

FHSAU Pharmacy Appeals User Group

Minutes from the meeting held on Thursday 10 November 2016

Present: Lisa Hughes (LH) (Chair) – Head of FHSAU
 Jonathan Haley (JDH) – FHSAU Business Services Manager
 Phil Bratley (PB) – FHSAU Panel Member
 Alison McCafferty (AMC) – FHSAU Case Manager
 David Reissner (DR) – Partner, Charles Russell Speechlys LLP
 Matt Cox (MC) – Lloyds Pharmacy Ltd
 Joanne Watson (JW) – Boots UK Ltd
 Sally-Anne Kayes (SAK) – NHS England
 Marie Wharton (MW) – NHS England

In attendance: Emily Pailing (EP), FHSAU Appeal Assistant
 Alexis Brown (AB), Senior Contracts Manager (PCSS), NHS England (up to item 5.1 only)
 Debbie Allen (DA), Capita (up to item 5.1 only)
 Angela Lydon (AL), Capita (up to item 5.1 only)

Item	Notes and action points	Responsibility
1 – Welcome	LH welcomed everyone to the meeting, and all those present introduced themselves.	
2 – Apologies for absence	Emma Griffiths-Mbarek of Well Pharmacy and Gordon Hockey, PSNC	
3 – Notes of last meeting	These were agreed.	
4 – Outstanding actions	<p>In addition to those items shown as closed:</p> <p><u>Item 14 – Regulation change (Para 31, Sch 2 & Par 8, Sch 3)</u> LH confirmed that she had emailed DH regarding the above which omitted to deal with conditional grants where the appeal is from the Applicant.</p> <p><u>Item 15 - Amend NHSE decision templates to refer to FHSAU guidance</u> SAK reported that this would need an amendment to the Pharmacy Manual and would require gateway approval.</p> <p><u>Item 19 – Invite Capita to NHSE training events</u> JDH reported that he has spoken to Simon Rider at Capita and it was agreed that the training was aimed at decision making rather than those processing applications. JDH offered to send the slides to AB and DA for consideration of attendance by Capita</p>	JDH

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5 – Matters for discussion	<p><u>5.1 Capita & Market Entry</u> AB conceded that there had been service delivery issues which had not been managed and which had resulted in the departure of senior staff. LH gave some background to the role of the Group and the importance of Capita within market entry both in applications and appeals.</p> <p>LH made the point that the experience of the FHSAU relationship with the Capita market entry team based in Leeds had been a positive one (although the same could not be said for senior managers) The FHSAU had found them to be engaged, reactive, willing to assist and all-in-all most teething problems had been ironed out following discussion.</p> <p>On specific matters, DR raised concerns regarding little or no progress on the processing of applications, including the non-receipt of notifications that applications had been circulated which as a result, was causing some expense for his clients. AB reflected on the scale of the issues they had in terms of the transfer of work, variations in local ways of working, the lack of staff and the lack of experienced staff. An on-line application tracker has been proposed for pilot in February 2017. MW suggested that at a recent meeting there appeared to be some uncertainty about current tracking of applications (by spreadsheet) which DA agreed to look into. LH and MC expressed interest in joining the Working Group (with JDH to represent the FHSAU). JDH will forward contact details to AB. JDH expressed concern that at that first meeting, there would be no system flows to enable representatives to review and take forward. At DR's request, LH agreed that FHSAU would be a conduit of project information to those not involved in the Working Group.</p> <p>LH accepted that some of the issues currently encountered such as the content of decision letters may not necessarily be Capita's fault. AB felt there was some Area Team variation as to their instructions to Capita as to what to include. LH said we would feedback to the FHSAU contact at NHSE.</p> <p>In addition, LH enquired whether parties were being sent all submissions before a decision is made. DR reported that either it wasn't or wasn't being sent to all parties. DR also complained that Capita are not always circulating the representations received on a single occasion meaning a second response is required, which results in extra expense for clients.</p> <p>MC had some specific issues relating to the lack of referencing on correspondence and auto-dating, which DA agreed to review.</p> <p><u>5.2 Admissibility of new material at appeal</u> In GH's absence, JDH asked to what extent do appeals include new evidence that should have been considered initially, and should this be discouraged. DR and LH agreed that this issue may have been discussed at an earlier meeting and that it would be useful for GH to have sight of those notes. In the absence of such notes, the appeal is in any event a reconsideration of the application, not a</p>	<p>DA JDH</p> <p>JDH</p> <p>DA</p> <p>JDH</p>

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	<p>review of NHSE's decision.</p> <p><u>5.3 Future of closely co-located pharmacies</u> In GH's absence, the Group could not consider this further and will revisit at its next meeting.</p> <p><u>5.4 Changes of community pharmacy landscape/Regulations</u> DR suggested it might be useful to have discussion as to what may or may not appear in new legislation. LH said that there would be some amendments to reflect merging of pharmacies. With regard to a wider review of the Regulations, she is not sure what changes this might involve.</p> <p>The Group then discussed how the changes to community pharmacy funding would affect the levels of applications. LH reported that appeals had dropped. MC suggested that there are high levels of applications in processing and that it might be useful for the FHSAU to make enquiries so that it can consider its resources. JDH will contact Capita.</p> <p><u>5.5 Procedure for multiple applications</u> DR reported that a colleague who attended a recent hearing had observed some uncertainty by the Committee as the procedure which should be adopted. JW suggested that knowing the order would be useful which would help skeleton arguments. LH will raise at the next FHSAU Panel Event with a view to setting out some guidelines.</p> <p><u>5.6 Community Pharmacies Judgment – Para 40</u> DR had noted the Judge's observation that in subsequent cases the FHSAU may wish to consider whether to identify the relevant patient groups at a preliminary stage so that all interested parties can focus their energies to the question to access for that or those groups. LH reported that this had been considered internally and that nothing had been decided but she did caveat that changing the process may lead to longer processing of appeals. MC felt the onus was on the applicant. JDH was concerned that the decision maker may identify other patient groups at a later stage. DR accepted that the decision maker should not necessarily be bound by what it has observed at an early stage. LH was of the view that it would likely be Oral Committees that would find the existence of other patient groups and that this should be known at the start of the hearing. DR agreed that this is something which could be dealt with on a case by case basis and if Committee observed the existence of a patient group which had not been addressed, parties would like to be made aware of this.</p>	<p>JDH</p> <p>LH</p>
6 – Draft Service User Survey 2017	JDH presented the draft Service User Survey. The Group reviewed and agreed the draft subject to amending question 1 answer options, to "NHSE" or "Contractor/Representative", "body" e.g LMC, LPC .	JDH
7 – NHS LA name change	LH reported that the NHS LA was considering changing its name. Members were of the view that the FHSAU brand was strong and should remain, but had no particular view with regard to the NHSLA. With regard to the NHS LA name change options, DR suggested NHS LA Dispute Resolution. LH will	LH

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	feedback to the Stakeholder Director.	
8 – Any other business	<p><u>NHSE training events</u> LH reported that two events had taken place and feedback was on the whole, very positive. If need be, additional events will be held and it is planned to devise the contractor application training for late Spring.</p> <p><u>FHSAU Panel Event</u> LH reported that the next FHSAU Panel Member Event is on 15 November. If anyone would like us to raise any items of that event, please let JDH know by Friday 11 November.</p> <p><u>Oral Hearing arrangements</u> PB reported that there were still some variations in terms of how close oral hearing venues are to the application site and as to the practical arrangements on the day. JDH and EP assured PB that each Area Team receives the same information as to our requirements.</p>	
9 – Date of next meeting	JDH advised that he would contact all regarding availability wc 8 and 15 May 2017.	JDH