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AISMA Doctor Newsline

The heartbeat of medical finance

Your quick guide to the further GMS contract changes 2024–25

Get to grips with the latest changes to GP practice funding and their impact on your practice. **Deborah Wood*** presents a handy round up

NHS England has set out details of funding and further contract changes applicable to the 2024-25 year following the government's announcements since publication of the Review Body on Doctors' and Dentists' Remuneration (DDRB) report.

It published a letter on 2 August to explain the financial arrangements based on the government's agreement to fully fund the DDRB recommendations for GPs.

Practice level funding

The GP contract has been amended to uplift the pay elements by 6%. This means there will be an additional 4% on top of the 2% already included since the start of the year. The additional funding will be backdated to 1 April 2024 through the global sum payment.

The General Medical Services Statement of Financial Entitlements (SFE) was updated through the Amendment Directions 2024 published on 30 August 2024 to reflect the new amounts.

The global sum is increased from the £107.57 per weighted patient announced last March to £112.50, an uplift of £4.93, back dated to 1 April 2024 and due to be received from September 2024.

Practices should also remember that the out of hours opt out payment is a fixed percentage (4.75%) of the global sum so that deduction will also increase and be back dated to 1 April. The further amount to be collected for this will be £0.23, making the total deduction £5.34 per weighted patient.

Increases have also been applied for locum cover for GP Performers on (a) maternity, paternity, adoption and shared parental leave, (b) sick leave, (c) suspended GPs, and (d) prolonged study leave as follows:

(a) Maximum amount payable for the first two weeks is increased from £1,143.06 to £1,211.64 a week and for subsequent weeks is increased from £1,751.52 to £1,856.61 a week.
(b) Maximum amount payable is increased from £1,751.52 to £1,856.61 a week.
(c) Maximum amount payable is increased from £1,131.74 to £1,199.64 a week
(d) Maximum amount payable as an Educational Allowance is increased from £133.68 to £141.70 a week and for locum cover is increased from £1,131.74 to £1,199.64 a week.

The BMA anticipates the Trainers Grant (not covered by the DDRB report) will also be uplifted by 6% via the GP Educator pay scale.

It has also asked for GP appraisers' fees to be uplifted by 6% (again not covered by the DDRB report).

The October 2024 and April 2025 fee scales for dispensing practices have recently been published. There has been a reduction of an average 0.2p per item compared to April 2024 and a further fall on average of 5.37p per item from April 2025. Having expected an uplift, this will be disappointing for dispensing doctors.

Is the pay award a ordable?

The increase in the global sum is intended to cover all practice staff, salaried GPs and GP partners. According to the BMA the GP contract global sum is notionally broken down into three parts to cover GP Contractor Income, Other Staff Expenses and Other General Expenses.

Staffing expenses represent 50% of the national funding. The increase is intended to cover actual staff and GP remuneration uplifts plus on costs for NIC and pension contributions.

Many practices will have faced increases in staff costs due to the 9.8% uplift to the minimum wage in April and are now having to consider further staff pay awards in the order of 6%.

Given the impact of a weighted list on how the funding for these staff costs is distributed, there will undoubtedly be some practices who cannot afford to pass on the intended increase in full - or if they choose to do so will find themselves unable to increase their GP partners' earnings to reflect the intended DDRB award.

For those practices employing salaried GPs, any doctor on the standard BMA salaried GP model contract should receive the full DDRB pay uplift.

This contract would usually include the phrase 'annual increments on [incremental date] each year and in accordance with the government's decision on the pay of General Practitioners following the recommendation of the Doctors' and Dentists' Review Body'.

If that clause is not included in the contract but instead a different calculation/review is provided for, then the latter should be applied. If the salaried GP employment contract omits any reference to annual pay increases, the BMA encourages employers to pass on the full DDRB uplift, 'but they are not required to do so'.

The Additional Roles Reimbursement Scheme (ARRS)

Increased funding of £82m has also been announced for the ARRS scheme to enable recently qualified GPs to be included for 2024-25. This is temporary emergency funding, and it remains to be seen if it will be made part of the recurring ARRS funding from April 2025.

This ring-fenced funding is intended to enable 1,000 new GPs who have recently obtained their certificate of completion of training (CCT) to be employed through the PCN DES. PCNs have access to the money from 1 October 2024 for those GPs newly employed from that date. It should be noted that the funding is not available for GPs employed on a temporary or locum basis, GPs who have been previously employed in general practice or GPs who have held their CCT for more than two years. The employment

must be intended to be for a minimum of 6 months. The maximum reimbursable amount per GP role is £92,462, (including all on-costs) and £95,233 with London weighting.

The Primary Medical Services (Directed Enhanced Services) Directions and the contract specification have been updated at 26 September 2024 to reflect the exact criteria for employing the GPs as additional to the existing workforce. The ARRS portal is updated to enable the reimbursement claims to be made.

The maximum reimbursable amounts per ARRS role have been uplifted from 1 October 2024 . ARRS staff are usually reimbursed in line with Agenda for Change salary scales which have been uplifted by 5.5% for 2024-25, but the available funding was initially increased by 2% for 2024-25. A new list of reimbursable amounts has recently been published to take effect from 1 October 2024 (not back dated and within the overall envelope of funding). The maximum ARRS total sum per PCN is £1.303 per weighted population at 1 January 2024.

Other financial arrangements have been amended as follows and back dated to 1 April 2024:

- Core PCN Funding including Clinical Director and Leadership and Managements payments: £2.967, of which £2.242 is based on PCN registered list at 1 January 2024 and £0.725 based on the PCN adjusted population at 1 January 2024
- Enhanced access: £7.975 per PCN adjusted population at 1 January 2024
- Care Home premium: £127.20 per head

The GMS contract

The contract has been varied with some other changes taking effect from 1 October 2024, some from 31 October 2024 and others within 14 days of the variation notice being served to the practice by the ICB.

These changes relate to the digital practice area map; contracts for relevant telephone services procured through the Advanced Telephony Better Purchasing Framework; service provision for patients covered by the Armed Forces Act 2006; vaccination and immunisation standards and some additional vaccination cohorts; model terms for a salaried GP; electronic records guidance; and reporting data to NHSE.

Practices should check they have received their contract variation notices.

Personal Medical Services (PMS) and Alternative Provider Medical Services (APMS)

Any changes announced to the core GMS contract are mirrored via PMS and APMS.

Please note: all the above information relates to contracts in England only.

Information for Northern Ireland/Scotland/Wales can be obtained from your AISMA accountant.

Action points

- As ever practices must be fully aware of these changes and their impact on practice funding and workload.
- Your AISMA accountant will be happy to help with modelling the financial impact of these contract changes on your practice and to assist with staff pay award decision making.
- Practices need to take a careful look at future strategy and work on finding the best and most profitable way of using time and resources.
- Collaboration across networks will continue to be fundamental and advice should be taken at an early stage regarding how best to make the network arrangements work for your practice.

Reference material

NHS England

https://www.england.nhs.uk/long-read/gp-contract-changes-government-response-to-ddrb-and-arrs/

https://www.england.nhs.uk/gp/investment/gp-contract/

BMA

https://www.bma.org.uk/advice-and-support/gp-practices/funding-and-contracts/confirmation-of-increased-202425-contractor-pay-and-staffing-expenses-funding-uplift

Network Contract DES 26 September 2024

https://www.england.nhs.uk/wp-content/uploads/2024/03/PRN01583-network-contract-des-spec-24-25-pcn-requirements-entitlements.pdf

Challenging times are set to continue

OPINION

Sue Beaton**
AISMA board member

The past six months have, more than ever, underlined the need for practices to be on top of their finances, including processes for controls, claims, coding, reviews, budgeting and planning ahead.

Now the next six months will almost certainly add to the need to keep on top of things against a difficult, changing NHS backdrop.

Many practices I have spoken with over recent months are feeling a cash and profits squeeze for a variety of reasons including unreliable payments from ICBs, errors in LCS claims processing, declining payment rates for some services and inflation still having a significant effect.

In my experience, considerable numbers of practices are just 'coping', feel nervous and are certainly not confident about current or future profit levels and cash flow.

Inflation rates over the past 18 months or so have been very high, having a significant effect on staff pay rates (6% pay rises in many cases). This comes along with hikes in interest rates and energy prices and suppliers' costs generally increasing when income levels have not always kept pace and at worst, some income sources have ceased.

An additional side effect of being under financial pressure is strain and stress within the partnership and wider team. Sickness levels and turnover of team members can be high which in turn leads to costs, disruption and a drop in job satisfaction, all of which also influence practice performance.

Good practice controls, reliable reporting and regular partner review are more important than ever to keep close to the finances and to nip in the bud problems which are within the control of the practices.

Looking ahead, the next six months could well impact already struggling surgeries and partners in several ways.

There has been unrest in recent months, stemming from April's DDRB (albeit interim), 2% contract uplift recommendations, including exploring potential unprecedented strike action or skeleton services in order to express dissatisfaction with the 2024-25 contract.

In late July, the newly elected Labour government agreed to honour 'in full' the DDRB's latest, updated recommendations, increasing the uplift from the initial 2% rise to 6% backdated to April 2024. But some feel these recommendations don't go far enough and financial pressures will continue.

In response to the government's reaction in July, Dr Katie Bramall-Stainer, BMA GP Committee chair in England said: 'Today's announcement is a step in the right direction, but practice funding today even with this uplift, is not even close to what it was even five years ago. Our concern is that this will come as a blow to many GP partners who have been trying to make every last penny stretch.'

The BMA states that some further GP surgery closures could lie ahead, given financial pressures.

Thankfully, inflation rates have dropped considerably from the high of 11% in October 2022 to 2% in June 2024. This slow down, along with the DDRB uplift, will help practice profits but it is so important for the partners to be fully engaged in the financial health of their practice to achieve the best results.

Practices with non-March year-ends might face the additional constraint of potentially higher tax bills in January due to the change in tax year basis imposed from 2023-24 onwards.

Previous *AISMA Doctor Newsline* articles have covered this topic in detail but it is important to consider its impact if you are a partner in one of those practices.

Seek further guidance from your accountant, including whether you might be able to spread the tax on the additional, transitional profits over five years to ease the cashflow.

Other challenges this autumn relate to those GPs who may have been impacted by the McCloud judgement. Again, details of the circumstances and reasons for this have been covered previously in *AISMA Doctor Newsline*.

Due to the McCloud age discrimination remedy, revised annual allowance pension savings growth statements, known as remedial statements, are to be issued for the years 2015-16 to 2022-23 with an expected issue date of 6 October 2024 for members whose service reverts to their legacy schemes. Whether NHS Pensions can meet this deadline remains to be seen.

A review of revised pension growth charges and, if applicable, related scheme pays elections, will need to be undertaken and any amendments and payment for underpaid tax (or refunds for overpaid tax) on excess pension growth for years 'in scope' - the tax years 2019-20 onwards - will need to be made.

So, it can be seen that the second half of 2024-25 will be one of continuing financial challenges and pressures, with added complications.

October's first autumn Budget from the new government could also present future challenges but only time will tell. We will watch with interest and be on hand to assist practices where help is needed.

Crystal Budget-gazing

The signs are it is going to be painful. **Kieran Hancock**[***] looks at what the autumn Budget later this month could have in store

Most Budget articles include narrative such as 'eagerly anticipated', or 'long-awaited'. That is in a normal year, let alone the first Budget of a new government.

Chancellor Rachel Reeves' first Budget of the Labour government on 30 October will be a worthwhile watch.

For anyone reading the news, there has been lots of publicity and speculation around potential changes. There has been a promise that income tax, national insurance and VAT will not change.

But that still leaves lots that could. So let us look at what could change, the impact on the medical profession and what some of the changes might be.

Any change needs careful consideration because to penalise medical professionals could be destructive in the rebuilding of the NHS.

Whatever happens, it is clear taxes will increase and there is a need to plug the mysterious £22 billion black hole, supposedly created by the previous Conservative government.

Capital Gains Tax (CGT)

This is payable when an individual makes a gain on a chargeable asset, most commonly the sale of a property or business assets.

Rates range from 10% up to 24%, with the first £3,000 of any gains exempt from tax. Rates are much less than income tax, for many years creating speculation of potential equalisation with income tax rates.

For the medical profession, CGT is most commonly payable on the exit from a GP partnership. This is where that GP partner owns a share in the business premises. Providing certain criteria are met, the gain on disposal is likely to be taxed at just 10% because it is a business asset.

With some GP partners earning more than £125,140, this means they are additional rate taxpayers and taxed at 45% on income above this.

An alignment of CGT to income tax rates could see nearly half of a gain disappear for additional rate taxpayers.

It is unclear if there would continue to be protection on business assets. To grow the economy and create investment, you would certainly hope so.

With limited time to plan, anyone affected by potential changes should consider any planning that could be put in place before 30 October.

This might include retiring from partnership before that date (if planned for shortly after) or ensuring any property transactions/transfers are completed. It is unclear when any changes would be effective, but it may be more restrictive after that date.

Inheritance Tax (IHT)

IHT is complex, but in simple terms there is no tax payable if chargeable assets are below £325,000. Tax on excess assets is payable at 40% but there are other allowances to consider when establishing your overall liability.

With increases in property values and the inflation felt in recent years, more people are now caught by IHT.

"An increase in the AA and reintroduction of the LTA will create additional tax charges, which would not be welcome"

There could be changes to the tax-free limit, or the rate. However, there could be a focus on:

- **Business Property Relief (BPR)**

A relief that exempts relevant business property from IHT. There are certain criteria, and the most common assets covered are shares in a trading company. Shares can effectively be passed down through generations without payment of IHT.

A change to this would generate substantial tax revenue bringing business assets within charge. The exemption may not be removed altogether, but the amount exempted could be reduced.

- **Other reliefs**

Where individuals gift assets, those assets could be subject to IHT. This is on the basis that they become chargeable if that individual were to pass away within seven years. Throughout that period, the level of tax reduces (tapers), until after seven years there is no tax due.

This is a handy planning tool and can help assets to be passed down to the next generation in retirement years.

Increasing the seven years would seem a quick way to generate more IHT. Individuals would need to live for longer, following a gift, to avoid a tax charge.

Pensions

A change to the taxation of pension savings and contributions will affect working individuals, the people Labour said it would not tax further.

Pensions are of course a hot topic for the medical profession and any changes will be profoundly felt.

1 Lifetime allowance (LTA) and Annual Allowance (AA)

From 6 April 2024 the LTA charge was abolished. This means individuals are no longer penalised for the total lifetime value of their pension savings.

Previously the LTA was £1,073,100, with 25% of this amount accessible as a tax-free lump sum. Any excess over the allowance was taxed at 25% or 55% dependent on how the pension was accessed.

When the Conservatives announced the removal of the LTA charge, Labour said it would reintroduce it but also said it would consider protecting medical professionals. With all that has transpired with 'McCloud' - age discrimination on the transition of pension members - you must wonder how protecting a certain class of profession would be seen and implemented.

The AA is the amount that can be contributed, or in the NHS Pension Scheme, the growth in benefits that can occur in a single tax year. Exceeding this threshold of £60,000 will give rise to a tax charge, essentially removal of tax relief on the contributions made.

The AA was increased from £40,000 to £60,000 from 6 April 2023. This helped medical professionals such as GP partners and hospital consultants significantly and incentivised them to remain in within the NHS.

Reintroduction of the LTA or a reduction in the AA will cause chaos with GPs and high-earning NHS consultants, due to the way the NHS pension is assessed for LTA purposes. It may also act as a barrier to overtime and reduced waiting lists times.

Many NHS pension members may have opted back into the pension scheme since the removal of the LTA. An increase in the AA and reintroduction of the LTA will create additional tax charges, which would not be welcome.

2 Tax-free lump sum

As mentioned above, an individual can take 25% of their total pension pot (or capped at 25% of the previous £1,073,100 LTA) as a lump sum and completely free of tax. Any excess is subject to income tax at the marginal rate. This gives a handy boost when entering retirement and a way to start drawing pension benefits.

Whether this is removed, or reduced is unknown and it could be that the percentage available is smaller. Any change will create a greater tax burden for those heading into retirement.

For many individuals with modest income and pension savings, this may dramatically affect retirement planning.

3 Pension contributions

Pension contributions receive tax relief, be that through employer schemes or private pensions. An employee contributing to an employer scheme sees their assessable employment income reduced, saving tax along the way.

A self-employed individual, or anyone making a personal pension contribution sees an extension of their tax bands – effectively increased thresholds before higher rates of tax apply. It is different for GP partners/locums who receive a direct deduction against income.

You can make pension contributions to reduce your taxable income below certain thresholds, such as the £60,000 for child benefit clawback and £100,000 for the loss of personal allowance and tax-free childcare.

Tax relief on pensions encourages saving today, which in theory, generates tax in future when the pension is drawn, and tax is paid on that income.

At present a contribution receives a marginal tax saving – tax saved at your highest rate. There could be scope to limit tax savings on pension contributions to the basic rate of 20%.

This change was previously made to mortgage interest on residential property, where a flat 20% deduction is made against an individual's total tax liability, without deduction against total income.

If pension contributions are restricted, particularly the inclusion in calculating net income, certain individuals could see a huge increase in tax cost (or nursery fees!).

Individual Savings Accounts (ISAs)

An ISA is a type of savings account that can attract interest (or growth) free of tax. Individuals can invest up to £20,000 each year in these accounts.

When interest rates were low, the return on ISAs was minimal. Returns have increased substantially with the increased interest rates seen in recent years,.

Reducing the thresholds or changing the tax treatment could be a quick way to generate additional tax payments. The government would need to bear in mind personal savings allowances (£1,000 for basic rate tax payers, £500 for higher rate tax payers, where interest is free of tax), as well as bringing many more people into self-assessment.

Conclusion

Eventual changes might be different, but it is likely something covered above will change and it will increase the tax burden on those affected.

With complexities across all areas, it is important to seek advice from your AISMA accountant who can guide you through the changes and help plan around these.

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AISMA Doctor Newsline is published by the Association of Independent Specialist Medical Accountants, a national network of specialist accountancy firms providing expert advice to medical practices throughout the UK.
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ASK AISMA!

GPs' questions about a variety of issues involving help from their specialist medical accountants are tackled here by Abi Newbury****

You can ask a question by contacting your local AISMA accountant or messaging us via X @AISMANewsline

MAKE YOUR ACCOUNTANT'S MEETING REALLY COUNT

Q **We've got our annual accounts meeting with our accountant coming up, what can we do to maximise the benefit of it?**

A Some doctors find that the annual meeting is a chore rather than a benefit, which is a shame.

To ensure the meeting works for everyone, try to ensure you have provided the accountant with all the information they need and in good time beforehand.

For example, if you are expecting to have tax estimates, your accountant will need to have received your personal expenses and details of personal income well before the meeting date so that they can do the relevant calculations for you. Leaving it late will mean them having to re-do the calculations which can add to the costs.

If the draft accounts are sent to you before the meeting, look at them and jot down questions about anything you do not understand.

And do not be afraid to ask those questions at the meeting. The more you take part, the more you will get from the meeting. Ask questions, even if you think they are silly. It is highly likely that some of your partners will have the same question.

If the meeting is via Teams rather than face-to-face, make sure you have video as well as sound on and try to ensure you have protected time. It is very demoralising to see people attending but clearly distracted, and can cause increased costs when queries arise after the meeting which were or could have been covered there and then.

If there are other areas you would like to discuss, give your accountant some warning so they can prepare if needed.

And take note of the advice and suggestions your accountant makes during the meeting, and make a plan to action them to benefit from the advice given to you.

As accountants we want you get to the most out of your financial meetings - and the more we learn about you and your business the greater the benefits will be from the time we spend together.

WE ADD UP TO A WHOLE LOT MORE

Q **Aren't accountants just about figures? Should we expect anything else?**

A Accountants should be doing more than just stating figures in the accounts.

They can look at the reasonableness of expenses and whether income is being maximised, whether there are better ways of doing things, and compare your practice to national and local averages.

Someone outside the practice can often see better where the problems lie, whether they relate to staffing, patients or partners. A specialist accountant will have seen a large number of GP partnerships over the years and will be able to offer an ear to discuss any business problem relating to your practice and the people involved.

Sometimes just knowing the practice's personalities will help us to suggest a way to handle certain problems. Or we can help by facilitating meetings to reach agreement where there are potential disputes, and even provide very practical suggestions that will be of benefit to you and your business.

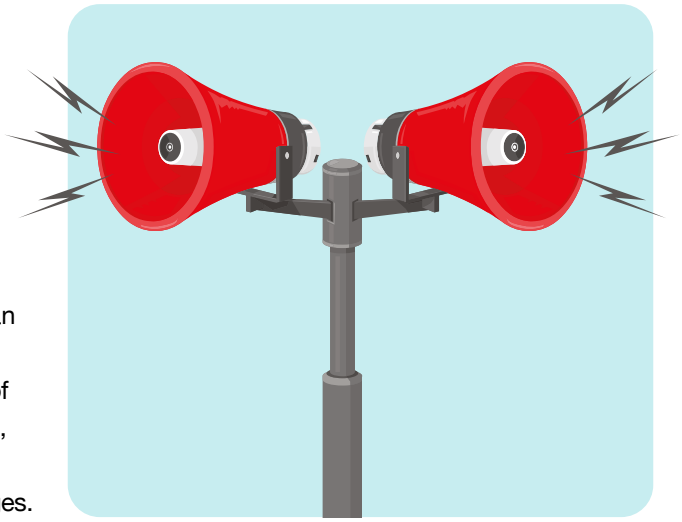
If you are looking at a merger then an accountant who knows you can discuss a lot more than the bare figures involved.

Consultancy services over and above the general compliance work can include advice on joining a practice, or retirement, tax effects of buying and selling practice premises and general tax planning advice whether personal or in relation to the practice.

And of course, advice can be given in connection with planning for most taxes – such as income tax, national insurance, capital gains tax, corporation tax, VAT, and inheritance tax.

Good accountants will have worked with other professionals and can usually introduce you to specialist solicitors, surveyors, and independent financial advisers (IFA).

So yes, accountants are a lot more than just a provider of accounts, and if you are not getting more than that speak to a specialist accountant to find out more about what they can do for you.



GOOD ACCOUNTANTS GIVE EARLY ALERTS

Q **What should we expect to get from our accountant regarding warnings about future events?**

A Once the annual accounts have been drafted, you should expect to have a broad warning of future tax liabilities. Note that now HMRC looks at the fiscal year rather than the accounts year, you will not have figures so far ahead.

Also remember that your accountants will need personal information as well as the practice information to make these meaningful.

The accounts to 31 March 2024 will enable tax payable in January 2025 to be estimated and alert you to the payments on account due in July 2025.

Similarly, they should be able to provide an estimate of the superannuation balance due by February 2025.

Once the practice accounts and all personal expenses claims have been approved, personal tax returns can be completed and then the precise figures will be known. For superannuation this will depend on when the certificate forms are available. In recent years this has been very close to the submission deadline.

If you have asked your accountant to help you with a budget for the current year, they will be able to give you tax and superannuation estimates for that year too.

Cash flow also needs to be managed and you should discuss planned leavers and joiners with your accountant so they can help advise on the effects of this.

A good accountant will help you get systems in place to provide you with the information you can both use to ensure you have as much warning as possible around the financial needs of your business.

Premises Costs Directions 2024: what they mean for general practice...

The introduction of the new NHS GMS Premises Costs Directions in May signalled some long-awaited changes to the system of funding for GP surgery premises in England. Lawyer **Bryn Morgan** considers some key changes that will a ect GP practices and their premises

100% grants

It is now possible to apply for an improvement grant for 100% of the costs of improvements to surgery premises. This has the potential to simplify projects that previously had to be financed by a combination of NHS grants and other sources of capital, such as bank loans or partner capital contributions.

Schemes that can be funded with improvement grants

The Directions now allow grants to be made not only for building extensions to existing surgeries but also for the purchase of land required for them. Funding can additionally be sought for the stamp duty land tax payable for the land.

Also welcome is that it is now possible to seek grants for improvements designed to reduce the environmental impact of the premises (such as solar panels, replacement windows, doors or facades), so long as the commissioners are satisfied these 'provide a net financial benefit to the health service'.

Practices taking leases of new premises can apply for a grant in respect of the fit out works to these premises. A grant can now be paid to the landlord in return for new or significantly refurbished premises and a reduced rent.

The restrictions on grants associated with compliance with the 'minimum standards' applying to GP premises have been tightened.

These are statutory and contractual standards set out in Schedule 1 of the 2024 Directions and include those relating to the repair of the building and infection control. There are very limited exceptions to this rule relating to the reasonable extension of telephone facilities or improvements to comply with new statutory requirements.

The guaranteed period of use and abatement periods

There are new, more GP friendly, thresholds for the 'guaranteed minimum period of use' of the improved premises that practices must commit to. These are:

- less than £144,000, at least six years
- £144,000 or more but less than £360,000, at least nine years
- £360,000 or more but less than £660,000, at least 12 years
- £660,000 or more but less than £1,200,000, at least 15 years, and
- £1,200,000 or more, at least 18 years.

Similar thresholds and periods now apply to the abatement of notional rent.

Documentation for grants

In July, NHS England issued a new policy outlining the documentation required for GPs to access grants. It is stated to apply to 'all primary care premises capital grants regardless of the source of capital'.

Therefore, these rules potentially apply not only to capital available within the NHS, but also to s106 and CIL monies paid to Councils for primary care projects and arising from local housing developments.

All applications for funding will require a fully completed and signed Project Initiation Document or approved business case along with:

- the relevant grant agreement, signed by all the practice partners and the ICB; and
- a due diligence approval form signed by the ICB and regional lead for the programme, confirming the proposals have satisfactorily completed all required due diligence, and accepting any revenue consequences.

The policy then sets out the types of grant agreement that the practice will need to enter before funds are released. These documents are:

- Freehold project grant agreement (without an associated legal charge) for use in respect of lower value grants for GP-owned premises, where NHS England is satisfied with the practice's financial covenant strength – this form of grant still requires that a restriction is registered against the property's land registry title;
- Freehold grant agreement (for use with a legal charge) and the associated legal charge for use in respect of higher value grants for GP-owned premises; and
- Leasehold grant agreement for use where the premises are leased by the practice.

The requirement for a legal charge over freehold premises is stated to apply to grants of more than £144,000. A legal charge would secure the grant against the premises in a similar way as a mortgage and will require GPs, and their advisors, to work with any existing mortgage lenders to obtain consent to the NHS England legal charge and any restriction on the Land Registry title.

This will no doubt lead to additional work and cost to get grants set up, so early professional advice on the documentation will be crucial.

On a change of partners there will be additional legal steps needed to release outgoing partners from the grant and any legal charge and to add new partners in their place. Prospective, well advised, partners will want to understand the commitments that relate to existing grants and the surgery premises before signing up to a partnership.

Changes to rent review process

The 2024 Directions do away with the requirement on lease rent reviews for the practice to submit a signed rent review memorandum (which under some leases is legally binding in terms of setting the new rent) before the new rent was assessed for reimbursement.

Instead, the new rules require information to be submitted as to the proposed rent, along with evidence of the negotiation between the contractor and the landlord (which may or may not include a formal valuation).

It is not clear what will amount to 'sufficient evidence of the negotiation' but hopefully this will become clearer over time.

Another positive is that the commissioners are now obliged to invite the landlord to make representations regarding the level of the reimbursement. Hopefully this will allow for arguments to be put forward about the appropriate market rent levels at an early stage.

But the new rules also state the commissioners are not to negotiate directly with landlords or those acting on behalf of landlords during this process.

"There are, for the first time, welcome provisions targeting the risk of partners being left with lease liabilities after a practice closure"

This suggests practices and their own valuers are likely to have to remain quite heavily involved throughout the process rather than handing over conduct of the negotiations to the landlord and the commissioners.

Time limits are likely to be imposed on disputing district valuer (DV) rent assessments and GPs will need to take prompt advice from their surveyors to ensure they are not 'timed out' of bringing a challenge.

Commissioners can also now use external RICS surveyors to assist with value for money reports rather than just the DV. It remains to be seen whether this will help improve the speed and efficiency of rent reviews.

Nod to the 'last partner standing' issue

There are, for the first time, welcome provisions targeting the risk of partners being left with lease liabilities after a practice closure. NHS England is required to establish a protocol for determining whether to recommend that the lease in question should be assigned to itself or its nominee (perhaps the ICB or NHS Property Services).

This would be in circumstances where the contractor wishes to retire and is unable to secure a successor or another contractor to whom the lease may be assigned.

We will of course need to see this protocol before any judgement can be made on how helpful and wide ranging these protections will be in practice, but in any event they should be seen very much as a last resort and no substitute for a good succession plan.

The fact that it is to be a protocol under which NHS England may 'recommend' assignment of the lease indicates it will fall short of being a panacea.

VAT, utilisation of premises and clawback

There are adjustments to the rules surrounding reimbursement of VAT on rent. Most leases will allow landlords to elect to charge VAT.

But GPs now need to be careful, particularly when signing up to sale and lease back arrangements, to try to negotiate a provision under which the landlord agrees not to charge VAT. Otherwise there is a risk that if VAT is charged it may not be reimbursable.

Practices and commissioners should consider 'whether any opportunities exist for additional, multi-functional use of the premises.' Also, GPs can for the first time seek reimbursement of costs for putting agreements in place with third parties with whom the premises may be shared.

Clawback provisions now apply for overpayments made to practices. They cover payments made by commissioners in error, where entitlement criteria are not met or where a reimbursed charge is later refunded.

These provisions highlight the need for practices to be careful to ensure claims are correct and, if overpayments are received, to ensure the commissioners are notified and monies returned. Practice accountants will need to be careful to scrutinise funds received.

The future

The 2024 Directions no doubt provide some reasons to be cheerful, particularly around the rules governing improvement grants. The advent of 100% grants and new thresholds will help, but it seems clear there will be more formality and conditions attached, which GPs will need to consider carefully with the aid of specialist professional advice.

However, the reality is that there is limited capital available in the system which will continue to affect access to grants. As and when pots of money become available, well-structured business cases, demonstrating the need for the improvements and benefits to the wider system, particularly to enable integrated care, will be essential.

Time will tell whether the new Directions make a positive difference to primary care and help deliver premises that are fit for the future. And with a new government we may see more changes in the months and years ahead.

- To discuss issues affecting your practice and its premises, contact **Bryn Morgan** at **b.morgan@hempsons.co.uk**

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