

Best practice guidelines – contestability in relation to funding enhanced services from the enhanced services floor (ESF)

As a significant proportion of the enhanced services cases referred to the Implementation Coordination Group (ICG) relate to “contestability”, we have developed the following best-practice guidelines that should be considered by PCTs, LMCs and practices.¹ These best-practice guidelines will be used by the ICG where the contestability test applies in individual cases in relation to disputes regarding the use of the ESF.

In order to be funded from the enhanced services floor, an enhanced service that was not included in the original floor calculation must be contestable by practices, both in terms of the commissioning process, and whether the proposed service can be reasonably provided by practices.

The Commissioning Process

- Eligible GMS, PMS, APMS and PCTMS contractors (eg those contractors who meet the requirements of the particular service specification) should be able to bid for the enhanced service.
- PCTs’ commissioning decisions should be based on providing the best quality patient care and value for money.
- The PCT’s commissioning exercise should include arrangements to notify practices in its area that the enhanced service is being commissioned and details of how they can bid to provide the service. This includes informing the LMC within a reasonable period of time of the bid deadline so that it can alert all practices it represents.
- Potential providers should be allowed a reasonable amount of time, consistent with the complexity of the proposed service, to prepare a bid.
- The PCT’s commissioning process should be fair, transparent and consistent, and should contain provisions to resolve potential conflicts of interest.

Reasonableness

- To qualify as an enhanced service that is funded from the floor, the proposed service should be one that could be competently provided by an average practice, including acquiring the necessary skills (for example, by hiring a GPwSI, retraining an existing practice member or hiring another healthcare professional) in order to deliver the service (*‘Delivering Investment in general practice: Implementing the new GMS contract’ Paragraph 2.78*).
- The enhanced service does not necessarily have to be provided by a GP. Practices could contract with others, and/or employ the appropriate staff to deliver the service.
- The definition of what a practice can reasonably provide might vary from area to area (eg rural and urban).
- It should be possible for a practice to provide an enhanced service with the resources they already have, plus the resources available in the proposed enhanced service, providing the service does not require capital investment, premises expansion, or a significant expenditure on facilities, except where a PCT makes provision for funding such additional requirements whether through the enhanced service pricing or directly in addition.

General

We recommend that the LMC and PCT regularly discuss local service needs, specifications and plans to commission further services at a local level.

ICG Process

- Matters referred to ICG will be considered in line with the agreed protocol which can be found at www.nhsemployers.org/primary/primary-904.cfm

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¹ The ICG addresses disputes in England, but much of the guidance contained within this document will also be relevant to Scotland, Wales and Northern Ireland.