Corby Clinical Commissioning Group

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NHS CORBY CLINICAL COMMISSIONING GROUP

Policy for Managing Contract Variations

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Audience:	All Staff of NHS Corby CCG (including members of the Governing Body), All contractors, Bidders and members of the CCG

Consultation

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1. Introduction

This policy describes the process to determine any contract variation, whether by mutual agreement or required by regulatory amendments, to ensure that any changes reflect and comply with legislation so as to maintain robust contracts.

2. Types of Contract Variation

2.1 Variations to contracts fall broadly within four categories:

2.1.1 changes due to legislation or regulatory change;

2.1.2 changes to the contracting party;

2.1.3 changes to services; or

2.1.4 changes to the payment arrangements.

2.2 Where a GMS contract or PMS agreement is varied, the Commissioner is required by the Regulations to notify relevant patients where such variation:

2.2.1 changes the range of services provided to the contractor's registered patients; or

2.2.2 where patients who are on the contractor's list of patients are to be removed from that list.

2.2.3 The Commissioner must inform those patients of the steps they can take to obtain elsewhere the services in question or register elsewhere for the provision of essential services (or their equivalent).

2.2.4 The Commissioner should consider whether any such provision is contained within an APMS contract.

3.0 Legislation / Regulatory Changes

3.1 Usually both parties to a primary medical contract must agree a variation in order for it to take effect. The Commissioner may, however, vary the contract without the contractor's consent where it is reasonably satisfied that it is necessary to do so to comply with the NHS Act, any regulatory changes pursuant to the NHS Act or any direction given by the Secretary of State pursuant to the NHS Act. This right is contained within all GMS, PMS and APMS contracts.

3.2 The Commissioner must notify the contractor in writing of the wording of the variation and the date it will take effect. Where it is reasonably practicable to do so, the date the variation will take effect must not be less than 14 days after the notice is served.

3.3 There is no need for the Commissioner to seek agreement or require a signature of acceptance for this type of variation, as there is no right of refusal or negotiation.

3.4 The process for issuing a variation notice due to legislation / regulatory changes is:

3.4.1 a regulatory amendment to existing Regulations or new Directions are issued under statutory instrument. Commissioners should ensure arrangements are in place to take the appropriate action as quickly as possible after the issue of an amendment.

3.4.2 where the GMS Regulations are amended, there may be a centrally issued GMS variation to the Standard GMS Contract and a supporting notice both of which should be used to inform the contractors of the change. This is not possible for PMS/APMS contracts as these are locally defined contracts, which vary significantly across the country.

3.4.3 the Commissioner must notify contractors of the variation and its effective date. A template variation notice is provided in Annex 1 for GMS contracts and Annex 2 for PMS/APMS

3.4.4 contracts.for GMS contractors, the notification should include the GMS variation and the relevant pages of the amended contract document for completeness. For PMS and APMS contractors, the Commissioner will be required to ensure the regulatory amendments become a contractual amendment, citing the correct clause numbers affected within the individually held contracts and including the relevant pages of the document for completeness.

3.4.5 all electronically held contracts should be updated with the variations at this stage to ensure that the centrally held documents remain up to date with current legislation.

3.4.6 Commissioners should retain a copy of the notice on file for completeness. Each contract file should contain a variation log and Commissioners should ensure that this is updated accordingly.

4. Changes to the Contracting Party

4.1 Changes to the contracting party may be due to:

4.1.1 partnership changes;

4.1.2 company changes;

4.1.3 retirement (including 24-hour retirement);

4.1.4 novations, mergers and splits; and/or

4.1.5 death of a contractor.

4.2 There are specific processes to follow on the death of a contractor. Please refer to the policy on the death of a contractor (chapter 12) for further information.

4.3 The GMS and PMS Regulations and the APMS Directions contain provisions relating to the remaining scenarios listed above which are considered in more detail below.

5.0 Partnership Changes

5.1 Changes to the composition of a partnership will require variation to the contract and may require a variation to the standard registration conditions with the CQC.

5.2 Procurement law may be relevant as, in some circumstances, the admittance of a new contracting party may give rise to procurement obligations. Commissioners should refer to relevant published guidance and should take appropriate advice at an early stage. Commissioners must also act in accordance with any procurement protocol issued by NHS England.

5.3 The GMS Regulations, the PMS Regulations and the APMS Directions place restrictions on the organisational structures that are eligible to enter into different types of primary medical contracts. Please refer to chapter 5 (Which medical contract when?) for details on the eligibility criteria.

5.4 Contracts may be varied in a number of ways with relation to partnership matters, including the following which are looked at in more detail below:

5.4.1 individual contractors changing to more than one individual (which may be a partnership which requires a different process depending on whether it is a GMS contract or not); and

5.4.2 changes to the parties of contracts with more than one individual (which may be from a partnership to an individual contractor or changes to the composition of partnerships).

5.5 There may be many reasons for partnership changes including disputes between parties which are considered further below.

Individual to partnership – GMS contracts

5.6 If a GMS contractor is currently an individual medical practitioner who wishes to enter into partnership with one or more individuals under that contract, the contractor is required to notify the Commissioner in writing and provide the following information:

5.6.1 the name of the person or persons with whom the contractor proposes to practice in partnership;

5.6.2 confirmation that the person or persons is either a medical practitioner or a person who satisfies the conditions specified in section 86(2)(b) of the NHS Act;

5.6.3 confirmation that the person or persons satisfies the conditions imposed by regulations 4 and 5 of the GMS Regulations (please refer to chapter 5 (Which medical contract when?) for further information);

5.6.4 whether or not the partnership is to be a limited partnership and if so, who is a limited and who is a general partner; and

5.6.5 the date on which the contractor wishes to change its status (which shall not be less than 28 days from the date on which the notice was served on the Commissioner).

5.7 The notice must be signed by the individual contractor and by the person or persons with whom the individual contractor is proposing to practise in partnership. Where the contractor contacts the Commissioner about such a change, the Commissioner should send Annex 3A.

5.8 The Commissioner must ensure the accuracy of the information provided. This may be achieved, for example, by checking the registration status of the proposed partner(s) and that the proposed partner(s) meet the eligibility criteria for holding a GMS contract.

5.9 Where the change is agreed, the Commissioner will confirm in writing that the contract will continue with the partnership and issue a variation notice accordingly to amend the relevant sections of the contract. The Commissioner must specify in the notice the date on which the contract will continue as a partnership. Where reasonably practicable this should be the date requested by the contractor, or the nearest date to it (Annex 3B).

5.10 A variation notice must include the wording of the proposed variation and the date upon which the variation will take effect. The contractor would then be required to return a signed copy of the variation notice. The Commissioner should ensure that the electronically held contract documentation is amended accordingly.

5.11 If the new partner is not accepted as eligible the Commissioner should advise the contractor in writing of the reasons they believe the proposed partner(s) to be ineligible and confirm that the contract status will remain single handed until the matter can be resolved or a further notice is provided by the contractor proposing an alternative eligible partner.

Individual to more than one individual – PMS agreement

5.12 The PMS Regulations do not allow PMS agreements to be treated as made with a partnership. Where individuals are practising in partnership, the PMS agreement will be entered into with each individual (which may or may not be in partnership). The individual signatories to a PMS agreement collectively form the contractor.

5.13 The PMS Regulations do not require a PMS agreement to define a specific process for any variation to the signatories. The Commissioner must, therefore, review the relevant PMS agreement to determine whether any provisions have been added relating to this and prior to following any process for variation.

5.14 If the contractor is currently an individual medical practitioner and they wish to have one or more individuals join them under that agreement, then they must seek the Commissioner's consent in writing for any such variation to the contract. Where the contractor contacts the Commissioner about such a

change, the Commissioner should send Annex 4A. The Commissioner must have consideration of any procurement implications, along with other influencing factors, when considering such an application. Commissioners must also act in accordance with any procurement protocol issued by NHS England.

5.15 The Commissioner must ensure the proposed individual(s) meet the eligibility criteria for holding a PMS agreement (please refer to chapter 5 (Which medical contract when?) for further information).

5.16 The Commissioner should confirm its decision on the variation in writing to the contractor detailing the reasons for the decision and details of any information that they have relied upon in the process (Annex 4B).

5.17 If the decision is to consent to the variation, then the Commissioner shall issue a variation notice accordingly to amend the relevant sections of the contract. A variation notice should include the wording of the proposed variation and the date upon which the variation will take effect. The contractor would then be required to return a signed copy of the variation notice. The Commissioner should ensure that the electronically held contract documentation is amended accordingly.

5.18 If the contractor does not return a signed copy of the variation notice, then no amendment to the agreement can take place.

5.19 If the new partner is not accepted as eligible the Commissioner should advise the contractor in writing of the reasons they believe the proposed partner(s) to be ineligible and confirm that the contract status will remain as it was until the matter can be resolved or a further notice is provided by the contractor proposing an alternative eligible partner.

Individual to more than one individual – APMS contract

5.20 APMS contracts can be entered into with a partnership and the Commissioner should consider the wording of the relevant contract to determine whether there are any specific provisions covering a request from the contractor to have one or more

individuals join them under the contract. Where there are no such provisions, a similar process to PMS agreements could be followed.

Changes to contracts with more than one individual – GMS contracts

5.21 Changes to the contracting parties may occur where a partnership dissolves or terminates or where the composition of the partnership changes. Both scenarios are explained below.

5.22 Where a partnership is dissolved or terminated and the contractor consists of two or more individuals practicing in partnership, the contract may continue with one of the former partners if the following conditions apply:

5.22.1 the former partner must be nominated by the contractor; and

5.22.2 the former partner must be a medical practitioner that meets the condition in regulation 4(2)(a) of the GMS Regulations.

5.23 The nomination of the former partner by the contractor must:

5.23.1 be in writing and signed by all of the persons who are practising in partnership. Where the contractor contacts the Commissioner about such a change, the Commissioner should send Annex 5A;

5.23.2 specify the date on which the contractor proposes to change its status from that of a partnership to that of an individual medical practitioner;

5.23.3 be provided to the Commissioner at least 28 days in advance of the date on which the contractor proposes to change its status from that of a partnership to that of an individual medical practitioner; and

5.23.4 specify the name of the medical practitioner with whom the contract will continue, which must be one of the partners.

5.24 Where the Commissioner receives such a nomination, it must acknowledge receipt in writing before the date specified in the nomination as the date on which the contractor proposes to change its status from that of a partnership to that of an individual medical practitioner.

5.25 Where the Commissioner agrees the nomination, the Commissioner may vary the contract but only to the extent that it is satisfied it is necessary to reflect the change in status of the contractor from a partnership to an individual medical practitioner. The Commissioner must notify the contractor in writing of the wording of the proposed variation and the date upon which that variation is to take effect.

5.26 A template notice is provided at Annex 5B. A variation notice will need to be included with this letter.

5.27 The Commissioner should be satisfied that the arrangements in place for continuity of service provision to the contracts registered patients are robust.

5.28 In circumstances where the Commissioner is not satisfied that the nominated partner is eligible to hold the contract as an individual they should enter into dialogue with all of the partners, to explore potential solutions.

5.29 These might include the partners nominating an alternative partner to continue with the contract, in which circumstances a new notice should be issued to the Commissioner to include these details and propose a new date on which the changes will occur.

5.30 Where the contractor consists of two or more individuals practising in partnership and the composition of the partnership changes, either by a partner leaving (but without the partnership terminating) or a new partner joining, the contract will need to be amended to recognise the new partnership composition. For the variation to have effect, it must be in writing and signed by all parties to the contract.

Changes to contracts with more than one individual – PMS agreements

5.31 As stated in paragraph 0, the PMS Regulations do not require a PMS agreement to define a specific process for any variation to the signatories. The Commissioner must, therefore, review the relevant PMS agreement to determine whether any provisions have been added relating to this and prior to following any process for variation.

5.32 If the contractor is currently two or more individuals and wish to change to an individual contractor, then they must seek the Commissioner's consent in writing for any such variation to the contract. Where the contractor contacts the Commissioner about such a change, the Commissioner should send Annex 6A. The Commissioner must consider any procurement implications, along with other influencing factors, when considering such an application. Commissioners must also act in accordance with any procurement protocol issued by NHS England.

5.33 The Commissioner must ensure that the proposed individual(s) meets the eligibility criteria for holding a PMS agreement (please refer to chapter 5 (Which medical contract when?) for further information).

5.34 The Commissioner should confirm its decision on the variation in writing to the contractor detailing the reasons for the decision and details of any information that they have relied upon in the process (Annex 6B).

5.35 If the decision is to consent to the variation, then the Commissioner shall issue a variation notice accordingly to amend the relevant sections of the contract. A variation notice should include the wording of the proposed variation and the date upon which the variation will take effect. The contractor would then be required to return a signed copy of the variation notice. The Commissioner should ensure that the electronically held contract documentation is amended accordingly.

5.36 If the contractor does not return a signed copy of the variation notice, then no amendment to the agreement can take place.

5.37 If the new individual is not accepted as eligible the Commissioner should advise the contractor in writing of the reasons they believe the individual is ineligible and confirm that the contract status will remain as it was until the matter can be resolved or a further notice is provided by the contractor proposing an alternative eligible individual.

5.38 The principles outlined in paragraphs 0 to 0 will also apply where the contractor consists of two or more individuals and the composition of the contractor

changes, either by an individual wishing to leave the agreement or a new individual joining the agreement. The contract will need to be varied to recognise the new contractor composition.

5.39 The Commissioner should ensure that it is satisfied that the contractor will remain eligible to hold the agreement after the variation. For the variation to have effect, it must be in writing and signed by all existing (and new) individuals to the contract.

5.40 The Commissioner should also be satisfied that the arrangements for continuity of service provision to the registered population covered within the contract are robust and may wish to seek written assurances of the post-variation contractor's ability and capacity to fulfil the obligations of the contract and their proposals for the future of the service.

5.41 APMS or PMS contracts are not required to contain a right of termination where one of more persons have left the practice during the existence of the contract. The Commissioner should review the relevant contract to determine whether any such provisions have been included.

Changes to contracts with more than one individual – APMS contracts

5.42 The Commissioner should consider the wording of the relevant APMS contract to determine whether there are any specific provisions relating to changes to the composition of the contractor. Where there are no such provisions, a similar process to PMS agreements could be followed.

Partnership splits/members dispute – GMS and PMS

5.43 Where the contractor to a GMS contract is a partnership and the partnership dissolves due to an internal partnership dispute, the contract will terminate unless the parties agree for the contract to continue with one partner (see paragraph 0 of this policy). The Commissioner may have little time to make arrangements to ensure service continuity.

5.44 It is, therefore, desirable that the partners of a GMS contract are able to resolve disputes internally where possible, with the support of the LMC and/or mediation services.

5.45 If the partnership holding a GMS contract does not dissolve or terminate but the partnership no longer wishes to be a party to the contract, then the contractor will need to terminate on notice, which must not be less than six months unless agreed by the Commissioner. Failure to give six months' notice of termination is a breach of contract and the appropriate action will be taken in line with the policy on contract breaches and termination (chapter 7).

5.46 Under PMS agreements, subject to the terms of the individual agreements, partnership matters (including dissolution or termination of the partnership) do not affect the continuation of the agreement. This is because where the agreement is with two or more individuals that are practising in partnership, the agreement is not entered into with the partnership but instead with the individuals (who collectively make up the contractor).

5.47 If a PMS contractor is practising in partnership and, following termination of a partnership, the contractor no longer wishes to be a party to the contract, the contractor will need to give notice to terminate the contract, such notice being a minimum of six months unless agreed with the Contractor.

5.48 Where partnerships or membership are formalised through a partnership agreement, it is very helpful if the parties are able to rely on the detail of these agreements to support the early resolution of internal disputes and to ensure that such agreements are reviewed and maintained to be current with associated legislation.

5.48 Unfortunately, many partnership organisations do not have agreements in place or have insufficient or outdated documents which can often lead to very protracted and acrimonious disputes between the partners.

5.50 The Commissioner should not get involved in endeavouring to resolve the dispute between the partners, instead insisting that the parties notify the Commissioner of their final decision when it is reached.

5.51 It is likely that the Commissioner will have numerous contacts from different partners and their staff about the dispute but the Commissioner should try to maintain a detached position in this respect. Any accusations of inappropriate behaviour or concerns should be considered, however, this should not be used as a means to endeavour to resolve the dispute.

5.52 Throughout the dispute the Commissioners should maintain open dialogue with the LMC and implement contract performance management protocols, if and when necessary.

6.0 Retirement of a Contractor – Single Handed

6.1 There is no specific reference to retirement in the GMS Regulations, the PMS Regulations or the APMS Directions. The Commissioner should deal with a request to retire as a request to terminate the contract by the contractor on notice.

6.2 The contractor must provide the Commissioner with a written notification of the intended retirement date which will be the termination date of the contract. This notice period must not be less than three months for GMS contracts held by an individual medical practitioner or less than six months for GMS contracts that are not held by an individual and for PMS/APMS contracts.

6.3 For GMS contracts, if the termination date is not the last calendar day of a month, the contract shall instead terminate on the last calendar day of the month in which the termination date falls.

6.4 For PMS/APMS contracts, there is no such requirement. The Commissioner must calculate the date of termination, based on the terms in the individual contract and from the date of the notice.

6.5 In exceptional circumstances, such as ill health, the Commissioner may wish to waive its right to the full notice period but it remains its right alone to do so. Consideration should be given, amongst other matters, to the effect that holding a contractor who is unwell to the full notice term may have on the contractor, the practice's patients and colleagues.

6.6 In either case the Commissioner should confirm receipt and acceptance of the retirement/termination notice in writing, the date on which the contract will terminate and any consequences and actions that the contractor must take as a result of the notice.

6.7 Although not required by the GMS Regulations, the Standard GMS Contract clearly sets out the arrangements that must be made on termination of a contract, which include (but are not limited to) the contractor having to:

6.7.1 cease performing any work or carrying out any obligations under the contract;

6.7.2 co-operate with the Commissioner to enable any outstanding matters under the contract to be dealt with or concluded satisfactorily;

6.7.3 co-operate with the Commissioner to enable the contractor's patients to be transferred to one or more other contractors or providers of essential services (or their equivalent); and

6.7.4 deliver up to the Commissioner all property belonging to NHS including all documents, forms, computer hardware and software, drugs, appliances or medical equipment which may be in the contractor's possession or control.

6.8 The Commissioner shall have in place arrangements for collecting any property owned by the NHS on or immediately after the termination date, which should be included on a log of collection, and against any the Commissioner held asset list, and where possible the contractor should be asked to sign to confirm the property that has been removed, accepting that it is owned by the NHS.

6.9 On termination of the contract, the Commissioner shall perform a reconciliation of the payments made by the Commissioner to the contractor and the value of the work undertaken by the contractor under the contract. The Commissioner must then serve the contractor with written details of the reconciliation as soon as reasonably practicable, and in any event no later than 28 days after the termination of the contract.

6.10 Each party shall pay the other any monies due within three months of the date on which the Commissioner served the contractor with written details of the reconciliation, or the conclusion of any NHS dispute resolution procedure, or court action as appropriate as the case may be.

6.11 PMS/APMS contracts must make suitable provision for arrangements on termination, including the consequences (whether financial or otherwise) of the contract ending, subject to any specific requirements in the regulations. While these terms are likely to mirror those set out in GMS contracts, the individual contracts must be checked by the Commissioner to ensure that no additional or alternative terms were included. This is especially important when considering termination of an APMS contract, which often included very specific additional terms in this respect.

6.12 The key elements for consideration leading up to a termination remain the same in respect of patients, property and transfer of records and confidential information.

6.13 For a list of considerations relating to termination, please refer to the policy on contract breaches and termination (chapter 7).

7.0 Retirement of a Contractor – Two or More Partners/Individuals

7.1 Where a partner wishes to retire from a GMS partnership, as constituted from time to time, the contractor will need to notify the Commissioner that it wishes to vary the contract. T h e Commissioner should follow the process in paragraphs 0 to 0 of this policy.

7.2 Where an individual wishes to retire from a PMS agreement, where that agreement is also held by one of more other individuals, the contractor will need to notify the Commissioner that it wishes to vary the agreement. The Commissioner should follow the process in paragraphs 0 to 0 of this policy.

7.3 Where a partner of a partnership holding an APMS contract wishes to retire, the Commissioner should follow any process defined within the contract, or in the absence of any defined process, the consent of the Commissioner must be sought through a contract variation.

7.4 The Commissioner should always keep in mind the possible implications on procurement and competition when applying the guidance in this policy.

7.5 Any changes to the partners within a contract may require a new registration with the CQC.

8.0 Twenty-Four Hour Retirement

8.1 24-hour retirement is a process by which members of the NHS pension scheme seek to qualify for their retirement benefits whilst continuing to work (albeit with a break).

8.2 24-hour retirement usually involves resigning from all involvement in an NHS contract, not returning to the NHS in any capacity for at least 24 hours and not working for more than 16 hours a week in the first month of retirement. The Commissioner should ensure that it is aware of the current conditions around 24-hour retirement.

8.3 If the Commissioner is approached by a contractor wishing to take 24-hour retirement, it must not offer advice relating to pension arrangements.

8.4 Where a contractor confirms that 24-hour retirement requires "resignation" from the contract, steps will need to be taken to ensure that the contractor is removed from the contract, either by:

8.4.1 termination on notice in the case of a single handed contractor; or

8.4.2 variation of the contracting party in the case of a partnership.

8.5 The Commissioner may wish to suggest single-handed practitioners take independent advice, as 24-hour retirement using the method described above

would necessitate the termination of the contract as set out in paragraphs 0 to 0.

8.6 The Commissioner must make clear to the contractor that there is no guarantee that the Commissioner would commission services from that individual following termination.

8.7 Please refer to the NHS England Legal Team for further information on procurement implications.

9.0 Variation Provisions Specific to a Contract with a Company Limited by Shares (GMS) or a Qualifying Body (PMS)

9.1 A GMS contract may be held by a company limited by shares (subject to certain conditions). PMS agreements may be held by a qualifying body (a company limited by shares, all of which are legally and beneficially owned by persons who may enter into a PMS agreement).

9.2 APMS contracts, in principle, have fewer restrictions on the types of organisations that may enter into the contracts and therefore the Commissioner can enter APMS contracts with any individual or organisation that meets the provider conditions detailed in the APMS Directions.

9.3 For further information on what types of organisations can enter into the different types of contracts, please see chapter 5 (Which medical contract when?).

9.4 A change from a single-handed or partnership contract to a limited company is a complete change of the identity of the contracting party, regardless of whether the company is owned and/or run by the original contractors. A change from an individual or partnership to a company will require the issue of a new contract and is often referred to as a contract novation or incorporation. The process in reverse is often referred to as dis-incorporation. Such a change will not be a variation to the original contract as the original contract will be replaced by the new contract.

10. Contract Novations and Incorporation/Dis-incorporation

10.1 Incorporation of a GMS contract usually occurs where a contractor that is an individual or a partnership wishes to transfer the contract to a company limited by shares.

10.2 Incorporation of a PMS agreement usually occurs where a contractor that is one or more individuals wishes to transfer the agreement to a qualifying body.

10.3 Dis-incorporation is the same process in reverse.

10.4 Where one party to a contract (A) proposes to completely remove itself from the contract to be replaced by a separate party (B), this cannot be a variation to the contract. Instead this is a transfer of the rights and obligations under the contract which is termed a contract novation.

10.5 A contract novation is not a variation. A contract novation involves the termination of the existing contract and entering into a new contract on the same terms as the original contract but with the parties details changed. Where a new contract is awarded, regardless of the fact that it may be a contract novation or may be on the same terms as the original contract, there may be procurement law implications. Commissioners must also act in accordance with any procurement protocol issued by NHS England.

10.6 Contract novations are often requested where a person or company is selling its business and as part of the sale it is transferring its contracts and its customers to the buyer. The contracts are novated and the buyer agrees to take over the seller's responsibilities for performing the contracts and takes on any associated debts and obligations.

10.7 There is no express right for a contractor to incorporate or dis-incorporate a contract. Contractors should be made aware that incorporation or dis-incorporation could potentially result in the Commissioner deciding to competitively tender the new contract in accordance with procurement law.

The contractor to the original contract may not be successful in winning the new contract.

10.8 The contractor may be unwilling to relinquish its original contract, unless it receives assurances from the Commissioner that the Commissioner will commission an equivalent (or mutually agreed) level of activity from the contractor under the new contract. As set out below, there are factors that the Commissioner should consider before providing any such assurance.

Managing a request for Incorporation or Dis-incorporation

10.9 On receipt of a request from a contractor to incorporate or dis-incorporate, the process below should be followed.

10.9.1 the Commissioner should acknowledge the request and send the contractor an assessment template. A letter and the assessment template for incorporation are provided in Annex 7 with a form for internal Commissioner use provided in Annex 8. A letter and assessment template for dis-incorporation is provided in Annex 9.

10.9.2 the Commissioner should make the contractor aware of the potential implications of the incorporation or dis-incorporation as outlined in paragraph 0.

10.9.3 on receipt of the information, the Commissioner should review the information and decide whether to agree the request.

10.10 The Commissioner should first consider whether the proposed new contractor is eligible to enter into the contract. If it is not eligible, the Commissioner must refuse the request. A template letter of refusal of a request to incorporate is provided at Annex 10 and in respect of dis-incorporation at Annex 11.

10.11 Where the proposed contractor is eligible, the Commissioner should consider a number of further matters listed below. In considering these matters, the Commissioner, is required to act reasonably and otherwise in accordance with public law principles:

10.11.1 the Commissioner's obligations under procurement law to determine whether there is a risk of challenge in agreeing the request or whether a competitive tender process should be carried out (Commissioners must also act in accordance with any procurement protocol issued by NHS England);

10.11.2 the effect of the proposal on the statutory duties of NHS England, particularly the duty under section 13K of the NHS Act (duty to promote innovation) and section 13P (duty as respects variation in provision of health services);

10.11.3 the value of the contract;

10.11.4 the level of market interest;

10.11.5 the potential for innovation;

10.11.6 the need to protect services in the core contract;

10.11.7 continuity of patient care;

10.11.8 the extent to which the original contractor(s) will be controlling and giving instructions to the proposed contractor to comply with contractual obligations;

10.11.9 that extent of change to the terms of the existing and new contract (i.e. contract value or services);

10.11.10 payments under the existing contract and value for money;

10.11.11 benefits to patients of the proposal;

10.11.12 opening hours (including evening and weekend) required;

10.11.13 whether the Commissioner requires that the existing contractor guarantees the performance of the proposed contractor – any such requirement must be proportionate to the risks associated with the

novation and reasonable with a clear rationale for placing such a responsibility on the existing contractor – legal advice should be sought

10.11.14 whether the proposed contractor is a company:

10.11.14.1 but is not registered with Companies House (the contractor may take the view that this cannot be finalised until agreement in principle has been given by the Commissioner);

10.11.14.2 and any director of the company has been disqualified from another registered company (check Insolvency Website and Companies House Disqualified Directors);

10.11.15 an unsatisfactory Disclosure and Barring Scheme;

10.11.16 whether the existing contractor has outstanding debts and whether novation is made conditional on repayment being made;

10.11.17 whether the existing contractor has received a breach or remedial notice and whether novation is made conditional on the proposed contractor taking on the consequences of the notices, e.g. action the remedial activity; and/or

10.11.18 whether the existing contractor has outstanding issues regarding CQC inspection or practice inspection by the Commissioner and whether the novation should be made conditional on those issues being resolved.

10.12 Requests for incorporation or dis-incorporation should be agreed with or without conditions unless there are concerns as to whether a request would present a benefit to patients or create a significant risk of successful procurement law challenge.

Agreeing the request

10.13 Where the Commissioner agrees the request, the original contract will be novated. Legal advice should be sought on whether a deed or a simple novation agreement should be used. A template letter is provided at Annex 12.

10.14 As a contract novation is technically termination of the original contract and replacing it with a new contract, the Commissioner must make appropriate arrangements for the termination of the original contract including:

10.14.1 carrying out a financial reconciliation; and

10.14.2 any other requirements in the contract relating to termination.

10.15 The Commissiner will need to agree a new contract with the new contractor which may vary from the original contract in terms of services provided and any other changes agreed.

10.16 Where the request is for incorporation, the new contractor will be a body corporate and the Commissioner should consider whether it is appropriate to require that the new contract contains a change of control clause. Such a clause requires the contractor to notify the Commissioner where there is a change in ownership or control of the contractor. Legal advice should be sought on the wording of the change of control clause. Where a contract contains such a clause and the Commissioner does not consent to the change but the contractor proceeds anyway, the Commissioner may issue a Remedial Notice.

10.17 Commencement of the new contract should be made conditional on the new contractor being CQC registered. The CQC cannot provide the Notification of Decision until the date of commencement is agreed. The contractor should, however, provide the Commissioner with written confirmation from the CQC that the CQC does not intend to impose any restrictions on registration of the new contractor.

Disputes

10.18 Where the contractor does not agree with the Commissioner's decision, the contractor may appeal the decision. Please refer to the policy on managing disputes (chapter 11) for further information.

Payment system requirements

10.19 Following the Commissioner's decision, any changes to the contracts must be made on the relevant payment and contract management systems.

11. Practice Mergers and/or Contractual Mergers

11.1 A GP or partnership may hold more than one form of primary care contract with the Commissioner and can also be a party to more than one contract. For example a GMS contractor can also be a party under a PMS agreement and vice versa and either can also hold or be a party to an APMS agreement.

11.2 This flexibility has enabled GP practices to come together in varying ways to provide support for each other, expand on the services available and/or resolve premises issues and achieve economies of scale, though each will have their own reasons for considering such a union.

11.3 The underlying principle for the Commissioner to consider when any such proposal is made to them is what the benefit is for the patients and what the financial implications are for the Commissioner.

11.4 There are two ways in which practices may propose to merge:

11.4.1 by informal arrangements such as sharing staff which requires no change to the contracts – it is a private arrangement between the practices; or

11.4.2 by "merging" the contracts which may be done by:

11.4.2.1 each contractor becoming a party to the other contractor's contract (through variations of the contracting parties); or

11.4.2.2 terminating one of the existing contracts, continuing the other contract but varying it to include the other contractor as a party to the contract; or

11.4.2.3 by terminating the two existing contracts and creating a single organisation or partnership which will enter into one new contract;

11.5 If one or both contracts are terminated, the relevant contractor must give notice to the Commissioner to terminate (giving either three or six months' notice depending on the type of contractor and contract).

11.6 Merging contracts is a complex matter which should not be approached lightly by either the contractors or the Commissioner. The final commissioning decision on whether contracts should be merged lies with the Commissioner and there are a number of important issues that would need to be considered, prior to giving consent, such as:

11.6.1 benefits to patients - the Commissioner should require the parties to submit a service plan to support their application, which should provide detail on:

11.6.1.1 how patients would access a single service;

11.6.1.2 what would the practice boundary be (inner and outer);

11.6.1.3 assurances that all patients will access a single service with consistency across provision, ie home visits, booking appointments, essential and additional services, opening hours, extended hours, and so on, single IT and phone system;

11.6.1.4 premises arrangements; and

11.6.1.5 proposed arrangements for involving the patients about the proposed changes, communicating the change to patients and ensuring patient choice throughout;

11.6.2 costs/value for money - a contract merger is likely to merge two contracts with differing values, this would have an 'averaging' effect, possibly resulting in a higher cost per head of population under a single contract than the Commissioner would have expected. For example:

11.6.2.1 practice A attracts £120 per patient with a list size is 1,400;

11.6.2.2 practice B attracts only £90 per patient but has a list size of 5,000;

11.6.2.3 practice A's contract value by registered population = £168,000;

11.6.2.4 practice B's contract value by registered population = £450,000;

11.6.2.5 total cost to the Commissioner = £618,000;

11.6.2.6 a merger would result in a list size of 6,400 patients, which should be paid at a per patient cost of £105 (averaging of two previous costs) resulting in a single contract cost to the Commissioner of £672,000;

11.6.3 other financial arrangements – the impact of directions under the Statement of Financial Entitlements, or any specific terms included in the individual contracts;

11.6.4 QOF - merging contracts midway through a financial year in respect of QOF achievements and payments is enormously complex and requires significant safeguards to be built in to ensure there is no duplication of payments at year-end. There will also be an averaging of the arrangements and achievements in this respect too. For example:

11.6.4.1 practice A has always achieved highly against each indicator of QOF.

11.6.4.2 practice B has struggled to meet the criteria under several of the indicators.

11.6.4.3 the results of a merger might be a single practice with mediocre achievement against aspirations and this would affect the aspirational payment that the single contract would attract.

11.6.5 premises reimbursements;

11.6.6 general duties of NHS England (chapter 4);

11.6.7additional service and out of hours opt-outs; and

11.6.8 procurement and competition.

11.7 This is by no means an exhaustive list and the Commissioner should refer to and seek appropriate guidance in each case to ensure that all relevant matters are considered.

11.8 In general terms contractual mergers should only be considered in cases of like-for-like contracts, i.e. GMS with GMS and PMS with PMS because of the differences in terms and financial arrangements. However, this does not remove the right for a PMS provider to request to merge its business with a GMS provider and eventually work under one form of contractual terms.

11.9 Commissioners should advise contractors to seek guidance from their representative bodies in this instance to ensure they follow due process and are fully aware of the implications.

11.10 It is essential that patients from the terminating contract are included under the remaining contract through bulk transfer where possible to avoid additional cost pressure.

11.11 The Commissioner must bear in mind that even avoiding this additional cost, once patients are under the new contract, the Carr-Hill formula will be applied and may even then increase the cost of the transferring patients based on one of the other factors, such as rurality, when it may not have applied to the terminating contract.

11.12 The Carr-Hill allocation formula is used to adjust the global sum payment for a number of local demographic and other factors, which may affect a practice workload. For example, a practice with a large number of elderly patients may have a higher workload than one that primarily cares for commuters.

11.13 The factors included in the Carr-Hill formula are:

11.13.1 patient age and gender (used to reflect frequency of home and surgery visits);

11.13.2 additional needs: standardised mortality ratio and standardised long-standing Illness for patients under the age of 65 years;

11.13.3 number of newly registered patients (generate 40% of work in first year);

11.13.4 rurality;

11.13.5 costs of living in some areas (i.e. South East - higher staff costs?); and

11.13.6 patient age/gender for nursing/residential consultations

Co-commissioning - delegated commissioning arrangements

A CCG that has delegated commissioning arrangements will have entered into a Delegation Agreement with NHS England setting out the scope of those arrangements.

The Delegation Agreement includes a section on approving GP practice mergers and closures. When carrying out such actions, the CCG is required to act in accordance with the Delegation

Agreement which includes but is not limited to:

- undertaking all necessary consultation when taking any decision in relation to GP practice mergers or GP practice closures, including those set out under section 14Z2 of the NHS Act (duty for public involvement and consultation). The consultation undertaken must be appropriate and proportionate in the circumstances and should include consulting with the LMC;

- prior to making any decision, clearly demonstrating the grounds for such a decision and fully considering any impact on the GP practice's registered population and that of surrounding practices. The CCG must be able to clearly demonstrate that it has considered other options and has entered into dialogue with the GP contractor as to how any closure or merger will be managed; and

- in making any decisions, taking account of the CCG's obligations as set out in the Delegation Agreement in relation to procurement, where applicable.

Changes to Services

11.14 Commissioners will need to consider changes to local service provision as a consequence of a health needs assessment of the local community with particular regard to the diverse nature of the community and reducing health inequalities in access and outcomes.

11.15 The Commissioner and the contractor shall only agree to any change to the delivery of services after all legal obligations in respect of consultation, engagement or involvement of the public, patients and other organisations have been fulfilled.

11.16 The paragraphs below outline the principles and steps required to process the most commonly occurring service changes.

12. Open and Closed Lists

12.1 There are circumstances where a contractor may wish to close their list to new registrations, e.g. internal capacity issues or premises refurbishments. A contractor may also seek to extend a closed list period or open their list again before the end of an agreed period.

12.2 Further details on how to manage patient lists are set out in the policy on managing patient lists (chapter 9).

13. Boundary Changes

13.1 There may be circumstances when a contractor wishes to change their main practice boundary to either expand or contract the practice area for new registrations due to new redevelopment, local authority compulsory purchase schemes and/or road developments.

13.2 Most practices will also have within their contracts a defined outer boundary to allow those patients, who move home a relatively short distance outside of the main boundary and who would prefer to stay with their existing practice with whom they may have a well-established relationship, to remain registered.

13.3 For the purposes of service provision, the full range of contractual services must be made available to those patients registered with the practice within the outer boundary and the outer boundary area must be treated as part of the practice's contracted area.

13.4 changes to the practice area (main and outer boundary) must be considered a variation to the contract and the definitions of these areas amended under a variation notice. The contractor must notify the Commissioner of its intent to vary its area in writing setting out the reasons for the change and full details of the proposed practice area, with any additional supporting evidence that may assist the Commissioner in reaching its decision (a template application notice is set out in Annex 13 A)..

13.5 The contractor and the Commissioner must engage in open dialogue concerning the circumstances that have led to the request to change their boundary and discuss the possible implications of the action, i.e. a reducing patient register, an expanding patient register, the financial implications of both and any possible alternative actions that may be taken by either party to enable the practice to maintain its existing practice area.

13.6 Commissioners must consider the application having regard to other practices' boundaries, patient access to other local services and in general other health service coverage within a location and may seek to involve the public to seek their views.

13.7 Once a decision is reached on whether to accept or reject the application, the Commissioner should notify the contractor in writing of its decision (a template letter is provided in Annex 13B).

13.8 If the Commissioner accepts the proposed changes to the practice area, the contractor should be notified, as soon as possible, in writing of:

13.8.1 the acceptance;

13.8.2 the date upon which the changes will take effect; and

13.8.3 a requirement of the contractor to publish the details of the new practice area within their patient information leaflet and on their website (if they have one).

13.9 If the Commissioner declines the proposed changes to the practice area, the contractor should be notified, as soon as possible, in writing of that decision and to include:

13.9.1 the reasons for the decision;

13.9.2 the right of the contractor to appeal and the process for doing so; and

13.9.3 specify any period within which the Commissioner would not consider a further application from this contractor to vary its practice area.

13.10 Practices who are intending to reduce their practice area must be advised that registered patients who subsequently fall outside of the new agreed area, but who are within the original practice area (main and outer boundary) can only be removed from the list if one or more of the provisions of the relevant regulations / directions that relate to removal of patients from the practice's patient list apply.

14. Premises

14.1 A contractor may wish to make changes to its contracted practice premises (including branch surgeries – for further information, see paragraphs 0 to 0 below) from which services are provided.

14.2 This would likely be a significant change to services for the registered population and as such the Commissioner and the contractor must engage in open dialogue in the first instance to consider the consequences and implications of the proposed change and discuss any possible alternatives that may be agreed between them.

14.3 The Commissioner and contractor, through their dialogue, may establish that there is a need to retain medical service provision in the locality and must seek to find a solution, which could include tendering for a new provider within that locality, though not necessarily within the same premises.

14.4 Once, and if, the final date for closure is confirmed, the Commissioner will issue a variation agreement notice to remove the registered address from the contract, and as in other variations under this policy, include the wording of the variation and the date on which it will take effect.

14.5 The contractor will be fully responsible for cessation or assignment of the lease for any rented premises and any disposal of owner occupied premises.

14.6 While it is likely that a PMS/APMS contract would reflect the terms as laid out in the GMS contract example above, it is essential that the Commissioner reviews the individual contract for relevant provisions that relates to removing the closing premises and any rights associated with that premises.

Branch Closure

14.7 The closure of a branch surgery may be as a result of an application made by the contractor to the Commissioner or due to the Commissioner instigating the closure following full consideration of the impact of such a closure.

14.8 In the circumstances that the Commissioner is instigating a branch closure, the Commissioner must be able to clearly demonstrate the grounds for such a closure and have fully considered any impact on the contractors registered population and any financial impact on the actual contractor. The Commissioner will be expected to demonstrate that they have considered any other options available prior to instigating a branch closure and entering into a dialogue with the contractor as to how the closure is to be managed. The Commissioner will need to have complied with the duty (under section 13Q of the NHS Act) to involve patients in decision-making before any final decision to close a branch is made.

14.9 Where a contractor wishes to close a branch surgery, the contractor should have preliminary discussions with the Commissioner to determine appropriate and proportionate patient involvement requirements prior to the consideration of such a service provision change. Even though the closure is being instigated by the contractor, the Commissioner will still need to comply with

the section 13Q duty to involve patients in decision-making before any final decision is made.

14.10 The closure of a branch surgery would be a significant change to services for the registered population and as such the Commissioner and the contractor should engage in open dialogue in the first instance to consider the consequences and implications of the proposed change and discuss any possible alternatives that may be agreed between them. At this stage the duty to involve the public in proposals for change is triggered and the Commissioner and contractor should work together on fair and proportionate ways to achieve this. The Commissioner should ensure clarity on what involvement activities are required by the contractor.

14.11 Contractor and Commissioner discussions resulting ultimately in a decision about a branch closure will often include consideration of (but not be limited to):

14.11.1 financial viability;

14.11.2 registered list size and patient demographics;

14.11.3 condition, accessibility and compliance to required standards of the premises;

14.11.4 accessibility of the main surgery premises including transport implications;

14.11.5 the Commissioner's strategic plans for the area;

14.11.6 other primary health care provision within the locality (including other providers and their current list provision, accessibility, dispensaries and rural issues);

14.11.7 dispensing implications (if a dispensing practice);

14.11.8 whether the contractor is currently in receipt of premises costs for the relevant premises;

14.11.9 other payment amendments;

14.11.10 possible co-location of services;

14.11.11 rurality issues;

14.11.12 patient feedback;

14.11.13 any impact on groups protected by the Equality Act 2010 (for further detail see chapter 4 (General duties of NHS England);

14.11.14 the impact on health and health inequalities; and

14.11.15 any other relevant duties under Part 2 of the NHS Act (for further detail see chapter 4 (General duties of NHS England).

14.12 The Commissioner and contractor, through their dialogue, may establish that there is a need to retain medical service provision in the locality and must find a solution, which could include tendering for a new provider within that locality though not necessarily within the same premises. Note that most changes in premises will trigger the Commissioner's duties to involve patients in decision-making.

14.13 The Commissioner should confirm any such arrangements and agreements in writing to the contractor as soon as is practicably possible after the agreement is reached.

14.14 If the Commissioner and the contractor are unable to reach an agreement to keep the branch surgery open, then the contractor, based upon their previous discussions with the Commissioner regarding appropriate and proportionate involvement, will continue to involve patients in the proposed changes.

14.15 The contractor is required to follow the patient and public participation Patient and Public Participation Policy and Statement of Arrangements & Guidance

on Patient and Public Participation in Commissioning process as appropriate to the arrangements agreed with the Commissioner, with support and advice as appropriate from the Commissioner. Adherence to the PPP involvement process will help ensure that an appropriate involvement exercise is carried out, that meets the legal obligations on the Commissioner.

14.16 Once this involvement exercise has been undertaken and the results provided to the Commissioner, the contractor would then submit a formal application to close the branch surgery to the Commissioner for consideration (Annex 14A).

14.17 The Commissioner will then assess the application regarding the closure and the outcome of the patient involvement exercise with a view to either accepting or refusing the proposal. These assessments will need to again consider all the relevant factors, including those listed at paragraph 0. The Commissioner should document how it has taken the various factors into account.

14.18 Either the contractor or the Commissioner may invite the LMC to be party to these discussions at any time.

14.19 Where the Commissioner refuses the branch closure through its internal assessment procedure, the contractor shall be notified in writing within 28 days following the internal assessment and the contractor may then follow the relevant resolution process as referenced in the contract. Please refer to Annex 14B.

14.20 Where the Commissioner approves the branch closure, the Commissioner will need to ensure that it retrieves all NHS owned assets from the premises.

14.21 The contractor remains responsible for ensuring the transfer of patient records (electronic and paper Lloyd George notes) and confidential information to the main surgery, having full regard to confidentiality and data protection requirements, Records Management: NHS Code of Practice guidance and any relevant guidance from the Health & Social Care Information Centre or the Information Commissioner's Office. Where a third party contractor is being

used to handle records, they must be vetted and appropriate contractual arrangements put in place. Further information is contained in Annex 15.

14.22 The contractor remains responsible for carrying out public involvement in accordance with the instructions given by the Commissioner and informing the registered patients of the proposed changes. However, ultimately it is the Commissioner's responsibility to ensure that involvement activities have met legal requirements, even if carried out by the contractor. Further guidance can be found in the NHS England document Patient and Public Participation Policy and Statement of Arrangements & Guidance on Patient and Public Participation in Commissioning

14.23 Once the final date for closure is confirmed the Commissioner will issue a standard variation notice to remove the registered address of the branch surgery from the contract, including the amended sections of the contract for completeness.

14.24 Where the contractor has previously been granted premises consent to dispense, and these rights are only associated with the closing premises in question (that is listed on the relevant dispensing contractor list), the contractor's consent to dispense will cease.

14.25 The Commissioner shall update its records and ensure that the relevant dispensing contractor list is updated appropriately to reflect the removal of the premises.

14.26 It is possible that a PMS or APMS contract will reflect the terms as set out above. It is however essential that the Commissioner reviews the individual contract for these or any other relevant provisions to allow a variation to effectively remove the closing premises and any rights associated with that premises alone.

Co-commissioning – delegated commissioning arrangements

Where a CCG has delegated commissioning arrangements with NHS England and is considering a branch closure, the CCG must have regard to the matters set out in the Delegation Agreement as indicated in the Co-commissioning box set out after paragraph 0 of this policy.

15 Opt Outs

15.1 Services under primary medical contracts are categorised as:

15.1.1 Essential services – these are the services described in regulation 15 of the GMS Regulations which a GMS contractor must provide. Essential services are not mandatory for PMS or APMS contractors;

15.1.2 Additional services and out of hours – these are specific services that are additional to essential services. It is not mandatory for contractors to provide these services but where GMS and PMS contractors provide such services, the contracts must contain terms relating to the procedure for opting out of those services. It is not a requirement that APMS contracts contain such opt out provisions but the Commissioner should review the relevant APMS contract to determine whether any such provisions have been included; or

15.1.3 Enhanced services - these are any services that go beyond essential, additional or out of hours services that the contractor may have agreed to be included.

15.2 Where a contractor has opted out of delivering any or all of the additional or out of hours services, the Commissioner must commission these services from an alternative source for the registered patients under that contract.

15.3 Prior to any opt out taking effect, the Commissioner and the contractor shall discuss how to inform the contractor's patients of the proposed opt out. The Commissioner can request the contractor to inform its registered patients of an opt out and the arrangements made for them to receive the additional

service or out of hours services by either placing a notice in the practice's waiting rooms; or including the information in the practice leaflet.

15.4 The Regulations do not refer to opt-ins, i.e. where a contractor wishes to provide services which it previously opted out of providing. If the Commissioner receives a request to opt-in, it should refer to the NHS England Legal Team for consideration of the procurement implications.

Opt out of additional services

15.5 Where a contract wants to opt out of providing additional services, the contractor must notify the Commissioner in writing stating the reasons for wishing to opt out. This notice is referred to as a preliminary opt-out notice.

15.6 As a next step, the Commissioner must discuss with the contractor what support the Commissioner may give the contractor to enable the contractor to continue to provide the additional service. The parties must also discuss other changes which with party could make to enable the contractor to continue providing the service. These discussions must be started as soon as is reasonably practicable and in any event within seven days beginning with the receipt of the preliminary opt-out notice. The Commissioner and the contractor must use reasonable endeavours to achieve this aim of enabling the contractor to continue to provide the additional service.

15.7 The discussions must be completed within ten days beginning with the date of the receipt of the preliminary opt-out notice or as soon as reasonably practicable after the ten days.

15.8 If, after the discussions, the contractor still wishes to opt out, the contractor must send an opt-out notice to the Commissioner which must include:

15.8.1 the additional service concerned;

15.8.2 whether the contractor wishes to temporarily or permanently opt out;

15.8.3 the reasons for wishing to opt out;

15.8.4 the date from which the contractor would like the opt out to commence, which must:

15.8.4.1 in the case of a temporary opt out, be at least 14 days after the date of service of the opt-out notice; and

15.8.4.2 in the case of a permanent opt out, must be the day either three or six months after the date of service of the opt-out notice; and

15.8.5 in the case of a temporary opt out, the desired duration of the opt out.

15.9 The Contract Regulations do not allow contractors to temporarily opt out of providing additional services more than twice. Where a contractor has given two previous temporary opt-out notices within the period of three years ending with the date of the service of the latest opt-out notice (whether or not the same additional service is concerned), the Commissioner must treat the latest opt-out notice as a permanent opt out (even if the notice says that it wishes to temporarily opt out).

Temporary opt out of additional services

15.10 Where the contractor has provided a temporary opt-out notice, the Commissioner must follow the process below:

15.10.1 The Commissioner must, as soon as is reasonably practicable and in any event within the period of seven days beginning with the date of receipt of a temporary opt-out notice, either:

15.10.1.1 approve the opt-out notice and specify both the date on which the temporary opt out is to commence (which wherever reasonably practicable must be the date requested by the contractor in its opt out notice) and the date that it is to come to an end ("the end date"); or

15.10.1.2 reject the opt-out notice on the ground that the contractor:

15.10.1.2.1 is providing additional services to patients other than its own registered patients or enhanced services, or

15.10.1.2.2 has no reasonable need temporarily to opt out having regard to its ability to deliver the additional service;

15.10.2 The Commissioner must notify the contractor whether it has approved or rejected the opt-out notice as soon as possible, including reasons for its decision (Annex 7B).

15.11 The Commissioner or the contractor may have concerns about the ability of the contractor to provide the services at the end of the temporary opt out. If the Commissioner considers that the contractor will be unable to satisfactorily provide the additional service at the end of the temporary opt out, the Commissioner can agree with the contractor to extend the end date. If such extension is not possible, the Commissioner may notify the contractor in writing at least 28 days before the end date that a permanent opt out shall immediately follow the temporary opt out. Similarly, a contractor who has temporarily opted out may, at least three months prior to the end date, notify

the Commissioner in writing that it wishes to permanently opt out of the additional service in question.

Permanent opt out of additional services

15.12 Where the contractor has provided a permanent opt-out notice, the Commissioner must approve or reject it. The Commissioner must do so as soon as is reasonably practicable and in any event within the period of 28 days beginning with the date of receipt of a permanent opt-out notice. The only ground on which the Commissioner may reject the notice is that the contractor is providing an additional service to patients other than its registered patients or enhanced services. The Commissioner must notify the contractor of its decision as soon as possible, including reasons for its decision where its decision is to reject the opt-out notice.

15.13 If, after the Commissioner approves a permanent opt-out, the contractor wishes to withdraw the notice, it can only do so if the Commissioner agrees. This is because after approving the opt-out, the Commissioner must use reasonable to make arrangements for the contractor's registered patients to receive the additional service from an alternative provider.

15.14 It may be difficult for the Commissioner to find an alternative provider to deliver the service from the date on which the contractor proposed to opt out. Where this is the case, the Commissioner must notify the contractor one month before the proposed opt out date requiring the contractor to continue to provide the services for a certain period of time as set out below.

15.15 Where the proposed opt out date is three months after service of the opt-out notice (if six months, see paragraph 0), the contractor shall continue to provide the additional service until the day six months after the service of the opt-out notice. If, during this period, the Commissioner, despite using its reasonable endeavours, is still unable to find an alternative provider, it can provide a further notice to the contractor requiring the contractor to provide the additional service until the day nine months after the date of service of the permanent opt-out notice.

15.16 The contractor may find it difficult to continue providing the services for a further nine months. Therefore, as soon as is reasonably practicable and in any event within seven days of the Commissioner serving a further notice to the contractor to continue providing the service until nine months after the date of service of the permanent opt-out notice, the Commissioner must enter into discussions with the contractor. These discussions must consider what support the Commissioner may give to the contractor or other changes which either party may make in relation to the provision of the additional service until the actual opt out date. The requirement to enter into discussions only arises where the Commissioner requires the contractor to provide the services until the date nine months after service of the opt out notice. It does not apply where the Commissioner requires the contractor to provide the services until the day six months after service of the opt-out notice.

15.17 Where the proposed opt out date is six months after service of the opt-out notice, the contractor shall continue to provide the additional service until the day nine months after the service of the opt-out notice.

Opt out of Out of Hours

15.18 If a contractor wishes to terminate its obligation to provide out of hours services, it must provide the Commissioner with an out of hours opt-out notice specifying the date from which the contractor would like the opt out to take effect, which must be either three or six months after the date of service of the out of hours opt-out notice.

15.19 As soon as is reasonably practicable and in any event within 28 days of receiving the out of hours opt-out notice, the Commissioner shall approve the notice and confirm the date on which the out of hours opt out is to commence. The Commissioner cannot reject an out of hours opt-out notice.

15.20 If, after the Commissioner approves an out of hours opt-out notice, the contractor wishes to withdraw the notice, it can only do so if the Commissioner agrees. This is because after approving the opt-out, the Commissioner may have made arrangements for the contractor's registered patients to receive the out of hours service from an alternative provider.

15.21 If the Commissioner cannot find an alternative provider, paragraphs 0 to 0 will apply as if the reference to an additional service was a reference to the out of hours service.

15.22 Once the terms of any permanent or temporary opt out are agreed, a variation notice must be issued in accordance with the principles laid out in this policy to amend the relevant section of the contract.

15.23 The Commissioner should follow the same process for PMS contractors. For APMS arrangements, the Commissioner should review the contract to determine whether it contains any relevant provisions.

16. Financial Changes – Statement of Financial Entitlements

16.1 The contract will contain the terms of any payments due. Any change to those terms will require a notice of variation which should be provided no less than 28 days before the proposed variation takes effect.

16.2 For GMS contracts, the financial terms must reflect those set out in the GMS SFE. There is no such requirement under PMS or APMS contracts which have been locally agreed. Any changes under the GMS SFE should be reviewed against the terms of each of the individual contracts to ascertain what, if any, affect those changes have on local financial terms.

Annex 1

Template Variation Notice for Legislation / Regulatory Change – GMS Contracts

[This Annex is provided as a template only and appropriate advice and support should be sought prior to issuing such a notice]

[*date*]

Dear [*Name*]

Notice of variation to your GMS contract

We give you notice that we intend to vary your GMS contract dated [*insert start date of contract*] (the "Contract") with effect from [*insert date (if this date is less than 14 days after the date this notice will be served, explain why*]. We provide the wording of the variation below.

[*insert variation wording or attach the DH issued GMS variation*]

This variation is made to comply with the terms of [*insert legislation that requires the change*]. Under clause [*insert clause number of contract (clause 26 for the Standard GMS Contract)*], we may vary the Contract without your consent where this is due to legislative or regulatory change. You are not, therefore, required to acknowledge this variation notice.

Yours sincerely

[*Name*]

[*Job title, etc*]

Annex 2

Template Variation Notice for Legislation / Regulatory Change – PMS/APMS Contracts

[This Annex is provided as a template only and appropriate advice and support should be sought prior to issuing such a notice]

[*date*]

Dear [*Name*]

Notice of variation to your [PMS/APMS] [agreement/contract]

We give you notice that we intend to vary your [*PMS/APMS*] [*agreement/contract*] dated [*insert start date of contract*] (the "Contract") with effect from [*insert date (if this date is less than 14 days after the date this notice will be served, explain why*]. We provide the wording of the variation below.

[*insert variation wording*]

This variation is made to comply with the terms of [*insert legislation that requires the change*]. Under clause [*insert clause number of contract*], we may vary the Contract without your consent where this is due to legislative or regulatory change. You are not, therefore, required to acknowledge this variation notice.

Yours sincerely

[*Name*]

[*Job title, etc*]

Annexes 3 - 6

Requests for Information – Changes to the Contracting Parties

These Annexes contain requests for information to be sent to the contractor and corresponding acknowledgements for completion by the Commissioner. The Annexes include:

Annex 3A – Request for information relating to change from individual to partnership – GMS contracts

Annex 3B – Acknowledgement of information relating to change from individual to partnership – GMS contracts

Annex 4A – Request for information relating to change from individual to more than one individual – PMS agreements

Annex 4B – Acknowledgement of information relating to change from individual to more than one individual – PMS agreements

Annex 5A – Request for information relating to change from partnership to individual – GMS contract

Annex 5B – Acknowledgement of information relating to change from partnership to individual – GMS contract

Annex 6A – Request for information relating to change from more than one individual to an individual - PMS agreement

Annex 6B – Acknowledgement of information relating to change from more than one individual to an individual - PMS agreement

Annex 3A

Request for Information Relating to Change from Individual to Partnership – GMS contracts

[*date*]

Dear [*name*]

Change from Individual to Partnership – [insert GMS contract reference]

Please provide the information below to the Commissioner no less than 28 days before the requested contract variation.

1. Affix practice stamp:

2.	The names of the person(s) in the proposed partnership:	[List all partners]
3.	The name of the partnership, address, telephone number, fax number and email address:	[Insert]
4.	Will the partnership be a limited partnership?	Yes / No
	If yes, who is a limited and who is a general partner?	[List all partners indicating who is limited and who is general]

5. Confirm that the proposed partner(s) is/are either: a. a medical practitioner; or b. a person who satisfies the conditions specified in the NHS Act	[List all partners indicating whether each is a medical practitioner or a person who satisfies the conditions specified in the NHS Act]
6. Confirm that the proposed partner(s) satisfies the conditions imposed by regulations 4 and 5 of the NHS (General Medical Services Contracts) Regulations 2004.	[List all partners indicating whether each satisfies the conditions imposed by regulations 4 and 5 of the NHS (General Medical Services Contracts) Regulations 2004]
7. The proposed date from which this change is to be implemented:	[insert date]

Signed by current contractor, [insert name] _____

Date _____

Signed by proposed new partner, [insert name] _____

Date _____

Signed by proposed new partner, [insert name] _____

Date _____

[Add further signatures lines as necessary]

Please note that providing information does not impose any obligation on the Commissioner to agree to this change.

Yours sincerely

[name]

[title]

Annex 3B

Acknowledgement of Information Relating to Change from Individual to Partnership – GMS contracts

[*insert date*]

Dear [*name*]

Contract details - [insert name of contract]

Thank you for providing information relating to a change in the contractor status of your GMS contract from an individual to a partnership.

[I can confirm that we are satisfied that the information meets the conditions to enable us to agree that the contract will continue with the partnership with effect from [*insert date*]. We include a variation notice with this letter. I have included two copies of the variation notice which I would be grateful if you could return after being signed. We will then sign the documents and return a copy for you to retain for your records.

OR

We are not satisfied that the person(s) you have proposed is eligible to hold a GMS contract. This is because [*insert*]. The contract will remain with you as individual contractor until this matter can be resolved and we agree that the contract can be varied.]

Yours sincerely

[*name*]

[*title*]

Annex 4A

Request for Information Relating to Change from Individual to More than One Individual – PMS agreements

[The Commissioner must review the agreement to determine if there are any specific provisions that are relevant to this scenario]

[*date*]

Dear [*name*]

Change from Individual to More than One Individual – [insert PMS agreement reference]

Please provide the information below to the Commissioner no less than 28 days before the requested contract variation.

1. Affix practice stamp:

2. The names of the person(s) who will join the agreement:	[List all persons]
3. The address, telephone number, fax number and email address of the person(s) who will join the agreement:	[Insert]
4. Confirm that the proposed partner(s) satisfies the	[List all persons indicating whether each satisfies the conditions imposed by regulation

conditions imposed by regulation 5 of the NHS (Personal Medical Services Agreements) Regulations 2004:	5]

5. The proposed date from which this change is to be implemented:	[insert date]

Signed by current contractor, [insert name] _____

Date _____

Signed by proposed new person, [insert name] _____

Date _____

Signed by proposed new person, [insert name] _____

Date _____

[Add further signatures lines as necessary]

Please note that providing information does not impose any obligation on the Commissioner to agree to this change.

Yours sincerely

[name]

[title]

Annex 4B

Acknowledgement of Information Relating to Change from Individual to More than One Individual – PMS Agreement

[The Commissioner must review the agreement to determine if there are any specific provisions that are relevant to this scenario]

[*insert date*]

Dear [*name*]

Contract details - [insert name of contract]

Thank you for providing information relating to a change in the contractor status of your PMS agreement from an individual to more than one individual.

[I can confirm that we are satisfied that the information meets the conditions to enable us to agree that the contract will continue with more than one individual with effect from [*insert date*]. We include a variation notice with this letter. I have included two copies of the variation notice which I would be grateful if you could return after being signed. We will then sign the documents and return one copy for you to retain for your records.

OR

We are not satisfied that the person(s) you have proposed is eligible to hold a PMS agreement. This is because [*insert*]. The agreement will remain with you as individual contractor until this matter can be resolved and we agree that the agreement can be varied.]

Yours sincerely

[name]

[title]

Annex 5A

Request for Information Relating to Change from Change from Partnership to Individual – GMS Contract

[*date*]

Dear [*name*]

Change from Partnership to Individual – [insert GMS contract reference]

Please provide the information below to the Commissioner no less than 28 days before the requested contract variation.

1. Affix practice stamp:

2.	The names of the former partner who is nominated to take forward the contract:	[insert the nominated partner's name]
3.	The address, telephone number, fax number and email address of the former partner who is nominated to take forward the contract:	[Insert]
4.	Confirm that the nominated partner satisfies the conditions imposed by regulations 4 and 5 of the	[Indicating whether the nominated person satisfies the conditions imposed by

	NHS (General Medical Services Contracts) Regulations 2004:	regulations 4 and 5]
5.	The proposed date from which this change is to be implemented:	[insert date]
6.	Detail how the nominated partner will continue to deliver the full range of services currently provided:	[insert details]

Signed by current partner, [insert name] _____

Date _____

Signed by current partner, [insert name] _____

Date _____

Signed by proposed new person, [insert name] _____

Date _____

[Add further signatures lines as necessary]

Please note that providing information does not impose any obligation on the Commissioner to agree to this change.

Yours sincerely

[name]

[title]

Annex 5B

Acknowledgement of Information Relating to Change from Partnership to Individual – GMS Contract

[*insert date*]

Dear [*name*]

Contract details - [insert name of contract]

Thank you for providing information relating to a change in the contractor status of your GMS contract from a partnership to an individual.

[I can confirm that we are satisfied that the information meets the conditions to enable us to agree that the contract will continue with the individual with effect from [*insert date*]. We include a variation notice with this letter. I have included two copies of the variation notice which I would be grateful if you could return after being signed. We will then sign the documents and return one copy for you to retain for your records.

OR

We are not satisfied that the person you have nominated is eligible to hold a GMS contract. This is because [*insert*]. The contract will remain with you the partnership until this matter can be resolved and we agree that the contract can be varied.]

Yours sincerely

[name]

[title]

Annex 6A

Request for Information Relating to Change from More than One Individual to an Individual - PMS Agreement

[*date*]

Dear [*name*]

Change from More than One Individual to an Individual – [insert PMS agreement reference]

Please provide the information below to the Commissioner no less than 28 days before the requested contract variation.

1.	Affix practice stamp:	
2.	The names of the person who will take forward the contract:	[insert the person's name]
3.	The address, telephone number, fax number and email address of the person who will take forward the contract:	[Insert]
4.	Confirm that the person satisfies the conditions imposed by regulation 5 of the NHS (Personal Medical	[Indicating whether the person satisfies the conditions imposed by regulation 5]

	Services Agreements) Regulations 2004:	
5.	The proposed date from which this change is to be implemented:	[insert date]
6.	Detail how the person will continue to deliver the full range of services currently provided:	[insert details]

Signed by current partner, [insert name] _____

Date _____

Signed by current partner, [insert name] _____

Date _____

[Add further signatures lines as necessary]

Please note that providing information does not impose any obligation on the Commissioner to agree to this change.

Yours sincerely

[name]

[title]

Annex 6B

Acknowledgement of Information Relating to More than One Individual to an Individual - PMS Agreement

[*insert date*]

Dear [*name*]

Contract details - [insert name of contract]

Thank you for providing information relating to a change in the contractor status of your PMS agreement from more than one individual to an individual.

[I can confirm that we are satisfied that the information meets the conditions to enable us to agree that the contract will continue with the individual with effect from [*insert date*]. We include a variation notice with this letter. I have included two copies of the variation notice which I would be grateful if you could return after being signed. We will then sign the documents and return one copy for you to retain for your records.

OR

We are not satisfied that the individual you have proposed is eligible to hold a PMS agreement. This is because [*insert*]. The agreement will remain with you as more than one individual until this matter can be resolved and we agree that the agreement can be varied.]

Yours sincerely

[name]

[title]

Annex 7

Acknowledgement of Request to Incorporate and Medical Incorporation Assessment Template

[*date*]

Dear [*name*]

Contract No [insert contract number]

Request to become a [company limited by shares / qualifying body / other]

Thank you for your letter dated [*insert date*], informing us of your request to incorporate. Incorporation is not considered to be a minor contractual change, so further enquiries and consideration needs to take place.

In order for us to consider your request, we ask that you complete the enclosed template and return it to us at the above address.

In addition to the template we also request that you provide copies of the documentation listed below to support the request.

We appreciate that all the documentation will not be available at the time of your request as you may only apply to Companies House and the Care Quality Commission if we agree to your request for incorporation in principle.

Those marked with * should be forwarded as soon as these become available as the contract documentation cannot be produced until these are received:

* Companies House Certificate detailing all Directors

Copy of passport for all Directors

Professional indemnity

Employers liability

Public liability

* Copy of written confirmation from the CQC that they do not intend to impose any restrictions on registration as the incorporated company

Yours sincerely

[name]

[title]

Enc.

Medical Incorporation Assessment Template

All contractors/partnerships wishing to incorporate must complete the details requested below.

Please note ALL questions must be answered in full. If a question is not applicable please write N/A in the box provided.

1. Details of the Applicant

1.1 Please provide the name and other required contact details of the applicant (person for contact purposes with this application).

Applicant Name:	
Address:	
Telephone:	
Fax:	
E-mail:	

1.2 Current status of organisation – please mark 'x' in the appropriate box:

Individual medical contractor(s)		Partnership	

1.3 Current contract type – please mark 'x' in the appropriate box:

GMS		PMS		APMS+	

Please state the nature of the incorporation – please mark 'x' in the appropriate box:

Company limited by shares		Qualifying Body	

1.4 Where the proposed contractor is a company limited by shares, please provide a complete breakdown of share ownership.

Shareholder: Percentage of shares held:	
Shareholder: Percentage of shares held:	

1.5 Please provide details of the proposed contractor

Name of Proposed Contractor	
Trading Name:	
Previous Trading Name (if different)	
Registered Address:	
Total Number of proposed Directors:	

CQC registration	
Details of proposed Directors, including full name:	Name (please print)
	1)
	2)
	3)
	4)
	5)
	6)
	7)
Proposed date of incorporation	

2. Impact on Contract

2.1 Will the process of incorporation have any effect on current patient services – please mark 'x' in the appropriate box:

Yes		No	

2.2 Will the process of incorporation have any effect on the location of current service provision – please mark ‘x’ in the appropriate box:

Yes		No	

2.3 Will the process of incorporation have any effect on the current range of services provided – please mark ‘x’ in the appropriate box:

Yes		No	

2.4 Will there be any change to the practitioners providing the service – please mark ‘x’ in the appropriate box:

Yes		No	

2.5 If any of these questions receives a YES response, please provide details of the effect.

Details:	

3. Legal and Regulatory Status

3.1 Please confirm you have or will have (for the proposed new entity) all relevant insurance and indemnity requirements in place prior to contract signature – please mark 'x' in the appropriate box:

Insurance category:	Name of insurance company	Policy no.	Expiry Date	Amount of cover (£)	Name of staff member
Professional indemnity					
Employers liability					N/A
Public liability					N/A

3.2 If you are proposing to incorporate as a qualifying body, please confirm the requirements of the NHS Act 2006 are satisfied in relation to that qualifying body: Please mark 'x' in the appropriate box:

Yes		No	

3.3 Have any of the proposed directors been convicted of any of the following offences:

- Conspiracy
- Corruption
- Bribery
- Fraud
- Money laundering

- Any other offences

Please mark ‘x’ in the appropriate box:

Yes		No	

If Yes, please provide details in the box below:

Details:	

3.4 Legal and regulatory status details - Please provide details of any criminal conduct of any director, officer or senior employee of the current or proposed organisation resulting in conviction or in respect of which a prosecution or investigation is pending or in progress. If none, please state ‘None’.

Details:	

3.5 Please state whether any medical practitioners employed by the current or proposed organisation have, during the last three years, had their professional registration removed or suspended or whether they are currently under investigation, and provide relevant details. If none, please state ‘None’.

Details:	

4. Practice Profile and Performance

4.1 Current opening times

Day	AM	PM
Monday		
Tuesday		
Wednesday		
Thursday		
Friday		
Saturday		
Sunday		

4.2 Is the practice currently accepting new patients? Please mark 'x' in the appropriate box:

Yes		No	

If NO, please confirm the reasons below.

Details:	

4.3 Please provide details of any complaints received by the practice relating to the provision of service and actions taken as a result of the complaint. If none, please state ‘None’.

Details:	

4.4 Please provide details of how you will maintain/improve access for existing and new patients.

Details:	

4.5 Please provide details of any other benefits to patients should the Commissioner approve your application for a contract. If none, please state 'None'.

Details:	

Annex 8

Assessment Template for Incorporation for Commissioner

Applying Provider	
Contract Number	
Date contract opened	
Copy of Companies House Certificate detailing all Directors	
Insolvency Website checked for disqualified Directors	
Companies House checked for disqualified Directors	
Copy of Passport for all Directors	
Professional Indemnity Certificate(s)	
Employers Liability Certificate	
Public Liability Certificate	
CQC Comfort Letter	
Outstanding debts (provide amount)	

Breach/remedial notices	
Provider under investigation?	
Quality Issues	
[*Commissioner to add any other relevant sections*]	

Annex 9

Acknowledgement of Request to Dis-incorporate and Medical Dis-incorporation Assessment Template

[*date*]

Dear [*name*]

Contract No [insert contract number]

Request to dis-incorporate to [an individual / a partnership]

Thank you for your letter dated [*insert date*] informing us of your request to dis-incorporate your contract. Dis-incorporation is not considered a minor contractual change so further enquiries and consideration needs to take place.

In order for us to further consider your request, we would ask that you complete the enclosed template and return to us at the above address.

Yours sincerely

[name]

[title]

Enc.

Medical Dis-Incorporation Assessment Template

All contractors wishing to revert to an individual or partnership contract must complete the details requested below.

Please note ALL questions must be answered in full. If a question is not applicable please write N/A in the box provided.

2. Details of the Applicant

2.1 Please provide the name and other required contact details of the Applicant (person for contact purposes with this application).

Applicant Name:	
Address:	
Telephone:	
Fax:	
Email:	

2.2 Current status of organisation – Please mark 'x' in the appropriate box:

Company limited by shares		Qualifying Body	

2.3 Current Contract Type – Please mark 'x' in the appropriate box:

GMS		PMS		APMS+	

2.4 Please state the nature of the reversion requested – Please mark 'x' in the appropriate box:

Individual medical contractor(s)		Partnership	

2.5 Where the applicant is proposing to form either a single handed or partnership, please supply the following information:

Partnership Name / Trading Name [delete as applicable]:	
Current Trading Name:	
Previous Trading Name (if different):	
Address and telephone details if different to 1.1:	
CQC registration:	

Total Number of members:	
Member details:	
Proposed date of commencement:	

3. Impact on Contract

3.1 Would the change if approved have any effect on current patient services – please mark 'x' in the appropriate box:

Yes		No	

3.2 Would the change if approved have any effect on the location of current service provision – please mark 'x' in the appropriate box:

Yes		No	

3.3 Would the change if approved have any effect on the current range of services provided – please mark 'x' in the appropriate box:

Yes		No	

3.4 Will there be any change in the practitioners providing the service – please mark 'x' in the appropriate box:

Yes		No	

If any of these questions receives a YES response, please provide details of the effect:

Details:	

4. Legal and Regulatory Status

4.1 Please confirm that you have or will have (for the proposed new entity) all relevant insurance and indemnity requirements in place prior to contract signature – Please mark 'x' in the appropriate box:

Insurance category:	Name of insurance company	Policy no.	Expiry Date	Amount of cover (£)	Name of staff member
Professional indemnity					
Employers liability					N/A
Public liability					N/A

4.2 Please confirm that the eligibility criteria set out in the NHS (General Medical Services Contracts) Regulation 2004 OR the NHS (Personal Medical Services Agreements) Regulations 2004 (whichever is relevant) is met. Please mark 'x' in the appropriate box:

Yes		No	

4.3 Have any of the proposed been convicted of any of the following offences:

- Conspiracy
- Corruption
- Bribery
- Fraud
- Money laundering
- Any other offences

Please mark 'x' in the appropriate box:

Yes		No	

If YES, please provide details in the box below:

Details:	

4.4 **Legal and regulatory status details - Please provide details of any criminal conduct for anyone proposed resulting in conviction or in respect of which a prosecution or investigation is pending or in progress. If none, please state 'None'.**

Details:	

4.5 Please state whether any medical practitioners employed by the current or proposed organisation have, during the last three years, had their professional registration removed or suspended or whether they are currently under investigation, and provide relevant details. If none, please state 'None'.

Details:	

5. Practice Profile and Performance

5.1 Current opening times

Day	AM	PM
Monday		
Tuesday		
Wednesday		
Thursday		
Friday		
Saturday		
Sunday		

5.2 Is the practice currently accepting new patients? Please mark 'x' in the appropriate box:

Yes		No	

If NO, please state the reasons below:

Details:	

5.3 Please provide details of any complaints received by the practice relating to the provision of service and actions taken as a result of the complaint. If none, please state 'None'.

Details:	

5.4 Please provide details of how you will maintain/improve access for existing and new patients.

Details:	

5.5 Please provide details of any other benefits to patients should we approve your application for a single handed or partnership contract. If none, please state 'None'.

Details:	

5.6 Please provide further details on any future intentions with regards the application. If none, please state 'None'.

Details:	

Annex 10

Refusal of Request to [Incorporate / Become a Company Limited by Shares / Qualifying Body]

[*date*]

Dear [*name*]

Contract No [insert contract number]

Request to become a [limited liability / company limited by shares / qualifying body / other]

Thank you for your letter dated [*insert date*], informing us of your intention to incorporate and returning your completed medical incorporation assessment template.

Having reviewed your request, we regret to inform you we have refused your request to incorporate. This is because:

[*insert reasons – Commissioner to ensure that the rational for refusal is reasonable and legitimate]*

If you do not agree with our decision, you should contact us within 28 days of this notice. If, after making every reasonable effort, we are unable to resolve the dispute, you may wish to refer the matter to the NHS dispute resolution procedure by sending a written request to:

NHS Litigation Authority
FHS Appeal Unit
1 Trevelyan Square
Leeds
LS1 6AE

You do, of course, retain the right to seek support from your representative or defence body or Local Medical Committee.

Yours sincerely

[name]

[title]

Annex 11

Refusal of Request to Dis-incorporate

[*date*]

Dear [*name*]

Contract No [insert contract number]

Request to dis-incorporate to [an individual / a partnership]

Thank you for your letter dated [*insert date*] informing us of your request to revert from a [company limited by shares / qualifying body / other] to [an individual / a partnership] contract and for returning your completed assessment template as requested.

Having reviewed your request, we regret to inform you that we have refused the reversion for the following reasons:

[*insert reason – Commissioner to ensure that the rational for refusal is reasonable and legitimate*]

If you do not agree with our decision, you should contact us within 28 days of this notice. If, after making every reasonable effort, we are unable to resolve the dispute, you may wish to refer the matter to the NHS dispute resolution procedure by sending a written request to:

NHS Litigation Authority
FHS Appeal Unit
1 Trevelyan Square
Leeds
LS1 6AE

You do, of course, retain the right to seek support from your representative or defence body or Local Medical Committee.

Yours sincerely

[name]

[title]

Annex 12

Template Agreement Letter

[*date*]

Dear [*name*]

Contract No [insert contract number]

Novation

Thank you for your letter dated [*insert date*] informing us of your request to become a [company limited by shares / qualifying body / other].

I am pleased to inform you that we have now reviewed the documents provided to us and confirm that we agree to novate your current contract to the [company limited by shares / qualifying body / other].

Please complete and return both copies of the [deed of novation/novation agreement] that has been enclosed. Once this has been received by us we will issue you with your new contract number. We will also issue your new contract documentation with a number of clauses that are specific to a [company limited by shares / qualifying body / other] and with the relevant Schedule 1 completed.

Yours sincerely

[*name*]

[*title*]

Enc.

Annex 13A

Template Application Notice to Change the Practice Area

[*date*]

Dear [*name*]

Application to Change the Practice Area

Please provide the information below to the Commissioner no less than 28 days before the requested contract variation.

1. Affix practice stamp:

2. Provide full details of the proposed practice area:	[insert information]
3. Explain the reasons for the change of practice area:	[insert reasons]
4. Provide any additional supporting evidence that may be relevant:	[insert information]

Signed by [insert name] _____

Date _____

[All persons who constitute the contractor must sign this notice. Please add further signatures lines as necessary]

Please note that this application does not impose any obligation on the Commissioner to agree to this application.

Annex 13B

Acknowledgement of Application to Change the Practice Area

[*insert date*]

Dear [*name*]

Contract details - [insert name of contract]

Thank you for your recent application to change the practice area.

[I can confirm that we agree the change to the practice area with effect from [*insert date*]. You must ensure that if you have a practice website, you publish on that website details of the practice area, including the outer boundary area by reference to a sketch diagram, plan or postcode.

Please ensure that, if you are intending to reduce the practice area, registered patients who subsequently fall outside of the new agreed area but who are within the original practice area (main and outer boundary) are only removed from the list if one or more of the statutory provisions that relate to removal of patients from the patient list apply.

We include a variation notice with this letter. I have included two copies of the variation notice which I would be grateful if you could return after being signed. We will then sign the documents and return one copy for you to retain for your records.

OR

I can confirm that we cannot agree to the proposed change to the practice area at this time. This is because [*insert*]. Your practice area will remain as stated in the contract until further notice.

If you wish to appeal this decision, please refer to your contract for the appropriate dispute resolution procedure.]

Yours sincerely

[name]

[title]

Annex 14A

Template Application Notice to Close Branch Premises

[*date*]

Dear [*name*]

Application to Close Branch Premises

Please provide the information below to the Commissioner no less than 28 days before the requested contract variation.

Affix practice stamp:

Details of branch surgery address proposed for closure:	[insert details]
1. Do you have premises approval to dispense from the branch surgery? If yes, how many patients do you currently dispense to?	[Yes / No] [insert number / N/A]
2. Do you have premises approval to dispense from any other premises? If no, do you intend to give three months' notice of	[Yes / No]

	ceasing to dispense as required by Paragraph 10 of Schedule 6 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 as amended?	[Yes / No]
3.	How have you involved patients regarding this proposal?	[insert details]
4.	How will you be communicating the actual change to patients, ensuring that patient choice is provided throughout, should the Commissioner approve this application?	[insert details]
5.	Please provide a summary of the patient involvement feedback and confirm that you will supply evidence of this consultation should it be requested:	[insert summary]
6.	Please provide as much detail as possible about how this proposed closure will impact on your current registered patients, including: • access to the main surgery site i.e. public transport, ease of access; • capacity at main surgery site; • booking appointments; • additional and enhanced services; • opening hours; • extended hours; and • dispensing services (if	[insert details]

applicable)

7.	From which date do you wish the branch closure to take effect?	[insert date]

Signed by [insert name] _____

Date _____

[All persons who constitute the contractor must sign this notice. Please add further signatures lines as necessary]

Where an application to close premises is granted by the Commissioner, the contractor shall remain fully responsible for cessation or assignment of the lease for any rented premises and any disposal of owner-occupied premises. In both cases, payments under the premises directions will cease from the day of closure.

Please note that this application does not impose any obligation on the Commissioner to agree to this application.

Annex 14B

Acknowledgement of Application to Close Branch Premises

[*insert date*]

Dear [*name*]

Contract details - [insert name of contract]

Thank you for your recent application to close branch premises.

[I can confirm your request to close the branch premises at [*insert address*] has been accepted and will take effect from [*insert date*].

Please ensure you update all websites, literature, practice leaflets and make all patients aware of the branch closure, the date that services will cease at the branch location and provide reassurance in respect of their continued care from your main surgery.

We include a variation notice with this letter. I have included two copies of the variation notice which I would be grateful if you could return after being signed. We will then sign the documents and return one copy for you to retain for your records.

OR

I can confirm that the request has been declined for the following reason(s):

[*details*]

If you wish to appeal this decision, please refer to your contract for the appropriate dispute resolution procedure.]

Yours sincerely

[name]

[title]

Annex 15

Records Management: NHS Code of Practice

Full details of the code can be found at: http://tinyurl.com/2wwle5

Overview

The two-part Records management: NHS code of practice is a guide to the required standards of practice in the management of records for those who work within or under contract to NHS organisations in England. It is based on current legal requirements and professional best practice.

For historic purposes, the code of practice also replaces the following guidance:

- HSC 1999/053 – For the record.
- HSC 1998/217 – Preservation, retention and destruction of GP general medical services records relating to patients (replacement for FHSL (94)(30))
- HSC 1998/153 – Using electronic patient records in hospitals: Legal requirements and good practice.

The code provides a key component of information governance arrangements for the NHS. This is an evolving document because standards and practice covered by the code will change over time and will be subject to regular review and updated as necessary. As a result of a review, part 2 only of the code in relation to the retention schedules has been updated in light of guidance and advice given from the NHS and professional best practice. The updated part 2 was published on 8 January 2009.

The guidelines contained in this code of practice apply to NHS records of all types (including records of NHS patients treated on behalf of the NHS in the private healthcare sector) regardless of the media on which they are held.