

Extended Advisory Group on the NHS (Pharmaceutical Services) Regulations 2013

**Minutes – 27 September 2012
1.30 am – 3.30 pm**

**Room 402A Skipton House
London Road, London SE1 6LH**

1. Welcome and introductions

In attendance:

Paul Burns	Chair
Kelvin Rowland-Jones	NHS Employers
Steve Lutener	Pharmaceutical Services Negotiating Committee
Sue Sharpe	Pharmaceutical Services Negotiating Committee
Dr Russell Walshaw	General Practitioners' Committee (GPC) of the British Medical Association (BMA)
Dr Richard West	Dispensing Doctors' Association at the invitation of the GPC of the BMA
Catharina Ohman-Smith	GPC of the BMA – observer
Matthew Isom	Dispensing Doctors' Association – observer
Ray Hodgkinson	British Healthcare Trades Association
Alyson Morley	Local Government Association
Sarah Billington	Local Government Association Support
Jeannette Howe	DH Sponsor (part)
Secretariat	
Michael Adam	DH Legal Services
Peter Dunlevy	DH
Catriona Patterson	DH
Gillian Farnfield	DH
Charlotte Bone	DH

1.1 Paul welcomed members to the third meeting of the Extended Advisory Group

2. Apologies

Peter Bullen	BHTA
Charlotte Goodson	Primary Care Commissioning
Taryn Harding	NHS Employers
Sam Illingworth	NHS Commissioning Board – Commissioning Development
David Thorne	NHS Employers
Gary Warner	PSNC

3. Notes of meeting held on 26 July 2012

- 3.1 The notes were agreed and signed as a correct record. They would be published alongside the papers of the last meeting on the Department of Health website as soon as practicable. The papers for the last two meetings have now been published on the DH website – the Secretariat will send members a weblink to their location.

Action: Secretariat

4. Matters arising not included in the agenda

- 4.1 (4.5) – Catriona confirmed that an addendum to the transitional arrangements guidance was published on the DH website soon after the last meeting of the Group.

5. Developing the 2013 Regulations

- 5.1 *Health and Wellbeing Boards and PNAs* – Catriona reported on a discussion she had had with Alyson on HWBs and PNAs – they decided due to pressure of work not to produce a separate paper on Joint Strategic Needs Assessments (JSNAs) – therefore a copy of the draft consultation JSNA statutory guidance had been attached to the papers for this meeting for information. This gives an understanding of the way forward on the setting up of Health and Wellbeing Boards and the way they will work. There was a short discussion on guidance/information needed to accompany the Regulations given that Local Government was not used to too much regulation and prefers best practice type guidance. Alyson and Catriona will discuss outside the meeting what accompanying information is needed for HWBs and others on PNAs.

Action: Catriona Patterson/Alyson Morley

- 5.2 *First draft of 2013 Regulations* – the Chairman reported that Michael had drafted up to the end of Schedule 3 and that most of the changes made were amending “Primary Care Trust” to “Board” and “Health and Wellbeing Board”. The draft regulations on local pharmaceutical services and pharmacy remuneration are still under discussion internally within DH and relevant members will be consulted on these separately.
- 5.3 *Draft regulation 2* – Steve queried the definition of “non-electronic prescription form” and whether this includes other non-FP10 forms of prescriptions such as vouchers and whether a link was going to be made to the NHS (Charges for Drugs and Appliances) Regulations – Michael confirmed the inclusion of

vouchers etc that would be dispensed as part of pharmaceutical services and that there was going to be a link to the Charges Regulations. Eleanor Shenton leads on this at DH – Michael has shared this definition with Eleanor. Michael will reflect further on whether the provisions deal appropriately with services provided by “pharmacist independent prescribers” that are additional services, and services commissioned by clinical commissioning groups.

Action: Michael Adam

- 5.4 *Draft regulations on HWBs and PNAs* – Michael explained how these had been drafted. He outlined that because of the powers in the NHS Act 2006, a date had to be specified as to when the HWB will publish its first PNA. DH had therefore decided to go for 1 April 2015 as the **latest** date for publishing the first PNA. The LGA were in agreement with this, as this would enable PNAs to fit in with local authorities’ JSNA development and updating cycles. The PSNC felt this date was a good one in this instance and would give HWBs flexibility in a time of huge change. There is nothing to stop HWBs producing supplementary statements or if needed rewriting the PNA before this time. The GPC and DDA voiced their concerns that this could mean PNAs would become very out of date and would be out of synch with the three-year cycle in draft regulation 6. Kelvin reported that many PNAs had been drafted by PCT medicines management teams. Many of these teams were not being transferred to any Body in the new structure. He was therefore concerned about the impact of the transition between PCTs and HWBs given the loss of experience of putting together PNAs. The GPC were also concerned about this loss of expertise and that with PCT PNAs, many had direct input from LRCs before the draft went out for consultation and whether this would continue. Alyson and Sarah confirmed that HWBs can have advisers and some shadow HWBs already have pharmacy champions, specified themed Task and Finish groups and other ways of tapping into relevant expertise.

The views of members of the group were noted – DH will decide what date will finally be included in the draft regulations. Michael will look at draft Regulation 6 again to see if some of the group’s concerns could be covered in this draft regulation.

Action: Michael

- 5.5 *Draft regulation 7* – Michael will correct “immediately appointed day” to “immediately before the appointed day”.

Action: Michael

- 5.6 *Draft regulation 8* – the LGA are generally content with this draft regulation and confirmed that CCGs and the NHSCB are represented on HWBs. Local authorities have a good reputation for consulting widely. The PSNC were in agreement with carrying forward draft regulation 8(4)-(6).
- 5.7 *Draft regulation 9* – The LGA are generally content with this draft regulation although the inclusion of the equality duty does not seem necessary as this is in other legislation and local authorities are well-aware of this duty. It was agreed to remove draft regulation 9(1)(a) and (b). Sue queried 9(1)(d) and (g) and whether reasonable choice might lead to the granting of too many pharmacies in one area, therefore forcing existing pharmacies to close. Peter

confirmed that market entry considerations were not relevant in this part of the Regulations and that there should be no reference to the market entry decision-making process in the draft regulation. It was agreed that Sue and DH would re-examine the PNA section of the draft regulations to take out references to the market entry application process.

Action: Sue Sharpe, DH

5.8 *Draft regulation 10* – Paul confirmed a change from what was agreed in May with regard to the NHSCB having one pharmaceutical list. The draft Regulations now say, “pharmaceutical lists”. There are many reasons for this change but it is mainly to ease the transfer the 2012 Regulations into the new structure including for fitness to practise purposes. The NHSCB will still in reality have one pharmaceutical list but these lists would be dealt with by HWB area for market entry purposes – notification etc. Michael confirmed that he has deliberately left the information and data sharing elements of the current Regulations as loose as possible to give the bodies concerned enough flexibility to work these out in practice. This also applies to public access to the pharmaceutical lists. Any detail could be included in any information published to accompany the Regulations.

5.9 *Draft regulation 26* – Michael will revisit this.

Action: Michael Adam

5.10 *Rural dispensing* – there was some discussion on controlled locality maps and the relevant responsibilities. It was agreed it would be the responsibility of the NHSCB to delineate the controlled areas and publish the controlled locality map. The HWB would also publish the controlled locality map. This could be clarified in the information to accompany the Regulations.

5.11 *Draft regulation 43(4)(b)* – there was a short discussion on whether reserved locations should be included on the published controlled area map in light of taking market entry considerations out of this section and the agreed responsibilities for the controlled area maps. DH will therefore discuss the revising of this draft regulation in light of the discussions.

Action: DH

6. Any other business

6.1 *The NHS (Pharmaceutical Services) Regulations (Amendment) Regulations 2012* – these amendments which include three amendments to the 2012 Regulations had been laid on 17 September and come into force on 1 November.

7. Date of next meeting and close

8.1 The next meeting would take place on 25 October at the earlier time of 11.30 am to 1.30 pm.

Summary of Action Points

Agenda item	Action point	Who
3.1	Send members a link to Advisory Group papers on DH website	Secretariat
5.1	Discuss information needed for HWBs to accompany the Regulations	Alyson Morley/ Catriona Patterson
5.3	Check whether “additional services” includes services commissioned by Clinical Commissioning Groups	Michael Adam
5.4	Michael to consider draft regulation 6 again in light of group’s concerns	Michael Adam
5.5	Amend “immediately appointed day” to “immediately before the appointed day”	Michael Adam
5.7	Re-examine the PNA section of the draft regulations to take out references to the market entry application process	Sue Sharpe/DH
5.9	Revisit draft regulation 26	Michael Adam
5.11	To discuss revising draft regulation 43(4)(b) in light of the discussions at meeting	DH