

FHSAU Pharmacy Appeals User Group

Minutes from the meeting held on Thursday 18 May 2017

Present: Lisa Hughes (LH) – Head of FHSAU
 Jonathan Haley (JDH) (Chair) – FHSAU Business Services Manager
 Phil Bratley (PB) – FHSAU Panel Member
 Abby Davies (AD) – FHSAU Case Manager
 David Reissner (DR) – Partner, Charles Russell Speechlys LLP
 Matt Cox (MC) – Lloyds Pharmacy Ltd
 Jo Severn (JS) – Boots UK Ltd
 Sally-Anne Kayes (SAK) – NHS England
 Gillian Sealey (MW) – NHS England (up to item 5.1 only)
 Gordon Hockey (GH) - PSNC

In attendance: Angela Lydon (AL), Capita (up to item 5.1 only)

Item	Notes and action points	Responsibility
1 – Welcome	JDH welcomed everyone to the meeting, and all those present introduced themselves.	
2 – Apologies for absence	Emma Griffiths-Mbarek of Well Pharmacy and Alexis Brown of NHS England.	
3 – Notes of last meeting	<p>These were agreed.</p> <p>DR enquired if there has been any update on the PCSE/NHSE Working Group regarding the market entry portal; LH advised that there hadn't.</p> <p>JDH reminded the Group that at the last meeting, the content of NHSE decision letters issued by PCSE had been discussed but in the last few days he had seen a letter issued with no reasoning whatsoever. LH advised that it was likely that the variation in decision letters does not necessarily sit with PCSE, particularly if NHSE aren't being clear. AL explained that there was an ongoing piece of work to ensure that Area Teams are being consistent with their instructions to PCSE.</p>	
4 – Outstanding actions	<p>In addition to those items shown as completed:</p> <p><u>Item 15 - Amend NHSE decision templates to refer to FHSAU guidance</u></p>	

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	<p>SAK reported that this would need an amendment to the Pharmacy Manual and would require gateway approval. However, she would raise at the next Contract Manager meeting.</p> <p><u>Item 21 – Working Group</u> JDH reported that he had provided contact details for those interested in participating in the Working Group but had not heard further from Alexis Brown. AL explained that the pilot had been delayed until 2018. SAK reported that she was optimistic that the system would deliver in terms of proposed access and content. MC asked that a mechanism for feedback be available when the pilot is launched. AL said that this project is currently at high level stage but she will pick-up on participation and feedback with the relevant team.</p> <p><u>Item 23 – Tracker spreadsheet</u> AL reported that this was now been shared with Area Teams – action closed.</p> <p><u>Item 24 – Auto date issues</u> AL reported that letters were now being issued in pdf – action closed.</p> <p><u>Item 26 – Applications with Capita</u> AL reported that since 1 January, there had been 630 new applications across all types, of which there are approximately 300 change of ownership cases – action closed.</p>	
5 – Matters for discussion	<p><u>5.1 Capita & Market Entry</u> AL updated the Group on some of the progress PCSE had made to improve its service provision. The market entry team had been broken down into regions which had facilitated better relationships with the Area Teams and ensured that actions are addressed immediately and information is shared. As a result, communications with stakeholders had improved and that the team were responding quickly to any complaints. PCSE intend to launch a new website to support applicants during the process and provide guidance. There is also a new market entry email address. GH enquired whether PCSE would ever revert to provide a telephone service. AL said this would not happen but an effective call back system is in place. GH was pleased that some progress had been made and that the delay of the portal pilot was the correct decision at this time.</p> <p>AL reported that going forward, PCC were supporting PCSE in some of the mechanics of market entry.</p>	

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	<p>PB reported that there were still variations as to oral hearing accommodation in that some hearings had waiting rooms for parties whereas others didn't, although he accepted Capita do not arrange all hearings. SAK explained the difficulty in finding a venue with multiple rooms. It was generally accepted by all the system is problematic.</p> <p><u>5.2 Appeal volumes</u> DR enquired whether the FHSAU had noticed a downturn in appeals. JDH reported that across all application types, appeals were down, significantly by 50% on relocation applications and more than 50% on distance selling applications. It was accepted by all that the current climate of funding changes was driving decisions as to whether to apply or appeal. SAK said that the new PNAs due in 2018 may create more applications.</p> <p><u>5.3 Market entry review</u> DR enquired whether the FHSAU was aware of any progress. SAK said it had been pushed back but LH advised that she did not anticipate any major changes.</p> <p><u>5.4 Amendment Regulations</u> DR asked whether there was any news from the Department regarding amendment to the regulation which requires parties when making representations to indicate that they would wish to attend any oral hearing. LH said this was on a list of suggested amendments that had been sent to the Department and she had no information about when any amendments would be made.</p> <p><u>5.5 Oral Hearing – interested party availability</u> In the interests of fairness, DR asked that interested parties (other than the applicant/applicant) be allowed to provide their availability to attend the oral hearing. LH reported that arranging hearings at a convenient time to all parties would prove problematic but she agreed to look into. There was always the option of course to just provide a date to everyone without seeking agreement from anyone first but attendees would prefer to avoid this option.</p> <p><u>5.6 On-line appeal form</u> LH reported that there had been some recent cases where it had been difficult to establish the status of the appellant because the appeal was lacking in fundamental information. In order to overcome these issues, it was proposed that the FHSAU creates and publishes a discretionary on-line appeal form in which the appellant would set out key information following which they could attach their grounds for appeal. The Group agreed that this</p>	<p>JDH</p>

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	<p>should be implemented.</p> <p><u>5.7 External training for Contractors</u> LH reported that following the success of the NHSE training events, the FHSAU would be running two events in October for contractors. The proposed programme would include the FHSAU's approach to decision making in order for contractors to better understand the process. Both JS and DR felt that this would be beneficial.</p> <p>MC asked if the FHSAU would include training on changes to core hours applications. After some discussion it was agreed that the FHSAU would produce some on-line guidance reflecting previous decisions in this area.</p> <p>GH asked whether the FHSAU would include any training on performance management issues. LH agreed to consider further.</p> <p><u>5.8 NHSR website development</u> JDH reported that NHSR was developing a new site and that he would welcome any suggestions for improvements to the FHSAU pages. In addition, if any service users wished to participate in testing the website, to let him know.</p>	<p>LH</p> <p>LH</p>
6 –Service User Survey 2017	<p>JDH reported on the outcomes of the Survey which shows 71% satisfaction rating across all its functions (on pharmacy the rating was 75%).</p> <p>The Group accepted the suggestion to amend the decision notice so that the decision itself (but not the full reasoning) appears on page 1.</p> <p>In terms of Oral Hearing “rules” being problematic, JS asked that Oral Committee Chairs avoid asking for skeleton arguments especially as these may change leading up to a hearing. PB said it is very rare that this occurs and usually for exceptional cases. LH will discuss with Chairs.</p>	<p>JDH</p> <p>LH</p>
8 – Any other business	<p><u>Quality Payments Scheme</u> PB asked GH on the level of update; GH advised that this was at 10,000</p> <p><u>Minutes</u> DR asked whether he was permitted to disclose the content of discussions at the meeting. LH confirmed he could if duly reflected in the minutes, which will be published.</p>	

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	<p><u>Mergers & Consolidations</u> GH enquired whether there were any applications being made. JS confirmed that Boots had successfully applied. GH said the area was complex and that the PSNC would be issuing guidance.</p> <p><u>Third Party Appeal Rights</u> SAK asked for confirmation as to the process for a party which had not been given the right of appeal. LH confirmed that the party would have to appeal that no such rights were given and at the same time, would have to include the substantive appeal against the grant.</p> <p><u>PAC agenda</u> JS asked whether the agenda could include the location. JH agreed that it could.</p> <p>DR asked that email correspondence also include the location of the application. JH agreed to look into with the admin team.</p>	JDH
9 – Date of next meeting	JDH advised that he would contact all regarding availability wk. 20 and 27 November 2017	JDH