

Committee Title SEL CCG Primary Care Commissioning

DATE: 16th April 2020

Title	Formal Contractual Action and the Monitoring of CQC Report Action Plans and Contractualised Improvement Plans During Covid-19.
This paper is for decision	
Recommended action for the Committee	<p>The Committee is asked</p> <ol style="list-style-type: none"> 1. to endorse the approach as set out below to: <ul style="list-style-type: none"> o the issue of Breach and / or Remedial Notices (formal contractual action) in response to CQC Inspection Reports o the monitoring of CQC Inspection Report Action Plans o the monitoring of Contractualised Improvement Plans during Covid-19. 2. to note that the proposed approach will be reviewed at an appropriate point as the Covid-19 crisis resolves
Considerations	<p><u>Background – Response to CQC reports</u></p> <p>The London Primary Care Management Board has recently endorsed an updated Standard Operating Procedure ‘A consistent approach to responding to Care Quality Commission Reports’ which is supplemental to the NHS England Policy and Guidance Manual 2019 and the CQC’s ‘Framework for responding to CQC inspections of GP practices’, published in October 2014.</p> <p>The SOP seeks to provide the considerations that should be taken into account as part of the determination as to what formal contractual actions, if any, should be recommended to a Primary Care Commissioning Committee (PCCC) following the publication of a CQC GP practice inspection report and especially where the report identifies that the contractor is not fully meeting the CQC standards.</p> <p>Formal contractual action consists of the issue of a Breach or a Remedial Notice or both together with the requirement in the latter case for the contractor involved to produce and implement a detailed action plan to address the contractual issues which may be associated with negative aspects of the CQC report.</p> <p>In some cases, even where the CQC inspection identifies non-compliance with its standards, officers may recommend that formal contractual action is not taken but that the contractor is nevertheless required to produce and implement an action plan to address the areas of concern.</p> <p>Whether or not the action plan is associated with formal contractual action, the plan is monitored by the commissioner to ensure timely implementation.</p> <p>Up until recently, the SE London Primary Care Team was engaging on behalf of London STPs with the 3 London LMCs representatives about the proposed revisions to what is currently the ‘Requires Improvement SOP’ in the London PCCC Operating Model. Comments had been received from Londonwide LMCs</p>

and commissioners were in the process of responding when the Coronavirus pandemic took hold.

Background – Contractualised Improvement Plans

In a number of situations, but most commonly where two or more practices seek the commissioner’s agreement to a merger, officers may recommend to the PCCC that the merger proposal is approved subject to the contractor(s) agreeing that a plan designed to improve the quality of patient services is drawn up and included in the varied contract issued to give effect to the merger. Such contractualised improvement plans are monitored by commissioners to ensure their implementation in a timely manner.

Arrangements during Covid-19

On 19th March a letter, the third of a series of regular updates to general practice regarding the emerging COVID-19 situation, was published by NHS England and NHS Improvement.

The letter advises that the NHS will seek to do all it can to support practices to manage inevitable increases in workload at this extremely difficult time. The key principle is to free up practice capacity to prioritise workload to both prepare for and manage the COVID-19 outbreak. The letter covers a range of routine activities, both clinical and non-clinical, which practices and commissioners should consider suspending in the current situation. It proposes that commissioners should suspend routine audit and assurance processes and, although referring to the suspension of activities by practices, states that commissioners are expected not to take remedial action under the contract in such circumstances.

The Londonwide LMCs organisation has also written to the London Heads of Primary Care asking that commissioners agree ‘a reduction in contractual assurance and all other bureaucratic pressures on our NHS practices to as close to zero as possible to enable them to focus on their patients and staff wellbeing during the current Covid-19 emergency.’

Londonwide LMCs suggests that issuing breach/remedial notices will add to the stress that practices are under and request that, unless there are areas that relate directly to patient safety, that such actions be withdrawn. It asks that requests for outstanding information, or action plans relating to CQC/arising from contract assurance visits etc should only be made in cases where there are justifiable patient safety concerns.

Taking into account the above and the clear need to free up practice capacity to deal with the clinically linked demands of the COVID-19 crisis, it is proposed to adopt the following principles in relation to the actions linked to already published or future CQC Inspection Reports (that are published during the pandemic) and to contractualised improvement plans:

1. No further Breach Notices or Remedial Notices in response to CQC Inspection Reports or in relation to contractualised Improvement Plans will be recommended or issued.
2. In the case of existing action plans:
 - a. Monitoring of actions linked to the CQC patient safety domain will continue within existing agreed timescales;
 - b. Monitoring of actions linked to other CQC domains (Effective;

	<p>Caring; Responsive; Well Led) and those included in contractualised improvement plans and which relate to a <u>patient safety issue within an</u> Inadequate rated CQC domain¹ will continue to be monitored within existing agreed timescales;</p> <p>c. Monitoring of any other actions agreed following CQC Inspection Reports or included in contractualised Improvement Plans and which <u>are not included in paragraphs 2a and 2b above do not directly relate to patient safety domain</u>, will be paused initially until July 2020 when the position will be reviewed.</p> <p>3. Following publication of new CQC Inspection Reports:</p> <p>a. Development of action plans linked to the CQC patient safety domain should be progressed and will be monitored within normally expected timescales²;</p> <p>b. Development of action plans linked to other CQC domains (Effective; Caring; Responsive; Well Led) and which relate to an <u>a patient safety issue within an</u> Inadequate rated CQC domain should be progressed and will be monitored within normally expected timescales;</p> <p>c. Action plans for any other aspects of CQC Inspection Reports will not be requested but the position will be reviewed in July 2020.</p> <p>Current CQC related action plans have been reviewed in order to assess the approach to monitoring for each individual contractor:</p> <ul style="list-style-type: none">• In the Patient Safety domain, 10 contractors Require Improvement and a further 3 were rated inadequate. All of these will be followed up under normal timescales.• 1 of the 3 contractors rated inadequate in the patient safety domain is also rated Inadequate 2 of the non Patient Safety domains. Where the concern relates to a patient safety issue within that domain, the issues will be followed up under normal timescales.• 9 contractors have no Patient Safety domain issues or Inadequate ratings but have been rated as Requires Improvement in non-safety domains. Follow up of these contractors will be paused. <p>Attachment 5 lists practices which have contractualised action plans, in most cases as a condition of practice mergers. These plans are currently being assessed to ascertain whether there are any outstanding actions and whether these relate to patient safety. If so they will be followed up within agreed timescales but otherwise follow up will be paused.</p> <p>All contractors affected by CQC related or contractualised action plans and which have actions outstanding will be advised of the commissioner approach to their individual position.</p> <p>The SEL Primary Care Team has developed a protocol for managing new and existing CQC reports and action plans and a database to record relevant published and expected CQC Reports, ratings and actions required, taken and</p>
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¹ Kate Moriarty-Baker, SEL CCG Chief Nurse, has agreed to offer one of her team to advise consistently as to whether an issue identified in a non-safety domain rated Inadequate constitutes a risk to patient safety and so should be followed up within normal timescales.

² Action plans would be expected to be developed within 28 days of their being requested by commissioners. Timescale for implementation should be agreed on a case by case basis taking into account the nature of the concern.

	<p>paused. (see schedule of attachments below). The database will ensure that commissioners are in a position to review outstanding matters as the COVID-19 crisis resolves.</p> <p>It should be noted that whilst responsibility for not following issues identified by the CQC in their inspections through for standards that do not directly relate to the patient safety domain or another domain that is rated Inadequate, lies with NHS commissioners, it is does not remove the responsibility of a practice to clarify with the CQC what its expectations are during the COVID-19 crisis.</p>	
Schedule of Attachments	<ul style="list-style-type: none"> • Attachment 1 – NHS England and NHS Improvement preparedness letter dated 19th March 2020 • Attachment 2 - Londonwide LMCs letter to London Heads of Primary Care dated 30th March 2020 • Attachment 3 – Protocol for Managing CQC Inspection Reports and Action Plans • Attachment 4 – Database of relevant CQC Inspection Reports and ratings. • Attachment 5 – List of contractualised Improvement Plans 	
Potential Conflicts of Interest and mitigations	<p>GPs supporting the PCCC may currently or during the period of the pandemic have CQC ratings that are impacted by the proposed interim arrangement.</p>	
Impacts of this proposal	Key risks & mitigations (and/or BAF reference)	<p>Risks</p> <ul style="list-style-type: none"> • Possibility of deterioration in service quality as a result of not monitoring certain aspects of contractor’s action / improvement plans. <p>Mitigation</p> <ul style="list-style-type: none"> • Risk of patient harm minimised by continuing to address any issues that directly relate to patient safety. • Monitoring of other issues will be reviewed in September 2020 and resumed if considered appropriate at that point.
	Equalities legislation impact	N/A
	Financial impact	N/A
	Impact on patients / service users	No significant effect expected – see Risk and Mitigation above.
	Impact on other practices, including PCNs	No impact expected
	Estates impact	N/A
	Workforce impact	Intended to relieve as far a reasonably practicable non-COVID 19 pressures so as to allow practices to focus on and manage immediate patient need.

	Improve quality / safety	Improvements continue to be evidenced where these relate to patient safety standards.
	Support integration	N/A
	How does the recommendation align with the Boroughs primary care strategy?	Quality improvement and associated assurance is at the heart of the continuing obligations of borough in their roles as commissioners of GP services.
Wider support for this proposal	Patient Engagement	N/A
	Other Committee Discussion/ Borough Engagement	SEL CCG Primary Care Team
	Stakeholder engagement, including LMC, Health Watch, Scrutiny committee, MP's, Councillors,	Proposal takes into account guidance from NHS England and NHS Improvement (Attachment 1 refers) and comments and views of Londonwide LMCs (Attachment 2 refers)
	Public Engagement	N/A
Author:	Harry Goldingay	
Job Title:	Senior Commissioning Programme Manager, General Practice Services (SEL) and Premises	
Directorate:	Planning & Commissioning	
Clinical lead:	Kate Moriarty-Baker, Chief Nurse, SE London CCG	
Responsible Director:	Christina Windle	