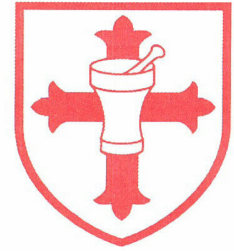

GHP

*Guild of
Healthcare
Pharmacists*



20th November 2008

Gillian Farnfield
Department of Health
Medicines, Pharmacy and Industry Group
Area 453D Skipton House
80, London Road
London SE1 6LH

Dear Gillian

Department of Health Consultation: Pharmacy in England: Building on strengths – delivering the future – proposals for legislative change

Response from the Guild of Healthcare Pharmacists

Thank you for the opportunity to respond to this consultation. The Guild of Healthcare Pharmacists represents UK wide around 4,000 pharmacists including the majority of hospital pharmacists, pharmacists employed by Primary Care Trusts (PCTs) and pharmacists employed by other public bodies such as the Commission for Social Care Inspection and the Healthcare Commission. The Guild is part of the health sector of the union Unite. In this context we are responding particularly on behalf of our Primary Care Trust pharmacists.

General comments

In general we support the proposed move to a needs based assessment for the granting of a new pharmacy contract. There are too few levers in the present set-up to expand services, to improve the quality of services and to deal with contactors who are performing below an acceptable level of service. The legislation needs to assist in the process of changing the community pharmacy contract from purely dispensing prescriptions to a more service based contract. It should also enable contracts where more extensive medicines management services are needed, such as in polyclinics, to be placed based on service needs for the establishment, not just what is available in a "limited" community pharmacy contract. Equally,

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commissioners of polyclinics need to consider medicines issues. The experiences in London so far demonstrate that medicines issues have not been properly thought through.

With regard to dispensing doctors, where it is deemed necessary for them to provide dispensing services in rural areas they should be subject to application to dispense processes and similar performance standards as pharmacy contractors: there should be as far as possible a level playing field.

However, we consider that the opportunity to look more radically at what hospitals can provide, has been overlooked, particularly in the event of a national disaster such as pandemic flu. It was demonstrated in the July 7th bombings that patients expect to get their prescriptions dispensed in a hospital pharmacy in an emergency and cannot understand why this is not possible. We have already raised some of these issues in response to the proposed medicines legislation changes consultation. We propose that:

All hospital pharmacies should have the right to apply for a dispensing contract (without the practice fee if appropriate to avoid overpayment).

VAT to be harmonised across all sectors

All hospitals should move towards using FP10(HP) for all outpatients and day cases

The timeframe for this should be 5 years, and aligned to the roll-out of electronic transfer of prescriptions

Benefits to patients are obvious: convenience, choice.

Benefits to the healthcare system would include better transfer of information

It would allow hospitals to maintain follow-up on drugs which GPs do not want to prescribe /avoid prescribing such as those identified as high risk by the National Patient Safety Agency, those drugs which need special monitoring, patients whose compliance is in doubt, managing medicines for those with long term conditions.

It might also stimulate competition and galvanise community pharmacists into providing better services.

It should be cost neutral to the Treasury, but would take time to work through.

Benefits for pharmacy would be in better clinical placements for a 5 year integrated course

After initial "adjustment" it would bring greater understanding of hospital and community pharmacy's roles each by the other.

We have not worked this through in any great detail but would be happy to discuss this.

Our detailed responses to the consultation questions are shown below.

Consultation Questions

CHAPTER 2: A stronger focus on commissioning for quality which addresses local needs

Market entry based on Primary Care Trusts' assessments of local pharmaceutical needs – the Pharmaceutical Needs Assessment (PNA)

Questions for consultation

The Department proposes amending legislation to replace the current market entry system based on the 'necessary or expedient' test with one based on a PCT's assessment of local pharmaceutical needs and to introduce specific factors which a PCT would take into account in determining applications.

Q1: *Do you agree the current market entry system should be changed to one based on pharmaceutical needs assessments (PNAs)?*

Yes (X)

No ()

Unsure ()

Comments:

The needs of the patients in a locality should drive the provision of pharmaceutical services. However the Primary Care Trust (PCT) process of producing the PNAs must be robust in order to avoid legal action by failed applicants. Currently improvements are needed in some PCTs to achieve this. Removal of the legal requirement for PCTs to consider applications in the context of "neighbourhoods" would assist the process.

Q2: *What safeguards may be appropriate to ensure transparent, fair and unbiased consideration of applications?*

Comments:

The process must be open and clearly understood by all. It should meet legal requirements on equality, diversity etc,
The involvement of lay members should assist in giving a fair and unbiased view

Q3: Do you agree that specific additional factors, as identified in this Chapter, should also be introduced to help PCTs determine applications?

Yes (x)

No ()

Unsure ()

What further comments do you have on the range of additional factors identified?:

Most of the factors identified in paragraph 18 of the document would assist PCTs in determining individual applications. However choice and diversity of providers (in the sense of having to use a different provider: government policy, not whether they are of different ethnic origin etc), taken alone, should carry less weight than the other factors. Providers should be demonstrating some or all of the five other factors irrespective of who they are.

Q4: Should decisions be appealable and, if so, to whom?

Yes (X)

No ()

Unsure ()

If yes, to whom should they be appealable?

Local appeal possibly, then NHS litigation authority

Q5: Do you agree exceptions to this new system may be necessary?

Yes ()

No (x)

Unsure ()

If yes, what might these exceptions be?

Q6: If introduced, do you agree such an approach should be piloted and evaluated before introduction?

Yes ()

No (x)

Unsure ()

Comments:

This could lead to an increase in applications in non pilot areas

Adequate powers to tackle poor performance

Questions for consultation

The Department proposes introducing legislation to create an explicit power which enables PCTs to take action against listed contractors on the grounds of the inadequate quality of their services.

Q7: Do you think we should introduce explicit criteria of quality to govern market exit?

Yes (x)

No ()

Unsure ()

Comments:

If a contractor is performing poorly it should be possible to hold them to account via the contractual process. This may reduce referrals to the Regulator.

There should be clarity between the roles of the Regulator and the PCT contracts process. The government's policy on regulation is to reduce burdens on providers, for example there is a concordat between various regulators such as the Healthcare Commission and other bodies to avoid duplication of inspection and data collection. A similar situation should apply between PCTs and the regulator in respect of premises.

Q8: Do you consider existing legislative powers under 'fitness to practise' are adequate or not?

Yes ()

No (x)

Unsure ()

If not, what quality criteria might be used?

Initially, level of complaints, dispensing errors, premises in very bad state, not meeting contracted hours

Medium term develop payment structures to reward quality of services noted in paragraph 28 of the consultation document

Q9: Do you agree that PCTs should have the ability to issue remedial action notices with the consequence of de-listing if issues are not addressed satisfactorily within a set timescale or to withhold payments for contractors who do not perform to accepted quality and standards?

Yes (x)

No ()

Unsure ()

Comments:

This should be against an agreed criteria, which could be similar to those for other contractor professions.

Q10: If introduced, do you agree there should be an independent appeals mechanism?

Yes (x)

No ()

Unsure ()

Comments:

Q11: Are there other factors the Department needs to consider?

Other factors:

The robustness of the data PNAs are based on, and the strength of the PNAs themselves: see response to Q1 above

CHAPTER 3: Community pharmacies and pharmacists

Market entry arrangements for community pharmacies open at least 100 hours per week

Questions for consultation

The Department proposes that 100 hours per week pharmacy applications should, pending longer-term reforms, in future remain exempt from the current control of entry test but, if approved, be subject to locally negotiated, directly held Local Pharmaceutical Services (LPS) contracts.

Q12: Do you agree we should we introduce direct LPS contracting arrangements for pharmacies wishing to open 100 hours per week?

Yes ()

No ()

Unsure (X)

Comments:

PCTs should be able to decide the best contracting mechanism

Q13: Do you agree safeguards are needed and, if so, what might these comprise (for example these could be expressed in terms of services, prices, standards, quality)?

Yes (x)

No ()

Unsure ()

Comments:

Minimum quality and standards, including termination of contract if not staying open for 100 hours week

Q14: Is it sensible that such pharmacies are required to provide a minimum specified level of service such as minor ailment schemes or services out of hours as identified or is this best left to local decisions and negotiations?

Minimum specified level of service (x)

Left to local decisions/negotiations ()

Unsure ()

Are there other factors to consider?

The need to ensure equity of access to a minimum standard for example for training programmes– national standards for enhanced service would even out variations
Currently not all PCTs commission the same services

Introducing ‘supplementary list’ requirements for individual pharmacists, taking account of the need to comply with the Safeguarding Vulnerable Groups Act 2006

Questions for consultation

The Department proposes to introduce regulations to create supplementary lists to enable PCTs to exercise comparable powers in respect of individual pharmacists who assist a pharmacy contractor in the provision of services, as they do with those on the ‘main’ pharmaceutical list and invites views on extending these requirements to pharmacy technicians. From April 2009, a two-year pilot NCAS service will be extended to include pharmacists.

The requirements of the Safeguarding Vulnerable Groups Act 2006 will be rolled out from October 2009. Pharmacists and other pharmacy and appliance contractor staff whose roles involve providing advice, assistance, guidance and/or medical treatment will be subject to Criminal Records Bureau checks and Independent Safeguarding Authority registration.

Q15: Do you agree the introduction of ‘supplementary lists’ for individual pharmacists which would cover both employed and self-employed pharmacists?

Yes (x)

No ()

Unsure ()

Comments

There should be a clear distinction between the powers of PCTs in this respect and referral to the Regulator.

If not, can you suggest ways in which all pharmacists in England can be brought into the systems for tackling concerns about NHS performance locally which apply to other primary healthcare professionals?:

Q16: Without a 'supplementary list', how might the new NCAS pharmacy service operate for locums?

Comments:

Via employers and self referral. However referral by employers would not be very robust as the locum may not stay long enough for there to be enough evidence that they are performing poorly.

Q17: Should this framework extend to pharmacy technicians?

Yes (x)

No ()

Unsure ()

Comments:

Once registration is a legal requirement

Q18: Do you agree that, in addition to pharmacists, other people working in community pharmacy such as pharmacy technicians and others who provide advice, assistance, guidance and/or medical treatment need to be ISA-registered?

Yes (x)

No ()

Unsure ()

If yes, who are they?:

All staff with direct contact with patients and indirect contact with confidential patient data eg prescriptions

Q19: How might self-employed pharmacists best be brought within the remit of ISA registration? For example, would it be appropriate to require this as part of a self-employed pharmacist's inclusion on a PCT supplementary list?

Comments:

This could be through a supplementary list or as part of the employment procedures of a contractor

CHAPTER 4: Dispensing by doctors

Market entry: revisions to the current regulatory criteria

Questions for consultation

The Department has identified four possible options to reform the current arrangements regarding dispensing by doctors.

Q20: Is the Department right in believing that there are inequities and anomalies within the current procedures under which patients can obtain their medicines and appliances directly from their surgery rather than from a community pharmacist?

Yes (x)

No ()

Unsure ()

Comments:

Q21: Have you any personal experience of any such inequities and anomalies? If so, please briefly set them out.

Personal experience:

Due to close proximity, patients walk by a pharmacy to go to a surgery where their prescriptions are dispensed

Many GP surgeries no longer open on Saturday morning whereas most pharmacies do open.

Q22: Do you believe that having a local choice between two or more local dispensers when having a prescription dispensed is important to you? Could you quantify how important this is for you on a scale of 1 - 5 where 1 is exceptionally important and 5 is of no importance (please tick one).

1 () 2 () 3 () 4 (x) 5 ()

Q23: *Is it right for the Department to publish a national set of rules setting out when a doctor can provide dispensing services or should the local NHS, for example your PCT, consulting with others, have more say?*

National rules (x)

More local discretion ()

Comments:

If there are no national rules this will lead to more inequities

Q24: *Do you agree that the four options set out in this consultation document relating to dispensing by GPs are appropriate options for consideration?*

Yes (x)

No ()

Unsure ()

Are there any others that should be considered?:

Q25: *If you have a preference between Options 1-4, which is your preferred option and why?*

Option 1 () Option 3 (x)

Option 2 () Option 4 ()

Why is this your preferred Option?:

It would remove the issue of patients walking past a pharmacy to have their medicines dispensed at a dispensing Drs without the added benefits a pharmacy brings.

Q26: *If there were to be change, what issues do you believe the Department should take into account when implementing any new system?*

Issues to take into account for implementation:

Distance between pharmacy and dispensing doctors – we would support this being 1km to 1.6km as a determining factor

The natural geography of a locality ie patient access

Patient choice – being dispensing patient precludes any patient choice of where their prescription is dispensed

Q27: Are there other factors to take into account - for example, how well do these options or your preferred option link to the proposals below for a common regulatory route for all applications?

Other factors?:

All contractors should be treated in a similar manner

For example, similar reimbursement systems, similar quality of services, dispensing patients able to take their prescriptions to a pharmacy rather than having to ask for a separate prescription for this, similar additional services

A common regulatory route for all applications

Questions for consultation

The Department proposes to amend the 2005 Regulations (and associated primary medical legislation) to introduce a single regulatory route to authorise dispensing by doctors for patients in rural areas.

Q28: Do you agree:

- *the proposal to align the regulatory route for dispensing doctor applications with those of pharmacies and appliance contractors?*

Yes (x)

No ()

Unsure ()

Comments:

We agree with the conclusions of the Galbraith Report as noted on pages 37 to 38 of the consultation document.

- *dispensing by doctors should, as now, apply to those patients who live in designated rural areas?*

Yes ()

No (x)

Unsure ()

Comments:

The current Regulations are somewhat out of date with respect to the definition of rurality.

- *the approval of doctors' dispensing premises should continue?*

Yes ()

No ()

Unsure (x)

Comments:

The PNAs should drive the provision of services

- *the 'serious difficulty' rule should be retained to enable a PCT to authorise dispensing for any patient who has serious difficulty getting to a pharmacy?*

Yes (x)

No ()

Unsure ()

Comments:

Q29: Are there other factors which need to be taken into consideration?

Other factors:

The sale of over the counter medicines by dispensing doctors

Questions for consultation

The Department proposes to allow, when there is no convenient alternative, dispensing doctors to supply over the counter medicines to all of their patients, subject to the MHRA's review and forthcoming informal consultation on the current medicines legislation.

Q30: Do you believe that it would be beneficial for patients and consumers if dispensing doctors were able to sell general sale list (GSL) medicines to their patients where there is no convenient alternative?

Yes (x)

No ()

Unsure ()

Comments:

The staff should be trained to the same level as community pharmacy staff

Q31: Do you believe that it would be beneficial for patients and consumers if dispensing doctors were able to sell pharmacy (P) medicines to their patients where there is no convenient alternative?

Yes ()

No ()

Unsure (x)

Comments:

This may be possible if under the supervision of a doctor. The person selling the P medicines and supervising the sale should have the same training as in a community pharmacy or be medically qualified

Supervision requirements should be similar in dispensing doctors' premises and pharmacies

Q32: How might the term 'convenient alternative' best be defined? For example, should a distance limit of, say 500 m, be set, or should this be left to local determination?

Comments:

This should be set – 1km – 1.6km taking the shortest practical route and allowing for natural barriers eg a hill

Q33: If dispensing doctors were to sell P medicines, do you agree there should be safety provisions regarding such supply - for example, similar or equivalent to those that govern the sale and supply of P medicines through pharmacies?

Yes (x)

No ()

Unsure ()

Comments:

Q34: Are there any risks not identified here in permitting a dispensing practice to make a profit from selling medicines to their patients?

Yes ()

No ()

Unsure (x)

If yes, what are the risks not identified?:

The risks are similar to dispensing prescription only medicines as dispensing doctors are able to do now

For example, stocking a restricted range of products and being unwilling or slow to order different products, reducing patient choice and service levels

Selling branded products at a higher price to increase profit

CHAPTER 5: Dispensing Appliance Contractors

Market entry for dispensing appliance contractors

Questions for consultation

The Department proposes that applications from appliance contractors should in future be subject to an exemption from the 'necessary or expedient' test.

Q35: Should we introduce a specific exemption for applications from dispensing appliance contractors?

Yes ()

No (x)

Unsure ()

Comments:

This service could be provided by community pharmacies

Q36: What specific requirements might be set out in the regulations such as the types, standards and the quality of services to be provided?

Yes (x)

No ()

Unsure ()

If yes, what might these be?

Comparison with the services other community pharmacies provide

Q37: What safeguards might be appropriate to ensure the NHS has a reasonable and proportionate control over any increases in costs through new dispensing appliance contractor premises?

What safeguards might be appropriate?

Each PCT to pay a fair share based on usage by item

Q38: Do the potential benefits of relaxed entry restrictions outweigh the potential costs as identified in the Impact Assessment?

Yes ()

No (x)

Unsure ()

Comments:

There is the potential for informal advertising to patients – patients do not get their service closer to home, and with their other medicines

The PMR record is held in more than one place, remote from the person address

A 'performance' regime for individuals who assist dispensing appliance contractors in the provision of services

Questions for consultation

The Department proposes that dispensing appliance contractors should - in 2009 – be assessed in terms of the need for regulation against objective criteria to be formulated by the Extending Professional Regulation Working Group. Those criteria will be available later in 2008.

Q39: Do you agree the Department should assess in 2009 whether regulation is needed to govern those who assist in the provision of appliances only?

Yes (x)

No ()

Unsure ()

Comments:

This should be the same as community pharmacies

Q40: Are there alternative approaches which might be considered?

Comments:

Same CRB ISA checks

Training of staff to the same level as community pharmacies

Q41: If a risk were to be established, do you agree the provisions of sections 149 and 150 of the NHS Act should be extended to include those who assist appliance contractors in the provision of services?

Yes (x)

No ()

Unsure ()

Comments:

Q42: Should self-employed appliance contractors be required to register with the Independent Safeguarding Authority and, if so, how ?

Yes (x)

No ()

Unsure ()

Comments:

Q43: Should such requirements be subject to specific limitations - for example, applying only to contractors who fit appliances or who do so in patients' homes?

Yes ()

No (x)

Unsure ()

Comments:

Should be the same as above

CHAPTER 6: Other changes to the legislation

Amendments to the NHS (Pharmaceutical Services) Regulations 2005

Questions for consultation

The Department proposes to make certain amendments to the 2005 Regulations and associated legislation.

Q44: Do you agree the amendments proposed?

Yes (x)

No ()

Unsure ()

If not, which do you not agree with?:

Q45: At this stage, no significant impact has been identified from these proposals. However, if you think these amendments would have a significant impact for PCTs or for business, please say what this is and how best any such impact might be managed.

Significant impact/how might be managed:

Q46: Are there other amendments you wish to propose that the Department should consider? If so, please say how they would clarify or improve the working of the regulatory system.

Other amendments:

Services should depend on the PNA
Regulation should be the same for all contractors providing dispensing services

Amendments to the provisions relating to Local Pharmaceutical Services (LPS) contracts

Questions for consultation

The Department is inviting views on whether amendments to the legislation concerning local pharmaceutical services contracts should be introduced.

Q47: Do you agree that the proposed changes to LPS legislation are needed?

Yes ()

No ()

Unsure (x)

Comments:

Q48: Are there other changes to the LPS legislation which the Department should consider?

Yes ()

No ()

Unsure (x)

Other changes:

Q49: No significant impact has been identified in respect of these proposals. If you believe they would have such an impact, please explain what this might be and how it might best be managed.

Significant impact/how might be managed:

We hope these comments are of assistance

Our reply may be made freely available.

Yours sincerely

Jean Curtis

Jean Curtis
Professional Secretary