Primary Care Networks
Guidance Note 2: Employment & Pensions

WHAT IS THE ISSUE?

The issue is to ensure there is a workable, straight forward structure for employing 'Additional Roles' staff which does not attract VAT liability. For this reason, this note should be read in conjunction with Guidance Note 5 – VAT & Funding Implications. A summary of the employment position for each model, along with our recommendations, is to be found in the note 'Guidance on Structuring your Primary Care Network'. Our recommendation is that if appropriate contractual wording places a duty on staff to work throughout the practices in the PCN, the Lead Practice or the Hybrid models are likely to be the most straightforward. Certainly at an initial stage, these models will provide a completely functional employment structure to a PCN which could, in due course, when there is more clarity from NHSE on pension and other matters, be altered to a Federation model. For now though, in employment and HR terms, a Federation model is quite workable subject to the pension point set out below.

LEAD PRACTICE

Under the Lead Practice model one practice in the PCN (the 'Lead Practice') will employ the additional staff. The advantage of this is that there will be a single employer which will bring simplicity and clarity to both the employment arrangements and the HR policies. The Lead Practice will hold an NHS contract and will be able to allow access to the NHS Pension Scheme to its staff.

The contract of employment will have to be carefully drafted to ensure there is no express or implied suggestion that staff are being seconded or sub-contracted by the Lead Practice to the other practices in the PCN. Rather, their contracts of employment should require them to work in all practices across the PCN.

We suggest indemnities are entered into between the practices in which each one agrees to share equally (or based on list size) in any legal fees, awards and settlements should there be an employment dispute. (Whilst the indemnity could also cover any additional sums, such as a redundancy, it would not need to cover ongoing wages costs such as sick pay , maternity pay or the payment of a locum. These should all come out of the funding method decided on for

employment costs). The alternative is that the indemnity only bites the practice which is shown to be at fault but we do not think this is practical, particularly in terms of PCN cohesion.

Our template wording to be included in the schedules to the Network Agreement covers the above.

For the relationship to PCN funding, we refer again to Guidance Note 5 – VAT & Funding Implications.

HYBRID

In a Hybrid model, one practice receives the funding from NHSE on behalf of all members of the PCN but different practices within the PCN employ the additional staff e.g. Practice A employs the Clinical Pharmacist, whilst Practice B employs the Social Prescribing Link Worker. The benefits of a clear, simple employment structure within the PCN can be maintained if each practice employs their staff members on a similar format. In terms of VAT it will again be necessary to ensure the contracts of employment require the additional staff to work across all practices within a PCN. Staff will have access to the NHS Pension Scheme because their employer will hold an NHS contract. As with the Lead Practice model, it may be desirable to include an indemnity between the practices as to what should happen in the case of additional employment costs or litgation.

Our template wording to be included in the schedules to the Network Agreement covers the above.

FLAT PRACTICE

In a Flat Practice model the additional staff required for the PCN to operate are engaged under joint contracts of employment with each of the practices in the PCN. Since the employers are the practices, staff will have access to the NHS Pension Scheme. VAT issues will not arise because of the joint employment status. Joint employers though can cause practical problems. It can lead to confusion in terms of duties, responsibilities, reporting lines and processes. Responsibility for grievances for example can become very complicated. Further, if in the future changes are required, all employers would have to work together on this.

FEDERATION

Under the Federation model a separate organisation receives all the funding from NHSE and employs additional staff. The staff will then need to work across all of the practices and the PCN. The model anticipates the use of an existing GP Federation but there could be the establishment

of a limited liability vehicle, such as a limited liability partnership. Unless the organisation holds an NHS contract, staff will not be able to benefit from the NHS Pension Scheme. For the Clinical Director this might not be an issue (see Guidance Note 6 - Clinical Director) and at an early stage, the Clinical Pharmacist and Social Prescribing Link Worker might not expect access to the NHS Pension Scheme. An adequate defined contribution scheme could be implemented. In due course though, to have an organisation at the core of the PCN that does not have access to the NHS Pension Scheme for its staff is not ideal. This issue is currently under review by NHSE.

The benefit of the Federation model is again simplicity. All staff, all terms and conditions and all handbook policies will be the same. Liability for staff will be with the Federation. There may be some commitment on liability between the practices and the Federation but this can be agreed if wanted. VAT might be a problem and we refer again to Guidance Note 5 – VAT & Funding Implications.

SUPER PRACTICE

This is a single practice which can develop a PCN as the sole employer of the additional staff. This would benefit from simplicity of terms and conditions, HR policies, the NHS Pension Scheme and no VAT liability. Few Super Practices will yet be in existence, but in due course this is something that could be developed for the governance of the PCN.

In all models the 30% further funding in the 70/30 split between NHSE and the PCN will need to be considered (apart from the Social Prescriber). The source of employment funding is the choice of the PCN but it is likely in the initial stage at least, that some funding may be taken from the Core PCN Funding. We refer to Guidance Note 5 – VAT & Funding Implications.