NHS Resolution

9 June 2025

FILE REF: **SHA/ 26461**

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DECISION MAKING BODY: **GREATER MANCHESTER INTEGRATED CARE BOARD ("THE COMMISSIONER")**

GMS CONTRACTOR: **KINGSWAY MEDICAL PRACTICE**
720 BURNAGE LANE
MANCHESTER
M19 1UG

DISPUTE RESOLUTION – NATIONAL HEALTH SERVICE (GENERAL MEDICAL SERVICES CONTRACT) REGULATIONS 2015

RE: APPLICATION FOR DISPUTE RESOLUTION WITH REGARD TO QOF 22/23 QI INDICATORS

1. Outcome

1.1 Based on the information before me I am of the view that the Contractor did not provide the information required in relation to the Prescription Drug Dependency indicator (QIPD009 and QIPD010) and the Optimising Access indicator (QIOA011 and QIOA012) and is therefore not entitled to payment.

1.2 I note that neither party has submitted a claim for interest with regard to this dispute so I make no determination in this regard.

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RE: APPLICATION FOR DISPUTE RESOLUTION WITH REGARD TO QOF 22/23 QI INDICATORS

1. INTRODUCTION

1.1 The above Contractor referred the dispute in relation to its General Medical Services Contract for dispute resolution under the provisions of Regulation 83 of the National Health Service (General Medical Services Contracts) Regulations 2015 (the "Regulations").

1.2 The Secretary of State for Health and Social Care has directed that NHS Resolution exercise the functions of dispute resolution on their behalf. I, as an authorised officer of NHS Resolution, have made this determination.

2. APPLICATION FOR DISPUTE RESOLUTION

2.1 By email dated 4 February 2025 the Contractor applied to NHS Resolution, for dispute resolution.

2.2 I have had regard to the following documents made available to me in consideration of this matter to ensure the just, expeditious, economical and final determination of this dispute:

2.2.1 Email dated 4 February 2025 from the Contractor, with enclosures;

2.2.2 Email dated 13 February 2025 from the Contractor, with enclosures;

2.2.3 Email dated 24 February 2025 from the Contractor, with enclosure;

2.2.4 Email dated 27 February 2025 from the Contractor, with enclosure;

2.2.5 Email dated 24 March 2025 from the Contractor, with enclosures;

2.2.6 Email dated 25 March 2025 from the Commissioner, with enclosures;

2.2.7 Email dated 9 April 2025 from the Contractor.

3. PARTIES SUBMISSIONS

The Contractor's application

3.1 "QI projects were undertaken in 2022/23 on drug dependency and access as part of QOF. Since submissions of these were not made within the deadline, payment has been rejected.

3.2 At the outset of this work starting, there was no clear information on what the submissions requirements would be other than the mandatory elements of doing the work and attending two peer review meetings. PCN meetings were attended in September 2022 where both QI projects were discussed and in February 2023 where results were presented.

3.3 Discussions at the PCN QI peer review meeting held 22nd February 2023 did not reveal any submission requirements. It was not known by any of the PCN practices whether our QI templates would need to be submitted but since practices had done everything known to be required under the indicator, it would confirm that on CQRS.

3.4 The email for requesting QI template submission was received at 10.02 on Friday 21st April 2023 with a deadline of Tuesday 2nd May 2023. It was sent to the practice manager only and no Partners were informed of this new request. Since this email was not anticipated and sent as a routine email, it was missed.

3.5 The practice manager had leave scheduled from lunchtime on Wednesday 26th April for 12 days, just over 3 working days later. When the reminder/extension email was sent on 3rd May to whichever Practice Managers had not submitted by 2nd May, the practice manager email account confirmed Annual Leave. A second email was sent to the practice inbox and the receptionist simply forwarded it to the practice manager, assuming it would be dealt with on return from Annual Leave

3.6 The practice manager missed the email in error. She had recently returned from long term sick leave and we cannot blame her for missing an email.

3.7 The work for both QI projects was completed and minuted at peer review meetings. The submission was missed due to the way the request was communicated to the practice.

3.8 Had any of the GP Partners been informed of the submission request at any stage within the QOF year or afterwards, then the submission would have been actioned. Their administrative processes failed this practice and resulted in loss of payment. We are appealing this".

Representations

The Commissioner's representations

3.9 "Thank you for sharing the application regarding Kingsway Medical Practice on the 6 March 2025. We hope the below outlines the steps that have taken place within the Manchester Locality and NHS Greater Manchester to provide assurance to NHS Resolution about the process undertaken in relation to this dispute.

3.10 The QoF QI projects within 2022-23 were related to High Dependency Prescribing and Optimising Access as indicated within the National 2022/23 guidance (Appendix 1 - Quality and Outcomes Framework guidance for 2022/23). The focus of the indicators and associated points is on contractor engagement and participation in the quality improvement activity both in the practice and through sharing of learning across their network. This is to recognise that not all quality improvement activity will be successful in terms of its immediate impact upon patient care. If a contractor does not achieve the targets which they have set themselves this would not in itself be a reason to withhold QOF points and associated payments, unless they have also failed to participate in the activities described in the guidance.

3.11 The process asked for participating GP practices to complete templates to evidence completion of work for each of the projects and return to the Manchester locality Primary Care Team by 2 May 2023, the initial email was sent to Practices on 21 April 2023.

3.12 A reminder was sent to all practices on 27 April 2023 within the Primary Care Update and a further reminder was sent direct to GP practices on the 2 May 2023, to ensure as many Practices as possible provided assurance.

3.13 On 3 May 2023 an email was sent to practices informing them that they had missed the deadline but asking them to submit by 5pm on 3 May 2023 (Appendix 2 – Reminder email). This was sent to both the practice manager and generic inbox. On 5 May 2023 a call was made to Kingsway Medical Practice asking if the practice could submit the QI templates. Locality colleagues were informed that the practice manager was not in and that this would not be something that the deputy could pick up. Any Practice templates which were returned up to and including the morning of 5 May 2023 were considered by the Panels.

3.14 Review Panels for each project took place on 5 May 2023 to consider all submissions and ensure that each Practice submission had undertaken QoF QI projects related to High Dependency Prescribing and Optimising Access within 2022-23. Panel attendees were Manchester Locality colleagues from across Primary Care, Quality and Medicines Management. Kingsway Medical Practice had not submitted either template at this time and was therefore, not reviewed as part of the Panel. The decision of the Locality Panel was then approved through Locality governance via the Manchester Primary Care Operational Group and Manchester Primary Care Commissioning Committee.

3.15 On 25 May 23 a formal letter (Appendix 3 – Formal letter) was sent to the Practice from the Associate Medical Director discussing concerns Manchester locality had with communication from the practice, this highlighted the non-submission of the QoF QI templates. It was only at this point the practice contacted the Primary Care Team to discuss the matter. On 26 May 23 the Practice submitted an appeal requesting to set aside non-achievement of the QI indicators.

3.16 **First Appeal - NHS Greater Manchester Integrated Care Direct Commissioning Contracts Panel (DCCP) – 28 June 2023**

3.17 The Practice appeal was considered by the NHS Greater Manchester Integrated Care Direct Commissioning Contracts Panel (DCCP) on 28 June 2023 (Appendix 4 – DCCP Appeal paper).

3.18 In making its determination the Panel considered the reasoning provided by the practice for non-submission. The panel determined that:

3.19 The practice failed to submit the returns to the Manchester locality team within the required timescales.

3.20 The practice did not engage the locality team until over a month after the deadline for submission.

3.21 The practice did not provide any extenuating circumstances as to the reason they missed the deadline when they submitted their appeal.

3.22 A letter (See Appendix 5 – DCCP Outcome letter) was sent to the Practice on 25 July 23 confirming this decision. Within the letter the practice was provided with details of how they may appeal the decision within the next 28 days of receipt of the letter - you may submit an appeal within the next 28 days of receipt of this letter to enhancedserviceses1@nhs.net. NHS GM would seek to make every reasonable effort to resolve any dispute and so, should you wish to present further appeal, which may include additional supporting information, this will be considered by the Greater Manchester Primary Care Commissioning Committee (GMPCCC). If after this we are unable to resolve the dispute, you may refer the matter to the NHS dispute resolution procedure.

3.23 **Second Appeal – NHS GM Primary Care Commissioning Committee – 4 December 2023**

3.24 The Practice confirmed they wanted to pursue the next stage of appeal on 21 August 23.

3.25 On 4 December 2023 the appeal was considered by NHS GM Primary Care Commissioning Committee (Appendix 6 – NHS GM PCCC paper). The challenging situation faced by practice staff members was recognised as being the reason presented for non-submission. However, the determination of the Committee was to uphold the original decision made by DCCP, as required delivery within the period was not met.

3.26 On 9 January 2024 a letter was sent to the Practice confirming the Committee decision (Appendix 7 – NHS GM PCCC outcome letter).

3.27 **Next Stage of Appeal**

3.28 On 3 January 2025 a request was sent by the Practice to the Enhanced Services (NHS GM) email inbox regarding further information on making an appeal. On 10 January 2025 a response was sent from the inbox indicating: “The practice has been given due consideration in line with the approach agreed with this QOF QI indicator through an open process and mix of expertise via the panel – and recognised appeal process. It is NHS GM view that every consideration has been made locally to review this matter. Therefore, if you do not agree with our decision, you may request for dispute resolution to Primary Care Appeals (PCA).”

3.29 Appendix 1 – Quality and Outcomes Framework guidance 2022/23
Appendix 2 - Reminder Email 3 May 25
Appendix 3 – Formal Letter
Appendix 4 – DCCP Paper
Appendix 5 – DCCP Outcome Letter
Appendix 6 – NHS GM PCCC Paper
Appendix 7 – NHS GM PCCC Outcome Letter

<u>The Contractor’s representations</u>

3.30 “Additional information to support appeal to outline the administrative failures were that of the ICB with a non-transparent and non-standardised process.

3.31 [DR] who I believe was part of the email and telephone process to the practice manager requesting submissions in late April sent an email on 26th May 2023 (Page 2) to all 3 Partners and the Practice Manager outlining non-achievement of indicators. It seems an illogical administrative process that Partners were quickly identified and copied into an email of failure and not emailed for the submission request. When [DR] made a follow up call to the practice on 5th May, no effort was made to liase [sic] with a GP. No message was left for a GP call back, nor was any GP emailed. I note previous emails outlined, request to speak to a PM or deputy PM only. Had any Partner been aware, the submission would have been actioned.

3.32 A doctor session for several weeks was dedicated to review patients (by face to face or telephone) affected by the drug dependency and the work was presented in the Peer review meetings. Significant time was allocated to improve access. The work discussed and minuted at the peer review attendance, proved this. The submission itself was an additional element and lack of its presence does refute the work done. At the meeting in June with ICB representatives including [DR], a further request to provide the submissions (templates has already been completed) were rejected.

3.33 The interval and response that the ICB requested for the following year 2023-2024 for the QI staff welling submission was 5 weeks. The spontaneous request with a short deadline in for 2022-2023 QI was paradoxical. This further reflects lack of any standard applied.

3.34 As per the email (Page 2), the CQRS request asks for a Yes or No to QI work done. It does not differentiate the work and submission. To state the work was not done would have factual incorrect as the work was done but the submission was not.”

Observations

The Commissioner’s observations

3.35 No observations were made by the Commissioner.

The Contractor’s observations

3.36 “In response to the Manchester Locality outline, I would like to comment on the following points:

3.37 *The process asked for participating GP practices to complete templates to evidence completion of work for each of the projects and return to the Manchester locality Primary Care Team by 2 May 2023, the initial email was sent to Practices on 21 April 2023.*

3.38 This email was sent was sent [sic] as a routine email to the practice manager email address only.

3.39 *On 4 December 2023 the appeal was considered by NHS GM Primary Care Commissioning Committee (Appendix 6 – NHS GM PCCC paper). The challenging situation faced by practice staff members was recognised as being the reason presented for non-submission. However, the determination of the Committee was to uphold the original decision made by DCCP, as required delivery within the period was not met.*

3.40 The practice's appeal highlighted extenuating circumstances which included details of the practice managers [redacted by NHSR] recent return to work. Annual leave that was part of the return to work plan was taken just 3 days after the initial email on 21st April. Further contact to the practice manager all occurred during her annual leave.

3.41 The practice manager was still suffering with complications of her [redacted by NHSR] that meant a routine email was missed. This was not merely a challenging situation faced by a staff member as stated by the ICB. [Redacted by NHSR] can be regarded as a disability and as an employer, we had made reasonable adjustments to allow the practice manager to return to work and continue in her role which she is extremely dedicated to. Missing a routine email with a short deadline for a submission was not something the Partners could have anticipated or planned for, even with a fully functioning practice manager. The Partners did not receive the submission request at any stage."

4. CONSIDERATION

4.1 As part of this consideration of the application for NHS dispute resolution, I required an up-to-date version of the contract in dispute containing all variations agreed since the contract was signed. This was provided by the Commissioner and has not been disputed.

4.2 From the information provided to me, the application for dispute resolution has been made within the time limits as set out in the Regulations.

4.3 The Contractor was notified by letter of 23 May 2023 that it had *"lost access to …elements of funding"* as it did not complete two returns in relation to the *"QOF Quality Improvement for 2022/23".*

4.4 On 26 May 2023, the Contractor appealed against the decision of the Commissioner to not award QOF points for "Prescription Drug Dependency – QIPD009", "Prescription Drug Dependency – QIPD010", "Optimising Access – QIOA11" and "Optimising Access – QIOA12". The Contractor was advised, by the Commissioner on 4 July 2023, that their appeal had not been upheld and they had a further 28 days if they wished to appeal this decision.

4.5 In an email to the Commissioner of 30 May 2023 the Contractor appealed against the decision of the Commissioner to not award QOF points for the QOF QI indicators. The Contractor was advised, by the Commissioner on 25 July 2023, that their appeal had not been upheld and they had a further 28 days if they wished to appeal this decision.

4.6 On 20 August 2023 the Contractor sought to appeal the decision of the Commissioner to not award payment in respect of the QOF QI indicators. The Commissioner considered this second appeal on 4 December 2023 and on 9 January 2024 wrote to the Contractor advising that *"the determination of the Committee was to uphold the original decision*."

4.7 On 3 January 2025, the Contractor sent further information to the Commissioner as it wished to make a further appeal and on 10 January 2025, the Commissioner responded with the following *"The practice has been given due consideration in line with the approach agreed with this QOF QI indicator through an open process and mix of expertise via the panel – and recognised appeal process. It is NHS GM view that every consideration has been made locally to review this matter. Therefore, if you do not agree with our decision, you may request for dispute resolution to Primary Care Appeals (PCA)."*

4.8 The Contractor remains dissatisfied with the position of the Commissioner and has submitted an application for dispute resolution with regard to the decision made by the Commissioner in relation to non-submission of information required to evidence achievement of the QOF indicators.

4.9 I note that there is no dispute between the parties that local dispute resolution has been exhausted and that the Contractor has made an application for NHS dispute resolution following receipt of a final decision from the Commissioner. I am content that local dispute resolution has been completed.

4.10 I have been provided with a copy of the "Quality and Outcomes Framework guidance for 2022/23" ("the guidance") which forms the basis of the payment for QOF which I note has not been disputed by either party.

4.11 The "Quality improvement domain", as set out at page 18 and 19 of the guidance states:

4.11.1 This domain applies to all contractors participating in QOF.

Prescription Drug Dependency

Indicator	Points	Thresholds
QIPDD009. The contractor can demonstrate continuous quality improvement activity focused upon prescription drug dependency as specified in the QOF guidance.	27	N/A
QIPDD010. The contractor has participated in network activity to regularly share and discuss learning from quality improvement activity focused on prescription drug dependency as specified in the QOF guidance. This would usually include participating in a minimum of two peer review meetings.	10	N/A

Optimising Access To General Practice

Indicator	Points	Thresholds
QIOA011. The contractor can demonstrate continuous quality improvement activity focused on optimising access to General Practice as specified in the QOF guidance.	27	N/A
QIOA012. The contractor has participated in network activity to regularly share and discuss learning from quality improvement activity focused on optimising access to General Practice as specified in the QOF guidance. This would usually include participating in a minimum of two network peer review meetings.	10	N/A

4.12 Further detail of the rationale for inclusion of a Quality Improvement domain, in general, is set out at page 86 of the guidance with further information regarding "Prescription Drug Dependency" and "Optimising Access to General Practice" at pages 89 and 100

respectively. The guidance also sets out 5 steps which the practice needs to undertake as well as giving more information about these 5 steps, examples and a reporting template for practices to use.

4.13 In relation to "Prescription Drug Dependency", the 5 steps are:

Step 1	• Evaluate the current quality of their prescribing and identify areas for improvement - this should include a review of: ○ Patients requesting or being initiated on dependence forming medications where an alternative should be considered. ○ Patients who are on high dose opioids (120mg OME or more)
Step 2	• Create an improvement plan with clear aims, improvement measures, and change ideas, using iterative PDSA (plan, do study, act) cycles – using data from cycle 1 to inform what happens in cycle 2, and so on
Step 3	• Implement the plan
Step 4	• Participate in a minimum of 2 local Primary Care Network peer review meetings
Step 5	• Complete the QI monitoring template

4.14 The guidance for this QI module goes on to state, at page 90 under "Overview of the QI module":

The overarching aim of this QI module is to lead to improvements in relation to the following aspects of prescribing safety:

• Use of non-pharmacological alternatives rather than initiation of DFMs in line with best evidence and guidance;
• Structured medication reviews of patients taking 120mg oral morphine equivalent (OME) or more for chronic pain;
• Structured medication reviews where there is polypharmacy or inappropriate use of dependence forming medications.

The outcomes listed below will be used at a national level to assess the impact of the module; this assessment will extend beyond 2022/23, in recognition that some QI activities will take some time to translate into measurable improvements. Practices should consider how their work can contribute to improvements when choosing practice-based aims for their projects.

1. Reduced initiation of the prescribing of medicines that may cause dependence.
2. Reduced duration of courses of medicines that may cause dependence.
3. Increased take-up of non-pharmacological support and interventions.
4. Improved patient understanding of the potential benefits and harm of treatment options to enable informed participation in shared decision making. 5. Non initiation of other groups of drugs at risk of dependence and misuse – e.g. ketamine / quetiapine.

4.15 In relation to "Optimising Access to General Practice", the 5 steps are:

Step 1	• Undertake an exercise to evaluate current practice demand and capacity
Step 2	• Create an improvement plan with clear aims, improvement measures, and change ideas iterative PDSA cycles – using data from cycle 1 to inform what happens in cycle 2

Step 3	• Implement the improvement plan
Step 4	• Participate in a minimum of 2 local Primary Care Network peer review meetings
Step 5	• Complete the QI monitoring template

4.16 The guidance for this QI module goes on to state, at page 101 under "Overview of the QI Module":

The overarching objective of this QI module is to contribute to improvements in access to general practice, in relation to the following aspects:

Understanding of demand and capacity within the practice (and PCN) and using a QI approach to optimise capacity. This will involve understanding the reasons for patient contacts and the types of appointments available as a practice and at PCN level.

a. *Undertaking a review as a practice and PCN to better understand the skills available across your team and PCN and to better match demand and optimise use of capacity. This may include reviewing areas such as care navigation and triage pathways within the Practice/PCN; staff rotas and demand patterns; use of digital tools; use of practice nurses and ARRS staff; and use of wider primary care services e.g. the Community Pharmacist Consultation Service (CPCS) and other similar schemes.*

b. *Working with your practice patients and carers to understand views around access issues, including: ease of contacting the practice to obtain advice or an appointment, communications including website, local population who are at risk of inequalities with regards to access etc, and to co-produce an access improvement plan.*

c. *Considering access beyond the practice by reviewing links/pathways with parts of the system beyond the practice and PCN e.g. local authority or third sector groups offering local services to identify opportunities for collaborative working which may support access.*

4.17 I note that no party makes reference to the 5 Steps for each QI module nor the further aspects set out at 4.14 and 4.16. I consider that to properly evaluate whether a QI QOF has been met by a Contractor in relation to "Prescription Drug Dependency" and "Optimising Access to General Practice" its reporting template would be measured against the factors identified (including any additional details contained in the guidance).

4.18 Under the heading of "reporting and verification" for "Prescription Drug Dependency" at page 97, it states that:

> *The practice will need to complete the QI monitoring template below, in relation to this module and self-declare that they have completed the activity described in their QI plan. The practice will also self-declare that they have attended a minimum of two peer review meetings as described above, unless there are exceptional and unforeseen circumstances which impact upon a practice's ability to participate. In these circumstances, practices are expected to make efforts to ensure alternative participation in peer review.*

Verification: Commissioners may require practices to provide a copy of the QI monitoring template as written evidence that the quality improvement activity has been undertaken. Commissioners may require the network clinical lead to provide written evidence of attendance at the peer review meetings. If a practice has been unable to attend a meeting due to exceptional circumstances, then they will need to demonstrate other active engagement in network peer learning and review.

Resources are available to support available from www.england.nhs.uk/gp/investment/gp-contract

4.19 Similarly, under the same heading for "Optimising Access to General Practice" at page 108, it states that:

The contractor must complete the QI monitoring template in relation to this module and self-declare that they have completed the activity described in their QI plan. The contractor will also self-declare that they have attended a minimum of two peer review meetings (either in person, where appropriate, or virtually) as described above, unless there are exceptional and unforeseen circumstances which impact on a contractor's ability to participate. In these circumstances contractors are expected to make efforts to ensure alternative participation in peer review.

Verification - Commissioners may require contractors to provide a copy of the QI monitoring template as written evidence that the quality improvement activity has been undertaken. Commissioners may require a written record of attendance at the peer review meetings. If a contractor has been unable to attend a meeting due to exceptional circumstances, then they will need to demonstrate other active engagement in network peer learning and review. We recommend practices include their QI work in any inspections by the Care Quality Commission to demonstrate a visible and consistent approach to quality improvement.

Resources are available to support available from www.england.nhs.uk/gp/investment/gp-contract

4.20 I further note that the guidance under "section 1" on page 4 refers to Annex D of the Statement of Financial Entitlements Directions ("SFE").

4.21 On page 80 of the SFE under the heading of "Verification", I note it states that:

D.23 The contractor must ensure that it is able to provide any information that NHS England may reasonably request of it to demonstrate that it is entitled to each achievement point to which it says it is entitled, and the contractor must make that information available to NHS England on request. In verifying that an indicator has been achieved and information correctly recorded, NHS England may choose to inspect the output from a computer search that has been used to provide information on the indicator, or a sample of patient records relevant to the indicator.

4.22 I will proceed to consider the information provided in this dispute with the requirements outlined above in mind.

4.23 Whilst I have not been provided with a copy of the email, I note that on 21 April 2023 the Commissioner emailed practices within its locality with a request to complete and return the relevant reporting templates by 2 May 2023. In relation to this email, I note

that the Contractor has confirmed it was received at 10.02am and was sent to the Practice Manager. I note the Contractor's comment that *"no Partners were informed of this new request. Since this email was not anticipated and sent as a routine email, it was missed"* and further that *"The practice manager missed the email in error. She had recently returned from long term sick leave and we cannot blame her for missing an email".* A further reminder was sent to all Practices on 27 April 2023 within the Primary Care Update and another was sent direct to GP practices on the 2 May 2023. It is unclear to me to whom the latter communication was sent but I note that the Contractor has not disputed that it was sent.

4.24 On 3 May 2023, the Commissioner sent a follow-up email to those practices that had not responded to its email of 21 April 2023. I have been provided with a copy of this email and note it begins with *"I'm contacting your* [sic] *because your practice has yet to submit both or one of your submissions for the QOF Quality Improvement Projects. Your practice has self-declared that you have met the criteria however the locality team is required to review the evidence attached to this. If practices don't send in their submissions by 5pm today then this could lead to your practice to not being paid for this element of QOF…".* I note that this was sent to the Practice Manager and "generic inbox". The Practice Manager was on annual leave from 26 April 2023 and from the following comment from the Contractor *"A second email was sent to the practice inbox"* that *"the receptionist simply forwarded it to the practice manager, assuming it would be dealt with on return from Annual Leave"* it appears as though the email sent to the generic inbox was received but the Commissioner's request was not actioned.

4.25 On 5 May 2023, I note that the Commissioner made a telephone call to the Contractor *"asking if the practice could submit the QI templates".* The Commissioner states that *"Locality colleagues were informed that the practice manager was not in and that this would not be something that the deputy could pick up".* In an email dated 3 July 2023, the Contractor responded to the same comment from the Commissioner where it stated that *"Your receptionist spoke to my receptionist. How would that have led to a submission? Surely common sense would dictate to speak to a GP Partner".*

4.26 On the same day (5 May 2023), the Commissioner confirmed that the *"Review Panels for each project took place…to consider all submissions and ensure that each Practice submission had undertaken QoF QI projects related to High Dependency Prescribing and Optimising Access within 2022-23…Kingsway Medical Practice had not submitted either template at this time and was therefore, not reviewed as part of the Panel. The decision of the Locality Panel was then approved through Locality governance via the Manchester Primary Care Operational Group and Manchester Primary Care Commissioning Committee."* I note that this was relayed to the Contractor via a letter dated 23 May 2023 of which I have been provided with a copy.

4.27 This letter outlines concerns the Commissioner had in relation to a separate matter and goes on to state that "*we didn't receive three returns from your practice…two in relation to QOF Quality Improvement for 2022/23. As these carried a financial element to them this means that the practice has now lost access to these elements of funding. We completely understand that this is a busy time for General Practice and understand that your practice may have experienced workforce challenges over the last 6-9 months. As a locality team we want to support your practice as much as possible and would like to arrange a meeting (online/ on-site) to discuss the actions above, wider practice resilience and future planning for the practice. We would be grateful if you could please respond to the actions above and advise a suitable time for a meeting no later than 31st May 2023."* It is unclear whether this letter was sent under cover of an email or by post but I note the Commissioner's comment that *"It was only at this point the practice contacted the Primary Care Team to discuss the matter".* I also note the Contractor's comment that the Commissioner *"sent an email on 26th May 2023 (Page 2) to all 3*

*Partners and the Practice Manager outlining non-achievement of indicators. It seems an illogical administrative process that Partners were quickly identified and copied into an email of failure and not emailed for the submission request". S*ubsequently on 26 May 2023, the Contractor "*submitted an appeal requesting to set aside non-achievement of the QI indicators".*

4.28 I note that the Contractor has provided me with a copy of this appeal and I have had regard to its contents. The appeal was submitted by the Practice Manager and states that *"It was not clear from the PCN QI peer review meeting held 22nd February whether/when our QI templates would be needed to be submitted but now that we had done everything required under the indicator, we could confirm that on CQRS. The email requesting these templates to be submitted was received at 10.02 on Friday 21st April with a deadline of Tuesday 2nd May and was among one of literally hundreds of routine email received by me each and every week. I was certainly neither expecting nor looking out for the email that was sent and having gone on Annual Leave from lunchtime on Wednesday 26th April for 12 days, just over 3 working days later, and, despite trying to make sure I had dealt with everything that HAD to be dealt with, I just did not see it. When the reminder/extension email was sent on 3rd May to whichever Practice Managers had not submitted by 2nd May, my email account would have confirmed I was on Annual Leave. A second email was sent to the practice inbox and the receptionist simply forwarded it to me, assuming I would deal with it on Annual Leave"* and further under the heading of "Exceptional circumstances for late/incomplete submission" states that *"I am not sure that these circumstances are exceptional. I imagine other Practice Managers booked time off around this time and did, as I usually do, keep checking their email on an hourly basis in case something needs actioning in a really short timeframe, but I was not in a position to continually work through my leave on this occasion due to health reasons".*

4.29 I note that this was considered by the Commissioner on 28 June 2023 with a letter dated 4 July 2023 sent to the Contractor on 25 July 2023. The Commissioner determined that *"In making its determination the Panel considered the reasoning provided by the practice for non-submission. The panel determined that: -*

> *The practice failed to submit the returns to the Manchester locality team within the required timescales.*
> *The practice did not engage the locality team until over a month after the deadline for submission.*
> *The practice did not provide any extenuating circumstances as to the reason they missed the deadline when they submitted their appeal.*

Therefore, in consideration of the above your appeal was not upheld."

4.30 As outlined previously, the Contractor was given 28 days if they wished to appeal this decision and provided with details on how to do so.

4.31 The Contractor exercised its right of appeal and on 20 August 2023 an appeal was submitted by the Practice Manager on its behalf. I note that the grounds of appeal are similar to those raised in its first appeal with the addition of further details in relation to the Practice Manager's sick leave and return to work as well as details on the Practice's composition. Further, under the heading "Please provide/embed relevant evidence/documents to support your appeal. This must include reference to at least one of the following: the Contract guidance, the Primary Care Policy Manual, the Statement of Financial Entitlements (SFE)", the Contractor states that *"The Qof guidance does state that the commissioners may ask for a copy of the QI templates – I did read this, back in March 2022, but I forgot about it and was not expecting any further proof to be requested - attendance at peer review meetings have sufficed*

previously. I am attaching copies of my fit notes, and the templates that were completed in February and March."

4.32 This appeal was considered by the Commissioner on 4 December 2023 and relayed to the Contractor on 9 January 2024 in which the Commissioner concluded that *"The challenging situation faced by practice staff members was recognised as being the reason presented for non-submission. However, the determination of the Committee was to uphold the original decision made by DCCP, as required delivery within the period was not met. Should the practice face similar challenges in the future, I would encourage you to make early contact with commissioners to seek support and advice and consider reviewing your administrative processes. May I take the opportunity to apologise for the time taken to provide this response."*

4.33 On 3 January 2025, I note that the Contractor emailed the Commissioner with the following request *"I would like further information to appeal the decision from GMCCC on the QOF indicators 2023 for a QI drug dependency project that was completed however, the submission was missed due to unforeseen circumstances".*

4.34 On 10 January 2025, I note that the Commissioner responded to this request by rejecting the appeal and providing the right to refer the matter for NHS dispute resolution.

4.35 In summary, the Contractor failed to provide a copy of its reporting templates to the Commissioner in response to its requests on 21 April, 27 April, 2 May and 3 May 2023. This dispute is therefore limited to the late provision of templates from the Contractor to the Commissioner to demonstrate compliance with the aforementioned requirements and the Commissioner's decision not to accept the reasons for the delay. I will consider this further.

4.36 I note the GMS Contract states that *"Participation by contractors in the QOF is voluntary. However, contractors which participate in the QOF are required to accomplish the specified tasks or achieve the specified outcomes which are included in the QOF as "indicators" in return for payments which are measured against their achievements in respect of particular indicators".* I further note that part 1 of the SFE states that *"(1) The Secretary of State for Health and Social Care gives the following directions as to payments to be made under general medical services contracts in exercise of the powers conferred by sections 87, 272(7) and (8) and 273(1) of the National Health Service Act 2006(a)".* It is therefore clear that whilst sign-up to participate in QOF was voluntary, it forms part of the GMS Contract.

4.37 The Practice Manager acknowledges in its latter appeal that "*The Qof guidance does state that the commissioners may ask for a copy of the QI templates – I did read this, back in March 2022, but I forgot about it and was not expecting any further proof to be requested - attendance at peer review meetings have sufficed previously."* Further, I note the Contractor states that *"At the outset of this work starting, there was no clear information on what the submissions requirements would be other than the mandatory elements of doing the work and attending two peer review meetings. PCN meetings were attended in September 2022 where both QI projects were discussed and in February 2023 where results were presented. Discussions at the PCN QI peer review meeting held 22nd February 2023 did not reveal any submission requirements. It was not known by any of the PCN practices whether our QI templates would need to be submitted but since practices had done everything known to be required under the indicator, it would confirm that on CQRS".*

4.38 Whilst I accept that there may not have been previous requirements to submit proof, in my view the guidance is clear that "*Commissioners may require practices to provide a*

copy of the QI monitoring template as written evidence that the quality improvement activity has been undertaken". Whilst I appreciate the Contactor's comments, I consider that it should have ensured it understood and was aware of the obligations required by undertaking to complete the QI modules.

4.39 I consider that some of the events that led to the non-submission could have been avoided and that the Contractor should take some responsibility for this.

4.40 Whilst I have not been provided with an explanation as to why the initial email of 21 April 2023 was sent to the Practice Manager in particular, I note that the Commissioner had attempted to obtain the required information and gave various reminders by different methods of communication. The fact that the Contractor's receptionist sent the Commissioner's follow-up request to the Practice Manager to pick up on her return from leave is unfortunate, but this email clearly emphasised that a response was required. It was headed "QOF - Submissions Required" and included the following wording *"If practices don't send in their submissions by 5pm today then this could lead to your practice to not being paid for this element of QOF".* I consider it reasonable that the receptionist could have read the contents of the email and notified a Partner given that it appears that the Practice Manager was on leave for a further 9 days at this point.

4.41 Further, when a phone call was made to the Contractor and the Commissioner was informed that "*the practice manager was not in and that this would not be something that the deputy could pick up",* I consider it reasonable for the member of staff who answered the phone to escalate it to a Partner in the absence of the Practice Manager. I note the Contractor itself states that *"Had any of the GP Partners been informed of the submission request at any stage within the QOF year or afterwards, then the submission would have been actioned".* Furthermore, regardless of whether the Practice Manager was in or not, I do not consider it reasonable for only one member of staff to be responsible for this.

4.42 I also note the Practice Manager's comment to the Commissioner on 28 June 2023 that "*for future, can I request that when something is needed in such a short period of time, you at least request with a High Priority email and copy in the practice generic inbox".* I consider that the contents of the email that I have been provided with were enough for it to be considered a high priority without it being flagged as such and note that the email of 3 May 2023 was sent to the generic inbox but was still not actioned.

4.43 The Contractor highlights the deadlines that were provided by the Commissioner and indicates that they were unreasonable. Whilst I note that the final reminders had a tight deadline, the Contractor was given a total of 14 days to provide this information which I do not consider unreasonable given that it should have had this information to hand due to the requirements of undertaking the QI modules. I further note that the guidance as to when the Commissioner may require this information by provides no set criteria and that 79 out of 83 practices provided the information within the time period.

4.44 I further note the Contractor's comment contained within an email dated 3 July 2023 that the information it provided at the appeal stage should have been accepted by the Commissioner. I note that neither the guidance nor the SFE provides any indication on the timescales any information requested by the Commissioner must be provided by. However, the SFE does say *"the contractor must make that information available to NHS England on request".* I note that there is no definition of "on request" where no timescale is applied so it must be given its everyday meaning. I consider the use of these words is deliberate and indicates that the information must be provided at the point the request is made or where a timescale is indicated. In this case, the Commissioner gave the Contractor more than one chance to provide the information

"on request" and within a specified timescale but it failed to do so. If the intent was to allow for some additional flexibility, this would have been set out.

4.45 Whilst I sympathise with the reasons for the non-submission, I note that the guidance and SFE, as outlined above is clear that the Commissioner may make a request for information from the Contractor to demonstrate that it is entitled to each achievement point to which it says it is entitled to, and the Contractor must make that information available to the Commissioner on request and/or within a specified timescale.

4.46 I note that the decision letter dated 9 January 2024 did not set out the next steps that would be available to the Contractor. From the information provided, it appears that it was only when the Contractor contacted the Commissioner on 3 January 2025 indicating that it would like to "further appeal" that its right to apply for NHS dispute resolution in respect of the substantive matter was outlined. I am of the view that the Commissioner could have outlined this in its letter of 9 January 2024 as it does not appear that any further communication occurred between this date and the Contractor reaching out at the beginning of 2025. In light of this, I hope the Commissioner will review its procedures.

5. DECISION

5.1 Based on the information before me I am of the view that the Contractor did not provide the evidence that was required in relation to the Prescription Drug Dependency indicator (QIPD009 and QIPD010) and the Optimising Access indicator (QIOA011 and QIOA012) and is therefore not entitled to payment.

5.2 I note that neither party has submitted a claim for interest with regard to this dispute so I make no determination in this regard.

Head of Appeals
NHS Resolution