



Londonwide LMCs

The professional voice of London general practice

Update on successful resolution of first Christmas 2013 breach case

The legal challenge brought against breach notices issued by NHSE to practices who closed their doors on Christmas Eve or New Year's Eve in 2013 has ended in a successful conclusion for the first, test case, practice. The practice was one of ten supported by Londonwide after being served with a breach notice in January 2014.

The successful practice has had its breach notice overturned by the Litigation Authority. There are another nine cases to follow unless resolution is reached via other means. Londonwide LMCs has confirmed with NHS England that the remaining breach notices will be lifted providing practices can demonstrate that they had arrangements in place to meet the reasonable needs of patients and the affected practices are being told how to go about this.

Londonwide LMCs, on legal advice from LMC Law, supported practices who were served with breach notices for alleged closures contrary to the regulations and core contracts in 2013 and negotiated payments from the GPDF to cover the cost of the test case.

This demonstrates that practices are, as the regulations clearly state, entitled to put into place measures to "meet the reasonable needs" of patients during this time. As far as determining what measures to deploy, and whether those measures meet the reasonable needs of patients, the choice is down to each individual practice and should be based on careful consideration by both the practice, and by NHS England before the issuing of any breach notice.

Please feel free to discuss and share this information with your local network.

Londonwide LMCs has made representations to NHS England London regarding the holiday period this year and will share NHSE's advice and our response to it as soon as it becomes available.

In the meantime, NHS England has issued regional teams with a template letter for GP practices regarding Christmas and New Year 2015 and NHS England's expectations of general practice availability over that period. It is designed to be shared with GP Practices in levels 1 and 2 co-commissioning CCGs only, ie, those providing directly commissioned primary care services (note that the letter is at the bottom of the page when you click on the link).

GPC guidance from previous years should be read in conjunction with the NHS England letter.

GPC advise that the CQC has also issued a mythbuster on opening hours that is worth reading.