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1. Lockharts Tendering Master-class

Are you a GP practice seeking to expand the services you provide or are you part of a consortium hoping to provide services collaboratively? Do you want a chance to run the new local GP-led health centre or are you a salaried GP thinking of tendering for the contract to run the practice you work in? Are you slightly baffled by the PCT's procurement process?

An increasing number of primary care services are now being put out to open tender. If you want to take advantage of these opportunities you need to present a professional and competitive proposal which puts your business at the top of the list.

The public procurement process is always challenging and is fraught with potential pitfalls. Lockharts have guided numerous clients through the tendering process and in addition to assisting those currently engaged in this process, we are now running seminars at highly competitive rates to help potential bidders understand what is involved, and how to give them the best possible chance of success.

Whether you are considering submitting your first tender or have tendered before but are wondering how you could approach it more effectively next time, this seminar will give you an invaluable overview of the process and tips on how to make your application stand out. It will also cover legal and structural issues relevant to tendering.

Please contact Victoria Wheeler for more information on a no obligation basis at vw@lockharts.co.uk.



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2. New Complaints Procedure

Further to our April 2009 newsletter article regarding the new complaints procedure, the Medical Defence Union (the MDU) has advised that practice managers need to be aware of their duties and responsibilities (as set out under the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 ('the Regulations')).

These duties, under the Regulations, include liaising closely with the PCT via an annual report as to the total number of incidents which may have arisen, and co-operating with the PCT where a complaint might relate to a Surgery and a second body such as a local hospital. These duties are in addition to ensuring that there is a well publicised and effective procedure for patients to follow in the first place.

Furthermore, there are various considerations that practice managers need to take into account when dealing with complaints; such as how to conduct complaint meetings between partners and patients and determining the content of a letter of response to a patient.

Practices are recommended to have their own effective complaints procedures so that any complaint made by a patient against a practitioner or the Practice, is dealt with internally in the first instance. This procedure should attempt to resolve any problems at an early stage and obviate the need to involve the PCT, which should only become necessary if the complaint cannot be resolved using the internal procedure.

Lockharts can advise on an effective complaints procedure for Practices which is compliant with the Regulations and should you require any information regarding this, or advice on the above, then please contact Victoria Wheeler in our New Enquiries Team on vw@lockharts.co.uk or 020 7383 7111. A complete set of procedures and staff guidance is available at the cost of £170 plus VAT.

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3. Darzi Stands Down

Lord Darzi has resigned from his position as a minister at the Department of Health and will return to practising surgery, although he will remain as an adviser to the Department.

Announcing his resignation, a statement by Lord Darzi read:

'Two years ago I was appointed by the Prime Minister to lead the NHS Next Stage review. We brought together thousands of clinicians and patients to determine the way forward for the NHS, and in June 2008, published our report, High Quality Care for All.'

'During my time as a Minister, I have maintained my clinical practice and research. The time has now come for me to return to care for my patients, lead my academic department, and continue my research full time. I will be stepping down from my post as Parliamentary Under-Secretary in the Department of Health when Parliament goes into recess for the summer.'

Health Secretary Andy Burnham hailed the impact of Lord Darzi's Next Stage Review and the 'immense contribution' that he made. "The vision (of the Next Stage Review) is now being delivered locally, by front line staff, who will continue to develop and deliver the changes set out in the Next Stage Review in years ahead."

Many GPs remain divided over his departure, with some experts raising concerns that it could jeopardise his modernising programme.

Niall Dickson, soon to be GMC Chief Executive said "It is too early to say whether Lord Darzi will have made the difference he wanted and there is still much to do to turn his vision into reality throughout the health service."

Dr Andrew Mimmagh, chair of Sefton LMC, commented: "I suspect he had the best of intentions but he had a negative effect on general practice. He provided feather bedding for private companies in the NHS, but has made general practices less viable," he said.

Lord Darzi added that he was 'deeply grateful' to Gordon Brown for giving him the privilege of serving as a government minister and allowing him the freedom to make 'tough and important decisions'.

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4. NHS Dental Services in England – the Steele Review

Professor Jimmy Steele's independent review of NHS Dentistry in England, published in June this year has examined all aspects of NHS Dentistry and has made wide-ranging recommendations on a variety of issues for both the Department of Health and PCTs to implement.

Broadly speaking, the report recommends:

- Greater access to dental care (including better communication as to what people should expect from a dentist) and that all treatment, whether urgent or not should be of a high quality. This latter point is reinforced with various recommendations such as that the free replacement period for restorations should be extended to three years and that the provider of dental services should bear the full cost of replacement rather than the PCT or the patient.
- Dental contracts should be developed with much clearer incentives for improving health, access and quality and that quality and prevention measures should be the guideline for the system

rather than focusing on what treatment can be offered. As a result of this the report recommends that “a high priority is given to developing a consistent set of quality measures”.

For a summary of the key recommendations, as well as the full text of the Review, see:

<http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance>

From our dental clients’ point of view, the recommendations have yet to be implemented and so it will be some time before a clearer picture emerges as to what changes are to be made to dental contracts. However, we will be watching the outcome of pilot schemes with interest and will comment further in due course.

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5. BMA Launches Revalidation Guidance

With revalidation starting later this year, the BMA have launched guidance for GPs on their website. In future, doctors will be required to demonstrate to the General Medical Council (GMC) that they remain fit to practise.

All doctors wishing to practise in the UK will require a licence to practise, which will be issued by the GMC and will need to be renewed every five years. This will be assessed in accordance with the GMC’s generic standards.

All doctors on the specialist and GP registers will need to demonstrate that they meet the standards that apply to their medical speciality, and this will be achieved by a process of recertification.

To access the guidance from the BMA, please click [here](#).

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6. Practice manager of the year award

The award, organised by the National Association of Primary Care (NAPC), recognises the outstanding and inspiring work carried out by practice managers. It also aims to highlight

the excellent quality of staff in primary care today.

Practice management is an increasingly demanding role and the opportunities to recognise special success can be few and far between. So if your practice manager has achieved something special, gone the extra mile, or gone above and beyond their role, then this award could be the perfect way to recognise that.

If you are a GP who feels your practice manager needs a boost, make sure they don’t miss out on a chance to win the prestigious award. Also, if you are a practice manager who is proud of your achievements, you can nominate yourself so long as you have an endorsement from one of the GPs in your practice.

The independent judging panel will be looking for entries that demonstrate excellence and the ability to make a significant contribution to the practice – so you should tell them all about your successes!

Entries will be split into regional categories (Scotland and Northern Ireland; North; Midlands; Wales and South West; South East; Greater London) and winners of the regional awards will be considered for the prestigious title of Practice Manager of the Year.

To enter online, visit the NAPC website or if you require an entry form in Word format contact claire.bradshaw@ubm.com.

All entries must be completed and received by Friday 18 September 2009.

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7. Legacies in Wills

A Will may contain a legacy (or number of legacies) which operate to be distributed after the payment of debts and administration expenses. The order of distribution is important if the estate is insufficient to meet the debts and all of the legacies.

There are three types of legacy:

- Specific
- General
- Demonstrative

Specific

This is a gift of an asset owned by the testator which can be readily identified; specific legacies are usually denoted by the word "my" (e.g. "my piano"). Care in drafting is essential – property passing under a Will is generally ascertained at the date of death but the word "my" will denote a *contrary intention* - the description of the asset will apply at the date when the Will is made. In the above example this would be the piano owned at the time the Will was made **NOT** at the date of death. Difficulties abound when it comes to motor vehicles!

The safest course of action is a form of words: "such piano or motor car as I shall own at the date of my death".

Any expenses incurred in insuring, transporting or storage of a physical asset bequeathed are born by the legatee.

General

Usually referred to as a pecuniary legacy is simply a stated sum of money. Care is needed where such legacies are expressed to be jointly payable between spouses or civil partners. Inclusion of the words "or the survivor of them" will cater for the situation should one legatee not survive the testator.

Demonstrative

A demonstrative legacy is one directed to be paid out of a specific fund. If that fund is insufficient to meet the legacy it will be paid out of the deceased's other assets.

Gifts to executors

A legacy to an executor is presumed to be conditional upon that person acting as executor; furthermore an executor may not take any legacy gift until he has either proved the Will or taken steps to administer the estate.

Gifts to debtors

If a general legacy is given to a debtor of the deceased – the debt must be set off against the legacy unless the Will releases the debt.

Restrictions on legacies

The Will may impose requirements on a legacy before it vests (i.e. due for payment or discharge); the most common are contingent and conditional legacies.

Contingent gifts: the legatee becomes entitled only on satisfying a specific event – in the case of a minor attaining a particular age.

Conditional gifts: the legatee becomes entitled only if a specific event takes place, e.g. marriage.

Failure of legacies

Ademption

If a specific asset, referred to in the Will as belonging to the deceased, does not form part of the deceased's estate on his death: it will adeem (effectively if there has been a change in the substance of the asset, then such a gift will fail).

Abatement

This occurs where the deceased's residuary estate is insufficient to discharge its liabilities. The general legacies abate (diminish) firstly - in order to allow that any specific legacies can take effect. The form usually is a pro rata reduction of all the general legacies.

Time for payment

Statute has created the "executor's year" - no interest is payable on unpaid pecuniary legacies until one year after the death. The interest rate is those applied to funds in Court (0.3% from 1 July 2009).

A specific legatee (e.g. gift of a shareholding) is entitled to all of the income, generated by the asset, from the date of death to when the asset is transferred.

There are special rules for contingent legacies, in particular where the deceased was parent (or acting as de facto parent) where a legacy is left for the benefit of a child.

Witnessing of a Will

A simple rule but one that can cause untold misery! Any person (and the spouse or civil partner) of that person, taking a beneficial interest under a Will, is barred from taking benefit if he/she also acted as a witness to the Will.

For further information please contact Associate Solicitor Andrew Murdoch at am@lockharts.co.uk

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8. Lockharts Company Secretarial Services

We would like to remind readers of our company secretarial service which complements the range of services that we already offer. We have identified a need for a specialist service which meets the particular and complex requirements of incorporated NHS providers.

As you may be aware, private limited companies are no longer required to have a company secretary. In the absence of a company secretary, directors must fulfil the company secretarial functions and a failure to comply with statutory filing requirements can carry serious (and, in some cases, criminal) penalties. Whether or not your company has a company secretary, our service is designed to relieve you of the administrative burden of meeting statutory deadlines and complying with filing requirements.

We are offering two separate packages addressing different levels of need. However, if you require a tailored company secretarial service we would be happy to discuss your specific requirements and build a proposal around your company's needs.

We are also able to deal with all of your requirements on LLP formation and registration.

In the first instance please contact Neha Shah at ns@lockharts.co.uk or Michael Barrett at mb@lockharts.co.uk for further information.

Previous Issues

If you would like to receive previous issues of the Lockharts Newsletter please contact Kabir Savjani at csd@lockharts.co.uk.

Distribution of our Newsletters

We prepare newsletters for practitioners at approximately monthly intervals and occasional newsletters for LMCs. LMCs are welcome to distribute these to their constituents in their entirety.

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"Under Andrew Lockhart-Mirams, Lockharts is an 'established leader in medical law' that acts for over 1,500 GP practices on a variety of corporate and commercial issues, including private APMS contracts with PCTs"