Securing the Future of General Practice in London

Registering partnership changes with CQC

April 2015
1. Introduction – the gap between contract variation and CQC registration

When a practice takes on a new partner and NHS England issues a contract variation to add the new partner to the contract, the practice often thinks that the new partnership can start operating as a partnership under the contract. While this would have been sufficient before the introduction of the Health and Social Care Act and the need for practices to register with CQC, it is unfortunately no longer the case unless the practice has also applied for and received written notification from the CQC that the new partnership is registered as a provider with the CQC.

NHS England will normally issue a contract variation within 28 days of receiving the notification of the addition of a new partner to a practice if the practice is GMS (can take longer if the practice is PMS – see further down for details), but the CQC normally takes eight weeks or more to process applications for partnership changes. New partners will also require a CQC countersigned DBS (Disclosure and Barring Service) check which also takes a few weeks. This means that there could be a period of at least two months or more during which the new partnership could be practising unregistered with CQC, which is an offence under the Health and Social Care Act and could result in prosecution.

This is not an uncommon scenario because practices are often unaware of their obligations with regard to their CQC registration and because NHS England and CQC operate under different regulatory and contractual frameworks and follow processes that, even though closely related, are currently not aligned to each other. This means that practices can find themselves in a situation where despite the fact that they have received a contract variation from NHS England adding the new partner onto their contract, the new partnership is not yet registered with CQC and therefore is practising illegally.

Below we look at how this affects single handed practices entering into partnership, existing partnerships taking on partners, and practices removing partners, we outline what practices need to do to avoid putting themselves at risk of rendering their practice unregistered at any stage of this process.
2. Individual GPs entering into a partnership

Single-handed GPs entering into a partnership are required by law to apply to the CQC to register to provide regulated activities as a partnership.

Single-handed GMS GPs are required to give NHS England 28 days’ written notice that they are changing to a partnership, and request a contract variation to that effect. Under GMS Regulations NHS England approval is not required.

Single handed PMS GPs on the other hand will need firstly to submit a business case to NHS England and apply for a contract variation. Under PMS regulations NHS England has discretion over whether to approve the contract variation or not. Irrespective of what type of contract they hold with NHS England, all GPs have to register the new partnership with the CQC.

Ideally CQC and NHS England processes should run in tandem with each other, but in reality they are quite disconnected as the contract variation will in most cases be issued before the CQC has approved the application to register the new partnership. In this case, if the new partnership has started practising as a partnership following the issuing of the contract variation from NHS England without obtaining confirmation that the partnership has been registered with the CQC, the partnership will be deemed by the CQC to be practising illegally.

GPs are advised to check whether their insurance still covers them if they find themselves in the situation described above, ie practising unregistered.

If you are a single-handed GP wishing to register a new partnership with the CQC you need to:

- Apply to the CQC for a DBS check for each new partner (the CQC will only accept DBS checks counter-signed by themselves). Information on the DBS application process is available on the [CQC website](https://www.cqc.org.uk).
- Decide who will be the registered manager and apply for a DBS check for that person, if they are not one of the partners.
- While waiting for the DBS check(s) to arrive, complete your application to the CQC to provide regulated activities as a partnership; this needs to be submitted to the CQC as soon as the DBS checks are received and you have notified NHS England of your intention to form a new partnership.
- In addition to your application to register the new partnership, the appointed registered manager will also need to complete the relevant CQC application form to become the registered manager and to add the regulated activities that the practice will be providing to their registration.
- You will also need to apply to terminate the registration with the CQC as an individual provider, ie, a single-handed doctor.
- If as a new partnership you intend to provide any services that you were not providing as a single-handed GP previously, you will need to apply to the CQC to add those regulated activities to your partnership registration. This also applies to the registered manager, who will also have to add the new regulated activities to their own registration.
- Please note that from 1 April 2015 the CQC has introduced new registration and variation forms for providers. If you wish to apply for a variation to your registration or to register a new service, you must use the new forms from 1 April. For further information on the new forms, please visit the [CQC website](https://www.cqc.org.uk).

**IMPORTANT REMINDER** - even if NHS England has issued a contract variation notice adding the new partner to your contract, the new partnership must not start practising as a partnership until written confirmation of the partnership being registered with CQC has been received.

If you are an existing partnership wishing to add a new partner to your CQC registration first apply to the CQC for a DBS check for the new partner:

If you are a GMS partnership wishing to take on a new partner, you must apply to the CQC to add a new partner to your existing registration, and;

- If any of the GPs will be providing services in the new partnership that they were not providing previously they will need to apply to the CQC to add those regulated activities to their registration.
- Give NHS England 28 days’ written notice that you are taking on a new partner, and request a contract variation.
- The new partner cannot practise as a partner until you have received written notification from the CQC that your application to register them as a partner has been successful.

If you are a PMS partnership wishing to take on a new partner, you need to submit a business case to NHS England before you apply to the CQC to add the new partner to your registration.
• If NHS England agrees to the addition of a new partner, and issues a contract variation to that effect, you must apply to the CQC to add the new partner to your registration, bearing in mind you will also need DBS checks for any new partners/registered managers before you send your application to the CQC.

When a partner leaves or joins a practice, only the variation to add or remove a partner form needs to be completed except where:

• If a partnership changes their CQC provider status from a partnership of two or more GPs to a single-handed practice, or a single-handed practice changes to a partnership, the initial CQC registration has to be terminated and a completely new registration must be completed. This will include new CQC counter-signed DBS checks for all relevant GPs and staff, as the practice is now a new legal entity.

• If the partner who is leaving the partnership is the registered manager, the existing registration for the registered manager must be terminated with the CQC, and a new Registered Manager will need to be appointed, unless the partnership is changing to become single-handed. The new registered manager will need to complete the necessary forms to register with the CQC as the registered manager. A DBS check will need to be carried out.

• If the partner who leaves the practice was providing services that the practice will no longer be providing, the practice must inform the CQC that the regulated activities for the practice have changed. The registration for the registered manager must be amended to reflect those changes.

3. Fit and Proper Person Regulations – all practices

Under the new Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, the CQC has the right to interview any incoming partners, to establish whether they meet the fit and proper person requirements. A face to face interview may also be carried out with individuals who become registered managers for the first time. So far we have not seen this being done routinely, but we are aware of some isolated examples of this happening in practices where concerns have been identified.

The Fit and Proper Person regulations come into force on 1 April 2015 and can be found on the CQC website.

CQC guidance for providers is also available on their website.

Important note

This guidance is aimed at providing advice to practices on how to register partnership changes with the CQC while keeping themselves safe from being rendered unregistered unintentionally. It covers the most frequent partnership changes that occur in practices and it is not intended to address every eventuality, for example CQC registration requirements for practice mergers, is outside the scope of this guidance due to the individual nature of each case's circumstances.

We are in the process of developing closer working relationships with CQC leads in London and in collaboration with NHS England London leads we are trying to facilitate a way of aligning the two organisations' processes, to try and make contract variations and registration changes of partnerships an easier process for practices.

These are complex issues with significant contractual and legal implications for practices, so they are difficult to address. We will keep you updated on developments as appropriate.

In the meantime, please follow this guidance when making partnership changes in your practice, and if you have any queries or problems, please contact us at gpsupport@lmc.org.uk.