

Special Allocation Scheme (SAS) – Appeals Panel Terms of Reference

Primary Care Commissioning Committee meeting

D

10 March 2022

Author(s)	Jo Ward, Senior Primary Care Contracts Manager
Sponsor Director	Sandie Buchan, Director of Commissioning Development
Purpose of Paper	
To seek approval for the Terms of Reference for the Special Allocation Scheme (SAS) Appeals Panel in line with NHSE/I guidance.	
Key Issues	
<p>NHS regulations provide arrangements for the immediate removal of a patient from a primary medical services contractor's list in the event of a real or perceived threat of violence against the contractor, their staff, or other persons on the contractor's premises.</p> <p>The Special Allocations Scheme provides primary medical services in a secure environment to patients who meet the criteria. It aims to protect GPs, practice staff and patients who have the right to be in the practice without fear of intimidating behaviour.</p> <p>The NHSE/I Primary Medical Services Policy and Guidance Manual (PGM) (Chapter 6 page 163 onwards) describes in detail the process for the management of the Special Allocation Scheme (SAS).</p> <p>It provides an appeals process for patients believe they have been incorrectly allocated to the scheme and describes the responsibilities of the local commissioner when managing appeals.</p> <p>In order to consider several appeals from patients allocate to the scheme the CCG must convene a panel to consider these appeals and the proposed terms of reference for the panel are presented here for approval by the Committee</p> <p>The PGM provides model terms of reference for an appeal panel. These have been adapted for the CCG, taking into account learning from other CCGs experience.</p>	
Is your report for Approval / Consideration / Noting	
Approval	
Recommendations / Action Required by Primary Care Commissioning Committee	
The Primary Care Commissioning Committee is asked to approve the Special Allocation Scheme (SAS) Appeals Panel Terms of Reference as set out at Appendix A	
What assurance does this report provide to the Primary Care Commissioning	

Committee in relation to Governing Body Assurance Framework (GBAF) objectives?**Which of the CCG's Objectives does this paper support?**

1. To improve patient experience and access to care
2. To improve the quality and equality of healthcare in Sheffield

Does this report relate to a formal statutory / delegated Primary Care responsibility of the CCG?

Yes - Commissioning, procurement and management of Primary Medical Services Contracts

Are there any Resource Implications (including Financial, Staffing etc)?

Not required for this paper

Have you carried out an Equality Impact Assessment and is it attached?

Not required for this paper

Have you involved patients, carers and the public in the preparation of the report?

Not required for this paper



Terms of Reference

Special Allocation Scheme Appeal Panel

1. Purpose

1.1 An Appeal Panel will consider appeals –

- By a patient being immediately removed from a GP Practice as a result on an incident reported to the police
- By a patient against being placed on the Special Allocation Scheme (SAS).
- By a patient where the annual review by the SAS Provider concludes that the patient remains on the scheme.

2. Duties and Responsibilities

2.1 The function of the Appeal Panel will be to objectively review –

- The evidence from the practice that removed and referred the patient to the SAS and the information provided by the patient disputing the referral, to decide whether the decision to place the patient on the scheme was appropriate.
- The evidence from the SAS provider detailing the reasons why the patient should remain on the Scheme and the patient giving reasons why s/he should be discharged from the Scheme, to decide whether the patient can be safely discharged from the Scheme.

2.2 The Panel may request any further evidence or information that it deems to be necessary and relevant to consider each appeal. This may include, in the case of an appeal by the patient against being placed on the Scheme, a risk assessment and statement from the SAS Provider in relation to the patient.

2.3 Panel members must fully appraise themselves with the requirements of Immediate Removals and referral into the SAS by practices (Annex B) and the Special Allocation Scheme.

2.4 The Panel will have due consideration of the safety of general practice staff, NHS Staff, patients, members of the public using NHS services and premises.

2.5 The Appeal Panel will be accountable to the NHS England local team or CCG (if fully delegated) in which the patient resides.

2.6 Decisions made by the panel will be the final decisions in respect of primary medical services provision for the patient.

3. Membership

3.1 The membership of the Panel will consist of:

- Lay Representative – Chair (Governing Body Lay member)
- Clinical Lead (Medical Director of CCG Clinical Director)
- Commissioning Lead, CCG
- Commissioning Lead, NHS England
- LMC representative
- Patient Body Representative if requested by patient (Healthwatch or other group)

No panel member will have an interest in any practice involved in the appeal or in delivering direct care to the patient making the appeal

3.2 Quorum for the Panel will be a minimum of 3 and must include at least the Lay Member (Chair) Clinical Lead and one Commissioning Lead.

3.3 The Lay Representative may be nominated from the appropriate CCG area for each individual appeal.

3.4 Any conflicts of interest perceived or otherwise must be declared and if appropriate the panel member must remove themselves from the Panel considering the case. Where quorum is required an appropriate replacement must be appointed.

4. Meetings

4.1 The Panel will convene as and when necessary

4.2 Should there be an immediate need the Panel may consider a virtual meeting

5. Administration

5.1 The Panel will be supported by the Primary Care Commissioning Team

5.2 Minutes of the Panel meeting will be recorded by a member of the Primary Care Commissioning Team

5.3 The process to be followed for administering appeals is shown in Annex A.

Annex A

Terms of Reference - Administration

Special Allocation Scheme Appeal Panel

Appeals Process

1. Patients have the right to appeal against
 - Being immediately removed from a practice as a result of an incident that was reported to the police
 - being placed on the scheme
 - remaining on the scheme
2. Appeal should be in writing unless the patient is unable to do so, in which case they should be supported to provide their appeal by alternative means.
3. The contact details for any appeal will have been provided in the patient communication informing them of their removal and allocation to a SAS
4. An appeal by the patient should be made **within 28 days** for both being placed on the scheme or appealing against remaining on the scheme
5. Appeals will be received by the commissioner and acknowledged, preferably by email or by post and an email address will be requested (although not mandatory), within 7 working days.

Patient Appealing against removal and allocation to a Special Allocation Scheme

6. The appeal panel will notify the practice that removed the patient of the appeal and request any additional information required which should be returned within 7 days.
7. An Appeal Panel will be convened within 28 days of receiving the patient appeal
8. Papers should be made available to the Panel at least 5 days before the Panel convenes.

To note:

The appeal process does not delay the immediate removal of a patient following an incident that has been reported to the police and the commissioner (via PCSE)

9. On reviewing the papers submitted the Panel may decide to get further information or request that the SAS Provider undertakes a risk assessment of the patient and provide statement in relation to the patient. This would normally involve the patient presenting to the Provider for an assessment.
10. The main issue for the Panel to address is to ensure that the criteria listed in Annex B has been met.
11. The Panel will consider the evidence submitted and can decide to either –
 - Reject the patient's appeal. The patient then stays on the scheme and will be reviewed by the provider in line with the service specification.
 - To uphold the patient's appeal.
 - Depending on the reason for upholding an appeal, the commissioner may engage the removing practice to ascertain if they are willing to re-register the patient, or;
 - The patient will be provided a list of practices in their area where they may register without restriction. The commissioner will inform PCSE to remove the flag from the patient's medical record to allow them to register freely.
 - Should the patient have difficulty registering the normal process to support registration by NHS England will be implemented.
12. Patient will be informed within 14 days of Panel decision detailing the reasons for the panel's decision.
13. Referring practice will also be informed of the Panel's decision.

Patient Appealing against remaining on Special Allocation Scheme

14. A patient on the scheme will normally stay on the scheme for a minimum of 12 months and must have undergone at least 2 reviews. Where the provider thinks appropriate to consider discharge before the minimum 12 months has elapsed, at least 3 reviews must have carried out in the previous 6 months.
15. After carrying out the reviews, if the provider considers that the patient should remain on the scheme, the patient may appeal.

16. The patient should appeal in writing unless the patient is unable to do so, in which case they should be supported to provide their appeal by alternative means.
17. The Scheme provider will be required to submit a report to the panel to explain why the provider has assessed that the patient should remain on the scheme. This report will include:
- 1) reviews conducted within the previous 12 months, or 3 reviews where the patient has been on the scheme for less than 12 months
 - 2) the risk assessments carried out for this patient within the previous 12 months
 - 3) any other issues that the provider deems relevant, which may include treatments that are currently on going or planned for the patient
 - 4) any other relevant information from other providers NHS services
18. An Appeal Panel will be convened within 28 days of receiving the patients appeal
19. Papers should be made available to the Panel at least 5 days before the Panel convenes.
20. On reviewing the papers submitted the Panel may decide to get further information or request that the Scheme provider under takes a further review and risk assessment of the patient.
21. The Panel will consider the evidence submitted and can decide to either –
- To uphold the patient's appeal. The patient will then be "discharged" from the scheme and given a list of practices in their area where they may register without restriction. The commissioner will inform PCSE to remove the flag from the patient's medical record to allow them to register freely.
 - To confirm the report from the Scheme provider and refuse the patient's appeal. The patient then stays on the scheme and will be subject to review by the provider in line with the service specification.
22. Patient and the scheme provider will be informed with 14 days of Panel decision detailing the reasons for the panel's decision.

Annex B

Terms of Reference - Referral into the SAS

Sheffield CCG Special Allocation Scheme Appeal Panel

The following are extracts taken from the NHS England Primary Medical Care Policy and Guidance Manual (v3, January 2021)

1. The Regulations regarding the removal of patients who are violent is specific in terminology and the Regulations require that GMS and PMS contracts provide for "Removal from the list of patients who are violent".
2. However, within the Regulations it is further specified that the grounds on which a contractor may request that a person be removed from its list of patients with immediate effect are that "the person has committed an act of violence against any of the persons specified in subparagraph (2) or has behaved in such a way that any of those persons has feared for their safety".
3. The Commissioner should therefore be clear that violence does not have to be physical or actual. It can be perceived, threatened or indeed a perceived threat of violence. A person's fear for their safety can also be actual or perceived. If a patient's behaviour is such that it warrants removal from the patient list and placing them on a SAS (if they wish to continue receiving primary medical care), then the Regulations require that the incident is reported to the police.
4. In the case of the patients whose behaviour is disruptive but falling short of the above grounds, Commissioners should discuss with the practice if the patient should instead be removed from the practice on the alternative ground of irrevocable breakdown in the relationship between the person and the contractor (see paragraph 24, Schedule 3, Part 2 of the GMS Regulations and paragraph 23, Schedule 2, Part 2 of the PMS Regulations).
5. All practices need to be fully aware of and understand the process for immediate removal of a patient. The following guidance is taken directly from the Primary Medical Care Policy and Guidance Manual (v3) –
6. In summary, where a patient's behaviour is deemed within the scope of this section (i.e. SAS):
 - 6.1 The Regulations require that, for a patient to be removed from a practice list,

the practice must report the incident to the police. The following 10-point process is designed to work in all but very exceptional circumstances. Those infrequent and exceptional cases relate solely to commissioner instigated allocations (for example a patient that falls within the remit of a SAS allocation, but with no recent removal from a GP Practice i.e. previously unregistered) and must be discussed and agreed with NHS England in advance.

- 1) The Practice calls the police to report the incident (which is required under the regulation) and obtain a response (if required) and police incident number. Where possible this should be at the time of reporting but in any case, a police incident number must be included within written report provided by the practice within 7 days (a contractual requirement under 'reasonable requests for information').
- 2) The Practice requests an immediate removal from NHS England's Primary Care Support England ("PCSE") service provided by Capita at. This request can be by phone (visit <https://pcse.england.nhs.uk/contact-us/> for contact details) or email pcse.immediateremovals@nhs.net. PCSE will request the police incident number [Note: this is different from a crime reference number, which can only be allocated by the police once it has been established that a crime has been committed. The police will however record an incident number on police systems for all incidents according to Home Office Counting Rules ("HOCR")]. If the Practice does not have a police incident number at this point (which should be in exceptional circumstances only), the Practice will be asked to provide details of the date, time and mechanism (i.e. 999, 111, local number) via which the incident was reported to the police. **The absence of an incident number will not delay the immediate removal of a patient.**
- 3) PCSE removes the patient from the Practice list and informs the appropriate Commissioner.
- 4) The Regulations require that the Practice notifies the patient in writing that a request for removal has been made, unless to do so would harm the patient's physical or mental health or put other's on the Practice premises at risk.
- 5) PCSE allocates the patient to a local SAS provider. Commissioners are responsible for commissioning SAS either from GPs or other provider.
- 6) PCSE notifies the patient in writing (standard letter at Appendix 6) that they have been removed from the Practice list (as per the Regulations (25.7)) and also, allocated to the SAS provider.

- 7) The Practice provides a follow up report in writing to the Commissioner (sample available at Appendix 2), within 24 hours where possible but before the end of a period of seven days beginning with the date on which notice was given. Where the Practice was unable to provide a police incident number initially; the practice will be asked to include this in the report (under the contractual requirement for reasonable requests for information).
- 8) Following 7 days from the incident, the Commissioner and PCSE will liaise to ensure an incident number has been received (either by PCSE or via the written practice report to the Commissioner). In the event an incident number has not been provided, the Commissioner will contact the provider to ensure one has been obtained and provided.
- 9) The SAS provider will ensure risk assessment and regular monitoring is in place to enable the patient to be repatriated back in to main stream Primary Care as soon as is feasible.
- 10) The SAS provider will notify PCSE when choice has been returned to the patient and they have been removed from the SAS. This will ensure the patients records are amended accordingly (i.e. VP flag removed from patient record) allowing them to re-register at their chosen practice. [Note: Commissioners should ensure this is included in any future SAS contracts awarded and where possible, seek to make arrangements for this to be added to existing contracts].

Criteria for Placing a Patient on the SAS Scheme

7. Patients will be placed on the scheme where the referring practice can demonstrate to the Commissioner that the following criteria has been met:

The patient is registered at the practice as a permanent or temporary resident and has committed either an act of physical or non-physical assault towards a member of staff, another patient, or visitor to the surgery, within core contracting hours, which has resulted in the practice reporting the incident to the Police and obtaining a log number.
8. However, there are some cases in which placing a patient on the SAS would not be appropriate for that patient.
9. Violence and aggression may take the form of non-physical assault and physical assault.

10. The NHS definition of non-physical assault is:

'The use of inappropriate words or behaviour causing distress and/or constituting harassment'.

11. Whilst it is not possible to provide a comprehensive list of this type of incident some examples are provided below:

- Offensive language, verbal abuse and swearing;
- Racist or homophobic comments;
- Loud and intrusive conversation;
- Unwanted or abusive remarks;
- Negative, malicious or stereotypical comments;
- Invasion of personal space;
- Brandishing of objects or weapons;
- Near misses i.e. unsuccessful physical assaults;
- Offensive gestures;
- Threats or risk of serious injury to NHS staff;
- Intimidation;
- Stalking;
- Alcohol and/or drug substances misuse;
- Incitement of others and/or disruptive behaviour;
- Unreasonable behaviour and non-cooperation;
- Any of the above linked to destruction of or damage to property.

12. This includes all communications, e.g., by e-mail, telephone, social media, graffiti and letter as well as face to face.

13. Behaviour as described is unacceptable and may constitute offences under the Malicious Communications Act 1988 and Protection from Harassment Act 1997.

14. The NHS definition of physical assault is: *'The intentional application of force against the person of another without lawful justification resulting in physical injury or personal discomfort'*.

15. Whilst it is not possible to provide a comprehensive list of this type of incident some examples are provided below:

- Spitting on/at staff;
- Pushing;
- Shoving;
- Poking or jabbing;
- Scratching and pinching;
- Throwing objects, substances or liquids onto a person;

- Punching and kicking;
- Hitting and slapping;
- Inappropriate sexual contact;
- Incidents where reckless behaviour results in physical harm to others;
- Incidents where attempts are made to cause physical harm to others and fail.

16. The referring practice is required to actively assist the Police with their investigations. Active assistance can be defined as the prompt reporting of an incident, provision of information as required by the Police to carry out an investigation.
17. Family members of a patient who has been subject to immediate removal also registered with the practice will remain on the list for the "*immediate future*" with each case being considered objectively on a case-by-case basis. The patient who has been placed on the scheme will be instructed not to attend any appointments (at the surgery or at the patient's home) with registered family members except in genuine emergencies.
18. Only patients who fulfil the criteria outlined can be placed on The Special Allocation Scheme. Where clinical opinion, from within NHS England/CCG indicates that the assault, threatening or inappropriate behaviour likely to cause fear, alarm and distress was **unlikely** to have been intentional, as the assailant did not know what they had done was wrong either as a result of treatment administered, mental ill health, dementia or learning difficulties, the patient should not be included onto the scheme and alternative arrangements will be made as appropriate.

Annex C

Example Patient Pathway

