

October 2008

USE OF CHOOSE & BOOK

In August a letter from the PCT was sent out to practices instructing them that they had to use Choose & Book for all 2 week cancer referrals. Initially the LMC did not respond to this as we were led to believe this had been withdrawn. Subsequently this proved to be incorrect and we have taken this up with the PCT both by email and also at the last meeting in consultation with PCT members. The LMC has stated that this advice is illegal. There is nothing in the regulations that allows the PCT to enforce the use of Choose & Book. National Choose & Book policy is that alternative routes to referral should exist as some I.T. is not able to cope with Choose & Book for various reasons and frequently when the system fails there needs to be an alternative route. In addition locums working at short notice in practices may not have a smart card enabled for them to make these referrals. We regret that the PCT does not seem to have recognised our concerns and so our Chairman has formally written to the Chief Executive at the PCT asking the PCT to rescind this policy. Subsequent to this another letter has been sent out stating that similar policy applies for community hospital referrals. At the time of writing this newsletter no formal reply has yet been received from the PCT, however the LMC view remains that this policy is illegal.

COMMISSIONING PROBLEMS

At the last LMC meeting there was a long and detailed discussion about the ongoing failure of our local systems to permit a smooth development of Local Enhanced Services. The LMC believes that the PCT is yet to get the right structure in place to take this forward. Members are dismayed after six months of discussion it is not clear that not much progress has been made. Various PBC Clusters are busy working away around the county. The PEC is involved as is the Clinical Care Pathway Group. Many of us only recently learned that this even existed. There is also a PBC Forum. At the moment new LES's are coming out of the PCT and not from the PBC clusters. Clearly there is a need for both but the bureaucracy of the system is so tortuous that we are not making progress. We strongly put the case to the PCT that this needs to be resolved to try and get PBC moving forward in the way that it should.

NEW HEAD OF PRIMARY CARE

Linda Dando, the new Head of Primary Care who was due to start at the PCT on the 1st October has had her start date delayed due to personal circumstances. Hopefully she will start in November. There still remains a significant gap in the Primary Care department at the PCT and this is undoubtedly causing problems both holding up a number of issues and practices are reporting ongoing problems relating to the PCT. This really does need to be resolved urgently. The LMC has asked for an early meeting with Linda Dando once she is in post.

EXTENDED HOURS

At the September meeting the LMC was informed that the PCT was not able to do anything further to try and encourage the implementation of the Extended Hours DES in the county. We have a very low uptake of work that matches the DES criteria although a lot of practices are doing the much more sensible PCT LES. As you are aware the Department of Health and the SHA have come down very heavily on Worcestershire about this and clearly there is big pressure on the PCT to hit its 50% implementation target by 31st December. The PCT has obviously had a change of heart and has proposed a new LES that will be shortly going out to practices. Whilst the LMC very much supports the PCT in trying to make the best of a bad job we still have some concerns about this LES. It will be up to practices to decide on their own individual circumstances whether this is an appropriate thing for them to do. Essentially practices will be asked to sign up to the DES and if they do so they will receive an additional £1 per patient to provide nursing and reception cover. Reception desks will need to be open but it will be up to practices to decide whether or not the telephones are manned. Our own calculations have suggested that £1 per head is probably not quite sufficient to totally cover the staff cost, that clearly depends on the staff mix used and individual practice circumstances. The PCT has offered a 50p per head payment for practices who choose to start this work before 31st December when the SHA will count the figures.

CONSULTATION ON DISPENSING DOCTORS AND THE PHARMACY WHITE PAPER

The LMC is putting together its formal response to this document and a meeting has been organised to discuss this with one of the GPC members. Invitations have already been sent out but the details are as follows:

The road show for this area will take place on Monday, 10th November 2008 at 7.00 p.m. The venue is to be in the Bartlett Suite at the Pear Tree Inn at Smite, Worcester, WR3 8SY (Just off junction 6 off the M5). The meeting will commence at 7.00 p.m. but refreshments will be available from 6.30 p.m. onwards. We will try and start the meeting as soon after 7.00 p.m. as possible. The meeting should last approximately 2 hours. The speaker will be Russell Walshaw who is the GPC lead for rural matters and dispensing and also the GPC Representative for East Yorkshire, Hull, Northern Lincolnshire and Lincolnshire.

We hope this meeting will have a good turnout of rural and dispensing doctors to discuss this very significant policy document which could have real implications for a great many practices across the county.

If you have not already indicated that you would like to attend please can you email Michelle Hallahan at mhallahan@worcslmc.co.uk as soon as possible.

WORK OF THE LMC

Hopefully by now you would have all received your LMC survey. We thought it was an appropriate time to ask for your views on the work of the committee and the LMC office. Your feedback will be very much appreciated. We very much recognise that the LMC is funded by GPs out of their hard earned cash and we try to deliver the best service we can within the usual constraints! We always welcome your feedback, comments and suggestions.

FOUNDATION BIDS

Both the Acute Trust and the Mental Health Partnership are seeking Foundation Trust status. We have already had meetings with the Acute Trust about this and they have helpfully suggested that the LMC should have a representative on the Council of Governors. Dr John O'Driscoll has agreed to take on this role on our behalf. Sadly the Mental Health Partnership has had no contact with us other than sending us the glossy brochure. We have made representations to them about this and feel their links to Primary Care are probably even worse than the Acute Trust. This really is something we need to improve and has been a recurring theme from the LMC for many years. It is sad that little real progress has been made to date.

LMC / BMA LAW SEMINAR

Last year a good many of you attended a very helpful seminar by BMA Law on contracting issues and employment law. They have produced another seminar and thanks to the support of the pharmaceutical companies we have been able to put this on for GPs and Practice Managers. Invitations have already been sent out but if you haven't seen them then the details are as follows:

The LMC have organised another seminar with BMA Law for Thursday, 4th December 2008, from 9.30 a.m. – 1.00 p.m. The Seminar will be on Negotiation & Contract Law & Procurement and Tendering and will be held at Worcester Rugby Club, Worcester Warriors, Sixways Stadium, Warriors Way, Worcester, WR3 8ZE.

If you have not already indicated that you would like to attend please can you email Michelle Hallahan at mhallahan@worcslmc.co.uk as soon as possible.

TCN AND OUT OF HOURS

There has been some real concern expressed by a significant number of practices about the implementation of TCN's Out of Hours Service. This particularly relates to the communications from TCN about patients. We hope to arrange a date early in November when we can get together and try to discuss these. We have fed back already to TCN and to the PCT a number of issues. We hope that these represent glitches and that a promised better service will soon evolve. Of particular concern though to the LMC has been the policy to significantly reduce payments to local doctors working in the OOH. It has always been our view that we should try and encourage more local GPs to do some OOH work. Dramatically reducing the pay so they earn less for OOH work than they would get doing locums during the day does not seem a sensible approach.

2009-109 CONTRACTUAL NEGOTIATIONS

We have been informed by the GPC of the proposals regarding changes to the new contract. All practices should have received a letter from Dr Laurence Buckman identifying this. This can be found on our website. Practices will need to take note of this as QOF payments will change next year. Undoubtedly as with any changes there are going to be winners and losers in this. GPs will need to consider the implications for their own practices.

PENSION NEWS

The outstanding dynamising factors have now been announced and are published on the BMA website. You can also find them on our own site. Further details on the NHS Information Centre will give a detailed explanation and is expected to be published on their website which is www.ic.nhs.uk.

RECRUITING SALARIED GP'S

The following is taken from the Law for Business Corporation's July newsletter and was brought to our attention by the GPC. They feel it is appropriate to give you the full picture in order to avoid any potential future problems.

1. The BMA has always accepted that some parts of the model salaried GP may be altered by GMS practices provided that the overall effect is that the contract offered is no less favourable than the model. So for example, it might be possible to reduce the protected CPD sessions in favour of an increase in salary. However, it is likely to be more difficult to water down the maternity, sickness or redundancy provisions by offering a higher salary, given the difficulty in quantifying this, although there is nothing to stop the parties mutually agreeing to the change.

2. The NHS (GMS Contracts) Regulations 2004 states that a contract between a PCT and GMS practice must require the practice to offer to its salaried GPs terms and conditions which are at least no less favourable than the model salaried GP contract. Therefore, if the corresponding term is missing from the PCT/ practice contract, a salaried GP would be entitled to raise this with the PCT, and may

well have a right of action in the public courts against the PCT for failing to implement the Regulations. LMCs may therefore wish to check with their PCTs as to whether they have included this term.

3. The BMA has previously advised strongly against taking on fixed sum and reduced responsibility partners. This advice still stands. The status of such "partners" has always been open to question and there is a significant risk that the said partner could be declared to be an employee rather than a partner and would automatically acquire employment rights. This could create problems for the practice, particularly if a practice had not factored this in when taking on the "partner" and might then not have sought BMA employment law advice on statutory procedures and good practice. It also follows that this "partner" could then be entitled to the model salaried GP contract (if working in a GMS practice).

4. As of yesterday, Law for Business confirmed that its model GP contract for GMS practices was not yet available. This is because it is currently with senior counsel since it (they confirm) is a "very complex area". As we have not had sight of their model, we are unable to comment on its merits. We would though point out that any amendments to the contract may well be contestable and there is currently no precedent for anyone to base concrete advice upon so remains an area of risk.

5. If GMS practices do not offer terms and conditions which are no less favourable than the model salaried GP, then they risk being sanctioned by the PCT and in extreme situations even possibly having their contract with the PCT terminated. This is because if a salaried GP (or another body) complains to the PCT about the non- use of the model, then the PCT should follow up on this. It is possible that a salaried GP could bring action against the PCT if the PCT failed to do this.

6. Where the BMA has been alerted to a GMS practice not offering the model contract, this has been resolved by it being drawn to the attention of the practice rather than needing to involve the PCT. Therefore it may be the case that a PCT has not yet needed to intervene.

WORCESTERSHIRE LMC WEBSITE

The following guidance has been added to the LMC website during the last month:

BMA/ GPC Guidance:

[Focus on Extended Access 2008/09 – update](#)

[Good Medical Practice for General Practitioners \(GPC & RCGP\)](#)

[GPC News 3](#)

[GPC News - Appendix 1 - GPC Negotiators report](#)

[GPC News - Appendix 2 – Media Report](#)

[Letter to the profession re: GMS Contract 2009-10 from Dr Laurence Buckman](#)

[Notification of revised dynamising factors for 2004-2008](#)

Worcestershire LMC Documents & Guidance:

[Payments for Vaccines – updated document from Kent LMC](#)

[The work of the LMC – Document & Questionnaire](#)

The next LMC meeting will be 13th November 2008