

EDITORS
Alan White
& Omar Patel

**NEXT LDC
MEETING**

TUESDAY 12TH
JUNE 6.30 PM

AT BIRMINGHAM
CHAMBER OF
COMMERCE

IF YOU WOULD
LIKE TO ATTEND
AS AN OBSERVER,
PLEASE CONTACT
EDDIE CROUCH

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LDC Newsletter

BIRMINGHAM LDC

JUNE 2007

Message from the Chairman

As the new Chairman of Birmingham LDC I would first like to thank Clive Harris for all the hard work he has put in during the last four years as chairman. He has led the committee through the most difficult times that our profession has ever experienced. Many thanks Clive on behalf of all the committee.

I feel it is my duty to carry on in the same vein in what will also be very difficult times for many.

By the end of June we will know what our CACV will be for 2007-8. Will there be clawbacks? How will we achieve our targets? There are many outstanding issues with colleagues having atypical years still to be resolved. Other issues such as Discrimination

and Disability, Local Commissioning, Out of Hours provision, jury service, and, of course Endodontics are ongoing.

I will aim to continue to foster dialogue with all three PCT's and the Strategic Health Authority. We need to communicate with all parties to support all dentists in the region.

I hope you will support your committee in the forthcoming year. Please be proactive. Your PCT Development Body representatives will voice your concerns at the regular meetings that they will be attending. You are most welcome to attend any LDC meeting. Please contact Eddie Crouch to indicate your intent. Dave Cottam

News

LDC Election Result

The following individuals were elected onto the LDC:

Dave Cottam, Andy Cufflin, Joyce Trail, Colin Sinha, Iain Roe, Jon Taylor, Clive Harris, Ashok Takhar, Omar Patel and Russ Steward.

Helpline support service

An LDC subcommittee has formed a working plan for an **Helpline support service** to support Birmingham Dentists who have concerns, require assistance/guidance or wish to seek or access information. Further details are to follow, but a short summary of the aims and objectives are highlighted on page 2.

Contract disputes

According to the BDA, the latest statistics show that 12 months after the introduction of the new contract in England, 396 of 2726

contracts originally signed in dispute have yet to be resolved. The failure to resolve the problems with the contracts, which represent more than one in seven of the total number signed in dispute, means continuing uncertainty for dentists and patients alike.

Judicial review case

A practitioner with an atypical year has won their case in the High Court after being awarded a zero-valued general dental services contract by Hillingdon Primary Care Trust. The PCT has been told to offer the practitioner a contract based on calculations of activity outside the test year, with all costs awarded against the PCT and implications for damages. The damages are due to the practice having to turn away NHS patients in the first year of the contract, and the time it will take to re-establish the practice. More info on page 3

Improving Support for Local Dentists

The run up to the New Contract and the first year of it's implementation, have posed stresses for many.

Very shortly it will fall on practitioners to renegotiate their contracts with their PCT. Birmingham L.D.C. would like to support Birmingham Dentists who have concerns, require assistance/guidance or wish to seek or access information. We perceive that some practitioners especially those who are single handed may feel isolated, alone or frankly worried by the changes and challenges .

An LDC subcommittee has formed a working plan for a **Helpline**, which may evolve or evaporate in response to need. No one is setting themselves up as an expert in any particular area but the collective experience and expertise of LDC members may help individual members to avoid a feeling of isolation and threat if help and advice is to hand.

Atypical years, under and over performance, UDA values and possible clawbacks are on the horizon. Already, there have been cases in Birmingham involving maternity pay inadequate contract values and ill health retirement; assistance has been sought from and provided by the LDC.

The LDC representatives for South, BEN and HOB PCT's have considerable experience in attending and dealing with P.C.T. meetings. At a recent LDC meeting deputies volunteered to be available for these sometimes onerous meet-

ings, to ensure your representation and broaden this LDC's expertise.

The LDC subcommittee will report back to the LDC which meets 6 times a year and will explore and evaluate how the support system for local dentists should be implemented and continued, if needed.

In the meantime, it is envisaged that the support service will be for Dentists, for dentally related matters only. It will be two tiered and **strictly confidential**.

It will be possible to contact a dentist representative the same weekday evening, during a two hour slot, by dedicated mobile phone (07864 097 393). The dentist will seek advice and arrange a return call. The expertise of the collective LDC will be available to decide how best to advise/support or represent the practitioner.

We are sure that there will be many recurring issues and further experience will be gained to everyone's benefit along the way.

Interested Dentists are to be offered training in listening skills and dealing with difficult issues by the Samaritans. Anyone interested in taking part in this training should please contact the LDC.

Further details are to follow. We do not promise to make all your problems go away, but your L.D.C. is determined to do it's utmost to provide support .

HELP LINE
GOING LIVE 13th JUNE 2007

CG/GC 07864 097 393

“practitioners especially those who are single handed may feel isolated , alone or frankly worried by the changes”

Smoking Laws— What you need to know...

The new law is being introduced to protect employees and the public from the harmful effects of secondhand smoke.

Key points are:

From 1 July 2007 it will be against the law to smoke in virtually all enclosed and substantially enclosed public places and workplaces.

Public transport and work vehicles used by more than one person will also need to be smokefree.

No-smoking signs will have to be displayed in all smokefree premises and vehicles.

Staff smoking rooms and indoor smoking areas will no longer be allowed, so anyone who wants to smoke will have to go outside.

Managers of smokefree premises and vehicles will have legal responsibilities to prevent people from smoking.

If you are uncertain where you can or can't smoke, just look for the no-smoking signs or ask someone in charge.

Penalties and fines for breaking the smokefree law

If you don't comply with the new smokefree law, you will be committing a criminal offence. The fixed penalty notices

and maximum fine for each offence are:

Smoking in smokefree premises or work vehicles: a fixed penalty notice of £50 (reduced to £30 if paid in 15 days) imposed on the person smoking. Or a maximum fine of £200 if prosecuted and convicted by a court.

Failure to display no-smoking signs: a fixed penalty notice of £200 (reduced to £150 if paid in 15 days) imposed on whoever manages or occupies the smokefree premises or vehicle. Or a maximum fine of £1000 if prosecuted and convicted by a court.

Failing to prevent smoking in a smokefree place: a maximum fine of £2500 imposed on whoever manages or controls the smokefree premises or vehicle if prosecuted and convicted by a court. There is no fixed penalty notice for this offence.

Local councils will be responsible for enforcing the new law in England.

Success via Judicial Review may unsettle the Contract and its Architects

A Judicial Review is a procedure by which a court can pronounce on an administrative action by a public body. There are strict time limits on taking a Judicial Review and it has to have notice served in the High Court within 3 months of a decision.

For Dentists this will occur once any disputed contract has been processed by the NHS Litigation Authority at Harrogate. Many have been disappointed by the apparent rubber stamping of PCT contract decisions that have occurred when disputes have been dealt with by the NHSLA. Only a few however have continued their dispute into Judicial Reviews, but successes in the High Court may have a bearing on the contracts issued to you and hence you should look out for the results of these court cases.

There are several Judicial Review cases close to home here in Birmingham, they range from a colleague failing to secure a practice based contract to atypical year practices that feel inadequate funding for their contract has occurred, and little recourse has been paid by the PCT to the activity that occurred outside the test period, or trends that were developing. One could argue the flexibility was removed from the PCTs by the stringent cash limits given by the Department of Health, and in some ways their hands were tied to deal with such issues.

One such case has just been completed at the High Court involving Hillingdon PCT and a practitioner who did not work in the test year at all, as a consequence the Dentist was offered a zero contract value. The Dentist concerned had a husband that was a solicitor, which obviously made the Judicial Review procedure and costs more accessible, it is interesting to note that the BDA became an interested party in the case towards the end, without any great financial risk to the BDA. The case has been won by the Dentist, who will now also receive compensation for the damage to her business, it is estimated the case will cost the PCT £1 million. (contract value, compensation and costs).

Costs will be a determining factor for many as a failed case will result in the costs of the PCT or defendant (which may also involve the NHSLA) being incurred by the Dentist. Many have sought legal funding from practice insurance schemes with success, others have chosen to share costs with class actions.

The crux of the successful case is that the PCT and NHSLA failed to take account of the Transitional Provisions Order of 2005. In sections of this order, there are provisions for the scenario when no data for the test year exists, or **if data does exist it is appropriate to adjust the data.**

In determining the number of UDAs the PCT shall have regard to any data it holds regarding the care and treatment provided.

The BDA feel that this is a noteworthy victory for those who have a small contract value to challenge, but the jury are still out on if this applies to all atypical year contracts.

On the 14th June, a Birmingham Dentist will seek Judicial Review proceedings in London that will test if the PCTs should have carried out needs assessments, or consulted with the public before making the commissioning decisions they made ahead of the 1st April 2006. Such cases will test the water as to the future stability of the new contract, and whether the Minister and the CDO continue to pronounce the new arrangements a success.

Eddie Crouch

“The crux of the successful case is that the PCT and NHSLA failed to take account of the Transitional Provisions Order of 2005”

Associate's Pay Rise?

If you are a dental performer and your salary has increased from the 1st of April 2007 to reflect the 2.756% uplift recommended by the DDRB, count yourself lucky. For many performers, the uplift has not been applied and will of course be an additional worry on top of the day to day issues of the nGDS.

The DPD's (BSA) correspondence to all NHS contract Providers in March 2007 clearly states the DPD will provide the DDRB uplift to practice schedules on behalf of PCTs but it will be the responsibility of providers to inform the PCTs of any change in performers superannuable pay. The key word is "any" and one must question whether indeed this is a pay rise and if so is it legally binding? The DPD has also stated verbally the possibility of the increase to be applied by the PCTs directly to performers' schedules, but to date it has not been implemented by the majority of PCTs. Several PCTs are insisting they will only apply the changes on the providers say-so.

Many performers will have entered practice-based contracts and essentially the problem arises due to their schedules absent of the percentage uplift. It will be reflected on the practice schedule, effectively what the provider receives and usually not distributed to performers. And therefore, what obligation is there for the provider to uplift the performers pay?

Maybe if the retention of the performer is paramount, otherwise only if the uplift is legally binding or becomes evident on the performers own schedules.

Not everyone accepts that this is a pay rise however. Some believe it is merely an uplift to contract values for the providers and there is no obligation, either morally or commercially to pass it on. Others have suggested the rise should offset other changes in the nGDS, such as the single-use policy of RCT files. Some think it is a subject for individual negotiation, effectively an internal arrangement between performer and provider. But how many performers will be confident to challenge their providers at the risk of upsetting them? Many will remain reticent and accept once again that they have been dealt a bad hand, inevitably bite their tongue and just continue as before. In these uncertain times and 2009 just round the corner, no one wants to risk the termination of their contract, .

Generally, a statutory pay rise will usually carry legal enforcement. But to date no individual or organization is taking responsibility and to offering a solution. Performers may go from pillar to post attempting to discover who is responsible and no doubt many will be left feeling bitter towards the people who have the power to resolve the issue.

A further increase of 0.229% is anticipated in November 2007 and performers will be hoping for a quick resolution to this fiasco.

Y Patel (a performer)

Challenge Summit

Challenge are organising a Summit of 30 influential figures from the Dental Industry on the eve of the LDC Conference, and from invitations sent out, certainly there is a willingness to attend this event and form a united voice. The day will allow for serious discussion on the possibility of some form of collective action to register our profession's disgust at what the DoH has done, by removing the division of opposition.

Representations for this day will come from the GDC, Protection Societies, Dental Trade Association, Dental Labs Association, Lawyers, Banks, Accountants, Practice Sales Companies, VT, Corporate Bodies, Dental Schools and indeed also the BDA.

It is patently obvious that a Plan B is needed for the Government to take any notice of the protests, some might say the profession is nearing plan Z, as in many ways across the country, efforts have been made in small groups to make the architects of the new contract listen.

Is the Challenge Summit the Plan B? Are the Department of Health totally deaf?

Time will tell, but unity is obviously a pre-requisite for powerful persuasion and that is the intention of the first major event organised by the fledgling group known as Challenge.

Letter from the front line

Dear Barry,

Just thought I'd drop you a line and let you know how things are going. Well here we are a year into this new contract and with a bit of luck my practice might just hit our targets by year end, but only just!! Seem to remember somewhere you saying that this new contract was good for dentists as it would get us off the treadmill! Well I chat to a lot of colleagues Baz and I must say nobody has said it has made their professional lives any better. Truth is most I speak to think it is a whole lot worse! Here we go you are saying, those Brummy dentists moaning again, you've been speaking to that Eddie Crouch!

Anyway, what about our patients? Certainly the fee paying adults are complaining about the big hike in their contributions. £194 for a crown or small denture comes as a bit of a shock I can tell you. You won't believe it but some think its Private! Perhaps that's why the patient charge revenue is down nationally by 10%. We did try and tell you that this was another untried part of the new contract, but you wouldn't listen! We still see a few new patients to the practice but not many I can tell you. We used to take a pride here in sorting really bad mouths out over several visits. I quake now when a patient says "Oh I haven't been to the dentist for years". As you know exempt groups usually have poorer mouths and do need more work doing. My practice has a lot of exempt patients, with high treatment needs. You said that it would all even out

but it's not working like that at all.

By the way what happened to that new money that Rosie said was being allocated to modernize dental practices? Haven't seen anything of that. Rumour on the street is it will be used to make up the shortfall in PCR money. Didn't see that in the papers!

And I tell you another thing, if I try phoning the PCT with a query, about anything, my dental contact will be in a meeting, out of the office or on sick leave. Tell you the truth I've stopped phoning them now. Communication now is appalling.

A few of us are a bit worried about what is going to happen in just 2 years from now. Not to far away really, seems really quiet on that front. Perhaps you could drop me a line and let me know.

So in just 12 months Barry you have managed to demoralise the profession completely, messed up the VDP scheme, just try getting a job after completing vocational training, and closed down a fair few dental laboratories. And all in the space of a year! Just imagine how things are going to look after three years!

Must dash now I had a 40 minute crown prep miss, my second today so I had an opportunity to write this, it was my second long appointment missed today actually, I used to keep failed to attends under control when I could charge them, but as you know I can't do that anymore. Anyway give us a bell if you want to go into more reasons why this new contract isn't working,

All the best,

Yours

Alan White

The Year Ahead

Many dentists will know their commissioners following contract negotiations and mid-year reviews. The dental commissioning team at HoB consists of Barry O'Neill (Senior Commissioning Manager), Mark Pulford (Commissioning Manager) and Lesley Whittaker (Administrative Officer). Contract holders in BEN and South look respectively to Anna Charalambous and Sarb Gidda and their teams.

At the time of writing, we are waiting for the final UDA and UOA figures for 2006/07, but we are already well into the second year of the new contract. HoB's Professional Executive Committee (PEC) at its April meeting congratulated its dentists and PCT staff for the service provided in 2006/07.

The next year will see further opportunities for HoB practices to bid for uncommitted UDAs. This process will be on the same lines as last autumn, although many practices will now have the benefit of last year's experience and recent training held at City Hospital. Invitations to bid are likely to be sent out at the end of the summer, once UDA/UOA figures are available and once we have confirmed that needs assessment work conducted to support last autumn's allocations remains valid. Again this year, the LDC will sit on the group considering bids.

The number of UDAs to be offered will be at least the same as last year, although the exact figure is not yet known. We expect allocations will be made for the period to March 2009, representing a longer period than last year when uncommitted UDAs were allocated only to March 2007. Continued to page 6....

Continued from page 5....Dentists will be aware that PCTs have to follow strict regulations when procuring health services, including dentistry. PCTs also have a duty to focus on the particular needs of local populations. HoB expects to be able to balance demand with supply across our 10 wards, meaning that we top up a number of practices in areas where unmet demand is greatest and where access needs to be improved.

Dentists in BEN and South will be aware that their PCTs also have approaches designed to suit local circumstances. Further details are available from Anna Charalambous and Sarb Gidda.

Looking to the longer term, commissioners are seeking advice and guidance from various sources, such as Jonathan Iloya's work on orthodontics. HoB will also be involved in regional work over the summer on the opportunities presented to patients and dentists by the new contract. Once this is completed, we expect to engage in further joint work with practices and the LDC.

A further dimension for HoB dentists is the Towards 2010 programme, which is working towards the provision of more services in primary care settings. This approach will affect the amount of work carried out at practice level, especially by dentists with a special interest.

Commissioning requires joined-up working and I have to say that my job would be impossible without support from colleagues in finance, shared services, public health and – most of all – in practices. In future, there will also be a greater need to involve PCT governance teams in contract management and commissioning.

Despite the challenges of the new contract, commissioners in HoB have enjoyed a good relationship with all our practices and we trust that this will continue in the future. Mark Pulford, Commissioning Manager, HoB.

Dave Cottam (Chair) PASS Member, South Birmingham PCT Rep	0121 428 2824	Vijay Sudra (Vice Chair) (BEN PCT Rep)	0121 747 8227
Eddie Crouch (Secretary) South Birmingham PCT Rep	07779 331 132	Russ Steward (Treasurer) BEN PCT Rep, PASS Member)	0121 706 0863
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As well as articles, all contributions, comments and criticisms, to this Newsletter are always welcome. If you would like to contribute to future editions, then