

SUBJECT: Practice Dissolution - Alison Lea Medical Centre, East Kilbride

1. PURPOSE

This report has been prepared to update the Board on the dissolution of the partnership between Dr John Haughney and Dr Helen McNeil, Alison Lea Medical Centre, East Kilbride and to outline the actions that have taken place since January 2008 to ensure ongoing service provision, process to award a new contract, public engagement and communication with key stake holders.

2. SUMMARY OF KEY ISSUES

The practice dissolution has required that NHSL put in place temporary contracts with the two GPs concerned and communicated to patients in early February in regard to changes at the practice what this meant for them and an assurance of further communication and involvement in the way forward.

There has been a significant level of dialogue between the Board, its legal advisors the CLO and Scottish Government Health Department in terms of the legislation that must be complied with in regard to the way forward.

An agreed way forward has been found and an advert for a GMS contract was placed in the BMJ on the 10th of May 2008.

A letter outlining the process to date, information in regard to a patient meeting on the 27th of May 2008 and details of how to be involved in the selection process was sent to patients in the week commencing 12th of May 2008.

A patient engagement meeting will be held on the evening of the 27th of May 2008 and the outcome of this meeting will be fed back to the Board.

A specification for the services has been developed and will be sent to prospective tenderers upon request. There is an agreed timeline which will lead to the award of a contract by the end of July 2008.

3. ACTIONS FOR THE SERVICE

The communications plan has been adhered to so far and it is critical that there is ongoing dialogue with patients, politicians and local media.

The outcome of the Patient Engagement meeting must identify patient representatives to be on the selection panel and these individual patients will need to be provided with training and support in regard to their role.

The need to ensure that services remain in place for patients over this period is of critical importance and the position is being carefully monitored.

4. RECOMMENDATIONS

Note the current position regarding the practice dissolution including the advertisement in the British Medical Journal.

Note the current level of communications with patients and key stakeholder and continue to receive updates on progress over the next three months

5. FURTHER INFORMATION

For further information or clarification of any issues in this paper please contact.

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1. BACKGROUND

NHS Lanarkshire was informed, in writing, by Dr Helen McNeil on 7th January 2008 that the partnership between Dr John Haughney and Dr Helen McNeil, Alison Lea Health Centre, East Kilbride, would be dissolved on 31st January 2008. The dissolution followed a breakdown in their partnership.

Dr Haughney and Dr McNeil had no written partnership agreement, rather what is termed a “partnership at will”, which can be dissolved at any time, without notice. This dissolution took place on the 31st of January 2008.

The notification of dissolution has the following effects with regard to the General Medical Services (GMS) Contract held by the former partnership of Dr Haughney and Dr McNeil:

1. On dissolution of the partnership at will, in law the GMS Contract between NHS Lanarkshire and the partnership of Dr Haughney and Dr McNeil comes to an end
2. In terms of notice periods for termination of a GMS Contract, Regulation 96, Schedule 5, of The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004, requires that the Health Board is given six months notice in writing. In the case of non-amicable dispute which leads to partners wishing to dissolve the partnership quickly, the obligations under the GMS contract must still be adhered to. Dr Haughney and Dr McNeil did not give NHS Lanarkshire the required notice under their GMS Contract.

2. CURRENT SITUATION

NHS Boards have a statutory requirement to provide or secure the provision of primary medical services under section 2C of The National Health Service (Scotland) Act 1978. In order both to comply with these requirements and in the best interest of the patients of the practice, NHS Lanarkshire asked both GP's to continue to provide services under a temporary GMS Contract whilst permanent solutions were pursued. Both GPs did sign these temporary GMS Contracts.

The practice currently has 2,704 registered patients and is in NHS owned premises. In February 2008 NHSL wrote to all patients at the practice advising them of the dissolution and also that temporary contracts were in place. Patients were advised that they should continue to attend the surgery as they had beforehand and that there would be further communication with them about the future arrangements. A subsequent letter has been sent to patients dated 13th of May 2008 and a copy of this letter is shown in Appendix 1, along with a Frequently Asked Questions at Appendix 2.

A fundamental change made with the introduction of the new GMS Contract in 2004 was the introduction of a practice based contract, rather than a doctor based contract. Prior to 2004, the previous GP contract was made between individual doctors, even if they were working in a partnership. With the new GP

contract, the contractual agreement is made between a Health Board and a practice and regardless of changes within the partnership, the contract continues. In the pre 2004 arrangement, if there was an acrimonious split in a partnership, as each GP had a separate contract with the Health Board and had their own list of patients, a Health Board was obliged to make arrangements with each individual GP in terms of accommodation, IT and staffing and other appropriate issues.

Under the new contract, NHS Lanarkshire had a contract with the practice, which comprised of Dr Haughney and Dr McNeil. Both Dr Haughney and Dr McNeil have advised NHS Lanarkshire that it is their intention to put forward proposals for a new contract. Both GP's were fully aware that in the event of dissolution, they may be in the position of having to reapply separately for a new contract and understand that where there has been a split between two partners there is no guarantee that either partner will be granted a new contract.

3. POTENTIAL CONTRACTING ROUTES

In considering the most appropriate way to secure the long term provision of primary medical services, NHS Lanarkshire's priority must be to ensure that patient care will be delivered to the highest possible standards which are:

- sustainable
- clinically safe and
- within effective clinical governance arrangements

There are four contracting routes available to provide primary medical services and the legislative framework for each route is given below:

1. The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004;
2. The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004;
3. Health Board Direct Provision of Primary Medical Services (Scotland) Directions 2004, and
4. Health Board Primary Medical Services Contracts (Scotland) Directions 2004

The four contracting routes and the type of providers who are able to provide primary medical services under the various contracting routes are summarised in Table 1, below:

Table 1

Type of Contract	Normal Provider(s)
General Medical Services (GMS)	Single handed GP's or GP partnerships,
Section 17C – formerly known as Personal Medical Services (PMS)	Single handed GP's or GP partnerships,
Direct provision of services by the NHS Board	NHS Board
Alternative providers of medical services - Health Board Primary Medical Services Contracts (Scotland) Directions 2004 – (HBPMS)	Single handed GP's or GP partnerships Commercial providers Voluntary sector providers Public sector bodies Not-for-profit organisations

In Lanarkshire, the majority of primary medical services are delivered via the General Medical Services (GMS) route (94%); this is a UK wide national agreement with a standardised contract. The remaining 6% are delivered via the 17C route, which is a local agreement between a Health Board and a practice.

4. LEGAL ADVICE

NHS Lanarkshire has sought legal advice from the Central Legal Office (CLO) regarding this issue.

The legal advice from the CLO is that where there is no agreement between the partners on dissolution of the partnership, NHS Lanarkshire is then in a position of having to select one or more GPs to meet the requirement previously delivered by the partnership. This requires the Health Board to comply with the terms of The Public Contracts (Scotland) Regulations 2006. As such NHS Lanarkshire is obliged to undertake a competitive exercise to make that selection. It is not open to NHS Lanarkshire to elect to undertake any form of restricted competitive exercise involving only Dr Haughney and Dr McNeil.

CLO advice is, that as a competitive exercise is required, and then this needs to be exposed to the market with the degree of advertising considered appropriate. It deemed that it would be entirely appropriate for an advertisement to appear in the British Medical Journal, given that that is effectively the appropriate industry publication which will allow wide exposure to the relevant market. An advert has in fact now been placed in the BMJ which was published on the 10th of May 2008. The text from the advert is shown in Appendix 5.

After considerable discussion between the CLO and Scottish Government Health Department there was agreement that NHSL was acting appropriately if it sought tenders in this way and that it was satisfactory for this to be for a GMS contract only.

The previous contract held with Drs Haughney & McNeil was a GMS contract. There are clear conditions and requirements which must be satisfied by parties applying for such a contract. NHSL will be ensuring that any such bidders have complied with these requirements.

5. PUBLIC ENGAEMENT AND COMMUNICATIONS STRATEGY

As a result of previous practice dissolutions and retirals of single handed GP's, key stakeholders have agreed a protocol for public engagement and involvement and this is outlined at Appendix 3. Consideration was given to patient representation on the Contract Awarding Panel, with a view to change the current four practice patient set up to three practice patients and an independent lay member from the area PPF. This will ensure that our obligations under equality and diversity are better met.

Underpinning the process will be a clear communications plan and this is outlined at Appendix 4. Of particular note is the patient engagement meeting set for the 27th of May 2008.

6. PROCESS TO AWARD OF TENDER

The table below indicates the timeline that will be followed in regard to award of the final contract. Arrangements are in hand to set a date for the panel to select the preferred bidder.

Advertisement in British medical Journal	10 th May 2008
Closing date for receipt of Business Cases	11 th June 2008
Review Business Cases and identify any further information required	w/c 16 th June 2008
Formal interview process	w/c 7 th July 2008
Notification of successful bidder	w/c 14 th July 2008
Commencement of contract	August 2008

A detailed specification has been developed in line with that used previously. It has been vetted by the CLO for objectivity and compliance with the EU Regulations. This specification will be made available to tenderers upon request and will be used as the main document to assess the quality and acceptability of bid received by the panel. A copy of this document will be available to members should they so wish.

Arising out of the patient engagement meeting three patient representatives will be selected on a wholly independent basis. The representatives will be provided with support and training to assist them in fulfilling their role on the panel.