



Update on PCN DES Decision Making Tool – 28 May 2020

	Outstanding or additional queries/concerns	Response based on NHS England/GPC’s communications
1	<p>Risk to core contract if opting out of the PCN DES</p> <p>Our initial response [point 5 of our tool] still stands.</p>	<p>It has been repeatedly confirmed by NHS England and GPC that there is no risk to core GMS/PMS/APMS contracts if practices opt out of the DES. Please see NHS England’s response to our question on this at the PCN DES webinar held on 27 May 2020 below (view all the Q&As from the webinar here).</p> <p><i>“There are no provisions in the DES which enable CCGs to remove practices core GMS/PMS contracts if a practice does not sign up to the DES. Para 3.1.4 of the Network Contract DES specification states that: ‘Where a practice chooses not to participate in the Network Contract DES, this will not impact on the continuation of primary medical services under its primary medical services contract’”.</i></p>
2.	<p>Risk to core contract in case of under-delivery against the PCN DES</p> <p>Our initial response [point 6 of our tool] still stands.</p>	<p>In NHS England’s letter to the GPC dated 20 May 2020, it is confirmed that: <i>“The DES is clear that contract management will be supportive and collaborative and, in the rare circumstances that remedial actions are needed, we expect CCGs to focus on the DES itself rather than the practice’s core contract”</i></p> <p>In addition, NHS England responded to our question on this during the 27 May webinar as below:</p> <p><i>“It is correct that the DES should be considered an ‘add on’ to the GP contract. As such, legally underperformance in delivering the DES is equivalent to underperformance in delivering the GMS. The ultimate sanction for commissioners is to issue breach notices, however it is considered highly unlikely to ever reach this stage. A more likely measure to be used by commissioners for underperformance would be to defer funding”.</i></p> <p>NHS England also went on to say:</p> <p><i>“The PCN Network and NHS Clinical Commissioners will work with NHSE&I to ensure that the ‘performance monitoring’ measures are not punitive and do recognise effort and intent and deal with the impact of any real unexpected circumstances. There will however need to be some measures in place to be able to demonstrate progress in return for the significant investment being made”.</i></p> <p>As practices have a collective responsibility for the delivery of the PCN DES requirements, they need to work together to ensure these are met. If they are facing difficulties, they should contact their CCG and their LMC in the first instance, so that a collaborative action plan can be developed to mitigate risks and support delivery. In the rare event that a practice finds itself under threat of contractual action from their CCG due to under-performance against the DES, please contact our GP Support team at gpsupport@lmc.org.uk.</p>



<p>3.</p>	<p>Balancing mechanism (clause 7.8, page 52 of the 'Five-year framework for GP contract reform to implement The NHS Long Term Plan: Investment and Evolution')</p> <p>What is the potential impact of this mechanism on the Global Sum and are there any details about how it will be applied?</p>	<p>Clause 7.8 reads as follows: <i>'A new balancing mechanism will, if required, adjust between the practice level global sum and the network level/ARRS depending on the levels of real terms partner NHS earnings. It will enable global sum adjustment equally in either direction. The mechanism is intended to provide confidence to the profession and taxpayers alike, by protecting against unexpectedly large increases in either inflation or partner drawings. The effect would also increase or decrease number of extra staff funded through the Network contract DES. The balancing mechanism will be designed in 2019 by NHS England and GPC England to commence from 2020/21, taking account of the most recent available data, and it will be agreed with the Government'</i>.</p> <p>This was addressed as part of yesterday's webinar Q&As – please see bottom of page 8</p>
<p>4.</p>	<p>Additional Roles Reimbursement Scheme (ARRS) underspend – can CCGs use it against their own deficit?</p>	<p>The national position on ARRS underspends is outlined in this letter.</p> <p>There are examples where CCGs have used the underspend support general practice. This varied from funding innovative posts to buying equipment for practices etc. With the backdrop of Covid-19, GPC has highlighted to NHS England that PCNs should have more flexibility with this so that ARRS underspends can be used to support practices' Covid-19 response.</p> <p>This was also addressed as part of yesterday's webinar Q&As: <i>"Commissioners have been urged by NHSE&I to encourage PCNs to use up their funding allocation within the financial year. This is a legal entitlement for PCNs and NHSE&I will be retaining ARRS funding centrally to avoid CCGs using it for other purposes"</i>.</p>
<p>5.</p>	<p>What are the staff liabilities if a practice opts out of the PCN DES and does TUPE apply?</p>	<p>The GPC has advised that if a practice chooses to leave the PCN DES and the rest of the PCN continues without them, then there is no obligation on the CCG to TUPE the staff across, as the PCN is still continuing. There is however an obligation on the CCG to continue to provide Network DES services for that practice's patients. How the staff will be engaged via ARRS after the practice's departure needs to be reflected in the PCN's schedules and that is what the PCN should follow if one practice opts out. The TUPE arrangement for staff only applies if the PCN withdraws as a whole.</p>
<p>6.</p>	<p>Can practices opt out of the PCN DES, or individual components of it (e.g. Care Homes specification) but remain core members of the PCN?</p>	<p>This is not possible. A practice cannot simultaneously be a core member of a PCN and opt out of the DES. If a practice is signed up to the DES, then it has agreed to take up the DES in its entirety and as such it is required to deliver all the requirements of the DES.</p>



<p>7</p>	<p>What if practices are still ambivalent about signing up to the DES, given the “unknowns” around it?</p>	<p>We appreciate that there is still lack of clarity in respect of some areas of the DES, which is understandably causing anxiety and uncertainty for practices. The added complexity of the Covid-19 pandemic has not helped matters. It ultimately comes down to each practice reviewing all the available information and making a considered decision about its position in respect of the DES for this year (20/21), which they can review or change next year.</p> <p>If you find yourself in exceptional circumstances and feel that you may wish to opt out after 31 May 2020, please get in touch with us at gpsupport@lmc.org.uk and we will discuss your options.</p>
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