

PSNC LPC and Contractor Support Subcommittee Agenda
for the meeting to be held on Tuesday 19 May 2020
by Zoom 1 – 2.30pm

Members: Sam Fisher (Chair), Alice Hare, Fin McCaul, Lucy Morton-Channon, Umesh Patel, Indrajit Patel, Jay Patel, Sian Retallick

1. Welcome from Chair particularly to Niamh McMillan observing at the meeting
2. Apologies for absence
3. Conflicts or declaration of interest
4. Minutes of the last meeting (pages 2-6) ([Appendix LCS 01/05/2020](#))
5. Actions and Matters Arising

Action

6. LPC Review (pages 7-8) ([Appendix LCS 02/05/2020](#))
7. Ongoing support for LPCs (pages 9-10) ([Appendix LCS 03/05/2020](#))
8. LPC expenses policy update (pages 11-13) ([Appendix LCS 04/05/2020](#))

Report

9. Rapid Action Team (pages 14-15) ([Appendix LCS 05/05/2020](#))
10. Any other business

Pharmaceutical Services Negotiating Committee
Minutes of the LPC and Contractor Support Subcommittee
held on Wednesday 5th February 2020
14 Hosier Lane, London, EC1A 9LQ

Members of LCS present: Sam Fisher (Chair), Fin McCaul, Lucy Morton-Channon, Indrajit Patel, Jay Patel, Alice Hare, Sian Retallick and Umesh Patel.

In attendance: Mark Burdon, Alastair Buxton, Marc Donovan, Simon Dukes, Gordon Hockey, Sue Killen, Layla Rahman, Stephen Thomas.

Item 1 – Welcome from the Chair

1.1 The Chair welcomed everyone to the meeting.

Item 2 – Apologies for absence

2.1 No apologies were received.

Item 3 – Conflicts or Declarations of Interest

3.1 None were declared.

Item 4 – Minutes of the last meeting

4.1 The minutes of the subcommittee meeting held on 27th November 2019 were approved.

Item 5 – Actions and Matters Arising

5.1 There were no matters arising from the minutes that were not already on the agenda for discussion.

Item 6 - LPC Review LPC

6.1 The subcommittee noted the paper on the independent review into contractor support and representation which outlined how the review had been commissioned and the ongoing dialogue with LPC Chief Officers about it.

6.2 The subcommittee noted the concerns raised by some LPCs, in particular considering:

- The fact that the review is not seeking formal views from LPC staff: Zoe Long reported that as is the case for PSNC, some LPC employees have been interviewed by Professor David Wright (DW). Anyone in the sector is free to contact DW by email with views.

- Questions about process and the recommendations: the subcommittee felt that DW should ask LPC CEOs if they would value another webinar with him at this stage. They also felt that further communications to LPCs would be helpful to reassure them that the recommendations of the review will not be the subject of any binding votes at the May 5th conference.
- The report of the review: like LPCs, the subcommittee were keen that LPCs should receive DW's report at the same time as PSNC, and were concerned about when the pharmacy press will have access to the report, and how long any embargo was feasible for. These subcommittee views will be fed back to the PRSC who will develop a communications plan for the report at their next meeting.

6.3 The subcommittee was keen to support DW in encouraging contractor engagement with the review and the office will make this offer to him. This could include receiving feedback from him on ongoing engagement levels with the survey so that we can target any communications activity. The subcommittee noted its disappointment with some of the minor inconsistencies/typos in the surveys and this will also be fed back to DW.

6.4 The subcommittee considered the National Meeting of LPCs to be held on May 5th. It was agreed that it would be appropriate for all PSNC Members to attend this meeting, and also that the costs of hiring a bigger venue (the office has received quotes of £35k+) were likely to be prohibitive. Live streaming the event so that all LPC Members could watch and submit questions for DW would be a good option. We expect the morning of the day to be spent with DW presenting his recommendations and taking questions from conference delegates. The subcommittee was keen to involve some LPC CEOs and Members in planning the day and the office will look to set up a small working group to include LPC representatives and LCS Members, seeking expressions of interest in the first instance. The subcommittee suggested that the working group would also like to consider what other matters should be on the agenda for the conference – this is an important time in terms of contractor support, and LPCs and PSNC will want to consider ongoing current work that may need to be on the agenda in addition to the substantive subject of the independent review.

Action 1: Office to issue an update to LPCs following the PSNC meeting and to seek expressions of interest for a working group to help shape the May 5th conference agenda.

Action 2: Office to feed the views of the subcommittee back to Professor David Wright.

Item 7 – Primary Care Networks

7.1 Alastair Buxton provided an update on Primary Care Networks (PCNs). The future of PCNs is uncertain at the moment because of the reaction from GPs on the ground to some of the work PCNs are being asked to undertake, and the ongoing GMS negotiations. Any PCN

elements of the PQS for 2020/21 are also yet to be agreed with NHS E&I. This uncertainty makes it difficult to plan specific next steps in terms of offering support to LPCs or PCN Leads.

7.2 LPCs were advised to focus their PQS contractor support efforts on the PCN elements of the PQS – many LPCs have spent considerable resource facilitating this and overcoming a range of challenges.

7.3 Good progress has been made in recent weeks on collating a list of pharmacy PCN leads which can be used to pre-populate this field when contractors are completing their PQS submissions in the MYS portal. 1,114 PCN leads have so far been identified. The subcommittee felt that a list of all PCNs along with the areas, mapped to the pharmacy contracts that they cover, could be helpful, recognising that there is still much flux in PCNs and the way they operate.

7.4 The subcommittee felt it would be useful to capture learnings from LPCs about the processes they have been through to select PCN leads and the support they are now offering to PCN Leads. Mike King will ask LPCs about this and this could help to inform future guidance (following clarity on the GMS and PQS negotiations) from PSNC about how LPCs can support engagement with PCNs.

Action 3: The office will work to gather best practice and learnings from LPCs about the PCN Lead selection process and the support they are offering PCN Leads – this may help inform guidance and future work following the conclusion of the GMS and PQS negotiations.

Action 4: The office will explore with NHSE&I what PCN dataset is available for wider distribution, if possible including pharmacy contracts mapped against PCNs where this info is held.

Item 8 – LPC Expenses Policy Update

8.1 The draft LPC expenses policy has been updated following advice from HMRC who have confirmed that the rules that apply to GPs (LMCs) can be applied to pharmacy (LPCs).

8.2 The subcommittee noted that the HMRC guidance applies to pharmacists. It was noted that those registered with the GPhC are professionals and could be seen in a similar context to LMC members; possible also that any LPC member should be equated with an LMC member – although it was commented that the relevant exemption applies to an individual who carries on a profession.

8.3 Not all LPC Members, particularly where they are CCA representatives, are pharmacists, and further clarification may be needed on this before we can share a draft expenses policy with the LPC Treasurers Gaggles group.

8.4 It was also requested that the CCA seek to identify the scale of the issue – what percentage of CCA member employees on LPCs are non-pharmacists; and what proportion of these are registered with the GPhC as technicians.

Action 5: The Office will investigate further whether the relevant exemption applies to non-pharmacists, and through the CCA understand the size of the non-pharmacist LPC representative population.

Item 9 - LPC Guidance on the Competition Act

9.1 The subcommittee felt that there is a need to provide updated guidance to LPCs on Competition Law given the changing local environment and some of the new collaborative relationships being formed between contractors. The draft guidance provided in the agenda needs an update and may be useful and relevant for local PCN leads and the contractors they will engage with, as well as to LPCs. It was noted that guidance on Government websites might be used or referenced to avoid the need for external legal advice.

9.2 For LPCs and PCNs, potential future risk areas include discussions around service commissioning and price-setting, and collaboration around delivery of flu vaccinations.

Action 5: The LPC guidance will be updated, and PCN guidance developed for further review by the subcommittee.

Matters of Report

Items 10 Community Pharmacist Consultation Service

10.1 The subcommittee noted the verbal report.

Item 11– Pharmacy Quality Scheme update

11.1 The subcommittee noted the report.

Item 13 - Any other business

12.1 Fin McCaul noted a request from LPCs for PSNC to provide an update on the contract and outline of what is going to happen over the next year – communications will follow as soon as possible after agreement is reached with NHS E&I and DHSC on 2020/21.

Summary of Action Points

Action 1	Office to issue an update to LPCs following the PSNC meeting and to seek expressions of interest for a working group to help shape the May 5 th conference agenda.
Action 2	Office to feed the views of the subcommittee back to Professor David Wright.

Action 3	The office will work to gather best practice and learnings from LPCs about the PCN Lead selection process and the support they are offering PCN Leads – this may help inform guidance and future work following the conclusion of the GMS and PQS negotiations.
Action 4	The office will explore with NHSE&I what PCN dataset is available for wider distribution, if possible including pharmacy contracts mapped against PCNs where this info is held.
Action 5	The Office will investigate further whether the relevant exemption applies to non-pharmacists, and through the CCA understand the size of the non-pharmacist LPC representative population.
Action 6	Competition Act; The LPC guidance will be updated, and PCN guidance developed for further review by the subcommittee.

Subject	The Independent Review
Date of meeting	19 May 2020
Committee/Subcommittee	LPC and Contractor Support
Status	Public
Overview	An update on the independent review of contractor support and representation.
Proposed action(s)	Consider the issues
Author(s) of the paper	Gordon Hockey

The Independent Review (of contractor support and representation)

- 1 Zoe Long will report on the progress of the Review.
- 2 Issues likely to be of particular interest to the subcommittee, based on the previous meeting, include:
 - a) publication of the review, embargos and who gets what, and when;
 - b) planning for the national LPC meeting, particularly given the practicalities of a virtual meeting and the numbers of participants – the work of the Steering Group;
 - c) reassurances to LPCs about the national meeting (e.g. no binding vote);
 - d) engagement of contractors at this next stage - publication and consideration of the Review's recommendations;
- 3 The subcommittee is asked to consider the issues

Subject	Ongoing support for LPCs
Date of meeting	19 May 2020
Committee/Subcommittee	LPC and Contractor Support
Status	Public
Overview	<p>This paper provides a report on recent support provided to LPCs on non-COVID issues related to the management and running of LPCs.</p> <p>The paper also provides a summary of proposals for a return of some core PSNC support and services to LPCs, working virtually during the 'new normal' period.</p>
Proposed action(s)	To review the proposals for the resumption of some core PSNC support for LPCs
Author(s) of the paper	Mike King

Background

1. Following the Covid19 restrictions, the national meeting of LPC Treasurers planned for April, the national meeting of LPCs (5th May) and some PSNC regional meetings were cancelled. Other work was put on hold – such as the expenses policy, measuring the value of an LPC, provider companies and PCN engagement.
2. Separately from Covid19 related work, there has been a steady stream of queries from LPCs to Mike King on other LPC management issues including requests for guidance on internal staff matters and disputes, complaints against LPCs, LPC finance, governance, constitution, and other aspects of LPC business and administration.

3. The internal review led by Professor Wright has also meant that work such as the LPC dashboard have been on hold pending the outcome of the report.
4. As LPCs begin to return to the other aspects of LPC business, albeit working in a different way, consideration needs to be given for the return of elements of PSNC's support to LPCs that were put on hold in the past few months.

Proposed plans for new ways for the delivery of PSNC training and events

5. For the next phase of planning the suggested approach is a consolidation of LPC support, designed for virtual delivery. This is work that needs to continue while the Wright review and Covid19 restrictions are on-going.

LPC Treasurers' meeting

6. This is a valued PSNC event to support the LPC Treasurers role in the financial management of the LPC. Rather than an annual, day long, national face to face meeting of LPC Treasurers, it is proposed that there are Zoom meetings of LPC Treasurers every two months. Open to all LPC Treasurers the events will include elements of training, PSNC updates, sharing good practice and problem solving. With duration of up to 90minutes the events could be held in the evening or daytime – preceded by a survey of LPC Treasurers to test the proposal and format. The LPC Treasurers Gaggles group will be reinvigorated.

PSNC regional Reps meetings

7. Until recently those meetings organised by the PSNC office (as opposed to those meetings organised by regional groups such as Pharmacy London) were face to face, often full day meetings chaired by the PSNC regional rep. A proposed new approach - still supported by the PSNC office – would be a virtual meeting of two hours with two representatives from each LPC, chaired by the PSNC regional rep.

LPC Training

8. For the foreseeable future this will focus on essential training – particularly that of value to new LPC members or others wanting a refresher on core LPC work. These may be a mix of podcasts, videos and live virtual events forming a library of training material for reference in the future.

LPC Conference 2020

9. This event and the format is being considered by a small steering group of LPCs and PSNC personnel. An update will be provided at the meeting.

Financial considerations

10. It is proposed that all the above events and training are organised and delivered by PSNC free of charge to LPCs. LPCs will need to update their LPC expenses policy to set out the provisions for attending PSNC virtual events and also their own LPC virtual meetings. It is proposed that the model expenses policy for LPCs currently being updated follows the PSNC expenses policy provisions for virtual meeting allowances.

Subject	LPC expenses policy update
Date of meeting	19 May 2020
Committee/Subcommittee	LPC and Contractor Support
Status	Public
Overview	An update from the last meeting on the advice received
Proposed action(s)	To agree to progress the draft expenses policy
Author(s) of the paper	Gordon Hockey

Introduction

11. In the paper at the last meeting was the following:

Broadly, the tax position of LPCs is as follows: provided that a pharmacist LPC member's income from the LPC is not significant, and attendance at LPC related business takes the pharmacist away from professional practice/the pharmacy business, and the LPC day allowance is taxed through the professional practice/the pharmacy business (or the relevant employer's professional practice/pharmacy business), LPCs do not need to make payments to LPC members through PAYE. They may make gross payments to LPC members. (This is not to be construed as tax advice because other caveats and conditions apply including those in relation to National Insurance).

12. The action from the last meeting was:

The Office will investigate further whether the relevant exemption applies to non-pharmacists, and through the CCA understand the size of the non-pharmacist LPC representative population.

Issues

13. The Government website information set out below and the letter from HMRC to PSNC's advisors make clear that the exemption – that LPCs do not need to use PAYE – applies to professionals and professional receipts. Accordingly, this will apply to pharmacists and will include technicians eligible to be registered with the GPhC; but is unlikely to include other employees of contractors – it will not include those who do not 'carry on a profession'.
14. The Government guidance states:

Where a professional in private practice holds an office, the income from that office is strictly taxable as employment income. This is so even if the duties of the office are such that they normally fall within the scope of the office holder's profession and it is held as an incident in carrying on a private practice by the holder (see in this connection CIR v Brander and Cruickshank (46TC574)). The same applies in the case of an employment held by such an individual (but see ESM if there is any doubt in these circumstances about whether a particular engagement amounts to an employment).

However, HMRC recognised that there may be practical difficulties in treating this income as employment income. For periods prior to 6 April 2018, HMRC therefore allowed by extra-statutory concession for this employment income to be treated as ordinary professional receipts within the trading income rules and to allow any expenses admissible under those rules. This was provided specified conditions were met.

<https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim03000>

15. And under the heading, **Employment income: professional remuneration: practical difficulties if treated as employment income**

There could be particular practical difficulties in some cases if the fees received by certain taxpayers in this type of situation were treated as employment income. For example, accountants acting as company auditors or secretaries and solicitors acting as company registrars or secretaries often hold numerous such offices concurrently as an integral part of their professional practice.

Similar difficulties can arise where a partner holds an office or employment and the fees are to be included with partnership income and pooled amongst the partners (for example, a GP with a part time NHS hospital appointment). The amount of tax payable under the rules of taxation for employment income and Trading Income will often be similar in these types of situation.

16. This is followed by the same information in the letter to PSNC's advisors:

Section 6(5) ITEPA 2003, section 16C ITTOIA 2005, section 40B CTA 2009

As shown at [EIM03000](#), income from an office or employment may be exempt from income tax under Part 2 of ITEPA and treated instead as ordinary professional receipts. Section 16C of the Income Tax (Trading and Other Income) Act 2005 and section 40B of the Corporation Tax Act 2009 set out the conditions that must be met before this treatment can be allowed.

The treatment can be allowed where:

- a payment is received by an individual who carries on a profession (alone or in a partnership)
- the payment is made to the individual in his or her capacity as an employee or office-holder, but is not made in respect of employment as a director of a company
- the payment would otherwise be employment income of the individual chargeable to tax under Part 2 of ITEPA
- where the individual carries on the profession in partnership, the individual is required by the terms of the partnership agreement to account to the firm for the payment and does so

Where this is the case, the payment is to be treated for income tax purposes as a receipt of the trade carried on by the individual or, where the individual carries on the profession in partnership, by the firm if the following conditions are met:

- the time spent by the individual in performing the duties of the office or employment is insubstantial compared with the time spent by the individual in carrying on the profession
- the office or employment is related to the profession carried on by the individual (see [EIM03003](#))
- the amount of the payment is insubstantial compared with either the total amount brought into receipt when calculating the individual's trade profits or, where the individual carries on a profession in partnership, so much of the total amount brought into account when calculating the firm's profits as is attributable to the individual

17. It is suggested that the draft LPC expense policy is finalised (and additional PSNC learning on expense policies for virtual meetings is include) and following this, the policy is reviewed by PSNC members and the RAT group, and then provided to LPCs. It could be the subject of discussion and learning at the next LPC Treasurers' meeting.

Subject	Rapid Action Team
Date of meeting	19 May 2020
Committee/Subcommittee	LPC and Contractor Support
Status	Public
Overview	Report on the Rapid Action Team's support for contractors and LPCs during the COVID-19 outbreak
Proposed action(s)	None
Author(s) of the paper	Gordon Hockey

Report

1. Richard Brown will report on the work of the Rapid Action Team (the RAT) Group.
2. Richard, Chief Officer of Avon LPC, has joined the PSNC team on a part-time basis to support collaborative working and communication between PSNC and LPCs. A COVID-19 Rapid Action Team comprising an LPC Chief Officer from each PSNC region in England was formed to support this work.
3. LPCs are providing local intelligence from their contractors into the RAT to support discussions with HM Government and they are tackling local matters such as communication with local GP representatives.
4. The RAT meets twice a week to capture ideas, feedback, and questions from the field, and gather case studies on how community pharmacy teams are dealing with the pandemic.
5. The RAT has been an effective means of communication between PSNC and LPCs. It has enabled LPCs to discuss issues with the PSNC leadership team. The PSNC leadership team

has been able to discuss ongoing issues and draft views, policies, and updates with LPCs and seek feedback; and once guidance is final, cascade it to all LPCs and contractors.

6. LPCs have the opportunity to gain insight into the background information/back story if the decision-making/negotiation and the nuances of the advice and, sometimes, the reasons why more will not be said in public statements, which helps both understanding of the issues, their acceptance and enables LPCs to answer more fully contractor queries.
7. More recently, a CCA and an NPA representative have joined the group to facilitate joined up working between the representative bodies who appoint members to PSNC and who have resources to contribute to ongoing work. Consideration will be given to an AIM representative joining the RAT and when appropriate, the RAT may begin to meet once weekly.
8. Richard has been reporting to weekly PSNC committee updates, so PSNC members will be broadly familiar with the RAT's work.