

Retainer Scheme Review

Background

In its July 18 the PCC recorded the following decision in its minutes:

"In principle the Committee support the GP retention scheme and are happy to encourage applicants. The Committee did not approve the 2 applications submitted on this occasion as they felt they did not meet the criteria of the scheme. The Committee would like to encourage RCCG, LMC and the Federation to look at overall issues on how to retain staff.."

The criteria for the scheme is set out in paragraph 20a of the nationally defined Statement of Financial Entitlements (SCE).

- (1) This Scheme is a package of financial and educational support designed to help keep doctors working in general practice.
- (2) This Scheme applies, from 1st April 2017, to doctors who are entered in-
 - (a) the register of medical practitioners kept by the General Medical Council under section 2 of the Medical Act 1983 (registration of medical practitioners) and who hold a license to practise; and (b) the medical performers list which the Board is required to prepare, maintain and publish under regulation 3 of the National Health Service (Performers Lists) (England) Regulations 2013, and where paragraphs (3) and (4) apply to that doctor.
- (3) This paragraph applies where a doctor to whom the Scheme applies has left, or is considering leaving, general practice—
 - (a) because that doctor—
 - (i) is approaching retirement, or
 - (ii) requires greater flexibility to undertake other work within general practice or otherwise, or
 - (b) for such other reasons related to the personal circumstances of that doctor as the Board considers to be acceptable for the purposes of this Scheme.
- (4) This paragraph applies where a doctor to whom this Scheme applies—
 - (a) is not able to undertake a regular part-time role by working in short clinics or on annualised - 75 - sessions (a); and
 - (b) there is a need for additional educational supervision.

Consideration of Applications

The committee has not recorded which criteria the applications considered have not met, however the committee's deliberations were informed by a discussion document prepared in advance by the CCG executive.

Unfortunately as clarity from NHSE as gradually emerged it is apparent that a number of points made in the document are unsafe:

- **"In theory this application does meet the criteria of the scheme in terms of retaining doctors in general practice whilst allowing for greater flexibility to undertake work outside of general practice. However the applicant is already undertaking this work and managing their time in general practice, and therefore the application does not reflect a change in circumstances."**

This statement is internally contradictory. If the applicant meets the criteria in theory then they meet the criteria.

Also the subsequent commentary regarding current employment does not reflect the nationally determined criteria. A change in circumstances does not need to be demonstrated only that a GP is seriously considering leaving practice. Q9 of NHSE's FAQ document makes it clear that a statement to this effect is enough. Paragraph 20a of the SCE in describing the scheme makes it clear that it is specifically aimed at supporting practitioners to be retained in their role - not to return to it. Applications from General Practitioners requiring extra support due to unusual or difficult circumstances are to be encouraged. NHSE's Retainer FAQ Document (Q7) makes it clear that GPs can continue to work in their current practice if the appropriate support is available.

- **The second application is based on an issue surrounding childcare and an inability to accept locum work at short notice. The applicant wishes to work 2 set days per week when childcare is available, or 4 clinical sessions. If approved this would cost the CCG £4,000 expenses supplement to the GP, and £15,999.36 to the practice; a total of £19,999.36 per year for up to five years. This application does not meet the criteria of the scheme as it's not clear why a standard part-time post on fixed days isn't suitable, and the applicant isn't in the first five years or last ten years of practice.**

The retainer scheme is specifically set up to allow doctors to be considered due to personal circumstances - views as to the exceptional nature or otherwise of these personal circumstances should be expressed with great care lest they be viewed as discriminatory. HEE has accepted that this applicant meets the criteria, on what basis has PCC adopted the discussion documents declaration that a 'standard' part time job should be appropriate or, in any case, that such a situation should not covered by the scheme. What is the relevance of first 5 or last 10 years of career - this could be interpreted as more overly discriminatory. In NHSE's Retainer Scheme FAQ document (Q3) it is made clear the scheme is intended for support at any time in a GP's career.

- **NHSE support the stance RCCG are wishing to take and support the applications not been approved on this occasion. If applications are approved they are approved for 5 years unless their circumstances change. Concern was raised that 5 years is not in line with other decisions, RCCG do not know what funding they have in place that far ahead.**

Regarding the CCGs wider stance local NHSE officers only may have been supportive pending clarity but the position has evolved. National communications, most specifically from Ian Biggs on 10/10/18, have made it clear that CCGs are expected to support the scheme in its nationally agreed form. In regard to the specific applications, the situation is now that Paul Twomey is of the view the applications meet the criteria of the scheme.

PCC record in its July minutes being advised that "if RCGG were to not accept the judgment/endorsement of the HEE they would need to evidence why". Beyond a vague statement of values of the scheme and a declaration that the criteria are not met - this has not been done. It is difficult to conclude now that the recommendation that PCC decline both applications is sustainable; as a result there is a danger that the PCC's subsequent decision would not stand up to scrutiny.

Subsequent Actions

Since these decisions and despite the acknowledgment of the confusing NHSE communications CCG and PCC have been hesitant to review their decision. There is no regulation or advice which obstructs the PCC from reviewing its decision. The following advice, received by the CCG, would suggest that a final decision is only made after a CCGs view has been reviewed:

Review of unsuccessful applications

- The rationale for the decision on whether a retainer's application is successful or not will be stated on the application form by the NHS England DCO (or nominated deputy either within NHS England or delegated CCG).
- Where an application to join the scheme is unsuccessful, before the decision is communicated back to the doctor the NHS England DCO (or nominated deputy either within NHS England or delegated CCG) is to peer review the application with a neighbouring NHS England DCO (or nominated deputy either within NHS England or delegated CCG).
- A final decision is then to be made as to whether the doctor can join the scheme. The decision will be communicated back to the doctor via the designated HEE RGP Scheme Lead.

Page 18 of the scheme application form also makes it clear that a final decision is to be made only after the peer review process. Given this and the views of others more familiar with the scheme the PCC not having been given the opportunity to review its decision is difficult to understand particularly as we are informed that on peer review Dr Twomey, along with HEE, is of the view that both the applications meet the criteria of the scheme.

Wider Consideration of the Scheme

Before making its decision the PCC were advised, in the discussion document, of the following:

- The CCG can choose not to support the scheme, but will need clear evidence of decision making as to why.
- As the funding implication sits with the CCG we can turn applications down based on local decision making.

This is not correct. In an email from Ian Biggs (10/10/18) NHSE have clarified that:

- there is an expectation the Retainer Scheme must be supported to a reasonable degree by all CCGs;
- that funding for this is within the CCGs baseline; and
- that funding should not form part of the decision making process in considering individual applications.

- Whilst acknowledging both the need to retain doctors in general practice, and to support practices to provide greater flexibility within roles to allow this to happen, the question is whether CCG funding should be directed to this end. If approved, these two applications alone would cost £149,995.20 over five years. It is likely that increasing numbers of GPs will make applications to the scheme in future years.

This is not relevant to the fair adjudication of the applications against the recognised criteria - given the lack of clarity about which criteria the PCC considers the applicants to have not met it could be seen as prejudicial. In his email on 10/10/18 Ian Biggs made it clear that funding should not be a factor in considering applications. Karen Curran has confirmed in writing that the funding for the scheme is within the CCG's baseline allocation. The cost of the scheme has been agreed nationally.

More generally the points raised and used in the Key Issues and Risks section of the discussion document speaks to what external reviewers might reasonably consider to be a considerable flaw in the CCG/PCC process of adjudicating on the applicants. The document considered by PCC unhelpfully and unfairly mixes discussion of the merits of the scheme and the merits of the applications.

Beyond these concerns we feel the CCG has taken upon itself a duty to apply second jeopardy to applications approved by HEE. Neither we, or so far as we are aware the CCG have received any documentation that suggests this appropriate and indeed we have been advised it is not appropriate. It would seem contrary to the process flow chart provided by NHSE. If it is to be fairly part of the adjudication process the CCG should also be applying its local knowledge to applications declined by HEE.