

Covid-19

----- Guidance for practices



Date: 10.12.2020

Please be aware that this is a rapidly evolving situation.

Coronavirus vaccination programme (CVP) collaboration agreement

The purpose of the [Collaboration Agreement](#) is to set out the individual and collective responsibilities of the collaborating practices as part of the Covid-19 Vaccination Programme (CVP). It is also designed to ensure that there is a legal framework should there be any disputes between the collaborating practices relating to the delivery of the CVP.

We are all working in a collaborative manner to deliver the CVP and appreciate the importance of ensuring it is completed in as safe and rapid time as possible. As such, by taking a pragmatic approach to the agreement, focusing around a few key issues and with a small amount of luck, no formal disputes should occur.

Key issues to cover and agree are:

- Financial arrangements.
- Subcontracting arrangements.
- Governance and decision making processes including dispute resolution process.
- Data sharing processes.

These are covered within the schedules of the Collaboration Agreement, but additional details are required.

The following notes are intended to help PCN groupings complete these schedules:

Financial arrangements (Schedule 5)

Practices should review Schedule 4 of their PCN mandatory Contract Agreement. It is likely that these arrangements can apply to delivery of the CVP. In such a scenario Schedule 4 of the PCN's Network Agreement can be inserted into the Collaboration Agreement. If an alternative model is required, PCN groupings may wish to consider which model they wish to apply; in broad terms there are two approaches to consider:

1. All funding is paid to the host practice. The host practice receives the funding for any expenditure they have outlaid in delivering the CVP. The collaborating practices invoice the host practice for any expenditure directly related to providing the CVP. All parties would be expected to share any information relating to their expenditure. If there are any funds still available after these payments have been made, they should be distributed between the collaborating practices as per the PCN's Network Agreement.
2. Each collaborating practice is individually responsible for ensuring that their proportion of eligible patients is covered by the overall group, including providing resources/staff. In return they will receive their proportional amount of funding.

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Practices will also need to agree payment terms. If they are not receiving any advanced payments for delivering the service, it would be deemed sensible for the host practice to only pay invoices once funds have been received.

Subcontracting of clinical matters (Schedule 6)

If practices are subcontracting the delivery of the vaccination programme to another provider (eg federation or alternative PCN) they will need to put in place appropriate subcontracting arrangements.

As an alternative model, practices may consider providing the service themselves through their PCN grouping but utilising the federation as a provider of project management support, as this would not require a subcontracting agreement. If the PCN grouping maintains clinical and contractual responsibility and is staffing the service a subcontracting agreement is unlikely to be required.

Governance and decision making arrangements (Schedule 7)

We advise considering whether existing PCN Network Agreement Schedules 1, 2 & 3 which cover the PCN's governance arrangements are also fit for this purpose. If so, they should be referenced in this schedule of the Collaboration Agreement and the full Network Agreement included as an attachment.

Dispute resolution (Clauses 73 and 74)

The Collaboration Agreement makes specific reference to dispute resolution and involving the LMC in hearing such disputes.

We would like to encourage practices and their PCN groupings to highlight potential issues of concern or disagreement to the LMC as soon as practically possible, so that we can offer facilitation and support in getting them resolved *before* they escalate into a formal dispute.

Please contact us at gpsupport@lmc.org.uk for an initial confidential discussion.

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Data sharing agreement (Annex 1)

The following template wording can be included as Annex 1 of the Collaboration Agreement:

Until 31 March 2021, the legal basis for sharing patient confidential information in connection with this Collaboration Agreement is the [Coronavirus \(COVID-19\): notice under regulation 3\(4\) of the Health Service \(Control of Patient Information\) Regulations 2002 – issued on 29/07/2020](#).

1. Legal basis for sharing		
1.1	Legal basis for sharing personal data (such as any information relating to an identified or identifiable natural person)	The Data Protection Act 2018 provides in section 8(d) that processing that is necessary for the exercise of statutory functions is a task in the public interest. The COPI notice provides a statutory requirement to share data to assist in managing the pandemic and this covers delivery of vaccination services. This allows the use of GDPR Article 6(1) (e) – Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Controller.
1.2	Legal basis for sharing special category personal data (ie health information)	The Data Protection Act 2018 provides in section 10 (via Schedule 1 part 2) that processing for health or social care for preventative or occupational medicine, medical diagnosis, provision of health care or treatment, provision of social care, and management of health/social care systems and services are suitable tasks for the use of the legal basis of GDPR Article 9(2) (h) – processing is necessary for purposes of preventative or occupational medicine, medical diagnosis, the provision of health or social care treatment or the management of health or social care systems and services. The COPI notice provides specific authorisation for the sharing of all relevant health and care data.

The Data Protection obligations, as referenced in section 9.0 of the collaborating practices are covered in [insert reference to your existing PCN data sharing agreements/alternative data sharing agreements].

Guidance Note: The initial legal basis for processing data as part of the Collaboration Agreement is the COPI notice until 31 March 2021 (unless extended). When the COPI notice expires, an alternative legal basis will be required to process data and practices are advised to consult with their DPO or the DPO provided for GP practices to see if they can amend an existing PCN data sharing agreement to accommodate this sharing or if they need to draft a new one with the legal basis for after the COPI notice ends.

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Either the amended existing PCN data sharing agreement or an alternative data sharing agreement will need to be included in this agreement before the 31 March 2021 (unless the notice is extended) as an amendment to the agreement.

Practices who have signed the Collaboration Agreement will need to check that their practice privacy policy/notice references sharing for Covid-19 purposes, and if it doesn't, they will need to add a section on this. NHSX have produced an [Example Supplementary Privacy Notice on COVID-19 for Patients/Service Users](#), which could be used. Practices will also need to add the new processing to their Record of Processing Activities (ROPA).

You can [download a Word version](#) of this data sharing agreement to amend and use as Annex 1 of the Collaboration Agreement.