

To: All Practices in Surrey and Sussex LMCs

15th February 2016

Dear Colleagues

Deregistration of currently registered patients who live outside the Practice Boundary.

The LMC has received a number of queries from practices who were/are considering deregistering currently registered patients who now live outside the practice boundary. The LMC has responded individually to these practices but being aware this is a recurrent theme I am now writing to all practices. In view of the possible ambiguity in the applicable Regulations, the LMC has obtained legal advice from DR Solicitors in terms of this question.

The regulations within Schedule 6 Part 2 of the NHS (GMS Contracts) Regulations 2004 (as amended) are also replicated within PMS Contracts. It is clear that, when a patient is applying to permanently register with a practice, then under Paragraph 17 (2) the practice has a right to refuse to register the patient if they live outside the practice boundary, and this is not a discriminatory reason for declining registration.

However, equally, many practices do choose to register patients who live outside their practice boundary: the LMC believes that, if doing so, practices should have a clear policy which explains why, if not all such applications are accepted, the practice will accept some but not other applications and that this policy must not be discriminatory in terms of the criteria described in Paragraph 17. If practices refused all such applications, on the grounds that patients lived outside the practice area, this would not be discriminatory.

Once patients have either:

- been accepted as registered despite the fact that at the time of their application they lived outside the practice boundary, and/or
- allowed to remain registered having moved outside the practice boundary and the practice is aware of this change of address (or, outside the 'Outer' Boundary from within the Inner Boundary if the practice has an inner and outer boundary)

The LMC is now advising practices, based on the legal advice it has received, which accords with earlier advice provided to practices, that practices should not consider they have a right to deregister all such patients simply by virtue of their residence outside the practice boundary, unless, possibly, other considerations apply.

This is because, effectively, a practice was willing at the time (acknowledging this may have been years ago) to accept such registrations, or did not seek to de-register patients knowing they have moved outside the practice boundary, and it is in the LMCs view not therefore a reasonable ground to now remove them unless something more applies, and that something is likely to relate to a relevant change in circumstances since the patient(s) was accepted, or continued to remain registered.

Local Medical Committees for
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Practices should note there appear to be no regulatory decisions on this point, probably because patients have no formal right of appealing a deregistration decision, nor does NHS England have the discretion to refuse a practice request to deregister a patient if this is properly made under the Regulations. However, the LMC has already noted to practices the importance of complying with the Regulations when deregistering patients as this is a common cause of dissatisfaction for patients who have a wide range of avenues to complain and draw attention to their situation, which can cause difficulties both to the practice and individual doctor(s). The Ombudsman has frequently noted their concern about deregistration decisions by General Practitioners.

The LMC cannot therefore provide definitive advice on what circumstances might justify the deregistration of all, or a proportion or subset of, patients currently registered with the practice who live outside the practice boundary. However such reason(s) are likely to be less open to any challenge if they relate to changes in circumstances after the acceptance of the patient (or allowed continued registration if the patient moves house to outside the practice boundary) and which are also relevant to the delivery of contractual services to such patients. Reasons which might fall into this category would be the reduction in the number of doctors at the practice on a continuing basis making the provision of services to distant patients hard to achieve, or if the population within the practice boundary has substantially increased, again making it more difficult to provide appropriate services to both patients resident within the practice boundary, whose applications to register the practice must accept, and also patients living outside the practice boundary.

The LMC would also suggest that if practices are facing (or anticipating) such difficulties, it may be appropriate to change practice policy and decline to accept any patients applying to register who reside outside the practice boundary, and deregistering (unless there are very exceptional circumstances, such as continuing end-of-life care) all patients currently registered at the practice who move outside the practice's outer-boundary. If a practice still has an inner and outer boundary, then patients who move from the inner to within the outer boundary are entitled to remain registered.

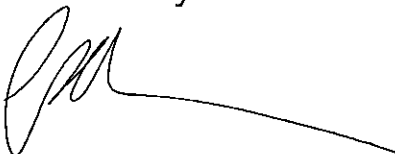
The LMC would also recommend that such a change of practice policy is a minuted discussion by practice partners, the PPG is advised of the reasoning and appropriate publicity is provided to patients. It is also very important that the policy is applied consistently as not to do so risks the challenge of acting in a discriminatory way.

If any practice is considering the removal of some or all patients currently living outside the practice boundary they may find it helpful to discuss their approach with the LMC (julius.parker@sslmcs.co.uk).

I hope this background is helpful.

With best wishes.

Yours sincerely

A handwritten signature in black ink, appearing to be 'JP', with a long horizontal line extending to the right.

Dr Julius Parker
Chief Executive