

Top 10 Tips – Primary Care Networks



Following the 2019/20 GP contract changes, many GP contractors and other community providers will be starting to consider and indeed create Primary Care Networks (PCNs). With an ultimate aim of supporting resilient and effective primary care we look at some top tips when it comes to entering into a PCN and the agreement that all members of a PCN will be required to enter into; namely the Network Agreement.

1. Constituent practices

Whilst there may be geographical constraints that may prohibit some practices merging (bearing in mind that a PCNs network area should make sense not only to its constituent practices but other community-based providers and its local community). Seek, as far as possible, to ensure that the constituent practices and other members are capable of working with each other to realise the aims of integration as required by the DES.

2. Network Area

Map clearly the area covered by the PCN. Any network area must be approved by the NHS commissioner, but their consent cannot be unreasonably withheld or delayed. The expectation is that approval will only be withheld where the network area and/or constituent practices create an extreme geographical spread (for instance where constituent practices are located some distance apart).

3. Function before form

Crucially there is no prescribed way in which a PCN establishes itself to operate the PCNs functions. Despite this, the first tip is for PCNs to consider “function before form” as the legal structure you adopt must support your proposed operational model. Whilst this may vary as the PCN, DES and PCN itself develops ask yourself: What are you looking to do with or via the PCN? how can you better support your patients through the network and how, ideally, will the resulting aims/ functions be delivered? These must be the first and most fundamental questions.

4. Structures

Having discussed the proposed function of the PCN, it is then important to decide and agree its operating structure and model. Who will employ staff? who will deliver what services? and who will enter into any ancillary contracts on behalf of the PCN? These are all questions to ask and in answering them we would recommend that you consider the possible implications when it comes to three main issues:

- (i) Liabilities – where will that sit and does the party shouldering the liabilities have limited liability or unlimited liability status?
- (ii) VAT – will the proposal trigger any unforeseen issues with VAT (considered further below)?
- (iii) NHS Pensions – will the proposal cause any issues in terms of access to NHS pensions for any additional staff employed to work across the network?
In considering structures generally it is worth remembering that the members of the network (whether constituent members or otherwise) are likely to have varying legal and operating models between themselves. Rather than reinventing the wheel (so to speak) consider whether any of the existing structures and/or operating models are enough to operate the PCN functions.

5. VAT

Take appropriate advice from your accountants/tax advisors on the Vat implications of your proposed structure and operating model. NHSE has issued useful guidance entitled “Contract DES and VAT” which considers VAT on the supply of services by a PCN and on the receipt and movement of PCN funding. In doing so it:

- (i) anticipates that most supplies supporting the delivery of the PCN DES will be health care services and will be VAT exempt.
- (ii) identifies that providing it is recorded in the Network Agreement that funds received from the commissioners by the nominee payee (on behalf of the PCN) are being received by them as a disclosed agent who is holding money on trust for the ultimate employer then the movement of funds should not trigger a VAT charge.

6. Clinical Director

Given the fact that a PCN must, at all times, have a Clinical Director in post (having oversight of, amongst other things, the leadership and strategic direction of the PCN), the PCN must have a clear process for their appointment. Whilst there are various ways this can be done which include a nomination and election process, a simple vote at agreed intervals, rotation, or selection, it is strongly recommend that an appropriate default position is set in place to avoid a situation where the position is left unfilled.

7. Decision making

Be clear on how decisions will be taken within the network. Given that the network will ultimately evolve to include various members (with core constituent and other members) it is highly likely that the decision-making process will morph over time. As part of this, you may well find that whilst certain decisions may be reserved for the approval of the constituent practices and/or members (whether all of them, a set majority or a simple majority). Various decisions are likely to be delegated to an executive board (and their sub committees). What works for you will depend on your circumstances, but we would urge that a decision-making model is adopted which achieves a sensible balance between the three competing elements referred to above.

8. Dispute resolution & exit routes

Whilst the Network Agreement will cover certain items when it comes to disputes and exit routes, be clear on what supplemental provisions are to apply for your particular PCN. With exit routes, is there to be an ability for practices to voluntarily decide to remove a member if there is a breakdown in relationships? When a member decides that they wish to leave will the continuing members be obligated to carry on the network or will they have an option to do so? These are just two questions that are likely to need to be discussed and agreed.

9. Data protection

Members of the PCN will be required to open up their records (whether in whole or part) to achieve the ambition of integrated working (not least to allow extended access across the network patch). Any such process will involve risks. Whilst pro forma data sharing and data processing agreements are being prepared by NHSE and the BMA it is recommended that PCNs consider other important elements including the proposed flow of data. Including the security arrangements, the privacy policies and the processes for handling data breaches.

10. Network Agreement

Last but by no means least, make sure the Network Agreement is completed (bearing in mind the document is split between national terms, which are incapable of change but in many cases can be supplemented, and locally determined terms, which are up to each PCN to decide) and updated as and when there are changes in membership, the operating model, the services to be delivered or otherwise. This includes the financial arrangements, workforce arrangements, service provision arrangements and arrangements with other non-constituent members.

This note provides a very high-level overview of some of the top tips when it comes to entering into a PCN. If you need advice and/or support in relation to your PCN please do not hesitate to contact our team.

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