

Primary Care Appeals - Pharmacy User Group

Thursday 18 March 2021 at 1.00pm
Via MS Teams

Members	Job Title/Organisation
Jonathan Haley (JDH)	Head of Operations, Primary Care Appeals
Sanjay Sekhri (SS)	Deputy Director of Advice and Appeals (for item 11 on 12 only)
Rachel White (RW)	Technical Case Manager
Alison McCafferty (AMC)	Case Manager
Phil Bratley (PB)	Panel Member (Pharmacy), Primary Care Appeals
Jo Severn (JS)	Boots UK Ltd
Noel Wardle (NW)	Charles Russell Speechlys
Matt Cox (MC)	Lloyds Pharmacy
Sally-Anne Kayes (SAK)	NHS England
Marie Wharton (MW)	NHS England
Gordon Hockey (GH)	PSNC
Anthony Edwards (AE)	Well Pharmacy
In attendance	Job Title/Organisation
Nick Speight (NS)	PCSE (up to item 5)
Jo Lund (JL)	PCSE (up to item 5)
Julia Ruane (JR)	PCSE (up to item 5)
Kirsty Adlem (KA)	PCSE (up to item 5)
Fiona Richardson (FR)	Case Manager, Primary Care Appeals

Item	Description	Action
1.	<u>Apologies for absence</u> JDH welcomed AE to his first meeting and colleagues from PCSE. No absences were reported at the meeting.	
2.	<u>Minutes of last meeting</u> These had been approved off-line and published. A copy of the minutes were included in the meeting papers for information.	

3.	<p><u>Outstanding actions</u></p> <ul style="list-style-type: none"> • Ask contracts managers for 20-21 appeals training needs. JDH reported he had attended a meeting in January 2021 with NHS Contract Managers to invite them to one-to-one meetings to discuss service improvements and whether there were any gaps and interest in the educational offer from Primary Care Appeals. No interest had been forthcoming. SAK reported that NHS England are so focused on the Covid-19 pandemic that other work hasn't been a priority. SAK reported that there are further potential changes happening so the situation may change. • Review process for dealing with preliminary matters. JDH reported that following on from NW's concern, in future, preliminary matters will be dealt with differently. <p>JDH reported that the all actions from the previous meeting had been completed.</p>	
4.	<p><u>Terms of Reference</u></p> <p>JDH reported that changes to the Terms of Reference had been discussed at the meeting in November 2019. This was due to the Head of Primary Care Appeals leaving the service and the creation of new roles within the team. The Terms of Reference have now been updated. No comments were raised in response to the updated Terms of Reference which will be published.</p>	JDH to arrange publication
5.	<p><u>PCSE update</u></p> <p>JR, Communications Director, gave an overview on what is happening within PCSE currently:</p> <ul style="list-style-type: none"> • PCSE online pharmacy application service for market entry applications is up and running. • PCSE have been undertaking a piece of work in which they have been tracking the number of applications that have been coming in online. JR reported that the volume of online applications is increasing. This could be due to an increased awareness amongst Applicants of the online application process. JR reported that PCSE have been working with body corporates and encouraging them to provide feedback on the online service. The next action would be to discuss any other opportunities to work with NHS England to improve the service. • JR reported that PCSE are expanding the number of services they provide. <ul style="list-style-type: none"> ○ PCSE will be taking on Consolidations and 	

	<p>also Market Exit.</p> <ul style="list-style-type: none"> ○ As a result, PCSE have been discussing changing their name to Pharmacy Market Management Services (rather than Market Entry). ● JR reported that more work is being done within PCSE with service users in order to improve communications. ● The PCSE website has been updated. <ul style="list-style-type: none"> ○ Market Entry section of the website is more focused on how users can access the information they need to access the services. ○ Consolidation service. Interactive guides have been introduced. ○ PCSE have worked on expanding the number of video guidance they offer to improve communication from PCSE. ○ A welcome guide has been produced in order to help sum up what pharmacists can use the services available through PCSE for. <p>JDH asked if Primary Care Appeals should continue to go to PCC for decision letters and papers relating to consolidation applications or to begin directing queries to PCSE. NS informed JDH that there will be a transition period and that Primary Care Appeals will be informed once this transition has been completed. This will be the same for performance sanction appeals.</p> <p><u>FTP checks</u></p> <ul style="list-style-type: none"> ● MC reported that it might be helpful to have better liaison between applicants and the decision maker as to what needs to be provided on FtP checks. ● GH offered to produce some guidance on FtP checks and what is required for contractors as there can be some confusion which can cause delays. 	
6.	<p><u>Appeals team restructure update</u></p> <p>JDH updated the Group on the restructure following the departure of the Head of Primary Care Appeals:</p> <ul style="list-style-type: none"> ● Three new posts had been created - Technical Case Manager, Case Manager (Office Services) and Case Manager (Education and Learning) ● Two posts were filled but Case Manager (Education and Learning) remains vacant. JDH is hoping to have this filled by May 2021. ● Other than the management of the team being different, JDH hoped that service users had not noticed any changes in their interaction with the service. <p>No questions were raised on this.</p>	

7.	<p><u>Primary Care Appeals activity during COVID-19</u> JDH gave a brief verbal report on the Appeals service response to the pandemic:</p> <ul style="list-style-type: none"> • In late March 2020, the Appeal service had been asked by NHS England what its approach was to dealing with market entry appeals during the pandemic. Given the volume of cases and their stages, it was decided to continue processing and determining appeals, and this has continued through the pandemic with the exception for hearings, which have been subject to delay. • In July with no certainty in sight that face to face hearings could recommence, the Appeals service piloted a virtual oral hearing in September. This was successful and as a result, other hearings were held virtually in November. • In January 2021, hearings were once again put on hold. However hearings will recommence after Easter. <p>JDH reported that he is mindful that there is a preference for face to face hearing and will keep everyone updated as and when the situation changes.</p>	
8.	<p><u>SSP Health v NHS Litigation Authority</u> JDH reported that the above case will be of interest. SSP Health held an APMS contract and was in dispute with NHS England which the Appeals service was asked to resolve. SSP Health were awarded monies however sought interest. The Adjudicator did not believe a power existed to award interest but the Court of Appeal has indicated that one exists by virtue of the NHS Act.</p> <p>JDH reported that this judgement does not apply retrospectively other than to a small number of cases. Going forward the Appeals service have the authority to award interest payments (where an under or an over-payment applies). The impact for pharmacy is minimal as this will only apply to cases where NHS England seeks to clawback aspirational payments and the pharmacist loses their appeal.</p> <p>JDH reported that PSNC and representative bodies had provided views on the approach the Appeals service should take to considering interest payments. JDH is hopeful that this will be finalised soon.</p>	
9.	<p><u>Outcomes from the stakeholder meetings</u> JDH thanked all those present for participating in the in-depth meetings exploring views on the impact, efficiency and robustness of the Appeals service. Service enhancements have been identified and will be taken forward from April.</p>	

<p>10.</p>	<p><u>Updated guidance notes</u> JDH reported that the Appeals service had reviewed three of its guidance notes - Opening Hours, Relocations and Breach/Remedial Notices.</p> <p>NW asked if the relocation guidance note could include reference to the Committee’s approach when a pharmacy is relocating to the same location as a GP surgery.</p> <p>GH requested that the breach notice guidance note contains information relating to Dispute Resolution which is closer to the beginning of the process. This may help to avoid some breach notices. SAK reported this is in the pharmacy manual so is something that is supposed to be done however there is inconsistency across NHS England on this.</p> <p>JDH agreed to update and will send the links once they are published</p>	<p>JDH to update guidance notes</p> <p>JDH to send links when published</p>
<p>11.</p>	<p><u>Equality, diversity and inclusion agenda – demographic data collection</u> JDH provided the context to the Statement of Intent:</p> <ul style="list-style-type: none"> • NHSR have begun to look at its EDI agenda – three questions have been asked of its core functions: <ul style="list-style-type: none"> ○ What services are being used? ○ What is the demographic of service users? ○ What are the outcomes for service users? • Currently, Appeals do not collect demographic data and it is keen to have the support of the User Group as it embarks on this important work. • The challenges for pharmacy is whose data should we be collecting and how do we collect it in order that it is not burdensome to Applicants and their representatives. <p><u>Whose data do Appeals want?</u> NW questioned how easy it would be to collect demographic data of the Applicant considering that almost all of the Applicants are body corporates. NW asked if the demographic data could be collected from the individual who has filled out the application form as they are the person engaging in the process.</p> <p>JDH explained that he had considered whether it should be the Director or the Superintendent Pharmacist but was mindful that neither will necessarily be involved in the day to day running of the pharmacy. SAK asked that if we were to collect the Superintendent Pharmacist ethnicity, would it skew any diversity? The application is not actually about the Superintendent Pharmacist and therefore this information could skew or interfere with the results and how they are interpreted.</p>	

	<p>GH asked if the collection of demographic data should be implemented throughout the application process rather than just at appeal stage. Will the data be used to determine the number of Appeals coming through and whether certain decisions are made against a certain group? GH reported that it is important to be aware that the collected data may be misinterpreted by others if not presented correctly. GH reported that RPS are doing a piece of work on diversity and inclusion and PSNC is linked into it. GH asked if there is a way of bringing Primary Care Appeals into this as well.</p> <p>SS agreed that wider conversations will be important for outlining and understanding the process of gathering data and is something that needs to be navigated carefully:</p> <ul style="list-style-type: none"> • Are the correct questions being asked? • To what extent is this fulfilling the original purpose of gathering the data? • Ensure that Primary Care Appeals is doing the correct thing within the health care sector. • Could be useful for provoking a conversation within NHS England as to how the data is reflected back to them and providing the opportunity to develop further insights? <p>MC asked if providing demographic data will be mandatory. SS confirmed it will <u>not</u> be mandatory. MC also stated that it is important to make the intent and reasoning behind the piece of work transparent (make it clear that it is not just a “tick-box” exercise).</p> <p>GH offered his support to the EDI agenda. GH also mentioned the importance of considering Applicants present at Oral Hearings. JDH agreed and stated that the EDI agenda isn’t just about understanding demographics, it is about learning and development including for Appeals Panel Members. PB agreed that the Panel have an important role in ensuring that oral hearings are carried out fairly without prejudice or bias.</p> <p>No objections were made to the principle of demographic data collection within the context of equality and diversity.</p>	
12.	<p><u>Any other business</u></p> <p><u>Core opening hours</u></p> <p>MW reported that she had been approached by colleagues regarding recent appeal decisions overturning NHS England directions to open on 25 December and to ask for clarity of approach to undertaking assessments. JDH informed MW that for these particular cases, NHS England had assessed which providers hadn’t provided services on past bank holidays and selected a provider on that basis, which was</p>	

<p>the wrong approach. JDH reported that the correct approach was to assess what cover was needed and which pharmacy was best placed taking into account a wide range of factors.</p> <p>JDH suggested that there was some wider learning here for other local offices. SAK suggested that this is something that could go to a future NHS England Contract Managers meeting. GH mentioned that liaising with LPCs around bank holiday opening hours could be a useful approach as some pharmacies may volunteer to open.</p> <p>JDH then advised that the opening hours guidance note contains reference to a case (SHA/19886) where the pharmacy was able to demonstrate a change in the needs of patients.</p> <p>No other business was raised at the meeting.</p> <p>JDH thanked all for attending. The next meeting will be arranged for October 2021, date and time TBC.</p>	<p>SAK to raise hours assessments at NHSE meeting</p>
--	---