

## Inquest follow up - Implications for PCTs in relation to contracts with Out of Hours (OOH) providers and Medical Performers Lists following Coroner's recommendations February 2010

### Inquest

Mills & Reeve represented Cambridgeshire Primary Care Trust (CPCT) at the recent inquest into the deaths of David Gray and Iris Edwards. In the Coroner's "Summing up, Decisions and Announcements" he made a number of recommendations to the Secretary of State for Health under Rule 43 of the Coroners Rules 1984. These recommendations impact on both PCT contracts with OOH providers and PCT management of Medical Performers Lists.

In advance of the Secretary of State for Health issuing guidance or any other arrangements put in place at local SHA level, PCTs may wish to review:

- their contracts with OOH providers to ensure that their contractual obligations are sufficiently robust to guard against any recurrence of the tragic incidents that led to the deaths of these two patients; and
- their procedures and processes for managing applications to join their Medical Performers Lists.

We would be pleased to review your current arrangements for you and to provide advice as to any necessary contract variations or other changes that ought to be considered pending guidance from the Department of Health.

### Contracts for OOH services

The Coroner made the following recommendations to the Secretary of State for Health that impact on OOH contracts, whether in place currently or in negotiation with providers:

- **Risk assessment of GPs engaged in providing OOH services**

The Secretary of State should provide guidance to PCTs requiring them to risk assess every non-UK based doctor involved in OOH services care, including assessment of:

- a) the doctor's experience of working in the NHS; and

b) whether the doctor gained accreditation to do general practice in his home state under any acquired rights system, rather than by examination or accreditation.

- **Use of recruitment agencies to engage GPs for OOH services**

Where OOH providers engage OOH staff through recruitment agencies, PCTs should ensure that the providers themselves remain responsible for quality assurance in recruitment and should not be permitted to delegate that responsibility to the recruitment agency.

- **Minimum contractual requirements**

The Coroner found that the general practitioner (GP) who attended these patients had not received an adequate familiarisation or induction process from the OOH provider that engaged him. He recommended that PCTs should ensure that all contracts with OOH providers are in writing and include detailed requirements as to:

- a) the recruitment, training and induction of OOH staff; and
- b) robust clinical governance and risk management structures.

The Coroner also recommended, to the East of England Strategic Health Authority, that it should recommend to all OOH providers that no doctor should undertake OOH work unsupervised, unless he has been through a proper induction with a clinician employed by the same OOH provider who has been suitably trained in undertaking inductions. This recommendation to the Authority could also be implemented by PCTs in contracts with OOH providers.

- **Sufficient knowledge of English**

The Coroner's recommendation that OOH GPs should have a sufficient knowledge of English when applying to join Medical Performers Lists could also be included by PCTs as a contractual obligation on providers of OOH services, ie, that all GPs engaged by the provider should have the necessary English language skills required to perform that role.

- **Regular and robust monitoring of quality service standards**

All contracts between PCTs and OOH providers should be regularly and robustly monitored to ensure quality service standards are maintained.

## **Medical Performers Lists**

The Coroner made the following recommendations to the Secretary of State for Health that impact on how PCTs manage applications to join their Medical Performers Lists:

- **Sufficient knowledge of English**

Guidance should be given to all PCTs reminding them that they must be satisfied under Regulation 6(2)(b) of the National Health Service (Performers List) Regulations 2004 (Performers List Regulations) that performers have a sufficient knowledge of English to be able to work as a doctor in the UK.

- **Robust application of Regulation 6**

Guidance should be given to all PCTs that, in assessing applications to join Performers Lists, they must be able to demonstrate that they have applied Regulation 6 of the Performers List Regulations robustly, and that an appropriately qualified person is made responsible for ensuring that this is done in each PCT.

- **National protocol**

The Secretary of State should establish a national protocol (to avoid variation in standards) to be applied by PCTs before admitting a practitioner to their Performers Lists.

- **PCTs should be satisfied that performers on their lists intend to deliver services in their area**

There is a mandatory requirement under Regulation 6(2)(a) that PCTs must be satisfied that performers intend to deliver services in their area before admitting them to their lists.

- **PCTs to consider whether applicants have made other failed applications**

When considering an applicant's suitability to join its Performers List, PCTs should consider whether that applicant has failed to progress other applications to other PCTs and whether any such other applications have been turned down. This goes beyond simply details of rejections and includes where applicants may have withdrawn their applications.

We would be pleased to review your current arrangements for you and to provide advice as to any necessary contract variations or other changes that ought to be considered pending guidance from the Department of Health.

We will provide further updates once the Department releases further guidance.

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