

Primary Care Networks – Two Questions That You Always Wanted to Know the Answer To

By Stephen Hartshorne Cert CII, Team Leader Commercial Insurance, MIAB

When Primary Care Networks (PCNs) were rolled out in July 2019, there was a plethora of information about their set up, along with conjecture about the changing role of the practices in the NHS and how their formation would shape our healthcare moving forward. Little information however, was provided about insurance and a PCN's requirements, apart from a single line in the BMA's handbook strongly suggesting "a discussion with your insurer".

So what do those discussions typically look like?

The first, and most common question we are asked is "Will my staff be covered for working at other practices in the network, and vice-versa". Unfortunately the answer isn't a simple yes, but a check of your policy wording or a conversation with your insurer should be able to answer this with ease. As a practice within a network, you need to ensure that your Employer's Liability extends to 'hired or borrowed members of staff' and this statement is included within the definition of an 'employee'. This applies not only to your policy, but also those of the other member practices. It ensures that your staff visiting other member practices, as well as those visiting your practice, have the right cover in place, protecting their employer in the case of an incident.

The same can be followed for those operating a separate entity model, for instance through a limited company structure, except that the umbrella company or entity would also need their own Employers Liability cover. This type of structure may be something that you consider with the further changes coming in April 2020, or as you develop your understanding and navigate your requirements as a PCN.

The other question we regularly get is "what do I need to consider when we are creating a separate company". You may already be engaged with, or are considering becoming a limited company, in preparation for the wider changes due in April 2020. There are benefits to using a limited liability vehicle; ring-fencing and managing your PCN income becomes easier, along with the specific employment of staff by the PCN. The latter provides clear boundaries to network practices, and removes the responsibilities of managing monies and staff from the lead or flat practices. There are, however, insurance considerations to be made.

The aforementioned Employers Liability, along with Public Liability, is a necessity. As a separate entity you are required by law to hold Employers Liability. Much like that of a practice policy, this covers you for any staff claims and those made by third parties, for any injury or damage sustained whilst as your employee or at your premises. These covers ensure you have protection against an ever-increasingly litigious society.

In limited liability companies, directors can be held personally liable for decisions they make in the course of day to day business. As someone holding a position

of power within the business, or those commonly referred to in insurance as Directors and Officers, you can be pursued for damages arising from a negligent act, omission or misleading statement. Most clients do not realise that unlimited personal liability exists even if the company's liability is limited. A specific Directors and Officers or D&O policy indemnifies you against these claims, providing protection for your personal assets.

On an individual level, the role of the Clinical Director (CD) is new to most practices. Predominately these roles are filled by GPs or a Practice/Business Manager from within the group. Much like the D&O cover, consideration should be given to their degree of autonomy, and therefore their level of liability, should their strategic decision negatively affect the company moving forward. Much like a business consultant, the Clinical Director, as a professional with expertise, can be held personally liable for their day-to-day decisions. CDs should protect themselves with a Professional Liability or Errors & Omissions (E&O) policy, especially as this is a role that is sure to evolve with the network itself. If this is held by a clinical member of staff, avoid the trap of assuming that the role will be covered by the NHS's Professional Indemnity scheme; it won't.

Moving away from liability and indemnity, staff absence can affect your ability to meet your obligations to your patients, and your workforce's contribution to the network. Cover for a few days or weeks maybe be manageable, but what about longer term requirements? Funds may be required to cover absence through overtime or temporary staff being made available. If your limited company or federation-model network doesn't hold an NHS contract directly, you may not benefit from the Statement of Financial Entitlement and are left to fund it from your own DES payments. A Locum or Sickness and Accident policy allows for the effective budgeting of these costs, and allows for a clear contingency plan to be enacted, away from the uncertainty of self-funding.

PCNs have only been operative for 7 months, their exposures and effective operation remain relative unknowns, so it is essential that if you are involved in a PCN you consult a good broker about your insurance arrangements. MIAB are able to assist with all of the insurances mentioned here and have a resident PCN expert to provide advice. With the PCN model likely to change again in April 2020 it becomes even more essential that with this change, you review your insurances to reflect your exposures.

Contact MIAB on 01438 730210 or email stephen.hartshorne@miab.co.uk to find out more.