

## **PRACTICE BASED COMMISSIONING: DIVISION OF FREED UP RESOURCES**

### **GENERAL PRACTITIONERS COMMITTEE GUIDANCE, APRIL 2006**

#### **BACKGROUND**

The incentive to free up resources from the indicative budget with practice/consortium-level control on how funding is reinvested in patient services is a key driver for practice engagement in practice based commissioning (PBC).

In its current guidance 'Practice based commissioning: achieving universal coverage' (January 2006), the Department of Health recommends that practices are able to access and redirect at least 70% of freed up resources, with the remaining percentage to go to PCTs to meet needs across the PCT area (paragraph 47). There has been some confusion however over the interpretation of paragraph 48 which states that '...as a last resort, these resources may be used to cover PCT overspends' and whether 'these resources' refers to 100% of freed up resources, or just the PCT's share.

Since publishing its guidance, the Department of Health has confirmed that the reference to 'these resources' in paragraph 48 of the guidance relates to the PCT's share only and later set this out in a Q&A document (February 2006) accordingly; see extract below:

*'What proportion of the freed up resources can the PCT retain to cover PCT overspends?*

The guidance states that for 2006/7 practices should be entitled to access and redirect at least 70% of any freed up resources. The remaining up to 30% can be used by the PCT. The intention is that this 30% should be used by the PCT to meet a wider need across the whole PCT area, however as a last resort, this 30% may be used to cover PCT overspends.'

Amid increasing evidence that this aspect of the guidance was either being misinterpreted or disregarded, the General Practitioners Committee (GPC) requested that the Department of Health formally clarify this point via a dedicated letter to PCTs. In response to this request, the Department of Health's PBC implementation team emailed all Strategic Health Authority PBC-leads with a statement reemphasising this point (5 April 2006) and which is also available online; the relevant extract can be found below.

*"...we expect PCTs to adhere to the agreement that of any resources freed up against the practice budget under PBC, at least 70% should be available to the practice for reinvestment in patient services, and up to 30% to the PCT. Adhering to this agreement is important in providing appropriate incentives for practices to take up PBC and to progress service redesign."*

Unfortunately this has not fully addressed the committee's concerns. The GPC believes therefore that there is an absolute necessity for practices not to enter into any commissioning arrangements without written and signed confirmation from the PCT, in advance, that they will be guaranteed their share of freed up resources at the end of the financial year, regardless of the PCT's financial situation.

It is within this context that the following guidance has been produced.

The various Department of Health documents referred to in this guidance can be accessed online via the PBC homepage at the following address:

[www.dh.gov.uk/PolicyAndGuidance/OrganisationPolicy/Commissioning/PracticeBasedCommissioning/fs/en](http://www.dh.gov.uk/PolicyAndGuidance/OrganisationPolicy/Commissioning/PracticeBasedCommissioning/fs/en)

This guidance has been structured as follows:

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## 1 INTRODUCTION

The GPC would advise practices/consortia to put in place a formal arrangement with the PCT before taking on the commissioning role, in the form of a contract. If the agreed commissioning plan covers the relevant issues in detail, the contract need not be a lengthy document, providing it specifically commits to adhering to the arrangements included in the plan. Where the contract refers to other documents, plans or correspondence, these should be appended to the contract accordingly.

One area the contract should be particularly precise on is that of the division and use of freed up resources. This document sets out some suggested definitions and clauses that can be incorporated into practices/consortia contracts and which will help to prevent PCTs from making changes to the agreed arrangements retrospectively. They set out a methodology for calculating and apportioning freed up resources which is based on Department of Health guidance and what the GPC believes to be good practise. They are not conclusive and may need to be tailored to suit different situations. The GPC would advise practices/consortia to seek independent legal advice where necessary. [NB. Consortia will also need to have a pre-agreed method of dividing up any freed up resources amongst themselves.]

## 2 DEFINITIONS

Some suggested definitions can be found below, which include those relevant to commissioning activity both under and outside of the 'Towards practice based commissioning' (TPBC) DES. It is very important that all parties share the same understanding of the terms used in the contract in order to avoid disagreement at a later date.

**Commissioning plan:** refers to the plan that has been agreed in advance by both the practice/consortium and PCT and which outlines the practice's/consortium's intended commissioning activity over the course of the year [or if otherwise, to be stipulated].

**DES plan:** refers to the plan that has been agreed in advance by the practice/consortium and PCT under the TPBC DES and which outlines the practice's/consortium's intended commissioning activity and objectives pertaining to the DES in 2006-07. Agreement on the DES plan will trigger a component 1 payment.

*[NB. There is a distinction between the two plans above as we would advise practices to differentiate between commissioning activity defined through the*

*DES and that above the scope of the DES; see the GPC 'Focus on...' referred to in section 3 below.]*

**Component 1 payment:** refers to the payment of the sum of 95p per registered patient, based on the practice list size as at 1 April 2006 and which is payable to the practice by the PCT upon agreement of the DES plan between the practice(s) and the PCT.

**Component 2 payment:** refers to the payment of the sum of 95p per registered patient based on the practice list size as at 1 April 2007 and which is payable to the practice by the PCT upon achievement of the objectives set in the DES plan. A component 2 payment is not payable in addition to the practice/consortium share of freed up resources that already equal the equivalent value of a component 2 payment.

**Component 2 top-up payment:** refers to the payment of the difference between the practice/consortium share of freed up resources and the equivalent of a component 2 payment where the former is less than the latter and which is payable to the practice by the PCT upon achievement of the objectives set in the DES plan.

**Freed up resources figure:** refers to the sum of money saved during the financial year [to be stipulated] as a result of practice/consortium commissioning activity and which will be divided between the PCT and practice/consortium.

**Indicative budget:** refers to the budget that has been agreed in advance by both the PCT and practice/consortium as part of the commissioning or DES plan and which provides a benchmark against which practice/consortium spend will be measured.

*[NB. The definition above assumes that the indicative budget is the figure remaining after any relevant and appropriate adjustments have been made, for example, a contingency fund top-slice.]*

**Practice/consortium share of freed up resources:** refers to the freed up resources received by the practice/consortium following division of the freed up resources figure between practice/consortium and PCT.

### **3 CLAUSES FOR DES AND/OR 'DES PLUS' COMMISSIONING ACTIVITY**

Freed up resources under the TPBC DES is particularly complicated as a result of the relationship between freed up resources and component 2 of the DES. There is no relationship between component 1 of the DES and freed up resources.

At the end of the financial year, under the DES, practices will need to work out whether their share of the freed up resources figure is less than, equal to or exceeds the equivalent value of component 2 (95p per registered patient based on the practice list size as at 1 April 2007). This is because, upon achieving the DES plan objectives, the minimum funding that practices should receive is the equivalent value of 95p per registered patient based on the practice list size as at 1 April 2007, whether it be an actual component 2 payment, freed up resources or freed up resources plus a component 2 top-up payment. Detailed information on payment of DES funding and the various scenarios possible were included in section 9 of the GPC's sample plan, which was issued with the guidance note 'Focus on the Towards Practice based commissioning Directed Enhanced Service' in February 2006.

[www.bma.org.uk/ap.nsf/Content/focustpbcdes](http://www.bma.org.uk/ap.nsf/Content/focustpbcdes)

It should also be noted that the intended use of component 2 funding differs slightly from that of freed up resources; this is also covered in the 'Focus on...' guidance note referred to above.

In this guidance we have suggested the use of the same method to calculate and divide freed up resources between practices/consortia for both DES and non-DES activity. The following suggested paragraphs have been drafted for practices/consortia undertaking the TPBC DES. However, they will also apply to practices undertaking both the DES and an additional level of commissioning, or 'DES plus' activity.

## 1 Arrangements for calculation and division of freed up resources

1.1 The method for calculating the freed up resources figure and the division of this sum, both of which will take place at the end of each financial year, has been agreed by both practice/consortium and PCT and is detailed in paragraphs 1.2-1.6 below. Where the relevant parties cannot agree the figure, the SHA arbitration panel will be called upon to verify whether or not the agreed methodology has been adhered to.

1.2 An initial freed up resources figure will be calculated, first, by subtracting the actual practice/consortium spend during the commissioning year [to be stipulated] from the indicative budget.

1.3 The following adjustments will then be made in order to calculate the freed up resources figure [to be included where relevant]:

1.3.1 The practice/consortium indicative budget was top-sliced by X% to allow for a PCT contingency fund, of which the terms of use have been set out in paragraph Y of this contract. In the event that the contingency fund is not used, either at all or in part, the full or relative remainder of the original sum subtracted from the indicative budget will be added on to the initial freed up resources figure (in line with paragraph 42 of Department of Health guidance); and/or

1.3.2 The PCT provided the practice/consortium with a management resource up front, additional to and not including component 1 of the TPBC DES, upon the understanding that this would be recouped at the end of the year from any freed up resources. This sum will be subtracted from the initial freed up resources figure.

1.4 Upon achieving the objectives set out in the DES plan, one of the following payment scenarios will apply:

1.4.1 Where the freed up resources figure exceeds the equivalent value of a component 2 payment, the practice/consortium will receive the portion of the freed up resources figure that equals the value of the component 2 payment plus at least 70% [exact percentage to be stipulated] of the remainder of the freed up resources figure; or

1.4.2 Where the freed up resources figure equals the equivalent value of a component 2 payment, the practice/consortium will receive the full freed up resources figure; or

1.4.3 Where the freed up resources figure is less than the equivalent value of a component 2 payment, the practice/consortium will receive both the full freed up resources figure and a component 2 top-up payment (in line with paragraph 22 of the DES specification); or

1.4.4 Where no freed up resources have been made, the PCT will pay the practice/consortium a component 2 payment (in line with paragraphs 5, 7 and 20 of the DES specification).

1.5 Where the DES plan objectives have not been achieved, but freed up resources have been made, the freed up resources figure will be divided between the practice/consortium and the PCT in line with Department of Health guidance (paragraph 47); at least 70% to the practice/consortium [exact percentage to be stipulated] and the remaining percentage to the PCT [exact percentage to be stipulated].

1.6 The payment scenarios set out in paragraphs 1.4-1.5 of this contract are guaranteed regardless of the PCT's financial position at the end of the financial year.

## 2 Arrangements for use and payment of freed up resources

2.1 Where the practice/consortium receives freed up resources, the practice/consortium will be entitled to redirect these resources in line with paragraphs 43-53 of the Department of Health guidance. Where the practice/consortium receives a component 2 payment or component 2 top-up payment, the practice/consortium will be able to use this money in line with paragraph 21 of the DES specification.

2.2 Where the DES plan includes proposed use of freed up resources, the practice/consortium will be entitled to redirect its share as stipulated in the plan. Any divergence from the plan in terms of use of freed up resources must be agreed by both parties.

2.3 [Include details of timing of payment/release of funding/PCT action in response to practice/consortium recommendations.]

## **4 CLAUSES FOR NON-DES COMMISSIONING ACTIVITY**

The following suggested paragraphs have been drafted for practices/consortia undertaking commissioning activity outside of/alternative to the TPBC DES. We recognise however that in 2006-07, practices are unlikely to engage in PBC in complete isolation from the DES and therefore, for the most part, practices/consortia will need to refer to the paragraphs suggested in section 3 above.

### 1 Arrangements for calculation and division of freed up resources

1.1 The method for calculating the freed up resources figure and the division of this sum, both of which will take place at the end of each financial year, has been agreed by both practice/consortium and PCT and is detailed in paragraphs 1.2-1.5 below. Where the relevant parties cannot agree the figure, the SHA arbitration panel will be called upon to verify whether or not the agreed methodology has been adhered to.

1.2 An initial freed up resources figure will be calculated, first, by subtracting the actual practice/consortium spend during the commissioning year [to be stipulated] from the indicative budget.

1.3 The following adjustments will then be made in order to calculate the freed up resources figure [to be included where relevant]:

1.3.1 The practice/consortium indicative budget was top-sliced by X% to allow for a PCT contingency fund, of which the terms of use have been set out in paragraph Y of this contract. In the event that the contingency fund is not used, either at all or in part, the full or relative remainder of the original sum subtracted from the indicative budget will be added on to the initial freed up resources figure (in line with paragraph 42 of Department of Health guidance).

1.3.2 The PCT provided the practice/consortium with a management resource up front, upon the understanding that this would be recouped at the end of the year from any freed up resources. This sum will be subtracted from the initial freed up resources figure.

1.4 The freed up resources figure will be divided between the practice/consortium and the PCT in line with Department of Health guidance (paragraph 47); at least 70% to the practice/consortium [exact percentage to be stipulated] and the remaining percentage to the PCT [exact percentage to be stipulated].

1.5 The practice/consortium is guaranteed its share of the freed up resources figure at the end of the financial year regardless of the PCT's financial position (in line with Department of Health Q&A on its guidance).

## 2 Arrangements for use and payment of freed up resources

2.1 Where the practice/consortium receives freed up resources in line with paragraphs 1.1-1.5 of this contract, it will be entitled to redirect these resources as stipulated in the commissioning plan and in line with paragraphs 43-53 of the Department of Health guidance.

2.2 Any divergence from the commissioning plan in terms of use of freed up resources must be agreed by both parties.

2.3 [Include detail of timing of payment/release of funding/PCT action in response to practice/consortium recommendations.]

Further guidance on the contractual arrangements between practices/consortia and PCTs will be issued in due course.