Branch closures for primary medical services
Branch closure for primary medical services

*Standard operating policies and procedures for primary care*

Issue Date: July 2014

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Prepared by: Primary Care Commissioning
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<table>
<thead>
<tr>
<th>Directorate</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical</td>
<td>Tools</td>
</tr>
<tr>
<td>Nursing</td>
<td>Guidance</td>
</tr>
<tr>
<td>Patients &amp; Information</td>
<td>Resources</td>
</tr>
<tr>
<td>Finance</td>
<td>Consultations</td>
</tr>
<tr>
<td>Operations</td>
<td></td>
</tr>
<tr>
<td>Commissioning Development</td>
<td></td>
</tr>
<tr>
<td>Policy</td>
<td></td>
</tr>
<tr>
<td>Human Resources</td>
<td></td>
</tr>
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</table>

Publications Gateway Reference | To be provided by NHS England

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<th>Document Purpose</th>
<th>Standard operating policies and procedures for primary care</th>
</tr>
</thead>
<tbody>
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<td>Document Name</td>
<td>Branch closure for primary medical services</td>
</tr>
<tr>
<td>Publication Date</td>
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<td>PCC on behalf of David Geddes, Head of Primary Care Commissioning, 4W56, Quarry House, LEEDS E-mail: <a href="mailto:england.primarycareops@nhs.net">england.primarycareops@nhs.net</a></td>
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Document Status

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As a controlled document, this document should not be saved onto local or network drives but should always be accessed from the intranet.
# Introduction

1. From 1 April 2013, the NHS Commissioning Board adopted the name NHS England, a name that gives people a greater sense of our role, scope and ambitions - as the organisation responsible for allocating the NHS budget, working to improve outcomes for people in England and ensuring high quality care for all, now and for future generations.

   Our legal name remains the NHS Commissioning Board as set out in our establishment orders. While the NHS Commissioning Board will be known as NHS England in everything that we do, there are times when the statutory name is required for legal and contractual transactions. The following list provides some key examples of legal documentation which requires us to use our full legal name:

   - Human resources contract of employment;
   - Any documentation involving a court of law, eg litigation claims
   - Contracts for directly commissioned services.

   For ease of reference NHS England is the generic term used throughout this policy.

2. This document describes the process to determine the steps required to undertake the closure of a medical branch surgery and the associated contract variation, whether by mutual agreement or under order, to ensure that any changes reflect and comply with national regulations.

   The document focuses on primary medical care contracts in their various forms and has been developed in line with national legislation and regulations.

# Policy statement

3. NHS England is responsible for planning, securing and monitoring services commissioned by them in respect of primary care, offender health, military health and specialised commissioning.

   This document forms part of a suite of policies and procedures to support NHS England’s direct commissioning responsibilities in relation to primary care. The suite of documents will form the NHS England’s single operating manual.
The policies and procedures underpin NHS England’s commitment to a single operating model for primary care – a “do once” approach intended to ensure consistency and eliminate duplication of effort in the management of the four primary care contractor groups from 1 April 2013.

The development process for the document reflects the principles set out in securing excellence in commissioning primary care, including the intention to build on the established good practice of predecessor organisations.

Primary care professional bodies, representatives of patients and the public and other stakeholders were involved in the production of these documents. NHS England is grateful to all those who gave up their time to read and comment on the drafts.

The authors and reviewers of these documents were asked to keep the following principles in mind:

- Wherever possible to enable improvement of primary care
- To balance consistency and local flexibility
- Alignment with policy and compliance with legislation
- Compliance with the Equality Act 2010
- A realistic balance between attention to detail and practical application
- A reasonable, proportionate and consistent approach across the four primary care contractor groups.

This suite of documents will be refined in light of feedback from users.

This policy outlines the principles and provides detail of the steps required due to the closure of a medical branch surgery across all primary medical care contracting routes.

**Scope**

The scope of this policy is to outline the principles and steps required to process a variation to a medical contract when a branch surgery closes.

The different mechanisms for contract variations are located within the primary regulations or directions for each contracting route:

- GMS contract regulations – schedule 6, part 8
- PMS agreement regulations – schedule 5, part 8
**APMS directions** – schedule 5 – part 8 of the PMS agreement regulations but with the amendments cited at part 3.6(s) of the APMS directions.

This guide outlines the approach to be taken by NHS England when there is a need for a contract/agreement to be varied where a branch closure is requested and then acted upon.

Officers of the following NHS England areas are within the scope of this document:

- **NHS England:**
  - National teams;
  - Regional teams; and
  - Area teams
- **All commissioning support units;**
- **NHS leadership academy;**
- **NHS improving quality;**
- **NHS sustainable development unit;**
- **Strategic clinical networks; and**
- **Clinical senates.**

**Roles and responsibilities**

6 A branch closure variation to contract falls into the following category:

- changes to the detail of the contracting parties/organisational structure;
- alterations in the service provision covered; and/or
- changes to the payment mechanisms.

NHS England area teams must work closely with the primary medical care contractor in cases of branch closure to ensure that all appropriate and necessary consultation is completed and that patient’s access to services is not put at risk.

In determining all variations the following guidance, legislation and regulations are considered:

- GMS Regulations
- PMS Regulations and guidance
- APMS Directions
- Statement of Financial Entitlements
### Corporate level procedures

7. NHS England central and regional teams will use this policy for any audit purpose or where a challenge from a contractor arises from the implementation of this policy.

### Distribution and implementation

8. This document will be made available to all staff via the NHS England internet and intranet sites.

9. Notification of this document will be included in the all staff email bulletin.

10. A training needs analysis will be undertaken with staff affected by this document.

11. Based on the findings of that analysis appropriate training will be provided to staff as required.

### Monitoring

12. Compliance with this policy will be monitored via the primary care oversight group, together with independent reviews by internal and external audit on a periodic basis.

13. The primary care policy ratification group a formal sub-group of the primary care oversight group will have responsibility for reviewing and updating the policy. The document should be reviewed in 24 months unless guidance or legislation requires an earlier review.

### Equality impact assessment

14. Equality and diversity are at the heart of NHS England’s values. Throughout the development of the policies and processes cited in this document, we have given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as cited in under the Equality Act 2010) and those who do not share it.

15. As part of its development this document and its impact on equality has been analysed and no major impact has been identified.

### Associated documents

16. • Policy for managing regulatory and contract variations  
   • Dispute resolution for primary medical services policy.

### References

17. • GMS Contract Regulations 2004 (as amended)
**NHS England**

*Branch Closure for primary medical services*

- PMS Agreement Regulations 2004 (as amended)
- APMS Directions 2013
- The Operating Framework for the NHS in England 2012-13
- NHS Act 2006
- Health and Social Care Act 2012
Changes to services – branch closure

1. The closure of a branch surgery may be as a result of an application made by the contractor to the area team or due to the area team instigating the closure following full consideration of the impact such a closure would have.

2. In the circumstances that the area team is instigating a branch closure, the area team 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. Area teams 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.

3. Where a contractor wishes to close a branch surgery, the contractor should have preliminary discussions with the area team to determine appropriate and proportionate consultation requirements prior to the consideration of such a service provision change.

4. The closure of a branch surgery would be a significant change to services for the registered population and as such the area team 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.

5. Contractor and area team discussions resulting ultimately in a decision about a branch closure will often include consideration of (but not be limited to):
   - financial viability;
   - registered list size and patient demographics;
   - condition, accessibility and compliance to required standards of the premises;
   - accessibility of the main surgery premises;
   - NHS England’s strategic plans for the area;
   - other primary health care provision within the locality (including other providers and their current list provision, accessibility, dispensaries and rural issues);
   - dispensing implications (if a dispensing practice);
   - possible co-location of services;
   - rurality issues; and
   - patient feedback.
   - the impact on health and health inequalities
6. The area team 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.

7. In exceptional circumstances the area team may wish to consider providing additional support to the contractor in the short term so they might maintain the branch surgery premises where there is a potential negative affect on patients.

8. If support is mutually acceptable the branch surgery should remain open for a specific period to allow matters to be resolved satisfactorily.

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

10. If the area team 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 area team regarding appropriate and proportionate consultation, will begin the consultation process.

11. The contractor is required to follow the PPP consultation process\(^1\) as appropriate to the level of consultation agreed with the area team, adherence to the PPP consultation process will ensure that all standards and legislation are upheld with regard to an appropriate level of consultation.

12. Once this consultation has been undertaken, the contractor would then submit a formal application to close the branch surgery to the area team for consideration (Annex 2).

13. The area team will then assess the application regarding the closure with a view to either accepting or refusing the proposal, any decisions should be signed off by the Area Director or a nominated deputy at the Area Team to ensure consistency and strengthen the governance. These assessments will need to include (but are not limited to) access to other primary care in the locality, patient demographics and distribution and patient engagement.

\(^1\) NHS Act 2006 Part 12
14. Either the contractor or the area team may invite the local medical committee (LMC) to be party to these discussions at any time.

15. Where the area team 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. Annex 3 contains an example letter for area teams. Reference should be made to the ‘Dispute resolution for primary medical services’ policy.

16. Where the area team approves the branch closure the area team will need to ensure that it retrieves all NHS owned assets from the premises. Annex 4 contains an example letter for area teams.

17. However 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 Caldicott guidance, Records Management: NHS Code of Practice guidance and information governance principles. Information is contained in annex 5.

18. The contractor remains responsible for consulting and informing the registered patients of the proposed changes, throughout the process, and the area team should be assured this requirement is being met satisfactorily.

19. Once the final date for closure is confirmed the area team will issue a standard variation notice to remove the registered address of the branch surgery from the contract, and as in other variations under the policy for managing contract variations for primary medical care services contracts, include the amended sections for completeness.

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

21. The area team shall update its records and dispensing contractor list

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2 Records Management: NHS Code of Practice 2006 Part 1
3 The Caldicott Guardian Manual 2010
4 Standard GMS Contract, Part 13, Section 321BB, 321BB.1
appropriately to reflect the removal of the premises.

22. While it is entirely likely that a PMS agreement would reflect the terms as laid out in the GMS example above, it is essential that the area team reviews the individual agreement for these, and any other relevant amendments that may be necessary, to effectively remove the closing premises and any rights associated with that premises alone, from the PMS agreement.

Consultation

23. As outlined above the contractor, in agreement with the area team, must ensure the consultation process is appropriate and proportionate to the individual circumstances of the branch closure.

24. Where it is deemed appropriate for a full consultation process to be followed, the contractor must consult all stakeholders.

25. Those stakeholders should include:

- local residents;
- registered patients;
- local community groups;
- other local GP practices;
- patient representative groups; and
- other local allied health care professional organisations.

26. The contractor should ensure they have provided various routes through which stakeholders can respond to the consultation, such as the practice website, posters, direct mail and surgery questionnaires.

27. The area team and the contractor must ensure they consult with the LMC, Healthwatch, the Health and Well Being Board (HWBB), CCGs and the Overview and Scrutiny Committee, discuss the feedback and ensure that this forms part of the formal application. Further guidance can be found by consulting the 'guide in good practice in consulting with the public'
### Annex 1: abbreviations and acronyms

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<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tr>
<td>A&amp;E</td>
<td>accident and emergency</td>
</tr>
<tr>
<td>APHO</td>
<td>Association of Public Health Observatories (now known as the Network of Public Health Observatories)</td>
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<td>APMS</td>
<td>Alternative Provider Medical Services</td>
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<tr>
<td>AT</td>
<td>area team (of NHS England)</td>
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<td>AUR</td>
<td>appliance use reviews</td>
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<td>BDA</td>
<td>British Dental Association</td>
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<tr>
<td>BMA</td>
<td>British Medical Association</td>
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<tr>
<td>CCG</td>
<td>clinical commissioning group</td>
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<tr>
<td>CD</td>
<td>controlled drug</td>
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<td>CDAO</td>
<td>controlled drug accountable officer</td>
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<tr>
<td>CGST</td>
<td>NHS Clinical Governance Support Team</td>
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<tr>
<td>CIC</td>
<td>community interest company</td>
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<tr>
<td>CMO</td>
<td>chief medical officer</td>
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<tr>
<td>COT</td>
<td>course of treatment</td>
</tr>
<tr>
<td>CPAF</td>
<td>community pharmacy assurance framework</td>
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<td>CQC</td>
<td>Care Quality Commission</td>
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<td>CQRS</td>
<td>Calculating Quality Reporting Service (replacement for QMAS)</td>
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<td>DAC</td>
<td>dispensing appliance contractor</td>
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<td>Days</td>
<td>calendar days unless working days is specifically stated</td>
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<td>DBS</td>
<td>Disclosure and Barring Service</td>
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<td>DES</td>
<td>directed enhanced service</td>
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<td>DH</td>
<td>Department of Health</td>
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<td>EEA</td>
<td>European Economic Area</td>
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<td>ePACT</td>
<td>electronic prescribing analysis and costs</td>
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<td>ESPLPS</td>
<td>essential small pharmacy local pharmaceutical services</td>
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<td>EU</td>
<td>European Union</td>
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<td>family health services</td>
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<td>family health services appeals unit</td>
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<td>family health shared services</td>
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<td>FPC</td>
<td>family practitioner committee</td>
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<tr>
<td>FTA</td>
<td>failed to attend</td>
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<tr>
<td>FTT</td>
<td>first-tier tribunal</td>
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<tr>
<td>GDP</td>
<td>general dental practitioner</td>
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NHS England

Branch Closure for primary medical services

GDS General Dental Services
GMC General Medical Council
GMS General Medical Services
GP general practitioner
GPES GP Extraction Service
GPhC General Pharmaceutical Council
GSMP global sum monthly payment
HR human resources
HSE Health and Safety Executive
HWB health and wellbeing board
IC NHS Information Centre
IELTS International English Language Testing System
KPIs key performance indicators
LA local authority
LDC local dental committee
LETB local education and training board
LIN local intelligence network
LLP limited liability partnership
LMC local medical committee
LOC local optical committee
LPC local pharmaceutical committee
LPN local professional network
LPS local pharmaceutical services
LRC local representative committee
MDO medical defence organisation
MHRA Medicines and Healthcare Products Regulatory Agency
MIS management information system
MPIG minimum practice income guarantee
MUR medicines use review and prescription intervention services
NACV negotiated annual contract value
NCAS National Clinical Assessment Service
NDRI National Duplicate Registration Initiative
NHAIS National Health Authority Information System (also known as Exeter)
NHS Act National Health Service Act 2006
NHS BSA NHS Business Services Authority
NHS CfH NHS Connecting for Health
NHS DS NHS Dental Services
NHS LA NHS Litigation Authority
NMS new medicine service
NPE net pensionable earnings
Annex 2: Example application form for branch closure
Please complete the following:

1) Details of branch surgery address proposed for closure:


2) Do you have premises approval to dispense from the branch surgery?  Yes/No
   a. If yes, how many patients do you currently dispense to?

3) Do you have premises approval to dispense from any other premises?  Yes/No
   a. If no, do you intend to give three months’ notice of ceasing to dispense as required by NHS Pharmaceutical Services Regulations 2012 schedule 6 para 10 as amended?  Yes/No

4) How have you consulted with your patients regarding this proposal and how will you be communicating the actual change to patients, ensuring that patient choice is provided throughout, should NHS England approve this variation?


5) Please provide a summary of the consultation feedback and confirm that you will supply evidence of this consultation should it be requested.
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 applicable).

7) From which date do you wish the branch closure to take effect?

Note: Where an application to close premises is granted by NHS England, 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 concert any obligation on NHS England to agree to this request.

Continued…………………………

Application for Branch Closure
NHS England
*Branch Closure for primary medical services*

To be signed by all parties to the contract

Signed: ………………………………………………………………………………………………………………………………..
Print: ………………………………………………………………………………………………………………………………..
Date: ………………………………………………………………………………………………………………………………..

Signed: ………………………………………………………………………………………………………………………………..
Print: ………………………………………………………………………………………………………………………………..
Date: ………………………………………………………………………………………………………………………………..

Signed: ………………………………………………………………………………………………………………………………..
Print: ………………………………………………………………………………………………………………………………..
Date: ………………………………………………………………………………………………………………………………..

Please continue on a separate sheet if necessary
Annex 3: Example letter to decline a branch closure

[date]

Dear [contractor name]

Ref: [contract details]

Further to your request to close your branch surgery dated [notification date], I can confirm after consultation held on [date] that the request has been declined for the following reason(s):

[details].

If you would like to appeal against the decision made, you can do so under the dispute resolution policy and guidelines. If this is a route you wish to pursue you are required to enter a written request for dispute resolution, detailing:

• the names and addresses of the parties to the dispute;
• a copy of the contract; and
• a brief statement describing the nature and circumstances of the dispute.

[where and to whom the appeal should be addressed]

Yours sincerely,

[name]
[title]
[date]

Dear [name]

Ref: [contract details]

Further to your request to close your branch surgery dated [notification date], I can confirm your request has been accepted.

Please find attached a contract variation notice and revised schedule [insert relevant section of the contract/agreement] where your branch surgery has now been removed. Please complete and sign both copies and return them to the above address. Both copies will then be countersigned and one copy will be returned to you for your records.

At this point you can 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.

Yours sincerely,

[name]

[title]
Annex 5: Records management: NHS code of practice guidance

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

Overview

The two-part 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))

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 relating 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.
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