

## Introduction

1. This note has been prepared for commissioners when considering applications from contractors for repurposed, new or expanded estate driven by the PCN Extended Roles workforce.
2. Networks may be in the process of developing estates solutions to match local commissioning and service delivery plans. In recent guidance<sup>1</sup> NHS England and NHS Improvement (NHSE&I) has advised a number of steps to be undertaken to clarify the baseline and current use of estate, test the full range of ways of working, consider how best the service could be delivered and identify whether this leads to a requirement for physical estate.
3. In some cases, it may identify a need for additional space and applications may be submitted via clinical leads or another member practice, as appropriate to commissioners for review and consideration; this guidance note sets out the steps for commissioners to consider when processing such requests.
4. Primary Care Networks (PCNs) have been advised to review the recently published NHSE/I-supported National Association of Primary Care 'Estate Guide (March 2020), ['Primary Care Networks – Critical thinking in developing an estates strategy'](#).

## Governance considerations

5. Local Sustainability and Transformation Partnerships (STPs), Integrated Care Systems (ICS'), PCN's and Primary Care Estate Strategies all need to align with wider service and clinical strategies as part of the broader System-wide estates workbook and investment strategy. Applications from contractors will be tested by commissioners to ensure this engagement has been undertaken through a formal assessment process. Note that PCN's as an entity are unable to submit this information; a 'host practice' must undertake this if financial assistance is sought under the Premises Costs Directions.
6. The current Premises Costs Directions (PCDs) allow for the hosting of additional employees as set out in the Network Contract DES. They are part of the extended team delivering services under the General Medical Services Contract. It is expected that commissioners will cover the usual premises costs of hosting the additional PCN support staff, typically assumed to be within the current level of approved GMS space, or where a case for new space is approved and supported by the commissioner.
7. Where it can be evidenced that despite the testing of the estate capacity and wider system solutions as described in this Guide, a demand for additional accommodation exists, commissioners should expect to receive a formal application, as set out in this guidance.
8. Any proposal for additional space where financial assistance is applied for by contractors will require commissioner support under the [PCDs](#). In separate guidance notes<sup>1</sup> GP contractors and PCNs have been advised that no agreements can be entered into unless commissioners have been formally consulted on any proposed changes, have had the

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<sup>1</sup> ADVISICE NOTE FOR PCN CLINICAL DIRECTORS: Accommodating additional Multi-Disciplinary Team (MDT) staff appointed under the Network Contract DES and Supplementary guidance: Accommodating additional Multi-Disciplinary Team (MDT) staff appointed through the Network Contract DES,

ability to consider the application and have formally confirmed approval in writing for any underwriting or commitment to funding new / additional space.

9. Governance arrangements for approving additional space should be set out clearly for contractors. There is no change to the current arrangements in that the GP contractor is accessing rights under the GMS contract (or PMS agreement<sup>2</sup>) for financial assistance in respect of premises costs in line with the [PCDs](#) and the process for supporting new accommodation should be followed.

## Process

10. A GP contractor that is a member of the relevant PCN must make a formal application to the commissioner. The application should provide necessary detail and evidence of support from all member practices of the PCN. It should confirm any Schedule 7 Network Agreements reached in terms of hosting the service, access to accommodation, contributions to or covering of running costs, repair and maintenance responsibilities, risk, etc. The GP contractor making the application will also need to confirm that it is willing to take on the commitments associated with any financial assistance provided by NHSE&I.
11. The scope of the requests from contractors will be varied. A pro-forma is provided for use by local systems at Annex 1<sup>3</sup> which sets out a number of initial considerations for PCNs and commissioners. Alternative templates may be used where commissioners have established processes and documentation in place.
12. The application must consist of a number of elements:
  - a. A description of the current estate, detail on current utilisation and cost;
  - b. An outline of the additional requirement;
  - c. An assessment against the considerations set out in the pro-forma at Annex 1 that alternate options have been considered and tested;
  - d. An outline of the additional accommodation required and a scope of works required if the building is not currently suitable for the delivery of health care;
  - e. A plan setting out how any such works may be funded, and by whom;
  - f. Details of the costs of the additional accommodation, including any VAT that may be charged, and;

in respect of property to be occupied under a lease or licence arrangement:

  - g. Details of the occupancy arrangements by way of draft Heads of Terms/ Licence;
  - h. Details of the host and / or tenants of the new accommodation;
  - i. Details of the VAT registration number for the GP contractor PCN member where a VAT refund may be claimed.

13. Commissioners are required to undertake a formal due diligence process, testing and reviewing any application for financial assistance, seeking professional advice from the District Valuer Services (DVS) and other advisers as necessary. Typically, all applications are expected to be considered by the Primary Care Commissioning Committee as a minimum; but larger, complex or contentious applications may require review by the

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<sup>2</sup> Where specified in the PMS agreement

<sup>3</sup> Annex 1 – Template questions for PCNs and commissioners when accommodating additional Multi-Disciplinary Team (MDT) staff appointed through the Network Contract DES

commissioner's Governing Body. Should a lease with an NHS Trust, CHP or NHSPS be required, there will be other governance considerations, as outlined in paragraph 33 below. Should there be a need to access NHS capital, applications will need to be made to NHSE&I, based on local regional governance arrangements.

## Determination of applications in respect of (GP) freehold accommodation

14. The PCDs (Part 5, Recurring Premises Costs) require the Board to consider the application and in appropriate cases (having regard, amongst other matters, to the budgetary targets it has set for itself), grant that application.
15. The DVS will need to be appointed by the commissioners. The DVS will provide a report which is confidential to the commissioner and should not be shared in full. The DVS will advise on the notional rent to be reimbursed, and if there are key risks, considerations or issues relating to the suitability of the premises, relating to the proposal. It is expected that the premises at least meet the Contractual Standards as set out in Schedule 1, Part 2 of the PCDs.
16. A Value for Money test will take into account a number of factors and will assess the proposed terms and rental costs are appropriate, in line with local Market Rents. commissioners should have regard to the notional lease terms set out in Schedule 2, Part 3 of the PCDs.
17. Commissioners may also need to recognise and test non-financial benefits of the proposal, such as the value improved access may bring to patients, or the way in which the scheme could support local patient growth plans or support an extended service provision. An 'Added Value' template is available at Annex 2 to support this local test, and it can be adapted to include local commissioning priorities.
18. The DVS's report will recommend the Current Market Rent for the premises. commissioners should have regard to this professional advice and not seek to determine the rent to be paid itself.
19. commissioners will need to relay to the contractor any specific advice from the DVS on the terms, key risks or considerations, and confirm the level of notional rent to be paid.
20. If the commissioner accepts the approved accommodation as GMS space and the contractor accepts the notional rent payment proposed, commissioners will need to issue a letter to the contractor confirming the revised accommodation schedule. This letter must include the terms of commissioner support, full address, brief details of the accommodation, length of support and payment terms. The letter should be accepted and signed by the GMS/PMS/APMS contract signatories of the member practice making the application on behalf of the PCN and appended to the PCN's Schedule 7 Network Agreement. A copy of the letter should also be provided to the DVS, and It should be included as a contract variation and added to the GMS/PMS/APMS contract finance schedule of the member practice who made the application.
21. **Commissioners are advised to remind all contractors that they should not take any steps to formally secure additional accommodation where it is reliant on NHS funding, unless it has been given the express and formal approval by the appropriate**

**commissioner.** To do so without prior approval being in place, will place the contractor at risk and commissioners will not be obliged to support such costs.

22. commissioners should ensure they have a robust application process which ensures all submissions are assessed in a fair and consistent manner.

## Determination of applications in respect of leasehold accommodation

23. The PCDs (Part 5, Recurring Premises Costs) require the Board to consider the application and in appropriate cases (having regard, amongst other matters, to the budgetary targets it has set for itself), grant that application. The Board must satisfy itself that before the lease is agreed or varied, that the terms on which the new or varied lease is to take effect represents value for money. Advice should be sought from the District Valuer if necessary, in this process.
24. The DVS will need to be appointed by the commissioners. The DVS will provide a report which is confidential to the commissioner and should not be shared in full. The DVS will advise on the lease terms presented, whether the lease rent can be reimbursed in full or only part, and if there are key risks or considerations or issues relating to the suitability of the premises relating to the proposal. It is expected that the premises at least meet the Contractual Standards as set out in Schedule 1, Part 2 of the PCDs.
25. A Value for Money test will take into account a number of factors and will assess the proposed terms and rental costs are appropriate, in line with local Market Rents. Adjustments to the proposed rent may be advised where the terms are not aligned to the standard terms under Schedule 2, Part 3 of the PCDs.
26. Commissioners may also need to recognise and test non-financial benefits to the proposal, such as the value improved access may bring to patients, or the way in which the scheme could support local patient growth plans or support an extended service provision. An 'Added Value' template (Annex 2) to support that local test, and it can be adapted to include local commissioning priorities.
27. Where leases or licences are to be entered into, the contractor should present the draft Heads of Terms to the commissioner for assessment at the application stage. Standard lease TIR and FRI terms preferred by NHSE&I to guide negotiations can be found at Annexes 3 and 4 respectively.
28. Direction 32 – Amount of Leasehold premises rental costs payable advises commissioners that they must pay a contractor's rental costs for the practice premises as either:
- (a) *the current market rent for the premises, plus any Value Added Tax payable by the contractor of this is [properly charged to the contractor by the landlord (but excluding any Value Added Tax for which the contractor can claim a refund)]; or,*
  - (b) *the actual lease (licence) rent for the premises, plus any Value Added Tax payable by the contractor of this is [properly charged to the contractor by the landlord (but excluding any Value Added Tax for which the contractor can claim a refund)];*

- *whichever is the lower*

29. The DVSs report will recommend the Current Market Rent for the premises. commissioners should have regard to this advice and not seek to determine the rent to be paid itself.
30. If the commissioner accepts the approved accommodation as GMS space, they will need to issue a letter to the contractor confirming the revised accommodation schedule. This letter must include the terms of commissioner support, full address, brief details of the accommodation, the term of the lease and payment terms. The letter should be accepted and signed by the GMS / PMS / APMS contract signatories of the member practice making the application on behalf of the PCN and appended to the PCN's Schedule 7 of the Network Agreement. A copy of the letter should also be provided to the DVS, and It should be included as a contract variation and added to the GMS / PMS / APMS contract finance schedule of the member practice who made the application.
31. **Commissioners are advised to remind all contractors that they should not take any steps to formally secure additional accommodation where it is reliant on NHS funding, unless it has been given the express and formal approval by the appropriate commissioner.** To do so without prior approval being in place, will place the contractor at risk and commissioners will not be obliged to support such costs.
32. Commissioners should ensure they have a robust application process, which ensures all submissions are assessed in a fair and consistent manner.

## Practical Implementation

### NHS bodies - Head lease arrangements

33. Where new estate is to be occupied, the PCN will need to agree which party will hold the lease or licence for external space. In some cases, it may be proposed that the NHS is asked to take on property commitments. NHSE/I will rely on partners such as NHS Property Services Ltd (NHSPS) or NHS Trusts as commissioners cannot hold operational property or enter into lease commitments for this type of asset. Where such proposals are being considered, all NHS Bodies and/or NHSPS will be entitled to undertake their own due diligence and assess the application exercising their own commercial judgment. However, NHS commitment to a lease in this way has an impact on NHS national capital budgets and is subject to formal agreement and prior planning – no assumptions should be made until PCNs have opened formal discussions with any NHS body they consider may assist in the leasing arrangements.

### Agreeing and regulating the use of 'new' or additional space

34. In addition to holding a copy of the agreement reached with commissioners, it is important to track all changes to premises arrangements. Where PCN services are being delivered and hosted by a PCN member organisation, or are to be delivered at an alternative location, the site should be recorded within the formal PCN Network Agreement, including any charges to be levied (see below) and any advice on licence agreements, as referred to in paragraphs 10, 20 and 30 above. The GMS (or PMS) contract needs to be updated to include relevant detail of sites used; Care Quality Commission (CQC) registration may also be required.

35. Use of existing primary care floorspace which has already been designated as GMS space will be covered by the existing GMS contract terms and financial assistance paid under the PCDs. In the event that agreement is reached and charges are to be levied by the host practice to the PCN, and these costs are already reimbursed by the NHS, these will be considered under the guidance within the PCDs and deductions made to reimbursement payments accordingly. See Direction 48 – ‘Abatements in respect of contributions towards recurring premises costs from third parties.’ **contractors should never receive more than 100% of the reimbursable costs.**
36. Where a PCN looks to utilise external floorspace (perhaps NHS PS, CHP or NHS Trust accommodation) which is not currently deemed GMS approved space, an application to the commissioner to include this space as GMS approved accommodation is required, as set out in the Governance considerations above.
37. All tenancy arrangements should be recorded in a Licence (*short term / less than 12 months, with no exclusive use*) or Lease (*longer term / more than 12 months and / or exclusive use of space*). Shorter term arrangements may be preferable initially to provide flexibility over time should further service changes be anticipated. Preferred lease teams are included as appendices 3 and 4.

#### Charging for accommodation or utility / running costs

38. A PCN extended roles staff member is deemed to be a GMS service provider and should be considered an expansion of the GMS workforce where significant unseen benefits may be available to staff, patients and the system. These teams support the GP Practice in reducing workload and workforce pressures, delivering the associated benefits for general practice sustainability and services for patients and are expected to have marginal direct impact on the practice premises running costs, unless delivered at evenings and weekends and outside of core hours, when additional running costs may be incurred.
39. A thorough assessment of all accommodation options should be undertaken, as detailed above and consideration given to the impact on commissioner budgets. A cost-effective solution should be proposed, ensuring appropriate use of public funds and best use of existing accommodation is achieved.
40. In terms of charging a contribution towards costs – where the NHS is already providing financial assistance towards recurring premises costs against that accommodation, these cannot be re-charged to sub-tenants / service providers, to avoid the potential for double-charging. To do so may be contrary to Direction 48 of the PCDs and commissioners may take action to recoup reimbursed costs.
41. Where hosting arrangements are agreed across a PCN, an agreement may be required between the parties where other members share any additional costs which the host contractor may be exposed to, with such information being included within Schedule 7 of the PCN Network Agreement. It is expected, however, that the additional staff will have a limited impact on day-to-day operational running costs. The exception to this may be where services are delivered ‘out of hours’, where small operational costs may be incurred. It is recommended that complicated recharging deals between parties should be avoided where possible and reciprocal arrangements considered instead.

42. Where PCN services are delivered in non-NHS spaces, possibly secured by way of licence agreement, conversations will need to be had regarding contributions towards running and rental costs, as a new commitment for a GP practice / PCN. An application must be made to the commissioner for approval of this space and subsequent reimbursement under the PCDs.
43. The process for securing reimbursable costs is set out above in Governance considerations; non-reimbursable costs will be subject to negotiation and agreement between the landlord and PCN members on a case by case basis.
44. Where a contractor is seeking financial assistance in terms of transitional funding in respect of any increase in service charges, Directions 46 & 47 apply. See NHSE/I [Policy & Guidance Manual 2019](#) – Section 12, Pages 277 – 292.

## Principles

45. In order for an application for financial assistance to be considered by a primary medical care commissioning organisation, the principles set out in the Manual will need to be accepted and adopted by specified stakeholders.
46. Commissioners will commit to:
  - a. The NHS (GMS – Premises Costs) Directions 2013, dated 28 March 2013, Part 5 Directions 46 and 47 enable GP contractors to request financial assistance from the commissioner towards premises running costs and service charges that are not reimbursable elsewhere under the Directions. The commissioner is required to consider such applications and, subject to budgetary targets, to approve them.
  - b. Applications for financial assistance, under direction 46, in respect of premises running costs, may include costs relating to fuel and electricity charges, building insurance costs, costs of internal or external repairs and/or plant, building and grounds maintenance costs. Direction 47 offers two methods for calculating the amount of financial assistance towards service charges that the commissioner may consider.
  - c. Only consider applications that pass through the eligibility criteria check gateway (section 12.3.1 refers). This enables primary care commissioners to prioritise applications that demonstrate they have the greatest need, which in turn ensures that a GP contractor does not waste their time on completing and providing information when ultimately, primary care commissioners are unable to support their application.
  - d. Make recommendations on applications that have passed through all gateways (please refer to **Annex 5**) to the relevant CCG Part 2 Primary Care Commissioning Committee. Applications can take a considerable time to process, should they be subsequently approved, back claims will be with effect from the date that the original application was made.
  - e. Offer short term financial support towards premises running costs and/or service

charges to GP contractors where there is evidence that their practice expenses are significantly higher than the latest published averages, as a result of high service charge costs and other practice expenses. In this eventuality, a GP contractor must be prepared to put in place a clear action plan, demonstrating that over the next 12 months, it will optimise its income and reduce its expenditure. A further assessment as to whether a GP contractor should remain entitled to further financial support will be undertaken one year on by re-running the financial assistance model, subject to a GP contractor's wish to continue to request such support.

**Annex 1 – Template questions for PCNs and commissioners when accommodating additional Multi-Disciplinary Team (MDT) staff appointed through the Network Contract DES**

**Annex 2 - 'Added Value' template**

**Annex 3 - Standard lease terms preferred by NHSE&I**

**Annex 4 - Standard lease terms preferred by NHSE&I**

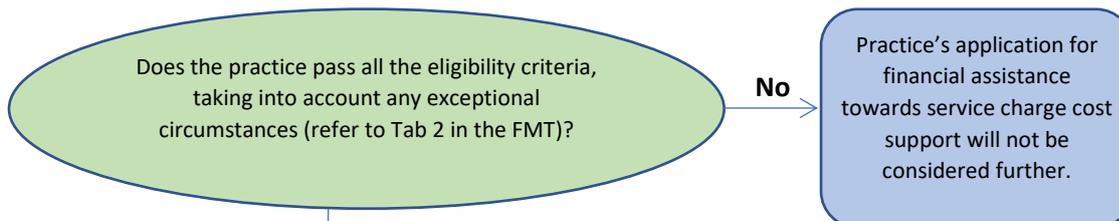
**Annex 5 - Process flowchart**

Annex 5 – Process Flow chart

Primary Medical Care Policy and Guidance Manual (PGM) (v2) - April 2019

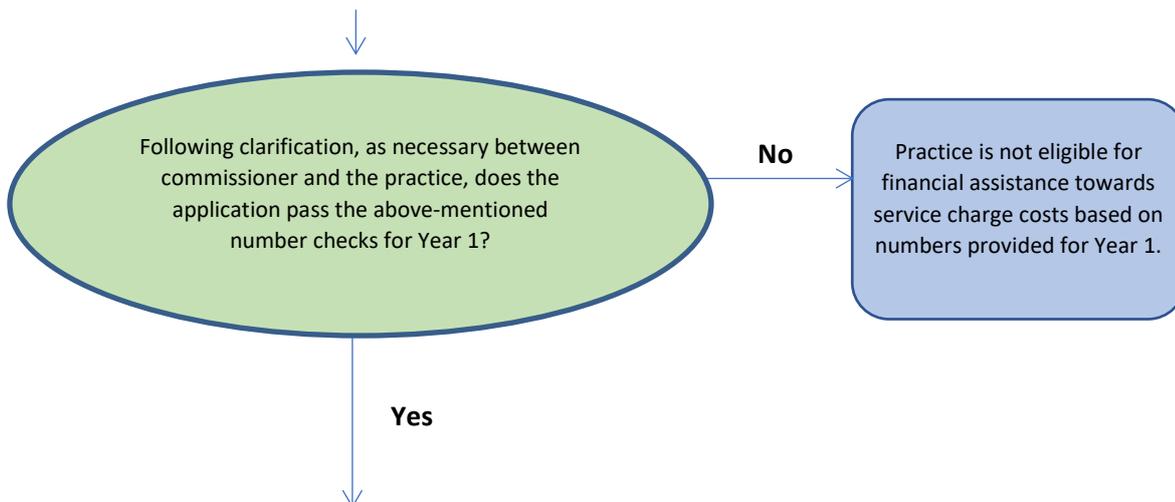
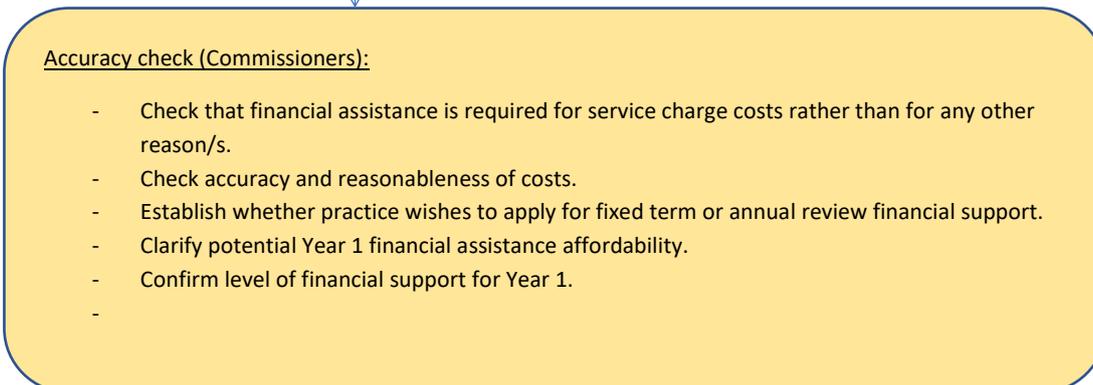
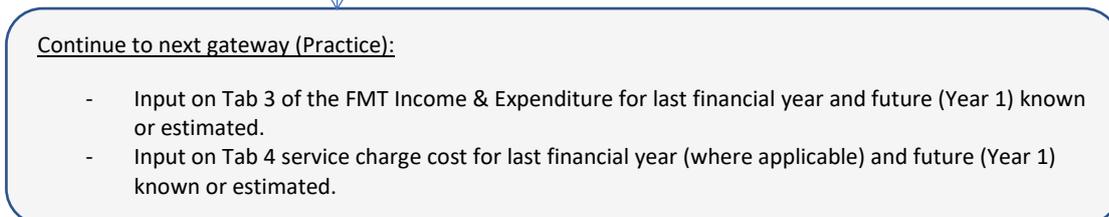
Policy for consideration of applications from GP contractors for financial assistance towards premises running costs & service charges

**GATEWAY 1**



Yes

**GATEWAY 2**



**GATEWAY 3**

Continue to next gateway (Practice):

- To complete Tabs 3 & 4 with projections post Year 1 based on either fixed term or annual review request for financial assistance towards service charge support.

Accuracy check (Commissioners):

- Check that financial assistance is required for service charge costs rather than for other reason/s.
- Check accuracy and reasonableness of costs.
- Confirm again whether practice wishes to apply for fixed term or annual review financial support.
- Clarify potential affordability of financial assistance post Year 1.
- Confirm level of financial support for after Year 1.
- 

Following clarification, as necessary between commissioner and the practice, does the application pass the above mentioned checks on projected numbers after Year 1?

No

Practice is not eligible for financial assistance towards service charge costs based on current projections.

Yes

**GATEWAY 4**

Recommendation to the relevant CCG Part 2 Primary Care Commissioning Committee should be made. Subject to PCCC endorsement, a formal agreement must be signed between Commissioner and the practice, which will be subject to annual financial review of figures as applicable.