



## Special points of interest:

- ◆ Care Quality Commission
- ◆ Patient Participation DES
- ◆ Developing Clinical GP Commissioning Groups in Essex

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## GP Commissioning Consortia (GPCC) OUT Clinical Commissioning Groups (CCG) IN

The Government has completed its "Pause", announced during the passage of the Health and Social Care Bill, and has stated that *"The fundamental principles of our plans remain the same."* Her Majesty's Government wants to empower front line professionals to liberate the NHS and achieve better outcomes for patients. So far so good, but the changes they have introduced appear to make this transfer of power to the front line a very complex and highly regulated affair.

GPCCs only exist in shadow form at best and will now have to evolve into CCGs with wider representation and complexity. Those who were concerned that GP commissioning would give too much unfettered power to GPs seem to have had a major influence on government thinking, but the resultant mixture of devolution and central restraint is very difficult to comprehend.

The decision making bodies of the CCGs will

now include two lay people, possibly linked to the Local Authority, and a nurse and medical consultant. The latter must be people who have no potential conflict of interest in performing this duty, therefore ruling out local consultants who would surely have the most to offer. This is the market gone mad, as in a non-market integrated NHS everyone would have one interest, the welfare of patients. The rush to establish Foundation Trusts increases the divisions between clinicians and so handicaps attempts to integrate services. These reforms appear to be going in two opposing directions.

The role of Monitor will be altered from one of enforcing competition to that of encouraging integration, but how this will work in practice is unclear. The basic features of a totally private NHS remain within the Bill and many people feel that the real agenda is not clinical commissioning but

privatisation. Should they be right it is GPs who will be blamed sooner or later.

Another change to the basic commissioning structure is the introduction of "Clinical Senates" which will have a strategic overview of services and will probably be an expanded version of existing specialist networks. The current feeling is that Clinical Senates will cover a number of CCGs and they may be at least the size of a county, or even region.

CCGs will require authorisation from the National Commissioning Board (NCB), but this process will also involve Local Authorities via the Health and Wellbeing Boards (HWB). Essex County Council already has a Health and Wellbeing Board and has been taking a keen interest in the development of GPCCs. Closer integration between primary and community health care and social care is one of the key features of these reforms, and hopefully

## Cont'd... Clinical Commissioning Groups (CCG) IN

this goal may still be achievable. The position of Public Health medicine is also uncertain, as the original plans moved this vital resource into Local Authorities.

The added complexity of these changes to the initial plan strengthens the case for larger statutory CCGs. We

have been building GPCCs of varying sizes in Essex, but none are larger than a current PCT. Perhaps what we need to do is focus on closer working in localities of up to 100,000 patients, but linking with a larger CCG which has the purchasing power, and the management

expertise, to satisfy the multiple demands now placed on GP commissioners. Is it too early to push for the Essex NHS Clinical Commissioning Group? It has a nice ring to it.

BB

“Connecting for Health has confirmed that the IG Training Tool modules are only mandatory for PCT staff.”

## Information Governance Requirements for General Practice

Clarification was recently received from the GPC regarding the information governance requirements for general practice.

**The Information Governance Toolkit** is an online self-assessment tool which allows NHS organisations and partners to assess themselves against Department of Health Information Governance policies and standards. The toolkit provides the mechanism for practices to complete their annual Information Governance Statement of Assurance. Therefore, whilst completion of the toolkit is not a contractual requirement, it is necessary in order for practices to ensure that their Connecting for Health services continue to be provided. The toolkit encompasses thirteen requirements for general practice to self-assess against.

An updated version of the toolkit is available in June/July each year for submission by 31<sup>st</sup> March the following year. Version 9 is the most recent edition. Each practice should have a nominated IT lead who will complete the online self-assessment on behalf of the practice. An overall score is allocated and if a practice is deemed not to be meeting particular criteria, the PCT should discuss with that practice how best to ensure the required standards are met in the following year.

The requirements of the IG Toolkit can be found at <https://www.igt.connectingforhealth.nhs.uk/RequirementsList.aspx?tk=407206131760756&Inv=2&cb=3041bf33-03ba-44c9-8910-bcd05774eec9&sViewOrgType=4&sDesc=General%20Practice>

Requirement 8-117 of the Toolkit states that “*all staff members are provided with appropriate training on information governance requirements*”. However, this does not mean that GPs and practice staff are required to complete all twelve modules of the **Information Governance Training Tool**. Connecting for Health has confirmed that the IG Training Tool modules are only mandatory for PCT staff. Whilst practices may choose to use these modules in order to meet requirement 8-117 of the IG Toolkit, this is not compulsory and practices may choose to provide “appropriate training” through other means.



## Employment Status of Locum GPs

Practices should be aware that whilst GP locums are generally self-employed, in certain circumstances they may be considered to be employees, and would therefore be subject to the relevant employment law. This could potentially lead to employment tribunals and leave practices facing hefty legal bills.

### **On what basis could a locum launch legal action?**

Employees are those who enjoy what is called a 'mutuality of obligation' between themselves and their employer: in other words, the employer is obliged to provide work, and the employee is obliged to accept it. Practices may have a

*locum contract with the locum GP that accepts each party can refuse to provide or accept work, but problems can start to arise if, in reality, the surgery does rely on the locum doctor and, in turn, the locum doctor relies on the surgery for certain fixed sessions. If this is the case, then a locum doctor may be able to claim they are more an 'employee' of the surgery as opposed to being self-employed.*

### **How can I prevent this?**

Practices are able to protect themselves with a clause in their locum GP contract that says although they reasonably expect that specific locum doctor to turn up for the

*agreed sessions, the locum may also sub-contract the work to another doctor, with the surgery's prior agreement.*

*If it is well-drafted, then this so-called 'substitution clause' removes the possibility that the locum was a worker, as it dispels the notion that the locum doctor is personally required to provide the service. It does not have to have ever been invoked to still hold legal force.*

*It is important to emphasise that every situation is different.*

*Expert advice is therefore a sensible option once the above has been considered.*



### **NB. Employment Status of Locum GPs**

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## Summary Care Records (SCR)

The latest Summary Care Records guidance can be accessed via the connecting for health website. All the materials have been developed with the involvement of the GPC, RCGP and the BMA.

The documents are aimed at increasing patients' awareness of the current system and include a guide for practice staff, checklists and posters. It is important to stress that the position of the GPC

and LMCs remain unchanged. The decision on whether or not to upload Summary Care Records rests entirely with individual practices.

"The decision on whether or not to upload Summary Care Records rests entirely with individual practices."

## Ethnicity and First Language Recording

The Ethnicity and First Language DES was introduced as part of the 2008/09 contract negotiations and was intended as a two-year catch up to enable practices to record ethnicity and first language for patients already on their list. Following the third year

extension for 2010-11, the Ethnicity and First Language DES was withdrawn on 1<sup>st</sup> April 2011.

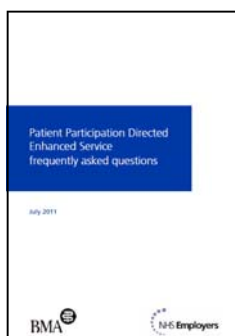
Despite the withdrawal of this DES, practices may wish to continue to record their patients' first language and ethnicity as a matter of routine in

order to assess the needs of their population. GPC guidance and the list of ethnicity/language codes can be found on the BMA website at:

[http://www.bma.org.uk/images/gpcethnicityfirstlanguage\\_may2011\\_v2\\_tcm41-206033.pdf](http://www.bma.org.uk/images/gpcethnicityfirstlanguage_may2011_v2_tcm41-206033.pdf)



## Patient Participation DES



“The aim of the Patient Participation DES is to promote proactive engagement of patients via a Patient Reference Group and to seek the views of patients using a local patient survey.”

The BMA/NHS Employers recently issued guidance and audit requirements in respect of the Patient Participation DES. This is a two year DES which runs from 1<sup>st</sup> April 2011 until 31<sup>st</sup> March 2013 and is funded by monies released from the reduction in the Extended Hours DES payment.

The aim of the Patient Participation DES is to promote proactive engagement of patients via a Patient Reference Group and to seek the views of patients using a local patient survey. A total of £1.10 per registered patient is available to practices if they meet the key requirements of the DES:-

- ◇ To develop a structure that gains the views of patients and enables the practice to obtain feedback from the practice population, eg a patient reference group
- ◇ To agree areas of priority with their

patient reference group

- ◇ To collate patient views through a patient survey
- ◇ To agree an action plan with their patient reference group
- ◇ To publicise the results of the patient survey
- ◇ To publicise the actions taken and what is achieved as a result

The GPC has also issued details of an online toolkit and guide to running a patient liaison group, together with clarification on the requirements of the Patient Participation DES including:-

- ◇ There is no minimum size defined for a Patient Reference Group. However, groups should be of sufficient size to be representative of the patient population. Practices need to demonstrate that they have attempted to engage a representative group of patients as possible.

◇ Practices can use their existing Patient Participation Group as a basis for their Patient Reference Group.

◇ Practices are required to publish opening hours and information relating to the PRG (eg reports on the views expressed by patients in the patient survey and actions agreed) on their own dedicated website, this cannot be done via NHS Choices. However, there will be some flexibility to allow practices time to set up a website if they do not already have one. Alternatively, practices may use their commissioning group's website if appropriate, provided that individual practice information is clearly displayed.

The joint BMA/NHS Employers guidance and the GPC FAQs can be found at: <http://www.bma.org.uk/employmentandcontracts/independentcontractors/enhancedservices/patientpartdes.jsp>

## Care Quality Commission (CQC) Registration

The Department of Health issued a statement on 17<sup>th</sup> June 2011 regarding the consultation to defer the registration of NHS GP Practices with CQC until April 2013. The consultation document can be found at:-

[http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/documents/digitalasset/dh\\_127687.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_127687.pdf)

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The consultation period runs until 29<sup>th</sup> July 2011.

Further information will be circulated as it becomes available, but in the

meantime the LMC would reiterate the GPC advice that practices should not employ any private companies and/or purchase any commercially produced Toolkits to prepare for registration at the present time.



## Contact the LMC

The LMC is routinely contacted by practices for advice on a variety of issues. It may be that a practice simply wants to clarify a point of regulation, confirm that requests for information from PCTs and others is within Contract or seek advice on QOF, Enhanced Services, etc. Some issues are more complex than others.

We are, however, conscious that there are instances when practices do not contact us at an early stage. There could be an issue or query which may have been relatively simple to resolve, but by the time contact is made, it has become more complex, resulting in stress and anxiety for practices.

The LMC has a wealth of experience and would like to remind you that we are a source of support and information for you. If there is anything you think we may be able to help you with then please do not hesitate to contact the LMC office.

**North & South Essex  
Local Medical Committees Ltd**  
Promoting the interests, aspirations and welfare of general practitioners

## LMC Surgery Sessions

The LMCs are a source of information and support for all GPs in Essex. The LMC office aims to maintain good communication links with practices through regular e-mail communications, the LMC website and Newsletter. However, we are aware that many practices may not meet with LMC officers

and local representatives until a problem arises.

In order to facilitate further engagement with practices, the LMC intends to commence evening "Surgery Sessions" in each locality. Constituents will have the opportunity to meet their local representatives and

officers and discuss any issues they may have. This will be piloted in two/three localities initially, the first session will be held in West Essex on 27<sup>th</sup> September 2011. Further details will be e-mailed to practices within the next few weeks.

"...the LMC intends to commence evening "Surgery Sessions" in each locality."

## Developing Clinical Commissioning Groups in Essex — Accountability and Rules of Engagement with Practices

Enclosed with this edition of the TMI is a document produced by North & South Essex LMCs entitled 'Accountability and Rules of Engagement with Practices'

The engagement of all practices in the new arrangements is crucial. The document highlights a number of guiding principles and rules which are intended to underpin the way in which commissioning groups will engage with practices.

Commissioning groups are deliberately intended not to replicate PCTs. The two-way accountability measures proposed in the document are fundamentally different from anything that exists in the current system.

The intention is that the North & South Essex LMCs will now begin discussions with the transitional leaders of emerging commissioning groups with a view to securing their agreement to the

inclusion of these measures in their formal consultations. In the meantime practices may be asked to sign Accountability Agreements by their local commissioning groups. Before doing so practices are advised to check that the agreement does not differ greatly from the principles agreed by the LMCs, particularly in the areas of Elections, Performance Management and Dispute Resolution.



## BUYING GROUP - Locum Cover Insurance



“With the recent activity around PMS contracts being changed by Suffolk PCT, are you aware of the affect this could have on you if you were under this PCT?”

Are you aware of the serious financial effect to your practice if one of your key members of staff were to be unexpectedly absent?

Most GP practices understand the risks involved when their GPs, nurses or staff are unable to work, particularly if this happens unexpectedly. Increasing workloads can be significant, particularly if the decision has been taken by the practice to self-insure this absence and a locum is not employed.

Larger practices are often deterred from taking out a locum insurance plan as they feel that in the absence of one, or even two partners they can manage this internally. However, over the longer term this can put individuals under increasing pressure, working longer hours in order to maintain a high quality of patient care.

### Are you protected against the unexpected?

As we live in an unfortunately growing litigious society, cases of key members being suspended for example are becoming tragically more commonplace. GPs can be away from their surgeries for anything from 9 to 18 months, which for a full time Partner would be equivalent to a cost of around £78k to £156k. Even if they were to be found innocent! According to a recent NCAS report in Q1 of 2011, the average suspension term is 9 months, which equates to

an average cost to a practice of over £87,000.

Locum Insurance Cover reduces the risk of these types of events affecting your practice by paying a weekly benefit to cover costs, even if you do not employ a Locum. MIAB can provide cover for Accident and Sickness, Maternity, Paternity and Adoption Leave, Suspension, Revalidation and Compassionate leave among other things.

### Legal Expenses Plan

Have you or someone you know been involved in a dispute with the PCT? Are your practice and your staff protected against costly litigation when defending or asserting your rights in both civil and criminal law?

In general, relationships with PCTs run quite smoothly and as everyone is generally governed by the same rules, disputes with PCTs are perceived as unlikely. Only when a dispute occurs do practices suddenly realise the significant financial input required to cover legal fees and costs. On top of which, when you need to make a claim on your legal cover policy, most current insurance providers will put you in touch with a local solicitor, who is unlikely to be a medical specialist.

With the recent activity around PMS contracts being changed by Suffolk PCT, are you aware of the affect this could have on you if you were under this PCT?

Indeed, it seems that it is

likely to be rolled out to the rest of the UK.

Does your Legal Expenses Plan also cover the partners of the practice if they were ever to be in dispute with one other?

Experience shows us that too many practices nowadays still don't have any form of Practice Agreement in place and we know of practices who although they have one in place, written and agreed, it has never been signed by those very people to which it relates! Not having an agreement in place means that any dispute will be subject to the Partnership Act of 1890. Getting specialist advice under this Act can be very difficult at best and due to its complexity, the specialist advice needed proves to be expensive.

MIAB's Legal Expenses Plan can protect your practice from costly litigation when defending or asserting its rights in both civil and criminal law. It also protects not only the partners, but also staff and their families from a wide range of potentially expensive legal threats. Cover includes legal advice from a team of specialist medical lawyers, renowned for their expertise in the medical industry.

For more information or a quote please contact MIAB on 01438 730210 or visit our website [www.themiab.co.uk](http://www.themiab.co.uk)



## NHS Choices Website

Practices are reminded that you will be notified of a comment pertaining to you **following** the publication of a comment on the NHS Choices website. An alert is sent to a named recipient at the practice in question (usually the practice manager although this will be designated by the practice). Practices then have two options:

1. Post a reply, in order to put across the practice's views and deal with any issues raised. This will appear immediately below the original comment.
2. Report the comment to the website moderator as unsuitable.

Following some concerns which have recently been raised again about the NHS Choices website, the

GPC advice regarding negative comments on the site is to encourage GPs to respond constructively to the website when a comment is posted about them, in order for them to be able to correct any misrepresentation and also to show their professionalism under these circumstances. As long as the reply is positive and carefully constructed, rather than defensive, it should help and not hinder GPs in these particular situations.

NHS Choices also have a 'comments policy' on their website which states that should a comment be flagged by a practice as unsuitable, then this will alert their moderators to take down the comment, consider it, and then either remove it or reinstate it as they deem

appropriate.

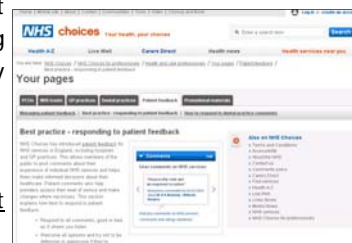
The following NHS Choices guidance may assist practices in managing any comments they receive:

### Managing patient feedback

<http://www.nhs.uk/aboutNHSChoices/professionals/healthandcareprofessionals/your-pages/Pages/managingfeedback.aspx>

### Best practice – responding to patient feedback

<http://www.nhs.uk/aboutNHSChoices/professionals/healthandcareprofessionals/your-pages/Pages/good-practice.aspx>



“GPC advice regarding negative comments on the site is to encourage GPs to respond constructively to the website...”

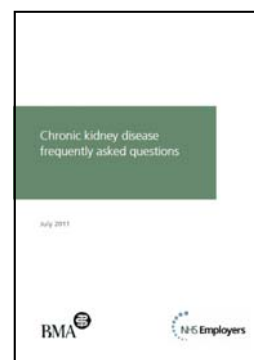
## Chronic Kidney Disease FAQs

The GPC and NHSE have just published an updated set of questions and answers in relation to chronic kidney disease and the Quality and Outcomes Framework (QOF) indicators. First published in November 2009, these FAQs have now been updated to take into account current issues and the latest available evidence in line with NICE guidelines for this disease area.

In particular, the updated guidance includes new sections on 'management of CKD: a summary' and on stages and complications of the disease. It also includes two new annexes on 'what should practices do if they do not have access to eGFR?' and a 'glossary of terms' at the back of the document.

The updated guidance can be accessed here:

<http://www.bma.org.uk/employmentandcontracts/independentcontractors/qualityoutcomesframework/faqkidney.jsp>





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## Future Events

### 1<sup>st</sup> October 2011 **Essex Sessional GP Event**

To be held at the Postgraduate Medical Institute, Chelmsford

Booking via: <https://store.anglia.ac.uk>

### October 2011 (date to be confirmed) **Pensions Seminar**

To be held at Margaretting, Chelmsford

Booking via: [events@essexlmc.org.uk](mailto:events@essexlmc.org.uk)

### 8<sup>th</sup> November 2011 **Essex LMCs GP Commissioning Event**

To be held at The Ivy Hill Hotel, Margaretting (Further information to follow)

Booking via: [events@essexlmc.org.uk](mailto:events@essexlmc.org.uk)

### 21<sup>st</sup> February 2012 **Essex LMCs Practice Manager Conference**

To be held at Ivy Hill Hotel, Margaretting

Booking via: [events@essexlmc.org.uk](mailto:events@essexlmc.org.uk)

## Appointment of Officers to North Essex and South Essex LMCs

Dr Gary Sweeney (North Essex) and Dr Michael Saad (South Essex) both completed the maximum three year term as Chairmen in April 2011. On behalf of members and constituents, we would like to thank them for their hard work over the past three years.

The following new appointments were made at the Annual General Meetings held on 12<sup>th</sup> May and 26<sup>th</sup> May respectively:

#### **North Essex**

##### **Chairman**

Dr John Guy

##### **Vice Chairman**

Dr Lisa Harrod-Rothwell

#### **South Essex**

##### **Chairman**

Dr Beverley Davies

##### **Vice Chairman**

Dr Kamilla Porter

There is currently a vacancy for an LMC Representative of **Salaried and Sessional GPs in West Essex**. If you would like further details about becoming an LMC Representative, please contact the office.

Full details of current membership of both LMCs can be found on the website, <http://www.essexlmc.org.uk>

## LMC Meetings – 2011

The Committees meet once each month, with the exception of August, to discuss current issues. A full schedule of meetings can be found on the LMC website, but the dates for the remainder of 2011 are listed below:-

	<b>North Essex</b>	<b>South Essex</b>
<b>September</b>	<b>8<sup>th</sup></b>	<b>22<sup>nd</sup></b>
<b>October</b>	<b>13<sup>th</sup></b>	<b>27<sup>th</sup></b>
<b>November</b>	<b>10<sup>th</sup></b>	<b>24<sup>th</sup></b>
<b>December (joint)</b>	<b>8<sup>th</sup></b>	<b>8<sup>th</sup></b>

These are open meetings and practices are therefore able (by prior arrangement with the LMC office) to have a representative in attendance if they have a specific interest in any of the agenda items. The minutes of Committee meetings are published on the LMC website.

