

# insight

The magazine of the **Pharmacists' Defence Association**



## PDA challenge to Guild policy on PI insurance



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# Chairman's letter

## Telling it as it is

**Exasperation on behalf of pharmacists is a frequent feature of life at the PDA. Experiencing first hand the extreme approach taken by the old regulator - the RPSGB in putting thousands of pharmacists through the Fitness to Practice machine, or being directly involved in the ordeal of Elizabeth Lee or dealing with the frequently unfair treatment of pharmacists by certain employers; all these experiences and many more besides leave a bad taste in the mouth.**

These harsh experiences have taught us two things;

1. It is vital for pharmacists to practice with the protection of the very best and the most spirited defence that they can possibly assemble. Pharmacists owe it to themselves and to their families to make sure that if problems occur they can rely on rock solid support.
2. Whenever and wherever possible, avoiding the risk of problems, of prosecutions, of regulatory activity or employment conflicts in the first place is a far more preferable route than having to go through the painful experience of having to organise the defence of one's reputation.

We continue to be exasperated by some of the policy decisions being taken by the Guild of Healthcare Pharmacists.

Many pharmacists will recall that in 2009, a classic example of where the risks being faced by pharmacists could have been reduced was when three months before the launch of the RP regulations, the PDA called upon the government to delay the launch so that they could be made workable first. We knew, from surveys that pharmacists and employers were not ready for their implementation. We were concerned that significant new requirements being placed upon pharmacists were simply unworkable – especially in the hospital setting. The new RP regulations introduced new professional and criminal offences for pharmacists, increasing their exposure to risk. We were not isolated, our call was backed by more than 5,000 pharmacists in a petition. We were aware that the government had some sympathy with our call for a delay, but that it also needed to hear from other pharmacy organisations. As the minutes of the RPSGB Council meeting in the summer of 2009 will show, when the RPSGB asked the Guild what it thought, it was told that they were not in support of a delay. We will never know how differently things might have looked, or even at all, had the Guild backed the PDA's position.

What we logically assume, is that the additive effect of several organisations refusing to back a call for a delay in the regulations probably contributed to the situation where the RP regulations were not delayed. Tens of thousands of pharmacists faced exposure from criminal and professional sanctions through regulations that were unworkable and which therefore represented an unacceptable risk.

The PDA has since persuaded the government to review the RP regulations, but this has taken two years. The review is now underway and will continue into the autumn. On pages 6 to 8 we describe the PDA's draft proposals on RP and supervision. One of these proposals is that due to the complete unsuitability of the RP regulations for the hospital setting, hospitals should be exempted from the regulations altogether.

We ask pharmacists to give us feedback on these draft proposals and in the meantime, we hope that the Guild has reflected upon its previous decisions on RP regulations and the subsequent developments in this area.

Pages 22 and 23 of this magazine describes our further exasperation with the position of the Guild in relation to Professional Indemnity Insurance. We describe how some hospital pharmacists may have been confused with the current advice that they offer.

Despite these concerns, in the interests of hospital pharmacists, in recent years the PDA has approached the Guild on more than one occasion with a view to the two organisations joining forces. So far, no progress has been made and it is such a great shame. With all of the conflicts facing hospital pharmacists today, we think that if the two organisations both seeking to protect the interests of hospital pharmacists both with distinct strengths and unique capabilities are unable to combine their forces and point in the same direction then it is in our view, to the detriment of all hospital pharmacists.

**I urge hospital pharmacists to contemplate the benefits of such an arrangement, to make their views known and if they feel it appropriate - to put the case for change.**

Mark Koziol, Chairman, The PDA



# News

## Road Map arrival

**The PDA's Road Map proposal is about to be finalised and will soon be ready to submit to the government. A lot has happened in the world of healthcare politics since March, with significant changes made to the Health and Social Care Bill, and our proposals have to be in tune with these developments. We have also fed in further members' views that were expressed at the PDA conference.**

### The what

The main thrust of the PDA proposals is the creation of a new second pharmacist role. Our 'clinic pharmacist' would be based in the community pharmacy and work in a much more integrated fashion with GP surgeries. The clinic pharmacist would practise as an independent autonomous healthcare professional and provide continuity of care for patients with long term conditions on a registered patient basis.

Working alongside our clinic pharmacist, the existing community pharmacist would also see a significant shift in focus, with a much

greater role in patient facing activity. These changes will require a significant redistribution of healthcare responsibility, but we believe that they will improve the patient journey and create much more rewarding professional roles for pharmacists.

Furthermore, they will enable GPs to better orientate themselves towards preventing unnecessary hospital admissions for patients with acute conditions. Currently many patients are unnecessarily presenting themselves at A&E departments, feeding the huge increases in emergency admissions which already cost the NHS more than £11 billion per annum.

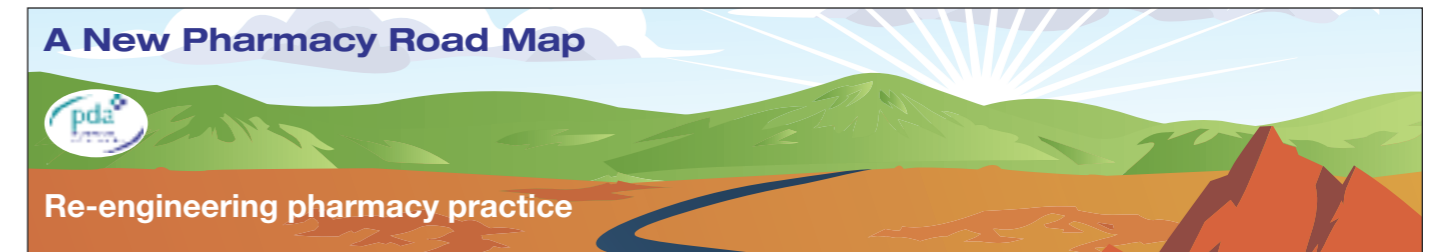
### The how

How we achieve this is described in extensive detail within the Road Map proposal document and a lot of professional and financial re-engineering would be required to support such a development. Importantly, the community pharmacy would still need to be able to ensure that the public continue to receive their medicines safely.

However, subject to these significant changes, we believe that:

- Community pharmacists should become much more available at the re-designed 'front of shop' to respond to patients' healthcare needs on a walk-in basis;
- Clinic pharmacists should provide clinical services to patients with long term conditions through clinics on a registered and planned care basis;
- Community pharmacy premises should be better utilised to provide significantly more 'surgery' capacity;
- Community pharmacies should be used to provide better access to health and social care services, including voluntary and other services that provide social capital.

**We will email all PDA members with a finalised copy of the Road Map document as soon as it is completed.**



## “Don't make the MUR mistakes again” warns PDA

**PDA is calling for urgent meetings with employer organisations to address a number of key issues surrounding the forthcoming implementation of the New Medicines Service (NMS). It believes that, if NMS is to be a success, employers must support pharmacists delivering the service in a number of ways:**

- Pharmacists must be allowed to deliver the service with professional autonomy.
- Employers must provide the necessary support if they expect pharmacists to provide such services to patients. Particular attention needs to be paid to providing the correct environment and staffing levels to enable the service to be carried out professionally and safely.

- Employers should not place undue pressure on pharmacists to deliver these services, this is even more critical in situations where this may impact upon the provision of other pharmacy activities.
- Individual pharmacists should be recognized financially for delivering the service.

Also;

- The NMS, should be developed through a bottom up approach involving pharmacists, patients and GPs and not via a top down 'fait accompli'.

**The PDA wants these issues addressed before the NMS service is launched in October, in order to ensure that the mistakes which hindered the Medicines Use Review service are not repeated.**

**Mark Koziol, PDA Chairman, comments: “We think the NMS is potentially an excellent service for the profession to be involved in and we would like it to work. But pharmacists must be able to deliver this service with professional autonomy if the mistakes of the past around MURs are to be avoided. The right mechanism needs to be found to deliver NMS for patients, one which can benefit patients, employers and pharmacists. As well as ensuring that patients can receive a safe and professional service, if pharmacists are carrying risks in delivering these services, then they must also share in the rewards – be they intrinsic or extrinsic. There is little time left to consider these issues and to avoid the mistakes that were made with MURs”.**

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## Hospital Pharmacists feel the pinch

One of the major consequences of NHS cuts and budget constraints are organisational restructures, and the PDA Union has dealt with a significant number of queries from hospital pharmacists facing redundancy or demotion.

The changes take the general form of management positions being reduced or levels taken out altogether. Some pharmacists at Band 8b are being demoted to 8a roles. Similarly there is a reduction in band 8a positions so current role holders find themselves having to reapply for their own job. Those that are unsuccessful in securing positions have then faced demotion to Band 7. This approach is known as 'slotting in'.

The NHS will be doing everything in its power to prevent redundancies because of the inherent cost. It is in the employer's interests therefore to manage the process so as to maintain that all jobs on offer to those who are being 'slotted-in' are suitable alternatives.

Orla Sheils PDA Legal Adviser explains: "Hospital pharmacists are facing a great deal of change in their working environment at the moment, restructures and cuts to payments for on-call provision are unsettling for our membership. Whilst generally, employers are following the appropriate consultation processes and dealing with matters in an open manner, it doesn't alter the fact that those who worked hard to climb their way up the career ladder find themselves at the bottom of it in the space of three months."

Where PDA Union representatives have been asked by members to attend a consultative meeting on the changes it has done so. Members who attend group and 1-2-1 consultations should treat them as listening exercises, ask questions and scrutinise consultation documents.

"It is important that if members have concerns regarding the suitability of a

proposed role that they make these very clear". Ms Sheils continued "This can relate to the nature of the role itself, the salary, hours of work and location. A suitable alternative doesn't have to be a 100% match however there needs to be very close resemblance to your previous role."

Members unhappy with the job they are being offered, should record their objection as soon as possible. The alternative being that the member will be 'slotted in' to a role that the pharmacist does not believe is acceptable yet the NHS will argue is a 'suitable alternative' with the objective of avoiding redundancy payments.

Individuals are advised to contact the PDA legal team who will be able to counsel on how to best approach meetings and legal remedies available to members if a dispute should arise.

## Pharmacists warned to beware in consultation rooms

PDA has defended a number of pharmacists who have been subjected to sanctions by the GPhC as a result of patients complaining of sexual assault or inappropriate behaviour in the consultation room.

With no more evidence than a single statement from a patient the regulator has on several occasions applied for an Interim Order to have the pharmacist suspended from practice. The Fitness to Practice Committee has the power to apply this sanction ostensibly removing any immediate

threat to the public whilst the matter is under investigation pending a full hearing.

In these cases and after representations from the PDA the Committee has applied common sense and allowed the pharmacist to continue to practice albeit under certain conditions which often include a requirement for the pharmacist to have a chaperone when dealing with a patient in a consultation room.

The PDA feels obliged to warn members about this trend and to advise them to consider using a chaperone in any event in

certain situations. Mark Pitt, PDA Membership Services Manager says, "In view of recent developments we believe that chaperone policies should be reviewed to ensure that the pharmacist is properly protected and where no policy exists the employer should be encouraged to adopt one."

"Female pharmacists are also vulnerable to such allegations" explained Mark, "And all pharmacists should consider using a chaperone when dealing with vulnerable or unpredictable groups of patients."

## PDA Union approaches NHS Scotland

PDA Union has written to the Human Resources Director of NHS Scotland requesting that PDA Union is recognised as an organisation to be formally consulted on matters of "workload and practice pertaining to pharmacy practice and individual pharmacist practitioners".



## Transitional arrangements for technicians close July 1st

If you have pharmacy technicians working in your pharmacy under the transitional arrangements they will not be able to call themselves such unless they have been registered with the GPhC before 1st July 2011.

The transitional arrangements ended on Thursday 30 June 2011 and on this date, registration for pharmacy technicians became mandatory and the entry requirements changed. Those who had not applied to register by that date now need to undertake further qualifications and work experience before they can apply to register.

Pharmacists should be aware and check their technician's registration. In the event that any non registered pharmacy technician practices illegally, then both RPs and the superintendent as the employer are likely to be held accountable by the authorities.

## £5,000 award paid as PDA tells members to stand up for their rights



In September 2009, Superdrug imposed changes to the employment contracts of its pharmacists. In a development that may perhaps cause other pharmacy employers and employees to re-think their approach to changing contractual terms, a PDA Union member took the advice posted on the PDA web site and this led to a successful claim against the employer and compensation of £5000.

When the issue of the imposed contract changes were first brought to its attention, PDA advised that the new terms were extremely one sided allowing the employer the greatest flexibility it could possibly have with regards to work patterns and environment without taking into account personal circumstances. Furthermore; their threat to dismiss anyone who refused to sign it was challengeable and depending on the individual circumstances may constitute unfair dismissal and breach of contract.

The claimant in this case, a part time employee, maintained that the contract had

been presented to him as a 'fait accompli' and that the communication with him did not constitute a consultation. In his claim to the Employment Tribunal the claimant stated

"I have been treated unfairly and I feel I have been constructively dismissed. I also feel that Superdrug have breached my contract. Superdrug sought to impose new terms and conditions on me unilaterally without real meaningful consultation direct with me. I had three meetings, the theme of which was here is the new contract you either sign or we will sack you. Superdrug refused to allow me to sign my contract under protest and to continue to work under the new contract."

Superdrug denied that they had not consulted and claimed they had a good business case for implementing the changes.

The guidance that the PDA posted on the web site at the time stated;

"Employees may be dismissed from their employment for fair reasons only. Dismissal for refusing to sign a contract with new terms and conditions could be considered a fair reason by an Employment Tribunal in certain circumstances [but the employer must convince the tribunal that it has satisfied certain criteria in its decision to dismiss]."

What needs to be considered is the balance between an employer's need to change the existing terms against the employee's need to keep things as they are. The Courts have in the past

appreciated that some employers have had no choice but to make changes in order to keep the business afloat and have found that employees refusing to accept changes have been unreasonable in doing so. The PDA believes that too many changes have been put forward by Superdrug and we are currently not aware of what the business reason for making these changes is. Whilst we cannot guarantee success [in making a claim to an ET for unfair dismissal] we are reasonably confident that employees with at least one years' continuous service who cannot comply with the changes for good reasons and particularly those who cannot due to having caring responsibilities or on religious grounds would succeed in bringing unfair dismissal claims in an Employment Tribunal."

Although we advised a significant number of members on their rights going forward, almost all caved into pressure to accept the new contract and to our knowledge this employee was the only one prepared to take matters to an Employment Tribunal.

John Murphy said, "we know that companies exert great pressure on employees to accept changes they want to force through and it can be a daunting experience to stand up to this; however this judgement shows that even the biggest employers can get it wrong and there are effective routes for resolving such disputes - all it takes is for employees to stand up for their rights."

## You've got mail



ensure that they access their emails from PDA without being filtered off as SPAM or junk mail.

"With 96% of our members

The primary source of regular news and updates sent to PDA members is done so by email, however, some members may have these emails filtered out by default settings on their spam filters.

PDA has now produced web site guidance on how its members can

having email accounts, we are increasingly using electronic mail to communicate with them." Said Harminder Lall the PDA Union communication officer.

"Well over 80% of our members use our on-line facility for joining or renewing so they have no problem with

communicating with us using this medium", said Harminder, "So we wouldn't want them to miss out on very important information when we communicate with them in this manner."

Members are therefore advised that if they do not receive PDA emails or only receive them sporadically then go to [www.the-pda.org/spam](http://www.the-pda.org/spam). Guidance is available on this site whether you access your email through a web browser (such as Google, Yahoo and Hotmail) or if you use a computer programme to read your emails (such as Microsoft Outlook, Windows or Apple) so you can disable any filter or any other mechanism that restricts your access to PDA emails.

# Decision time on RP and supervision

Chairman Mark Koziol sets out the PDA's position on RP and remote supervision ahead of the forthcoming review of the RP regulations and final consultation on remote supervision

**The Department of Health's final consultation on remote supervision is scheduled for this autumn, so we have one last opportunity to deal with the threat of remote supervision. There is no doubt that the supervision arrangements in pharmacy need updating, but the PDA argues that the ideas put forward by the Department of Health demonstrate a startling lack of insight into the realities of pharmacy practice.**

Experiences of the RP regulations in practice demonstrate that they have been ruthlessly exploited by some large employers to exclude pharmacists from certain pharmacy operations and reduce their operational costs. In the hospital sector in particular, they have proved to be a classic example of activity simply for the sake of process. They have created unnecessary bureaucracy and even led to the closure of satellite pharmacies.

The regulations have not only introduced new criminal sanctions for pharmacists, but have increased the risk of individual liability from professional and criminal sanctions against RPs for matters largely outside of their control. Fortunately, after some significant lobbying from the PDA the Pharmacy Minister has agreed that he will now review the RP regulations.

The PDA has spent considerable time with members and has been working closely with other pharmacy bodies to establish some workable policy on how RP regulations and supervision should be updated. Prior to the Department of Health review of the RP regulations and the formal consultation on remote supervision, we publish here the draft principles that have emerged.

## Clarifying the responsibilities of the superintendent and the RP

The RP regulations currently make the RP statutorily responsible for securing the safe and effective running of the pharmacy. We believe that responsibility is simply too wide, and we have handled defence cases that highlight this problem.

In one case, the police have taken action against a locum under the CD safe storage regulations because he happened to sign on as an RP where the owner had screwed the CD cupboard onto a plaster board wall

instead of a brick wall. The police cited the RP statute, which states that the RP, and not the owner, is responsible. Employers have also cited the RP regulations when disciplining an employee pharmacist because, unbeknown to him, staff were stealing from the business. And certain insurers have used the regulations to try and hold RPs wholly liable for dispensing errors that were committed by someone else on a previous day, but that were handed out while a new RP was on duty.

In reality, the RP regulations thus far have given the RP all of the liability, but none of the control. This must be changed. Our proposal is that we make the RP responsible for what the RP can realistically be held responsible for, which is the pharmaceutical care of the patient. We want the responsibility of the superintendent re-introduced for all other matters that realistically only they can control, such as the physical environment of the pharmacy.

## Giving the RP more control

Although the RP regulations may have been intended to empower pharmacists professionally, large employers have continued to exercise full control over RPs working in their pharmacies. Some have told RPs to turn up for work at 9am, but sign on from 7am, thereby taking responsibility for events in the pharmacy before they arrive. They have then had the temerity to suggest that this did not actually constitute work and that no pay would be forthcoming. We believe that the law should be strengthened and that new pharmacy regulations and professional codes of practice be created to outlaw



some of the current business behaviours that undermine the authority of the RP.

## Make the RP an advanced practitioner

Original proposals recommended that RPs should have undertaken an additional assessment. This would have created the beginnings of a structured, professionally based career framework, with the corresponding reward structures. But powerful commercial arguments were set against such a proposal, because of cost implications, and it was blocked. This was a fundamental mistake.

A quality and structured professional career framework already exists in hospital pharmacy, but is long overdue in the community. The regulations need to revisit this point and, if necessary, allow all current RPs to retain their current position as RP through a grandfather clause. Furthermore, the structured career framework approach would open the door for pharmacists to gain even more recognition through reaching the higher levels of the framework such as a specialist practitioner and ultimately a consultant. This would provide a solid foundation upon which further clinical roles for pharmacists could develop.

## Exempt hospitals from RP regulations

Hospital pharmacies should be exempted from the regulations altogether as they deliver no benefits to hospital patients and cause significant problems for the service. Some hospitals are so slavishly following the regulations that they have had to close down satellite dispensaries. Meanwhile, others are simply paying them lip service and an (often non pharmacist) 'RP monitor' is simply filling in the RP register on a Friday afternoon with a list of names of pharmacists that happen to work in that hospital.

In hospital practice the pharmacist left to take charge of the dispensary as the RP is often the person least likely to be able to take statutory responsibility for all aspects of the medicines dispensed. The pharmacist who has undertaken the clinical check on a prescription and taken professional charge of the pharmaceutical care relationship with the patient is usually more senior to the RP and will often be found on the ward. As a result of the regulations, this is not the pharmacist who takes statutory responsibility.



## A modern, patient facing, definition of supervision

Under the old 1968 Medicines Act a pharmacist had to be in personal control for a pharmacy to operate lawfully, which in practice meant that the pharmacist had to be present. But amendments to the Act, which went live in 2009, allow a pharmacy to operate lawfully in the absence of a pharmacist, as long as an RP is signed on. The absence is currently restricted to two hours, but the forthcoming consultation on

remote supervision will seek to define a much longer absence period.

The PDA has many objections to this plan, but they are mainly based on the notion that the community pharmacy is uniquely the place where the public can expect to find a fully qualified healthcare professional to answer their healthcare related queries and supervise their medicines purchases. No matter how many arguments are put forward about trained counter staff and registered technicians, one fundamental fact still remains: a pharmacy is a safer place when a pharmacist is present.

Most importantly of all, the presence of the pharmacist to be able to look after patients both reactively (when they are called to assist) AND proactively (when they spot a problem emerging in the pharmacy that the non-qualified staff may not) is where the real benefit of the pharmacist's presence lies. We believe that the definition of supervision going forward should be: **Supervision is when the pharmacist is in a position to intervene both proactively and reactively in patient facing situations with regards to their medicines and pharmaceutical care.**

Under this patient centred definition, the community pharmacist would be found in the pharmacy, whilst the hospital pharmacist may be found in a range of locations, but mainly in patient facing situations on the wards. In

light of this, we would recommend that a separate professional Code of Practice is developed for community and hospital practice.

## Should there be an absence?

Experience has shown that the existing two hour absence provision is simply being used to reduce certain employers' operational costs, rather than using remote supervision to develop new roles. If a longer period of absence were permitted

many pharmacies may be operating for much longer periods of time without a pharmacist. This would not be good for patients, for pharmacy, nor for healthcare generally.

There will always be occasions when, for genuine reasons, the pharmacist needs to be temporarily absent, and the regulations must provide for this. But the pharmacy will not be as safe during this absence period, so it should only be considered in situations where benefits outweigh the risks. These include the following:

- A critical incident requires the pharmacist to go to a patient's home to collect wrongly dispensed medication;
- The pharmacist takes a rest break, where the risk of working without a break introduces more risk than if an absence is taken.

Furthermore, the absence decision must only be made by the RP, and never simply be 'institutionalised' as is currently the case, usually via a Head Office memo. The reason for the absence should always be recorded. And crucially, the public deserve to know if there is no pharmacist present, so there must be clear signage to indicate this.

## How long should be allowed?

Absence provision must be broad enough to allow rest breaks and the resolution of potential critical incidents away from the pharmacy. The current two hours maximum could be enough to deliver both the rest break and emergency contingency. However, we believe that the profession should have a debate about the duration of absence, concluding with a ballot to ensure that pharmacists, and not the government or employers, choose the most appropriate solution.

We are not attracted to the argument that each RP can decide on the duration of absence, because without any cap the resulting free for all would damage the universal notion that the public can expect to find a pharmacist in the community pharmacy. Therefore we advocate a relatively short, capped maximum period.

The entire supervision debate has hugely undervalued the important safety contribution of pharmacists' involvement in prescription dispensing.

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A recent Medical Defence Union (MDDUS) presentation described how GPs' liability claims had fallen significantly as a direct result of input from prescribing support pharmacists. Research has shown that there are currently around four errors per 10,000 items dispensed. We argue that, while there is obviously still room for improvement, this error rate is small largely due to the involvement of the pharmacist. If there was no pharmacist, we would see this figure increase.

The PDA's position is that a pharmacist must be involved in the clinical check of prescriptions. Secondly, Pharmacy only medicines can only be sold in a pharmacy when a pharmacist is available to supervise their supply and intervene when required. The MHRA tells us that the existence of the P category and the idea that a pharmacist is always present enables an easier transfer of POM to P medicines. If this were to be changed, there are likely to be fewer POM to P switches, harming plans for patients to take greater responsibility for their health.

### Skill mix and the use of technology

Modernised supervision rules should not take the pharmacist away from the public interface through remote supervision, they should aim to support greater face to face contact with the public. For this to occur, however, pharmacists must be able to spend less time in the dispensary. This can only occur if the following conditions are met:

- Registered pharmacy technicians are working in the dispensary;
- Technology is better utilised to improve dispensing accuracy;
- Clarity needs to be provided to ensure that if a pharmacist has undertaken a clinical check and then handed the prescription to a registered technician for dispensing, that it is the registered technician that is held professionally liable in the event that their picking error leads to the harm of the patient and not the pharmacist;
- Dispensing errors must be de-criminalised.

### Remove the criminality

Against a backdrop of the Elizabeth Lee case, the government introduced new criminal offences under the RP regulations. This is abhorrent to the profession, completely lacks proportionality, and ultimately damages the public interest because it drives pharmacists into defensive practice. We urge the government to remove the criminal sanctions from the RP regulations.

## PDA policy on RP and remote supervision

### Clarify the responsibilities of the superintendent and the RP:

- Limit the responsibility of the RP to matters relating to the pharmaceutical care of the patient
- Make the superintendent responsible for matters relating to the business and the pharmacy premises

### Ensure that the RP can operate with the necessary level of control:

- Embellish the professional autonomy in the 1968 Medicines Act – as part of the current review of the Medicines Act
- Create clear and unambiguous regulatory standards that outlaw the suppression of RPs' professional autonomy by owners or superintendents – a job for the GPhC
- Create a professional code of practice framework that prevents superintendents or owners riding roughshod over the legal authority of the RP – a job for the RPS

### Create a structured career framework in community pharmacy and link RP status to a more advanced level of practice:

- Practitioner
- Advanced practitioner (linked to RP qualification)
- Specialist practitioner
- Consultant

### Exempt hospitals from the RP regulations

### Produce a modern, patient facing definition of supervision

### Define what can be done during an absence:

- A pharmacist must be involved in the clinical check of prescriptions
- P medicines can only be sold or supplied if a pharmacist is present in the pharmacy

### Use skill mix and technology to the advantage of pharmacists and patients

### Remove the criminality

## HAVE YOUR SAY

This article describes the main thrust of the PDA's policy on RP and supervision. A more detailed policy document is due for publication in August, ahead of the government's final remote supervision consultation.

If you wish to comment on these interim proposals, please do so by going to

[www.the-pda.org/comments](http://www.the-pda.org/comments)

# NHS reforms - an update

## Where does the government U-turn on its NHS reforms leave pharmacy?

Pharmacy is embroiled in some of the most dramatic reforms of the 63 year history of the NHS. England's 152 Primary Care Trusts will cease to exist in April 2013 and will be replaced by around 500 clinical commissioning groups that will be responsible for commissioning the majority of NHS services.

The Government's original proposals for the NHS, as outlined in the health white paper 'Equity and Excellence: Liberating the NHS', published last July, attracted widespread criticism, particularly from doctors. In November Dr Clare Gerada, Chairman of the Royal College of General Practitioners, called the plans 'the end of the NHS as we know it'.

As a result, a "natural pause" in the progress of the Health and Social Care Bill was announced in April and the NHS Future Forum was formed to conduct a listening exercise. Pharmacist Ash Soni was the sole pharmacy representative on the Forum. In June, the Government accepted all the Future Forum's proposals and the changes have now been laid before parliament.

### A U-turn, or simply a re-think?

One of the most controversial proposals in the White Paper was that consortia of GPs would be solely responsible for commissioning around £80 billion of NHS services. They could commission services from 'any qualified provider' and competition in the NHS would be promoted by a newly formed body called Monitor. These proposals were designed to increase competition in the NHS, but it was generally perceived that this would give GPs too much power and responsibility that they were not best equipped to manage alone. It could also leave pharmacy enhanced services out on a limb if GPs chose to commission themselves to deliver services that traditionally fall under pharmacists' remit.



As a result of the Future Forum's recommendations the following key alterations have been made to the original proposals:

Equity and excellence:

Liberating the  
NHS



- GP consortia will be renamed 'clinical commissioning groups' to reflect the fact that they will now include a wider range of health professionals.
- Every clinical commissioning group will have a governing body including at least two lay members, one hospital doctor and one nurse. The rest of its clinical membership is being left open.
- Clinical senates – made up of doctors, nurses and other professionals, including those from social care – will be set up to offer expert advice to commissioning groups.
- The delivery of services by 'any qualified provider' will initially be restricted to 'selected community services'. There will never be blanket coverage and some services such as A&E and critical care are unlikely to ever fall under this remit.
- Monitor to focus on protecting and promoting patients' interests, not promoting competition as an end in itself.

### Good news for pharmacy

The amendments have been welcomed by pharmacy bodies as good news for the profession, particularly the opening up of the membership of clinical commissioning groups to include other healthcare professionals, and the emphasis on transparency and robust governance. Pharmacists will not have a seat on these bodies as of right, but will be able to earn a place based on their individual merits. Prime Minister David Cameron has reportedly said that pharmacists are expected to play a key role in the new commissioning groups.

July's NHS white paper was the first to directly mention pharmacy, stressing that the pharmacy contract will place an increasing emphasis on medicines management. It specifically mentioned a 'First Prescription' service', which has become the New Medicines Service to be launched in October.

A new National Commissioning Board will be responsible for the national pharmacy contract. Pharmacy enhanced services are to be commissioned by clinical commissioning groups, except those of a public health nature, which will become the responsibility of local council authorities. Local communities will be required to create Local Health and Wellbeing Boards to work with NHS commissioners in shaping strategies for local health improvement, social care and NHS service provision. Funds for public health services will be ring fenced and held by a new national public health department, Public Health England.

# When you walk through a storm – do not rely on someone else's umbrella!

**"I was told that I didn't need to join the PDA because my employer will insure me if anything goes wrong" is something that we hear a lot at the PDA, usually AFTER something has already gone wrong. This article explores the practical reasons as to why pharmacists should carry their own protection, independent of their employer and independent of any organisation that looks after their employer's interests.**

The PDA is a defence association and a trades union and amongst other things, puts in place an insurance contract to ensure that funding is available for complex and costly cases. These may include criminal proceedings such as the Elizabeth Lee case, regulatory or employment disputes, and of course it enables the payment of compensation to injured parties as a result of a negligent act of a member. Sometimes, the costs for individual cases can run into six figures.

Full PDA membership provides personal professional indemnity cover for pharmacists whether they are an employee or self employed irrespective of what branch of pharmacy they practice in.

## Vicarious liability

Employees are told that they have protection from their employer in the form of **'vicarious liability'**, this is a semi-strict liability imposed on an employer in respect of negligent acts committed by an employee whilst in the course of their employment. It is a legal obligation and one which they cannot escape, though they can subsequently reclaim their financial exposure from their employees if they so wish.

*So if an employer is vicariously liable, then why is it advisable to carry personal insurance?*

## Exposure to claims

In strict law, the employer's liability is additional to and not in substitution for the employee's liability for his or her own actions - the employee remains personally liable to the victim. There is always a term found in contracts of employment that an employee will exercise all reasonable care and skill during the course of employment. An employee who is negligent is in breach of such a term and the employer who has been held vicariously liable for the harm caused may seek to recover any losses

suffered by them – such as paying out compensation to a patient harmed by the actions of the employee pharmacist.

Although instances of employers taking such action against its employees are not common, case law shows that employers have won compensation claims against their employees because they successfully argued that the employee had engaged in 'wilful misconduct'. In pharmacy, pharmacists are increasingly being disciplined and even dismissed, for failing to follow SOPs. In one recent case the employer acknowledged that the pharmacist deviated from the usual SOP in the interests of the patient but still dismissed her. Once employers take this line of approach, it is easy to see how they may label dispensing errors as 'gross misconduct' (a dismissible act) or they may deem them to be 'wilful misconduct'. What has occurred in pharmacy is that some employers have pursued their employees for the legal costs incurred in a dispute involving their employee.

The reason why it is important for pharmacists to carry their own indemnity insurance however, is not because it will help to determine who should or should not pay for any negligence claim, the real nub of this issue is that he who controls the claim controls the defence strategy and will be able to determine exactly whose interests will be of primary importance.

## Being in control of your own defence

There have been three recent high profile cases that demonstrate why pharmacists should remain in control of their own defence.

The 'peppermint' water case where a pharmacist and pre-reg faced charges for offences under the Medicines Act for a dispensing error.

The 'Prestatyn' case; where a pharmacist faced charges for offences under the Medicine's Act for a dispensing error.

And then there was the Elizabeth Lee case where she faced charges for offences under the Medicines Act for a dispensing error.

In the first two cases the pharmacists had their defence managed and paid for by their employer and in the latter the pharmacist was a member of the PDA.

In the first two cases the employees were prosecuted.

In the Elizabeth Lee case, she was initially prosecuted, she then went to the Royal Court of Appeal; successfully had one of the original decisions overturned, her custodial sentence quashed and secured a landmark precedent judgement that means that an individual employee or locum pharmacist never be charged under section 85.5 in the future, as the Court of Appeal determined that a breach of this section of the Medicines Act could ONLY EVER be made by an owner of a pharmacy.

We feel that it would be highly unlikely that had she relied on her employers defence efforts, that they would ever had taken the line of defence that was taken by the PDA, which resulted in a striking out of the original prosecution and a landmark ruling that was very hostile for anyone who is an employer.



## Serious incidents – competing interests

Some incidents that can lead to patients being caused significant harm or even death can lead to police and regulatory investigations, employer disciplinary action and finally compensation to the victim or their families. The more serious the incident the more the pharmacist, the technician or pre-registration graduate and the employer are exposed. The danger to the individual pharmacist in allowing the employer to control their defence strategy is that the employer may want to extract itself from the firing line to protect its brand. An employer's defence strategy will rarely be primarily constructed to look after the interests of the employee or locum.

The medical, dental and nursing professions are renowned for ensuring that they have their own protection – indeed when the PDA represents its members in coroners' inquests employed doctors and nurses rarely rely on their Trust's legal team to defend them; their own defence association secures good lawyers and a robust defence position on their behalf. In contrast, some pharmacists do not turn up to these inquests with representation that is independent of their employer and often feel that they have lost out.

In a recent communication the dental defence association issued a statement to its members; **"Under vicarious liability, employers remain theoretically liable for the acts or omissions of their employees but the General Dental Council still requires all registered dental professionals to demonstrate they are properly indemnified and patients are able to claim any compensation they may be entitled to. We do not think Dental Care Practitioners should rely on vicarious liability alone. Without membership of a dental defence organisation and the benefits of independent dento-legal**

**advice it brings, it is possible that dentists may not be fully discharging their duties under General Dental Council guidance and they may be professionally and personally vulnerable."**

## Who is holding the umbrella?

At the PDA we liken it to holding an umbrella. If you are in a storm and you are dependent on another person carrying an umbrella to keep you dry, with the best will in the world and however attentive the other may be, at some stage or other, you will get wet. There may be a change in the direction of the wind, or you may come to a lamp post in the street and the only way to get around it is if you both go different ways before you meet at the other side; the person who holds the umbrella stays dry all the time. It's a bit like that with your own defence. No matter how much you trust the other interested parties, it is inevitable that at some stage in the proceedings your interests will not be taken care of.

PDA recognises that there will be those occasions where for whatever reason a pharmacist may wish its employer to handle



their defence in a specific incident. However, many of these matters are highly nuanced and often, knowing when ones interests are beginning to lose out requires an expert independent view. Pharmacist defence really does need to be independent of the employer and of any organisation whose role is to look after the interests of the employer.

## Up close and personal with the PDA

Conor Sin describes how his work experience in the offices of PDA convinced him to become a member:

**“** On my first day John Murphy, PDA director, asked why I hadn't joined the PDA. I replied without a second thought that my employer's insurance would cover me. **'Well,'** said Mr Murphy, **'for the next few days you shall see why it is important for pharmacists to join the PDA, and you will soon find out that the PDA is more than just an organisation that provides insurance cover.'**

The PDA is a non-profit-making defence organisation and I used to think that it would only benefit locums, but was amazed by the number of ongoing cases that involve disputes between employers and employees, for issues such as unfair dismissal, discrimination and unfair contract terms. Put simply, if there is a conflict between your employer's interest and your professional reputation, such as a fitness to practice matter, do you think your employer would go all the way to help solve the problem in the pharmacists interest?

This is exactly why individual pharmacists need an organisation like the PDA. It defends pharmacists when they are faced with a conflict, and it proactively lobbies for the individual pharmacist's agenda.

I have seen how far the PDA will go to protect its members. Its union status means that it can represent pharmacists in

internal grievance and disciplinary meetings, and it has legal rights of consultation with employers. Its legal experts and experienced pharmacists provide advice to help pharmacists in employment, fitness to practice and professional indemnity claims.

And the PDA does far more than simply provide insurance cover. Its advice centre provides expert opinion and answers to many questions about pharmacy practice, and legal assistants also provide a free service for locum payment claims, where payments have been delayed.

As a pharmacist with a law background, I was surprised to see how vulnerable our legal position is. The world of pharmacy is changing; pharmacists are not predominantly pharmacy owners, but employees of large chains or the NHS. By joining the PDA we can make our voices heard, not merely as a group of employees or self-employed people, but as a group of healthcare professionals with special skills.

**As a result of my work experience I have decided to join the PDA. And I would urge those who are proud of being pharmacists and would like the professional to remain a dignified one, but have not yet joined the PDA, to become a member as soon as possible.**



# The PDA at the Pharmacy Show – a conference not to be missed

This year's Pharmacy Show Conference and Exhibition promises to be bigger and better than ever, with something for everyone

The Pharmacy Show (October 9-10th, NEC, Birmingham) is the highlight of the professional calendar and the PDA has a major presence again this year.

The two day sourcing, training and education event has grown and been transformed dramatically in the last two years. The Pharmacy Show is now the UK's largest pharmacy conference and the largest provider of live CPD education for pharmacy professionals featuring six major conferences, numerous industry events and a major exhibition featuring more than 250 UK and international specialist suppliers.

In this interview with the Pharmacy Show's new event director, Matthew Butler, the organisers set out the agenda for this year's Pharmacy Show and explains why pharmacy professionals and PDA members will want to attend.



Matthew Butler, Event Director

**Q: The Pharmacy Show has changed significantly from a couple of years ago – what has driven the changes?**

MB: Pharmacists and their colleagues have never been under more pressure and change which is coming at them from all sides – from patients, GPs, PCTs, red tape and regulation, their contract, supply problems, Category M, the list is endless. It was clear that pharmacy was facing lots of challenges which it needed to face head on.

The Pharmacy Show has always been a good day out, especially for independent

## Pharmacy Show Conference

- **C+D Keynote Theatre** - Expect leading figures from major multiples to share their strategies for the future, while key policy makers will tell you what lies ahead for community pharmacy.
- **The Clinical Forum** - The Pharmacy Show has partnered with the British Journal of Clinical Pharmacy to deliver a world-class clinical programme covering oncology, cardiology, respiratory medicine, renal, mental and sexual health disease areas. There will also be unique sessions, including: VTE prevention, independent prescribing, NICE quality standards and improving medicines adherence.
- **The Patient Services Forum** - Aimed at pharmacy owners and management, this forum will focus on the new medicines service (NMS), MURs and other new commissioned and private services in community pharmacy.
- **Skills & Development Forum** - A series of training seminars from specialist education providers and trainers on key community pharmacy function areas, focused on broadening the skill sets of pharmacy professionals.
- **The OTC Academy** - Training modules for counter assistants and technicians looking to improve their knowledge in different therapy areas and to help them offer patients better advice on OTC medicines and retail products.
- **The Pharmacy Business Accelerator** - These compelling sessions cover the key challenges faced by pharmacies seeking to improve their business performance and increase profitability in these challenging times.

community pharmacists, who come to source products at the exhibition and catch up with friends and professional colleagues. That's not changed. But we believe pharmacists need more, much more, than the opportunity to pick up a few good deals on products.

So we have created the most comprehensive conference programme available in the UK to help pharmacy owners, managers, employee pharmacists and their colleagues confront some of the biggest the challenges the profession has faced in decades.

**Q: How have the changes to the show with the expansion of the education programme been received by pharmacists?**

MB: Attendance has grown close to 100 per cent in the last two years, which is obviously an encouraging sign that pharmacists and their colleagues like what the show now has to offer. Delegates have told us they like the structure of the conference, with several

streams to choose from and the mix of business and clinical education as well as personal development training on offer. We've got good support from the trade, which allows us to offer the entire conference for free – which I think is appreciated by pharmacists.

**Q: Can pharmacists use the show to help them with their CPD?**

MB: Yes. We provide CPD assessments before the show for almost all the more than 55 lectures, to help delegates plan what they need to attend and to map it to their CPD requirements. We also provide CPD record aids immediately after the show, which they can tailor and upload to their CPD file with the GPhC. The ability to turn attendance at the show into CPD records has been very well received by pharmacists, and I am sure it will be a great support to technicians now they also have an annual requirement with the GPhC.

**Q: So what can delegates expect this October – are there any new developments?**

A: Several. For starters, we've introduced a sixth conference - the Clinical Forum - focusing on major disease areas. As pharmacists are spending more time with patients discussing their medicines, whether it's part of the new medicines service, doing MURs or running services, pharmacists have told us they want more clinical education. The exhibition will be the biggest we've ever seen, with more than 50 new suppliers exhibiting for the first time. Our special events programme has expanded enormously with most of the key industry organisations and



Last year's successful conference

membership bodies running their own education and networking events. We've also formed some new partnerships with pharmacy groups in Scotland, Wales and Northern Ireland who will run some of their own events for their members – we want to make this into a truly national event.

**Q: Is the show only relevant to pharmacists – what about other members of the pharmacy team?**

A: The show is relevant to technicians and staff who work in the dispensary or behind the counter. We have products and services on the show floor that are relevant to them, and specific

training and workshops to help them in their jobs. Pharmacists send their counter assistants to the hugely popular OTC Academy, for example, which gives them product training, and our Pharmacy Business Accelerator is hugely popular with pharmacy managers and owners.

## BPSA Pre-registration Graduate conference at the Pharmacy Show.

The annual BPSA conference "Aiming High" will take place at the Pharmacy Show again this year. The event is specifically designed to get new pre-registration graduates off to a flying start in their training year.

John Murphy the director of PDA which designs, sponsors and administers the conference explained "This conference is really well thought of by all the delegates year on year; it gives them ideas and tips on how to effectively collect evidence for their on-going assessment, and helps develop some of the soft interpersonal skills that the graduates will need to acquire if they are to make the year as productive as possible."

Ryan Hamilton the BPSA President agreed "This is the third year we have held the conference at the Pharmacy Show. This unique arrangement gives another perspective to the event as delegates not only have a terrific learning experience but they have this amazing opportunity to visit the exhibition as part of the deal!"

The conference which takes place on Sunday 16th October is one of a series of two, the other taking place in February, and is often over-subscribed so pre-registration graduates would be advised to book as early as possible on [www.the-pda.org](http://www.the-pda.org)

## Don't forget: The Exhibition

- Dispensing equipment
- OTC products
- Pharmaceuticals and prescription medicines
- Pharmacy equipment
- Technology solutions
- Medicines management solutions
- Unlicensed medicines and specials suppliers
- Wholesalers and distributors
- Retail solutions
- Professional services



Visit PDA at the exhibition. Register to attend for FREE at: [www.the-pharmacyshow.co.uk](http://www.the-pharmacyshow.co.uk)

# HMRC targets locum pharmacists

As the Inland Revenue looks to close tax loopholes, locum pharmacists need to stay ahead of the game. Guy Smith, Senior Tax Consultant at Abbey Tax, explains

Locum pharmacists have become the unwitting victims of HM Revenue and Customs (HMRC) compliance activity into the wider medical profession. Over the past few years, HMRC has pursued hospital consultants remorselessly, and it looks like locum pharmacists might be next.

Additional tax has been sought from consultants, based on undeclared income from medical company commissions, medico legal work, professional writing and speaking, as well as expert witness appearances. Tax inspectors have also forensically analysed expenditure claimed and particularly sought to disallow, or severely reduce, any claims with a dual purpose, such as mobile telephones used for both business and private calls, or travel costs starting from the home. This has been the most contentious topic of all and the expense locum pharmacists need to be most concerned about.

HMRC has sought to define the differences between various categories of self employed individuals, with regard to what constitutes the 'business base' for mileage and travel purposes. It is using historical tax cases to support its position. The two main tax cases referred to are Horton v Young and Newsom v Robertson.

## Home or a place of business?

Mr Horton was a bricklayer from Eastbourne who entered into contracts with a contractor for bricklaying on various sites within 55 miles from his home. There were no office facilities on the sites that he contracted for, so he wrote up his books and kept his tools at home. He claimed expenses for travelling between his home and the various building sites. He travelled to the various sites in his car. The Court of Appeal decided that Mr Horton was entitled to the expenditure claimed because his home was the base from which he carried on his business.

**In his summing up, Brightman J said:** *'In the majority of cases a self employed person has what can properly be described as his place of business or base of operations. There are, however, some occupations in which the self*

*employed person does not have any location which can readily be described as his place of business, but rather a number of places at which from time to time he exercises his trade or profession. It seems to me that there is a fundamental difference between a self employed person who travels from his home to his shop or office or his chambers or his consulting rooms in order to earn profits in the exercise of his trade or profession and a self employed person who travels from his home to a number of different locations for the purely temporary purpose at each such place of there completing a job of work, at the conclusion of which he attends at*



*a different location. I do not think it matters in the latter type of case whether the taxpayer does or does not effectively carry on any trade or professional activities in his own home. The point is that his trade or profession is by its very nature itinerant.'*

Mr Newsom was a barrister who carried on his profession partly in his London chambers when the courts were sitting and partly at his home in Whippsnade. When the courts were sitting he did a greater part of his work at his chambers, but at other times he worked at home except for an occasional journey to his chambers. He claimed expenses for travelling between his home and his chambers. The Court of Appeal decided that not all of the travelling expenses were incurred wholly and exclusively for the purposes of the profession.

**In his concluding comments, Denning L J said:**

*'Once he gets to his chambers the cost of travelling to the various courts is incurred wholly and exclusively for the purposes of his profession. But it is different with the cost of travelling from his home to his chambers and back. That is incurred because he lives at a distance from his base. It is incurred for the purposes of his living there and not for the purposes of his profession, or at any rate not wholly or exclusively.'*

## How does this affect me?

HMRC tends to class locum pharmacists in the same category as Mr Newsom. HMRC does not regard locum pharmacists as itinerant traders. HMRC regards locum pharmacists as professionals exercising their expertise at a fixed base, that is, a pharmacy.

Therefore, if you are a locum pharmacist who claims travel expenses from the time you leave home, whether you are paying for a train fare or buying petrol, HMRC may well challenge the travel expenditure claimed on your tax return, on the grounds that the costs incurred were not wholly and exclusively in the pursuit of your profession, but merely to take you away or return you to your home.

However, just because HMRC thinks a certain way does not mean it is right. A common charge laid at the door of HMRC is that it does not examine Tax Returns on a case by case basis, with regard to the unique circumstances of that individual. Too often it makes assumptions without consideration of the full facts.

For example, if you are a locum pharmacist who works at different pharmacies, in an irregular pattern from week to week, you are more likely to win the argument that your travelling expenses are allowable. If you are a locum pharmacist who works at the same pharmacies consistently from week to week, you are more likely to have your travelling costs challenged by HMRC.



Generally, all one off journeys to attend training workshops or professional conferences are allowable, as are visits to deliver prescriptions to elderly or disabled customers in their homes, because the trips are regarded as non habitual and irregular.

## Summary

HMRC has been targeted by the government to bring in an extra £7 billion a year in additional tax and inspectors are more aggressive than they used to be.

While not accepting the premise of HMRC's challenge to their travel expenses, many hospital consultants have struck deals with HMRC to avoid protracted enquiries and unwanted publicity at tax tribunal hearings.

This has only served to galvanise HMRC even further, to enforce the principles of Newsom, rather than Horton across the professions. Locum pharmacists need to be aware of the need to keep accurate and detailed records, so that a robust defence can be launched in the event of an enquiry from HMRC.

## Best practice

- Maintain a diary or mileage log of where you are working from day to day and make sure you record any one off journeys to attend training workshops or professional conferences.
- Keep all travel receipts, whether petrol receipts, tube or train tickets.
- Make sure all invoices for work done are numbered consecutively, have your home address shown clearly and state which pharmacies you worked at and on which day.

## HMRC to investigate 50,000 businesses for poor record keeping

Up to 50,000 small businesses could be fined by the taxman for failing to keep proper accounting records.

**Under an HM Revenue and Customs (HMRC) consultation that took place earlier this year, the taxman wants to start by scrutinising the records of 50,000 of the 2 million SMEs it believes are sitting on unpaid tax bills due to poor record-keeping.**

Anyone found guilty of having underpaid tax as a direct result of poor bookkeeping, will face fines of up to £3,000.

HMRC's ultimate goal is to improve the bookkeeping systems in 40 per cent of the 4.9m small businesses where records are suspected of being below acceptable standards.

The 2008 Finance Act gave HMRC the power to investigate up to 50,000 businesses beginning in the second half of 2011.

The exercise forms part of HMRC's Business Records Checks, which will ultimately target the 40 per cent of the UK's 4.9 million SMEs, which HMRC believes are likely to have underpaid tax.

Forcing SMEs to keep better accounting records, will benefit businesses through improved financial management which in turn, will boost their chances of survival. It is also likely that those seen

to be fulfilling their obligations will have a lower chance of a subsequent visit from the taxman!

**The importance of implementing an accurate bookkeeping system when running a business cannot be overstated. For free advice on record keeping, contact the PDA's approved Accountants, TWD Accountants.**

Members are also eligible to claim a **£40+VAT introductory discount** off TWD Accountants standard first year's fee of £225, for their **sole trader accountancy and tax return service**.

**PDA members will also save a further £25** if they take advantage of TWD Accountants online bookkeeping system, receiving the service **free of charge for the first year**.

**Telephone David Davies at TWD Accountants on 0161 480 5665 for more details.**

**TWDaccountants**  
...affordable expertise

# MUR pressure leads to Employment Tribunal Claim

**A member (Miss SD) contacted the PDA Union in 2009 after being called to a disciplinary meeting to consider, amongst other things, her MUR performance during the 3 days she worked in the pharmacy.**

The non-pharmacist store manager was under great pressure from the regional manager to maximise the number of MURs and a target was set for one MUR to be completed every day, even on the days she was not at work. Ms S was unhappy with the level of support provided in the pharmacy to reach the targets and expressed this to her manager as well as identifying a number of factors outside her control which had an adverse impact on the business. Immediately prior to going on holiday Ms SD had drawn up an action plan to address the shortfall in the pharmacy performance and posted this to her manager. Upon her return to work Ms SD was horrified to be handed a letter inviting her to attend a disciplinary meeting to discuss her suspected "failure to complete all areas on the action plan for the pharmacy". Ms SD felt that due to her holiday there had been no opportunity to progress the action plan she submitted just prior to going on

holiday and that no mention of the potential for disciplinary action had ever been raised by her manager. Ms SD contacted the pharmacy superintendent who passed the matter to one of his regional pharmacy managers. The pharmacy manager contacted Ms SD and claimed he had no knowledge of what had occurred to date and decided to halt the disciplinary process. Ms SD went on sick leave as a result of the distress caused by the handling of this matter.

**THE PDA**  **union**  
strength in numbers

At this stage Ms SD contacted the PDA Union and was advised to submit a grievance about her treatment. She subsequently attended a meeting, accompanied by a PDA Union representative, where Ms SD raised a number of complaints about her manager and the application of the disciplinary process. After a lengthy delay the area manager hearing her complaint did not uphold the grievance and an appeal was then submitted to the regional manager of the company. The appeal manager acknowledged there were some failings on the part of the company in handling the

grievance process but ultimately supported the manager in her decisions. After discussing the options open to her with a PDA case manager, Ms SD decided to resign due to her health and complete loss of trust in the company after her appeal was rejected. A claim was made to an Employment Tribunal claiming "constructive dismissal" which is where the employee alleges that the employer has behaved so badly it has effectively destroyed the relationship of mutual trust and confidence that normally exists between the parties. These types of claims are often difficult to prove as the burden falls upon the ex-employee to demonstrate to the Tribunal that the company's actions were so bad they caused the relationship to break down. After careful legal scrutiny the expert opinion of a PDA Union barrister was that this was a finely balanced case that could go either way. Despite the uncertainty over the prospects of success, due to the devastating impact the behaviour of the company had on Ms SD and that other PDA Union members working for the same company were reporting extreme MUR pressure as well, the Union gave its full support to funding the case to help Ms SD seek redress and to send a message to the Company about its behaviour towards pharmacists.

The Tribunal heard evidence from Ms SD, as well as the store manager and grievance appeal manager. The area manager who heard the grievance was notable by his absence at the hearing and it transpired that he had recently resigned from the company after being the subject of disciplinary action himself following separate allegations from other PDA Union members about his bullying style and pressure on pharmacists to undertake MURs. The PDA Union had supported its members in bringing these complaints to ensure that the company took such bad behaviour seriously.

Although the Tribunal had sympathy for the claimant and preferred the evidence of Ms SD over that of the store manager, it did not conclude that the company's behaviour was so bad it satisfied the test for constructive dismissal. The Tribunal commented that the store manager's evidence given on oath was conflicting at times and that her recollection of events differed from the evidence.

It found that she had made errors handling the disciplinary situation; however the company had corrected these when it halted the disciplinary process after the intervention of the pharmacy superintendent.

Although Ms SD ultimately lost her claim, a number of benefits flowed from the case. Firstly Ms SD felt her position was vindicated because the company was criticised for the way the disciplinary process was conducted and the manager's evidence was shown to be unreliable and contradictory; exposing the truth about what happened is helping Ms SD regain her health.

The PDA Union exposed a culture of bullying and pressure to undertake MURs

within this particular region not only through supporting Ms SD, but by ensuring the area manager was separately held to account for his bullying behaviour towards pharmacists generally about MUR targets. Our intervention ensured that appropriate disciplinary action was taken against this individual and who ironically was chosen by the company to investigate the claims of bullying and pressure to perform MURs raised by Ms SD. His non-appearance at the hearing was a source of embarrassment for the company when it had to explain that he had since resigned and had been disciplined for gross misconduct.

**Finally and perhaps most significantly of all, other pharmacists who work for**

**this company have credited the PDA Union with being the lever for change within the organisation which just prior to the case being heard, reorganised its entire pharmacy structure to reduce the likelihood of similar problems being experienced by other pharmacists.**

**Therefore although the decision in this claim was not what the member or the PDA Union wanted it to be, the ramifications of our involvement should have far reaching and positive benefits for all pharmacists who work for this particular company.**

## Employment Tribunal; Preregistration Graduate Awarded £35,000

**An Employment Tribunal (ET) has judged that a pre-registration graduate who brought a claim of victimisation on the basis of her religion has won her claim and been awarded £35,000.**

In an unusual case, the pre-reg complained that she was being treated less favourably than other members of staff on the basis of religion. She was of a different religion to her colleagues and management of the company who were of the same religion as each other and she felt that she suffered as a consequence.

The company dismissed her shortly after she complained and the Tribunal decided that although her dismissal was said to be due to bad timekeeping and failure to follow the absence reporting procedure, no disciplinary action by the company would have resulted had the pre-registration graduate not made her complaint about victimisation. The Tribunal held that the complaint was therefore the reason for the disciplinary proceedings and her dismissal which followed.

The Tribunal also found that her employer failed to permit her to be accompanied at her disciplinary meeting having been told that there was no need for representation and failing to respond to contact from her

PDA Union representative. Two weeks pay was awarded for this alone; the balance of the £35,000 was to cover loss of earnings and for injury to her feelings.



Pre-registration graduates do not ordinarily have the right to bring unfair dismissal claims. As Orla Sheils the PDA solicitor with conduct of this case explains "Employees don't have grounds for an unfair dismissal case if they have less than one year's continuous service although there are a few exceptions to this rule. Pre-regs

*have a one year contract and can be at the complete mercy of their employers unless they can evidence that they have suffered discrimination, harassment or victimisation for instance". Ms Sheils went on to say "We often come across cases whereby the pre-reg has obviously been subjected to this but sadly they have not contacted us within the time limit for making a claim in the ET".*

Although she accepts that it is understandable that pre-regs don't want to 'rock the boat' during their training year "Members are often clearly disadvantaged by failing to approach us for advice at an early stage when the incidents happen" she said.

In this instance the pre-reg was badly let down by the Head of Human Resources who was the wife of the managing director and owner of the company. She had no professional qualifications relating to her role and on cross-examination it became apparent that she did not even have a rudimentary grasp of the meaning of the term victimisation in a discrimination context, nor knowledge of grievance and disciplinary meetings despite the company employing over 100 staff; a fact which did not go unnoticed by the ET panel.



# Be prepared for what life can throw at you, with an income protection plan

**Over 80 per cent of locums have no sick pay cover. With the Welfare Reform Bill set to make state benefits more elusive than ever, pharmacists should consider taking out an income protection plan sooner rather than later.**

Pharmacists study hard and work hard to generate an income that can support a good lifestyle and provide security and stability for their family. All this may be at risk for those unfortunate enough to suffer ill health that limits their ability to work. Many of us take good health for granted, but the financial consequences of accident or illness can be catastrophic, particularly as state sickness benefits are less than £100 a week.



*As a couple could you pay all the bills and live off your partner's income indefinitely?*

Pharmacists might hope that their employer's sick pay scheme provides sufficient cover, but employee schemes may not be as generous as you imagine. Some pay out nothing to employees with less than three months service, for example, others will only make payments for up to six weeks, and at least one employer does not provide any sick pay except at the line manager's discretion. Employers are also disciplining staff for absence and, whilst under disciplinary sanctions (a verbal or written warning), exercising their discretion to refuse to pay employees during the relevant period.

A recent survey of PDA members illustrates the startling gap in pharmacists' sickness cover:

- Over 70 per cent of those surveyed have made no provision for long term incapacity (over and above their occupational sick pay scheme, if they are employed) and 30 per cent don't know when their sick pay runs out.

Only 16 per cent are confident that they would receive sick pay for more than three months.

- Locums appear to be the most vulnerable, with 81 per cent of those surveyed not having any sick pay cover, and nearly two thirds having made no provision for long term incapacity. Only three per cent of locums have cover for more than three months.
- Employees may assume that their employer will support them through difficult times, but 38 per cent admit that they don't actually know when their sick pay runs out. And only 7 per cent of employees outside of the large multiples are confident that they are covered for more than three months.

Yet when asked what their ideal benefit scheme should include, many pharmacists have high expectations (see table). More than 80 per cent believe that it is important that their scheme provides protection from the first day of incapacity. And 96 per cent think that their scheme should provide cover that lasts until they recover (or reach 65, whichever is sooner). PDA members can access a scheme that delivers all these benefits through our PDA Plus member benefits package – the Income Protection Plan from the Pharmaceutical and General Provident Society (PG).

## Income protection – don't be without it

A Which? report on income protection schemes is unequivocal about the value of income protection schemes, concluding that: **"The one protection policy every working adult in the UK does need is the very one most of us don't have – income protection."** The article gives advice on how to assess whether or not you require income protection insurance. It suggests you ask yourself the following questions:

- Will your employer pay you a percentage of your salary indefinitely if you are off sick?
- If not, and you are part of a couple, could you pay all the bills and live off your partner's income indefinitely?
- If not (or you are single), do you have savings you could live off indefinitely?

The vast majority of IP plans give only 50 or 60 per cent of income back to the insured

and most policies pay out after you have been off work for a length of time known as the 'deferred period'. But a PG plan can pay out the equivalent of up to 70 per cent of gross income (and its payments are tax-free), and provide cover that lasts from the first day of incapacity all the way through until you recover (or reach 65, whichever is sooner). Day one cover is particularly valuable for the self employed – 82 per cent of locums believe this is at least somewhat important, and 21 per cent think it "vital", according to the survey.

## A tough environment

The Welfare Reform Bill, which is before Parliament now, could make claiming state sickness benefit even more difficult. It is understood that Government plans include:

- New claimants will have to serve a 13 week assessment phase before they can move onto the higher rates of Employment and Support Allowance (ESA), will be subject to medical inspection, and the GP won't be their own;
- At 12 months benefits will be means tested, possibly excluding people with more than £16,000 in savings.



*Will your employer pay you a percentage of your salary indefinitely if you are off sick?*

A more robust medical test, the Work Capability Assessment, designed to see whether claimants have the ability to perform any form of work, is already in place. Nearly 80 per cent of PDA members surveyed are unaware that state benefits are 'any occupation' and can be stopped if you are unable to perform any work, regardless of your professional career. Reassuringly, PG can cover a pharmacist until they are able to resume their pharmacy career – one of the benefits of joining a society that specialises in your profession.

## The ideal sickness benefit scheme – members' views

	Not important (%)	Little importance (%)	Somewhat important (%)	Very important (%)	Vital (%)
The scheme provides protection from day one of incapacity.	6.6	13.1	31.7	30.9	17.8
The scheme provides cover which lasts until I recover.	2.3	1.3	12.5	47.1	36.8
There are no penalties if I make a claim.	1.8	2.5	19.9	47.3	28.4
The scheme provides cover until I am well enough to return to work as a pharmacist.	1.5	1.0	11.5	48.0	38
The scheme is designed to provide me with a lump sum paid at the policy's maturity.	6.2	13.5	34.6	30	15.7
The scheme's provider is owned by its members.	3.6	7.3	30.4	36.5	22.2

## The PG advantages

All PG's policy holders gain a rare financial advantage in the form of an investment element designed to provide a cash lump sum for their retirement. As a mutual organisation, any surplus is returned to the membership – irrespective of any claims that an individual may have made. **As a PDA member, we have arranged for you to enjoy a 15 per cent discount on your first three years' contributions.**

**PG will provide quotes for PDA members, based on their individual requirements - for further information about PG's Income Protection Plan call; 0800 146 307 quoting 'PDA2011', or visit: [www.the-pda.org/pdaplus](http://www.the-pda.org/pdaplus)**



## The benefits of PG's Income Protection Plan

- ✓ Cover from day one until you recover (or age 65, whichever is sooner)
- ✓ Up to 70 per cent of lost income covered
- ✓ Cover until you are able to return to your professional career
- ✓ No penalties for claiming
- ✓ Investment element designed to provide lump sum at maturity
- ✓ PDA members get 15 per cent discount on first three years' contributions

# PDA helps members meet new CPD standards

## Free CPD support now available to all community members

Earlier this year the General Pharmaceutical Council approved new Continuing Professional Development standards, which came into force in July, and there is some concern about how the new standards will affect pharmacists. There are two significant changes to the standards:

1. Pharmacists must now start at least three of their annual minimum of nine CPD entries at the reflection stage of the cycle.
2. Pharmacists must score an overall mark of at least 50 per cent.

The GPhC reports that nearly 2 per cent of pharmacists do not achieve a high enough score. These figures may seem low, but 2 per cent of the register is around 900 pharmacists.



Around 900 pharmacists have failed to reach GPhC minimum standards in their CPD.

Fred Ayling, director of the CPD Centre, comments: "If pharmacists are not achieving the minimum 50 per cent mark it is probably due to them being unsure about what to record. It may be that some of their CPD happened so long ago they really can't remember the detail. Some pharmacists may have become complacent because they have heard it is so easy and that you really don't need to provide much information."

The PDA is dedicated to supporting our members with their CPD and we are

pleased to announce an important new development. All members now have access to a free CPD helpdesk and community members will soon receive a free three month subscription to the CPD Centre's new Access package. Pre-registration trainees will receive free support for up to 12 months or until they qualify. It is anticipated that the Access package will be made available to members working in hospital and primary care within the next 12 months.

### The Access package

The Access package is designed to support those who record their CPD for themselves, but who need some support to find meaningful, relevant and innovative content. It also helps those who need regular reminders to record their CPD. The package consists of a monthly publication, the 'CPD Digest', and two

part-populated CPD entries. The CPD Digest summarises what has been happening in the profession that month, how it is relevant, its impact on your CPD, and references if you want to find out more detail.

The CPD Digest covers things that you would expect it to, such as POM to P switches, for example. But it also looks at things

that may be overlooked by some. For example, travel advice and the supply of iodine to those travelling to the Far East in the wake of the Fukushima nuclear fallout. CPD record sheets are provided for two subjects each month, with some of the fields already populated.

### How to access your free Access support package

Your subscription will start automatically. We will shortly be emailing all our members

to advise them about the start of their free CPD support and to look out for any emails from the CPD Centre. You will then start receiving monthly emails from the CPD Centre. Should you wish to opt out you can do so at any time by clicking the unsubscribe link in the emails. Once your free trial period is at an end you can continue your subscription for a further nine months at the hugely discounted introductory rate of just £30.

### CPD support for PDA members

- Free CPD helpdesk for all members: 01795 533077
- Free three month Access subscription for community pharmacists
- Free subscription for all pre-registration trainees
- Full range of packages available with 40 per cent discount at [www.cpd-centre.com](http://www.cpd-centre.com)

### CPD Tips

- Make sure what you record is meaningful
- Stop and think when recording
- Remember that it's not for the GPhC to fill in the blanks, so explain yourself as you write
- The GPhC has had to refer a number of pharmacists to Fitness to Practise because it does not hear from them. Keep your address with the GPhC up to date so you receive its requests for your record to be submitted. Let it know if you are going away for a long time
- If there are gaps in your record due to illness or time off work, let the GPhC know

# Finding the courage to ask for help

Pharmacist Support provides a wide range of support to pharmacists going through difficult times, and has helped change lives. Paulette Storey, the charity's Information Officer, explains.



seeking work. The charity helped with the costs of medical reports for the hearings. Following her full recovery, the pharmacist was given permission to practise again.

We are pleased to report that the pharmacist concerned has returned to practice and now works full-time. In her own words, it has helped her regain confidence and given her, "the opportunity to be of service to others, taking some of the self pity away which was nestling within me."

The Health Support Programme provides a 24/7 confidential helpline both for pharmacists who are in need of help, as well as those affected by a pharmacist with addiction problems.

### A range of help available

Not all cases are as complex as the one above. As well as financial assistance, we can provide help in other ways, such as free and confidential advice from our specialist Citizens Advice team, providing debt, benefits and employment advice, for example.

A pharmacist with a health condition that prevented her working approached us. She had been borrowing money and accumulated a significant unsecured debt. Our debt adviser worked with the pharmacist to negotiate affordable mortgage payments, and to agree full and final settlements with other creditors. The adviser also advised on entitlement to benefit. As a result, the family were able to continue living in their home, and the pharmacist's reduced stress levels enabled her to consider taking on some freelance work from home.

People can often feel alone and isolated with a problem. Listening Friends provides a free, confidential listening ear to people going through a difficult period. In the current climate we have had calls from managers under great stress, from students worried about exams, and from pre-registration trainees having problems with their placement.

Members of the PDA or other unions have access to advice, support and representation through their union. Pharmacist Support also has an employment specialist to whom we refer employees encountering problems at work. We have helped people to resolve issues around unlawful deductions from wages, notice periods and pay, changes to contracts, and discrimination.

### You are not alone

Any one of us can get into difficulties, fall on hard times or need to talk over worries with someone who understands. Although we like to think we can manage all aspects of our lives, sometimes we are just not able to.

Our message is that you need not struggle or suffer alone. Ask for help: contact your union or Pharmacist Support and start the process of resolving the problem.

Further details on Pharmacist Support and our services can be found at: [www.pharmacistsupport.org](http://www.pharmacistsupport.org)

To speak with a member of the support team, call 0808 168 2233, or email us at: [info@pharmacistsupport.org](mailto:info@pharmacistsupport.org)



Since our relaunch in 2008 as Pharmacist Support (formerly the Benevolent Fund of the RPSGB) and focus on promoting our services, enquiries to the charity have climbed consistently. We are currently averaging 30-40 calls a month from pharmacists, pre-registration trainees and pharmacy students. The range of enquiries is huge, but there are common themes:

- Pharmacists who find themselves working longer hours and with an ever increasing workload;
- Those who are given more responsibilities, have their terms and conditions of employment changed, or face the threat of redundancy;
- Others, often locum pharmacists, who are now finding it harder to find regular work;
- Victims of illness (either their own or that of a partner or close family member), or bereavement resulting in a sudden loss of income.

### Reluctance to ask for help

Many people who contact us feel isolated and alone and are reluctant to ask for help, for a whole range of different reasons. We have had calls from experienced pharmacists who, because of their steadily increasing workload, feel they can no longer cope. They often feel a sense of personal failure, which can be mixed with anger with their employer. Others have become ill and been off work for some time before they contact us.

Making the initial call to ask for help is often the hardest step. It can be a great help to hear about others who have been in a similar situation, how they have dealt with the issues and where they are now. Here is a story from someone we have helped who wanted to share their experience to help others.

We were approached by a pharmacist qualified for over 30 years. Married with a grown up family, the pressures and high expectations as the family breadwinner took their toll, leading to addiction, theft, and eventually a nervous breakdown. As a result, the pharmacist was suspended by the regulator.

Pharmacist Support put her in touch with the Health Support Programme and helped fund residential treatment in Clouds House, as well as aftercare support. We also arranged for advice so that she could claim benefit – initially for sickness and then while

# Why the PDA will continue to challenge the Guild of Healthcare Pharmacists view on Professional Indemnity

For many years, the Guild of Healthcare Pharmacists has always stated that when a pharmacist works in a hospital s/he is covered for Professional Indemnity through their employers' vicarious liability arrangements. We have consistently recommended to pharmacists that they should not rely on their employers' cover, but instead have personal protection through their own independent insurance. We have described on pages 10 and 11 why reliance on an employer provided cover may place individual pharmacists at a significant disadvantage.

More recently, the Guild have stated on their website that they now accept that in reality many pharmacists have now taken out their own independent Professional Indemnity insurance.

The Guild's view as it appears on their website is that this has happened because "pharmacists have felt pressurised into taking out their own professional liability insurance through influences from various quarters."

The PDA does not accept that this is the reason why so many pharmacists have taken out their own independent protection, we simply believe it is because they have exercised common sense. It cannot be realistic to suggest that more than 5,000 who work in the hospital setting would have taken out independent protection simply because they have felt pressurised to do so.

The Guild then goes on to state on its website that;

*"many pharmacists employed in the NHS work extra hours in community pharmacy and a significant number are employed part time in both hospital and community pharmacy. NHS employer's liability will not cover work in the community pharmacy..... and whether the employer will seek to recover damages from the employee is not clear cut."*

In a brochure entitled 'Professional Indemnity Insurance explained' the Guild now states that there have been some 'fairly significant shifts in thinking'. It declares that because of the new roles, particularly prescribing, some of the guidance from the Department of Health and others suggests that individual insurance was indeed a requirement. Furthermore hospital pharmacists seemed to be asking for a belt and braces approach to Professional Indemnity, if only for peace of mind.

It is, in our view good to see that the position of the Guild appears to be changing gradually; the position that they are now moving to is in essence one that has been held by the PDA since its inception and whilst we welcome their change of policy. However, we believe that this change is not only overdue, it should go further.

We feel that we have to continue to challenge the Guild on its position on Professional Indemnity, because although it has now begun to accept that there is a need, their proposed solution in our view may raise a number of potentially serious concerns.

## The issues with the Guild Insurance position

### Providing cover on a contingent basis

The Guild, through the Unite Union has now arranged an insurance scheme for pharmacists; the Guild website states that;

*"the Unite scheme covers you for employed work..... It is dependant upon there being employers' vicarious liability insurance in place in the first instance."*

The Guild scheme is effectively one that is based on contingent liability; it requires an employer's insurance to be in place. It provides protection in the event that the employer's (the NHS) insurance fails or refuses to cover the employee. We will not seek to deal with the issue of the likelihood of the NHS insurance failing in this feature, we are much more concerned with the very fact that the employer, through their NHS insurance, does seek to provide the cover and that it does pay for the pharmacist's defence. We have always maintained that pharmacists should have the choice whether or not they want to rely on their employer's liability arrangements at all. What the PDA has always provided is insurance protection for pharmacists in a way that means that they do not need to rely on their employer to defend them because of the conflicts of interests that this can cause. We describe the reasoning behind our concerns over vicarious liability in some detail on pages 10 and 11.

### It does not provide cover for self employed locum pharmacists

Explained in the Unite Unions (PLI) 'Frequently Asked Questions' (FAQs) web pages and comprehensively described in the associated insurance policy documentation as well as further endorsed in the Guild's own explanatory material, is the very clear message that the insurance policy will only provide cover for any work undertaken in an employed but not in a self employed capacity.

An excerpt from the Frequently Asked Questions;

*"Am I covered for private work?"*

*"Cover will apply when employed in the private sector, but will not apply if the member is self employed – i.e. working for a fee as opposed to being employed."*

Further in the FAQs it states;

*"If you do self employed work, you must make your own arrangements regarding cover."*

However, elsewhere, on the Guild website it is stated that;

*"pharmacists who are members of Guild and carry the additional Unite [insurance] will have cover in place whether they are a direct employee or a self employed locum"*

We believe that these apparently contradictory statements could cause confusion amongst hospital pharmacists.

In a President's monthly report (October 2010), referring to the Guilds insurance scheme, the view is reinforced that;

*"those GHP members that have the contingency policy are covered when working for a pharmacy employer etc. whether as a direct employee or as a self-employed locum"*

He continues,

*"I am sure that many junior (and senior) pharmacist members who undertake locums will welcome reassurance from the additional cover provided for only £15."*

However, in reality, the vast majority of hospital pharmacists who work as locums



especially in the community, do so on a pure self-employed basis and therefore would not be covered by the Guild scheme. We would recommend that any hospital pharmacists who have taken out a PI insurance policy should check as to whether it meets with their requirements.

### It does not provide cover for pharmacy locums working for the majority of locum agencies

We have been asked by a number of pharmacists whether the Guild scheme will provide them with cover if they are working via a locum agency. This confusion seems to have arisen because of their employment status; in the FAQ section of the Unite website which deals with the agency question, the answer given is that some agencies dealing with health professionals are deemed to be the employer and therefore the member would be covered and that Unite members are urged to check with their agency.

This answer is hardly unsurprising given the context. The Unite website has quite rightly reflected the view that in some healthcare disciplines, the common practice is that the locum healthcare professional becomes a worker of the locum agency, often they are paid by the locum agency and that their payroll is operated in the normal way as if they were an employee. In that instance the locum would be deemed an employee and

would be covered under the scheme. However, when we consider how the pharmacy model works, the vast majority of locum agencies, especially those providing services to locums in the community setting are simply directing the locums to pharmacies where they receive their pay directly from the pharmacy and do so on a self employed fee basis. Consequently, such agency locums would not be covered under the Guild scheme.

### More than 5,000 pharmacists cannot be wrong

We will continue to challenge the Guild position on professional indemnity insurance. We have consistently maintained that pharmacists need to understand the wider issues relating to their professional indemnity and the personal liability risks that they carry when working as a pharmacist. We hope that in due course the Guild will come to accept that pharmacists should always rely on professional indemnity insurance but only then, if it is totally independent of their employer.

To date, more than 5,000 individuals that work in the hospital pharmacy setting have already done just that, by joining the Pharmacists' Defence Association.

# IS IT WORTH A CANDLE?

**Some senior hospital managers say “Don’t worry, the Trust’s vicarious liability will cover you”, but can you rely on the Trust to robustly defend your reputation?**

Protecting an individual pharmacist, after a serious incident, requires the spirited defence of that individual by an organisation experienced in pharmacist defence. The PDA is solely focused on the pharmacist and does not seek to protect the employer. In some cases, we even draw attention to the liability that should rest with the employer.

**So what is the value of your employer’s promise to provide defence?**

**How can their defence offering ever avoid the conflict of interest that exists?**

**What is the likelihood that an employer would fund a defence strategy for a pharmacist that may be detrimental to the interests of the employer?**

What use is employer’s protection where;

- You resign or are dismissed by your employer?
- You make an error because the Trust’s protocols or staff are at fault?
- You argue in the Court of Appeal that only employers can commit the Medicines Act offence?

**If ever there was a time for pharmacists to have their rights protected – then that time is now!**

- ✓ More than £800,000 compensation already secured from employers who have treated pharmacists unfairly or illegally
- ✓ £500,000 worth of Legal Defence Costs insurance
- ✓ £5,000,000 worth of Professional Indemnity Insurance
- ✓ Union membership option available

*now more than 17,000*

~~13,000~~ pharmacists have already joined the PDA. *→ have you?*

Visit our website:  
**[www.the-pda.org](http://www.the-pda.org)**

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