response to a request under sub-paragraph (5)(b), but only if they are made within the specified period;

(b) any written observations made in response to a request under sub-paragraph (7), but only if they are made within the specified period;

(c) any oral representations made in response to an invitation under sub-paragraph (8)(a);

(d) the results of any consultation under sub-paragraph (8)(b); and

(e) any observations made in accordance with an opportunity given under sub-paragraph (9).

(11) Subject to the other provisions of this paragraph and to any agreement by the parties, the Secretary of State shall have wide discretion in determining the procedure of the dispute resolution to ensure the just, expeditious, economical and final determination of the dispute.

(12) In this paragraph, “specified period” means such period as the Secretary of State shall specify in the request, being not less than one, nor more than two, weeks beginning with the date on which the notice referred to is given, but the Secretary of State may, if the period for determination of the dispute has been extended in accordance with sub-paragraph (16), extend any such period (even after it has expired) and, where he does so, a reference in this paragraph to the specified period is to the period as so extended.

(13) Subject to sub-paragraph (16), within the period of 21 days beginning with the date on which the matter was referred to him, the Secretary of State shall determine whether the Primary Care Trust may assign patients to contractors which have closed their lists of patients; and if he determines that the

Primary Care Trust may make such assignments, he shall also determine those contractors to which patients may be assigned.

(14) The Secretary of State may not determine that patients may be assigned to a contractor which was not specified in the determination of the assessment panel under paragraph 35(7).

(15) In the case of a matter referred jointly by contractors in accordance with sub-paragraph (3), the Secretary of State may determine that patients may be assigned to one, some or all of the contractors which referred the matter.

(16) The period of 21 days referred to in sub-paragraph (13) may be extended (even after it has expired) by a further specified number of days if an agreement to that effect is reached by—

(a) the Secretary of State;

(b) the Primary Care Trust; and

(c) the contractor (or contractors) which referred the matter to dispute resolution.

(17) The Secretary of State shall record his determination, and the reasons for it, in writing and shall give notice of the determination (including the record of the reasons) to the parties.

#### **Assignments to closed lists: assignments of patients by a Primary Care Trust**

**37.—**(1) Before the Primary Care Trust may assign a new patient to a contractor, it shall, subject to sub-paragraph (3), enter into discussions with that contractor regarding additional support that the Primary Care Trust can offer the contractor, and the Primary Care Trust shall use its best endeavours to provide appropriate support.

(2) In the discussions referred to in sub-paragraph (1), both parties shall use reasonable endeavours to reach agreement.

(3) The requirement in sub-paragraph (1) to enter into discussions applies—

(a) to the first assignment of a patient to a particular contractor; and

(b) to any subsequent assignment to that contractor to the extent that it is reasonable and appropriate having regard to the numbers of patients who have been or may be assigned to it and the period of time since the last discussions under sub-paragraph (1) took place.