Berkshire, Buckinghamshire & Oxfordshire LMCs

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Guidance on Contract Changes Regarding Access

September 2025

Background:

As colleagues should already be aware, the 2025/26 GMS contract included changes to online consulting (OC) to *"allow patients to submit routine, non-urgent appointment requests, medication queries and admin requests via online consultation tools during core hours"*[1] to be introduced on 1st October 2025. Essentially, this change was intended to allow online consulting platforms *for routine requests only* to be available throughout the entirety of core hours (0800-1830, Monday to Friday).

However, importantly, this contract change was only agreed, *"subject to necessary safeguards being in place to avoid urgent clinical requests being erroneously submitted online."*[2] This condition of "necessary safeguards" was made clear also to GPCE when it agreed the 2025/26 contract, and BBOLMCs GPC Reps confirm this commitment is recorded in the minutes of the GPCE meeting of 27th February 2025.

Contractual Changes:

Despite the above agreement of only "online consultation tools" being available throughout the whole of core hours, and despite the agreement between GPCE and Government that this would be contingent upon the aforementioned safeguards, on 23rd June 2025, a Statutory Instrument was laid before Parliament by Minister Stephen Kinnock,[3] introducing the changes to the GMS Regulations shown below on the right, with the section in red inserted.

2023 GMS Regs	2025 GMS Regs
4.— (1) The contractor must take steps to ensure that a patient who contacts the contractor— (a) by attendance at the contractor's practice premises; (b) by telephone; (c) through the practice's online consultation tool within the meaning given in regulation 71ZD(2); or (d) through a relevant electronic communication method within the meaning given in regulation 71ZE(3), is provided with an appropriate response in accordance with the following sub-paragraphs.	**6.** In Schedule 3, in paragraph 4 (contact with the practice)— (a)for sub-paragraph (1) substitute— "(1) The contractor must take steps to **ensure that all of the following means of contacting the practice are available for patients throughout core hours**— (a) by attending the contractor's practice premises; (b) by telephone; and (c) through the practice's online consultation tool within the meaning given in regulation 71ZD(2). (1A) The contractor must take steps to ensure that a patient who contacts the contractor through— (a) any of the means listed in sub-paragraph (1)(a) to (c); or (b) a relevant electronic communication method within the meaning given in regulation 71ZE(3); is provided with an appropriate response in accordance with the following sub-paragraphs."; (b)in sub-paragraph (3)(a), omit "under sub-paragraph (1)".

[1] BMA GP Contract Update 2025/26 - https://www.bma.org.uk/pay-and-contracts/contracts/gp-contract/gp-contract-changes-england-202526
[2] Ibid.
[3] The National Health Service (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) Regulations 2025 https://www.legislation.gov.uk/uksi/2025/727/pdfs/uksi_20250727_en.pdf

The implications of the above change are:

1. This legislative amendment to the GMS Regs has been made prior to the agreed safeguards being in place, meaning the contractual requirement already binds practices regardless of whether any such safeguards are agreed or implemented

2. The amended Regs make no mention of the aforementioned safeguards, meaning the agreement that they must be in place has no apparent contractual force

3. The Regs make no contractual differentiation between urgent and routine requests, despite what was agreed between the BMA and Government

4. The amendment to the Regs not only stipulates that patients must be able to submit requests via "online consultation tools" throughout core hours, but that now **all modalities** of access must remain similarly open and functioning throughout the whole of core hours also

Items 1, 2, and 3 above represent a significant deviation from what was agreed by GPCE, and item 4 above was neither put to GPCE at all, nor voted on, let alone approved.

This seemingly therefore represents an imposed change to what was originally agreed between Government and GPCE, and therefore it is the view of BBOLMCs, expressed to us by our constituents, that the GPCE should urgently return to formal dispute.

Contractual Implications:

The above change to make it contractually mandated that all modalities of access remain open throughout the whole of core hours represents a significant change to the application of the GMS Regulations for decades and is in contradiction to the Regulations below.

GMS Regulations	Commentary
Part 5, Paragraph 20 (Services: General) **20.**— (2) A contract must also – (b) contain a term which requires the contractor to provide – (i) essential services, and (ii) additional services funded under the global sum, at such times, within core hours, as are appropriate to meet the reasonable needs of patients; and (c) contain a term which requires the contractor to have in place arrangements for its patients to access essential services and additional services funded under the global sum throughout the core hours in case of emergency.	This wording has existed in its current form for 10 years and was in place in almost identical wording in the original 2004 version of the Regs. This regulation is a cornerstone of the principle that has existed over the past two decades that it is up to a practice to decide **when** it delivers services, and that such services should be "appropriate" to meet the "reasonable needs (not wants)," of patients. The clause "at such times, **within** ***[not*** *'throughout']* core hours" specifies time periods which evidently vary from practice to practice and are tailored by the practice to meet the needs of their own patients, "as are appropriate."
Part 5, Paragraph 17 (Essential Services) **17.**— (4) The services described in this paragraph are services required for the management of a contractor's registered patients and temporary residents who are, or believe themselves to be— (a) ill, with conditions from which recovery is generally expected; (b) terminally ill; or (c) suffering from chronic disease, which are delivered in the manner determined by the contractor's practice in discussion with the patient.	This clause has been an undergirding principle of GMS negotiations across the country since it first appeared, almost verbatim to this version, in the original Regulations of 2004. Mandating all modalities of access be open throughout core hours, in conjunction with the changes in 2023 requiring immediate decision making following contact, flies in the face of the principle of the practice deciding the best management plan, in discussion with the patient. Rather, the imposed change replaces this tenet of the family doctor with arbitrarily imposed one size fits all targets for the purpose of political headlines.

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It has been suggested that the 2025 amendment is immaterial because the 2023 amendment imposed by the Government under the previous GPCE leadership mandated a "same day" response to online consults. This is a fundamentally incorrect assumption, as it fails to acknowledge that, until the 2025 amendment, practices have thus far been free to switch off any OC system once safe capacity is reached, and indeed free to close any modality of access at all once safe capacity is reached.

For example, a practice may find that at 1630 it has 100 OC requests outstanding and therefore decide to switch off the system to further requests, so the practice may clear the backlog before the close of core hours at 1830. Under the 2025 amendment, a potentially limitless number of OC requests could still remain outstanding at 1829, and they would require assessment and response before the end of the day (midnight). See the following full regulation for details, with 2025 amendments effective:

Regulations as Amended, 2025	Interpretation
Schedule 3, Paragraph 4 (1) The contractor must take steps to ensure that all of the following means of contacting the practice are available for patients **throughout core hours**— (a) by attending the contractor's practice premises; (b) by telephone; and (c) through the practice's online consultation tool within the meaning given in regulation 71ZD(2). (1A) The contractor must take steps to ensure that a patient who contacts the contractor through— (a) any of the means listed in sub-paragraph (1)(a) to (c); or (b) a relevant electronic communication method within the meaning given in regulation 71ZE(3), is provided with an **appropriate response** in accordance with the following sub-paragraphs. (2) The appropriate response is that the contractor must— (a) invite the patient for an appointment, either to attend the contractor's practice premises or to participate in a telephone or video consultation, at a time which is appropriate and reasonable having regard to all the circumstances; (b) provide appropriate advice or care to the patient by another method; (c) invite the patient to make use of, or direct the patient towards, **appropriate services which are available to the patient,** including services which the patient may access themselves; or (d) communicate with the patient— (i) to request further information; or (ii) as to when and how the patient will receive further information on the services that may be provided to them, having regard to the **urgency of their clinical needs** and other relevant circumstances. (3) The appropriate response must be provided— (a) if the contact is made outside core hours, during the following core hours; (b) in any other case, **during the day on which the core hours fall.** (4) The appropriate response must take into account— (a) the needs of the patient, including the need to **avoid jeopardising the patient's health**; (b) where appropriate, the preferences of the patient; and (c) **any benefits to the patient of providing for continuity** of the health care professional involved in their care and treatment.	1) It is now not contractually permissible to switch off any Online Consultation system at all if safe capacity is breached. Indeed, it is also no longer contractually possible to close phone lines or the physical doors of the practice e.g.: over lunch. Nor is it any longer permitted to have a single phone message telling patients the surgery has reached capacity. Furthermore, notwithstanding alleged agreement between GPCE and Government, this change equally **applies to urgent problems as well as routine,** as the Regs as written make no differentiation between the two. 2) ALL "contacts" with the practice require an "appropriate response" – this requirement is unchanged from 2023, but is now significantly more dangerous given point 1 above 3) Subpara(2)(c) has thus far been an effective way of managing increasing workload, as it can be utilised to divert patients to alternative providers such as 111 or A&E if safe capacity is breached. However, this facility is significantly undermined by the combined effects of 1, 5, and 6. 4) Subpara (2)(d)(ii) has also been thus far effective in informing patients they will be added to a waiting list or contacted in the future. This is still possible, but again is undermined by the combination of 1, 5, and 6. 5) This clause is unchanged and means that "any" contact made not outside core hours (i.e.: within core hours) "must" be provided "on the day on which the core hours fall." This means the same calendar day, i.e.: before 23:59:59 on the date the contact occurred. 6) The "taking into account" of factors such as the "needs" of the patient, their "health," their "preferences," and benefits of continuity can only refer to the concept of **triage.**[4] Whilst OC platforms can collect these variables, only a suitably trained and experienced clinician can interpret them and determine the urgency of the request and decide a suitable disposition. GPCE comms attempted to assert that such a response could be automated,[5] however NHSE has confirmed that **triage is required** prior to any "appropriate response," and an automated message is not permitted.[6]

[4] For the avoidance of doubt, 'triage' here refers to the manual viewing and disposition decision making of each request, as opposed to any form of automated response which is sent to the patient automatically without any input or direct oversight by a clinician. In other words, 'triage' refers to the decision making process by a human clinician, and **not** a mode of consultation in and of itself, such as telephone triage

[5] GPCE Update to LMCs, 22nd August 2025

[6] Pulse, 3rd September 2025 https://www.pulsetoday.co.uk/news/breaking-news/gps-need-to-triage-patient-requests-but-not-give-next-day-clinical-advice-nhse-clarifies/

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This contractual change to access is also a fundamental contradiction of existing BMA guidance currently available on the BMA website, which states [emphasis added]:[7]

> *"GMS regulations **do not** require practices to:*
> - *be open at all times during core hours*
> - *deliver all services at all times when they are open"*

In addition, regarding the changes made in 2023, the same page of BMA guidance cites the clear existing GPCE policy position which is:

> *"Though we may agree with the aspiration of this amended regulation, **GPC England (GPCE) believes that this requirement is not achievable for many practices with current resource and workforce.** With GPs numbers decreasing, consultation numbers higher than ever, and general practice being under-resourced, **we think this government-imposed contract will push GPs and practices to the brink of their existence,** within the NHS."* [8]

In summary, this contract amendment represents a wholesale change to the definition of how practices meet the "reasonable needs" of their patients, and not only contradicts long-standing BMA policy, but also other sections of the contract itself.

Current GPCE Position

BBOLMCs have received a considerable number of queries from constituents asking whether the change to the Regulations has been imposed by the Government or was agreed by GPCE. We, and other LMCs, have put this question to the GPCE Officer Team over recent weeks, and on Friday, 5th September, the GPCE Chair gave the following information to LMCs:

> *"Some LMC officers have expressed concern at the forthcoming changes to GMS/PMS regulations coming into effect from 1 October 2025, particularly the relevant section of the regulations / contract referring to 'Contact with the practice' by a patient; and have enquired whether the BMA had been made aware of the wording changes, or if they had been missed during the review of the draft regulation changes back in April 2025, and secondly why the draft regulatory amendments were not shared with the Contracts and Regulations (C&R) Policy Group listserver for scrutiny / review, as would normally be custom and practice.*
>
> ***We can confirm that the amended regulations were received from DHSC on 9 April 2025.** Following an initial internal review, we can confirm that the amendments were not posted to the C&R policy group listserver. This is an oversight which will be taken forward in terms of how to prevent any such further recurrence."* [9]

Therefore, to be clear, this contract change **has not been imposed** but has been agreed by the BMA.

In addition to this, it remains unclear what, if any, assurance was given by Government to GPCE during negotiations that "necessary safeguards" would be implemented, and whether any agreement in writing was received confirming that the development of such necessary safeguards was a condition upon the October 1st contract change, as the profession were led to believe.[10] This question has also been put to the GPCE Officer Team and we await a response.

Concerningly, contract webinars by NHSE imply it is the responsibility of practices to implement these "necessary safeguards" rather than being a condition of the contract itself: *'Practices are encouraged to consider what changes they may need to implement to ensure they are ready to meet this requirement from 1 October 2025.'*[11]

However, the GPCE Chair has assured LMCs that guidance to practices, supported by robust legal advice, on how to safely mitigate these changes, is expected this week. This is in addition to KC legal advice on the legality of this change. We will await this guidance and send updates to colleagues in due course.

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[7] BMA: "GP access: meeting the reasonable needs of patients" https://www.bma.org.uk/advice-and-support/gp-practices/gp-service-provision/gp-access-meeting-the-reasonable-needs-of-patients

[8] Ibid.

[9] Also covered in Pulse, 8th Sep 2025 https://www.pulsetoday.co.uk/news/politics/gpc-england-chair-to-face-vote-of-no-confidence-amid-contract-changes-row/

[10] BMA GP Contract Update 2025/26 - https://www.bma.org.uk/pay-and-contracts/contracts/gp-contract/gp-contract-changes-england-202526

[11] NHSE Contract Webinar, 4th Sep 2025, slide 13

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LMC Advice

It is the opinion of BBOLMCs Officers that the 2025 amendment to the GMS/PMS Regulations is questionable in its legality, and safety, as it contradicts and jeopardises not only the rest of the Contract, but also other legal obligations to contractors such as but not limited to, health & safety, quality of care standards, and good medical practice. However, the LMC cannot and will not advise practices to deliberately breach their contract, and any instruction to practices on the unenforceability of the contract must come from the BMA, as trade union. We have made urgent requests to GPC leadership for such legal advice but are yet to receive a substantive response.

Notwithstanding the above, our advice to practices is as follows:

1. From 1st October 2025, patients must be able to contact the surgery via the front door (any, not all sites, in multi-site surgeries) of the surgery premises, via the phone, and via the practice Online Consultation platform for the duration of core hours which are 0800 and 1830, Monday to Friday, unless a subcontracting arrangement exists with another provider.

2. Any patient who makes contact with the practice with any request during core hours must be given one of the following responses:

    a) A request for more information
    b) An offer of appointment (by any modality)
    c) Advice or other treatment
    d) Redirection to another service, or
    e) Details of being added to a waiting list, and

    the response must be given to the patient before midnight of the day the request is received

3. The decision as to which of the above responses to give to the patient must be triaged on a case by case individual basis, by a suitably trained clinician. An automated response is not permissible under the Regs as written.

4. Once a practice has reached safe capacity, in that given the volume of requests it is neither possible nor safe to carry out the necessary triage described in #3 above, the practice should consider following the below steps:

    a) Declare the practice as **RED** on the NHS Directory of Services (DoS) as per BBOMLCs prior guidance, by way of notification to the ICB and LMC

    b) Assume that all inbound requests are **urgent**, in the interests of patient safety and therefore in compliance with Schedule 3, Para 4, Subpara (4)(a) *['the need to avoid jeopardising the patient's health']*, and therefore direct **ALL** patients **to either 111, 999, or A&E,** in accordance with Schedule 3, Para 4, Subpara (2)(c) *['direct toward appropriate services']*, explaining to the patient that this is the only way they can be safely triaged, under the constraints of the contract.

Next Steps

Negotiation of the Regulations with Government is the sole responsibility of the GPC. Therefore, any mitigation or change of the contractual situation practices now find themselves in is the responsibility of GPC to resolve. This is particularly the case now given that the leadership of GPCE apparently assented to this contract change.

However, it is the view of BBOLMC Officers that despite the apparent assent of the GPCE leadership to this amendment, such assent was arguably given in good faith that the "necessary safeguards" would be in place by the time of implementation of this contractual requirement, and that such implementation was conditional upon development of those robust safeguards.

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Therefore, it is the view of BBOLMCs, in line with the views expressed by the majority of our constituents, that:

- GPCE must return to immediate dispute with the Government, on the basis of the failure by Government to introduce necessary safeguards.

- GPCE and BMA must mobilise all legal and organisational resources at their disposal to challenge the safety and legality of the aforementioned amendment to the Regulations.

- Urgent BMA guidance with appropriate legal backing must be provided to practices to mitigate, if possible, the detriment they will suffer as a result of the lack of such safeguards. We are told that such advice is forthcoming and will keep practices informed.

- All actions from the Special Conference of England LMCs of March 2025 should be urgently enacted in order to ensure the survival of English General Practice.

As always, if any constituent has any question or concerns, please do not hesitate to contact the LMC for support at assistance@bbolmc.co.uk

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