Inside

2 HPMA Masterclasses: Dealing with the downturn

3 Ask the experts

4 The ‘Employment’ and Dismissal of Locum Consultants

5 New HPMA website launching in January 2010

6 HPMA Jobs and secondment alert

The 2009 Queen’s Speech; Equality Bill and new Agency Workers Regulations

7-8 2010 HPMA Excellence in HRM Awards

Partnerships

In difficult times the financial clout to go it alone - and the confidence money inspires - seems to evaporate and everybody - from Governments to small businesses - talks of collaboration and partnerships.

HPMA is no different, and we have been engaged in a range of bilateral discussions of late with potential partners about future collaborations. A bit of context is needed before we explain why we are seeking these associations. Everybody who knows anything about HPMA will understand that it navigated itself through a financially unstable period a couple of years back, and only the unstinting work of Deborah O’Dea and the Council then kept it going as a viable organisation. So we are naturally cautious about major and potentially expensive developments that could jeopardise that hard work, although we are ambitious for the association and the HR community it represents.

So we are talking to the CIPD, Department of Health, NHS Employers and PPMA (our local government sister organisation) about closer ties. This is sensible and has potentially mutual benefits. For example, PPMA have developed an excellent range of member benefits and have a sound financial operation, but equally do not have HPMA membership base ...so the scope for joint work with them is obvious.

So as we enter the close of this year it’s worth restating our current priorities. We are currently:
- redesigning our website for relaunch in early 2010 with a much improved membership facility
- developing a range of benefits to offer members including discounted access to HR resources and conferences
- engaging consultancy support to offer branches better help with sustaining and developing their activities

So there is plenty to do and build on as this year draws to a close. We all know that the next 2-3 years are going to be very testing for the HR community in healthcare and HPMA has an important role to play in networking and support.

As this is my last feature of 2009 I’d like to thank all the HPMA members - and the Council in particular - for their support during this year Special mention must go to Lauren and all at Chamberlain Dunn who I’m pleased to say are working with us on the awards once more. It’s going to be a busy year ahead...

With best wishes for Xmas and 2010

Kelvin Cheatle HPMA President
Director of Workforce/Environment, WLMHT
HPMA Masterclasses:
Dealing with the downturn

HPMA has teamed up with leading NHS financial guru Noel Plumridge to run two masterclasses to help HPMA members thrive in NHS organisations in the difficult years ahead. Places are limited to 15, so don’t delay your booking!

Creating a recession-proof NHS human resources department
Tuesday 23 February 2010
Bonhill House, Old Street, London

Increasing HR influence within NHS organisations
Thursday 11 March 2010
Austin Court, Birmingham

“The NHS in England is faced with the prospect of finding savings of around £15-20bn over the period 2011-14…. NHS organisations need to adopt an intelligent approach to finding these savings that avoids both ‘saliami-slicing’ and ‘slash and burn’.”
Chris Ham, Health in a Cool Climate, The Nuffield Trust, June 2009

Building on key research findings, this timely course for directors of human resources, OD specialists and senior HR managers looks at NHS staffing and the recession, corporate governance and accountability, the HR department and the wider organisation, reporting on HR issues and HR metrics. And, in the fight to win the hearts and minds of the board, we show you how to cope with the new financial challenges and convince the board that HR means business.

HPMA Masterclass: Dealing with the downturn

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Noel Plumridge, known to many for his lively and perceptive columns in HSJ, combines experience and knowledge of healthcare finance with workforce and service redesign.

Noel Plumridge

Payment by Results
CIPFA accountancy institute's publication on the new NHS financial flows system in England; and of A Prescription for Partnership, the Audit Commission's 2007 report on how managers and doctors can work well together. Noel writes regularly for the Health Service Journal and Public Finance.

Special price for HPMA members
Masterclass places are available to HPMA members at a 35% discount £225 +VAT (regular course price is £349+VAT). Quote booking code HPMADWD for discount.

Visit the HPMA website (www.hmpa.org.uk) to book online or call GateHouse on 020 8334 4525 to book by telephone. Course fees include all documentation and refreshments (including a two course seated lunch).

Both workshops are organised on behalf of HPMA by GateHouse · www.GateHouseCourses.com
Asking the experts

**QUESTION:**
I’m being asked to propose staff cost savings in response to the expected cuts to NHS funding after 2011. What kind of changes can I suggest, within the law?

**ANSWER:**
The recent debate about the future of NHS funding has persuaded many employers in the NHS to begin looking critically at staff numbers and benefits as a means of making cost savings.

**Some examples:**
- **Headcount reduction:** NHS employers who are already concerned about the impact of staff shortages on service delivery may not see this as a realistic option. Others may identify areas of consolidation and reconfiguration which will allow a ‘leaner’ model for service provision. Any redundancies should be carefully costed because Agenda for Change (AfC) contractual redundancy pay is generous for staff with long service. Staff over 50 are entitled to costly pension enhancements on redundancy. Excluding long servers and/or over 50s from redundancy selection on cost grounds could give rise to age discrimination claims. Employers contemplating 20 or more redundancies will need to consult with their staff representatives before issuing any redundancy notices. Fair and non-discriminatory selection processes should be carefully applied.

- **Limiting pay progression:** annual progression through the AfC pay bands is automatic, except at the ‘gateways’ in each band, which provide an opportunity to measure staff against the Knowledge and Skills Framework (KSF) outline for their role. KSF has proved unwieldy in practice and is often not used as it should be to limit progression at the gateways, thus saving salary costs and promoting high performance. Restricting routine annual pay progression unilaterally by linking it to performance measures will be a breach of AfC terms, unless it can be validly agreed with staff (see “Implementation”).

- **Performance related pay:** the RCN has recently indicated a tentative willingness to discuss linking nurses’ pay to productivity. The benefits of this for NHS bodies are clear but the effective consent of staff to a departure from current AfC pay arrangements will be necessary to implement it. Effective performance measurement and management will require management time and commitment. An investment in training for line managers can help to instil a performance management culture.

- **Improving attendance:** at 10.7 days per WTE per annum, NHS sickness absence is above average for the public sector (9.7 days) and well above private sector levels (6.4 days), reportedly costing the NHS over £550m per annum. Measures to improve attendance should start with robust application of existing sickness absence management procedures. Other measures, such as reward schemes or restricting promotion and pay progression (see above) can also be effective but employers should guard against disability discrimination claims from employees with long-standing health issues.

- **Vetting and barring:** under the new scheme for protection of children and vulnerable adults, most NHS employees will need to be registered with the Independent Safeguarding Authority (ISA). The one-off fee for employees is £64 and registration is transferrable when individuals move between employers. Some employers are therefore considering requiring staff to pay their own registration fees. For an NHS employer with 5000 staff, this could save over £300,000.

- **Implementation:** from a legal point of view, some of these changes will be more straightforward than others. Changes to existing contractual employment terms can be implemented by local collective agreements, if the unions are supportive and the individual contracts of employment automatically incorporate collectively agreed changes. If not, employers may have to implement changes by terminating current contracts and re-engaging staff on new terms. This radical step can be risky from an employment law point of view. Employers should take detailed legal advice on the proposals and process before embarking on this route.
The Employment Appeal Tribunal has, in Shrewsbury NHS Trust v Lairikyengban, recently handed down a judgment clarifying the employment status of locum consultants and the reasons for dismissal where it is necessary for a Trust to bring that employment to an end.

**NHS (Appointment of Consultants) Regulations 2006**

The NHS (Appointment of Consultants) Regulations 2006 (“the Regulations”) provide the statutory basis for consultant appointments and stipulate the appointment process which must be followed by NHS employers. An Advisory Appointments Committee (“AAC panel”) generally must decide whether a candidate is suitable for appointment. Locum consultant appointments are not subject to the same stringent procedure but the Regulations state that locum consultants cannot be employed for more than 6 months initially, which may be extended for a further 6 months.

**Facts of the case**

The Respondent Trust had extended the Claimant's locum contract, in spite of the Regulations, for over 12 months (a period of 4 years). The Claimant had applied for a substantive consultant post in 2006 but an AAC panel determined that he should not be appointed. The Trust finally dismissed the Claimant from his locum consultant post in 2007 after he rejected an offer of alternative employment.

The Claimant was originally told that he would be made redundant. The Trust later informed the Claimant that he was not entitled to a redundancy payment as there was no reduction in the work that needed to be performed. The Trust also argued that, whilst the agreements to employ the Claimant as a locum consultant after 14 May 2004 were ultra vires, there was no general prohibition on the Trust continuing to employ the Claimant (in some other role). As such, the EAT found that the Claimant was to be treated as performing his duties under a contract of employment during that period.

The EAT did however overturn the ET's Judgment that the Claimant was redundant. It considered that the ET's conclusion, that the work of a locum consultant cardiologist was materially distinguishable from that of a substantive consultant cardiologist, was perverse. As there was still a requirement for the work of a consultant cardiologist to be done after the Claimant's dismissal, this was not a redundancy situation. The EAT remitted the question of whether the Claimant was unfairly dismissed for it to be considered by a fresh ET.

The effect of the EAT's decision is that locum consultants will be considered to remain employed even where a Trust may have extended the duration of the appointments in breach of the Regulations. Where it is necessary to terminate the employment of locum consultants because they have been employed for 12 months or more then the dismissal will be for 'some other substantial reason' and not redundancy.

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**Employment Tribunal's Judgment**

The Employment Tribunal considered that the employment of the Claimant was not ultra vires even though the Trust had been acting in a manner that was an abuse of its powers. The ET also determined that the Claimant's position as a locum consultant cardiologist was a role that was distinct and different from that of a substantive post of consultant cardiologist; that his position was redundant; and so he was entitled to a redundancy payment. The ET considered that the Claimant had been unfairly dismissed.

**Employment Appeal Tribunal's Judgment**

The Trust appealed and the Employment Appeal Tribunal upheld the ET's decision that the Claimant was an employee up until the date of his dismissal. It found that, whilst the agreements to employ the Claimant as a locum consultant after 14 May 2004 were ultra vires, there was no general prohibition on the Trust continuing to employ the Claimant (in some other role). As such, the EAT found that the Claimant was to be treated as performing his duties under a contract of employment during that period.

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**Are your HPMA colleagues getting eNetwork?**

If you or any of your colleagues have experienced problems downloading, viewing or receiving the latest issues of the electronic newsletter please email Lauren@chamberdunn.co.uk at Chamberlain Dunn Associates.

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**BRANCH MEETINGS**

Meetings at branch level take place usually on a bi-monthly or quarterly basis. They typically include speakers, presentations, social gatherings, workshops or educational activity and many branches run regular employment law updates.

Contact HPMA administrator Lauren Crawford on 020 8334 4530 or admin@hpma.org.uk for details on your local branch.
New HPMA website launching in January 2010

In January 2010, HPMA will unveil a new website and online membership system. To help smooth the changeover, we would like you to confirm your membership details and ask you a few questions regarding your current position and expectations of membership (it should only take 2 - 3 minutes to complete). Visit www.surveymonkey.com/s/CT2XMTT to start the survey.

One of the biggest differences to the new HPMA website will be members-only areas, as we try to offer better value for money and build a unique HR healthcare online community. The new website makes networking easier as we can now offer a membership database search facility. Members can also edit their own account to reflect interests, changes in role or location.

Our branches will have direct access to content, which allows us to bring you clearer events listing, straightforward online booking and more local news.

We can now host forum group discussions on the site - you can start chatting within branch groups or identify HPMA members with similar interests.

And we will be listing secondment opportunities on the website. This change is in response to our Talent Management survey in the summer.

If you have any thoughts or ideas on the new site we would love to hear from you, please email Lauren@chamberdunn.co.uk. Thank you for completing the survey and lookout for your invitation to browse the site next month.

HPMA membership

Discounted individual and corporate HPMA membership - join now and get 15 months for the price of 12 months 2010/11 membership year (ending 31 March 2011):

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<td>Individual (band 4 or above)</td>
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<td>Corporate (turnover &gt;£150m)</td>
<td>£450</td>
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Inform your network - let’s build our membership.
Download a membership form online at www.hpma.org.uk or call 020 8334 4530

DATES FOR YOUR DIARY

- HPMA London branch Bullying & Harassment January 2010 London
- HSJ World Class Workforce 20-21 January 2010 London
- Managing People in Healthcare 3 February 2010 London
- HPMA Council meeting 4 February 2010
- PPMA Joint council meeting 19 February 2010
- HPMA Masterclasses Dealing with the downturn
  London 22 February 2010
  Birmingham 11 March 2010
- HPMA Excellence in HRM Awards 2010
  Entry deadline 31 March 2010
  Awards ceremony and black-tie dinner June 2010
- HPMA Wales Annual Conference 7 May 2010
- HPMA NI Annual Conference 20-21 May 2010
- NHS Confederation Annual Conference & Exhibition 23-25 June 2010 Liverpool
HPMA Jobs and secondment alert

On our new website, members will be able to promote HR job and secondment opportunities to the wider membership, just one action prompted by our talent management survey conducted earlier this year.

Here is a taster of available roles from commercial member Fine Green Associates:

- Senior HR Business Partner, Acute Trust, South East England, £37,996 - £45,596
- Interim Medical Staffing Manager, PCT, South East England, £250 - £350 per day
- Interim HR Manager, Acute Trust, North West, £250 - £350 per day
- Interim Human Resources Manager, Foundation Trust, London, £37,996 - £45,596 (FTC) but not attending

For more details please view these vacancies on-line at www.finegreen.co.uk or contact our dedicated Healthcare HR recruitment team on 0845 130 4005.

The 2009 Queen’s Speech; Equality Bill and new Agency Workers Regulations

The Queen’s Speech this year introduced a new Equality Bill and Agency Workers Regulations. Detailed in this article are the key changes to be introduced, although readers are encouraged to take particular note of the proposed broadening of the legal scope of positive action in the workplace. This could have wide repercussions particularly for those highly competitive posts in the NHS where particular groups of staff are clearly still under represented such as some of the medical specialties;

- Positive action - extended to enable employers to consider the under representation of disadvantaged candidates when selecting between two equally qualified candidates.
- The public sector equality duty - an extension to this duty to include gender reassignment, sexual orientation, religion or belief. A new public sector duty related to socio-economic equalities and legislation requiring employers to review gender pay differences within their organisations and publish the results.
- Protection against discrimination - extended to discrimination by association, eg a parent caring for a disabled child.
- Age discrimination - extended to protection outside of the workplace in service delivery.
- Enforcement - UK legislation can be amended by a minister to comply with European law without the need for primary legislation and Tribunal powers broadened to allow decisions which impact on organisations as well as the individual.

The Bill is scheduled for enforcement in April 2010 although implementation is likely to be phased. Meantime, further proposals relating to the Agency Workers Regulations have been tabled for implementation from 1 October 2011. The proposals include new legislation to give agency workers the right to equal treatment with permanent staff after 12 weeks on pay, holidays and other basic conditions. This would include the right to information about employer vacancies which normally would only be accessible to ‘internal’ candidates, access to staff benefits such as childcare and improved health and safety rights of particular benefit to pregnant agency workers who would be entitled to paid time off for ante natal care.

Keep up to date with the consultation and implementation process by accessing the relevant pages on the NHS Employers website at www.nhsemployers.org.

Letters and contributions

Network is your membership newsletter so we always welcome comments, articles and news from any of our members.

You can send contributions directly through to the production team (lauren@chamberdunn.co.uk) or call 020 8334 4530 for an informal chat first.

The newsletter is published every month and circulated to all HPMA members so it’s a great way to share success, ask for help or get colleagues thinking.
2010 HPMA Excellence in HRM Awards

Enter online at www.hpma.org.uk from January 2010, closing date: 31 March 2009

Entering the HPMA Excellence in HRM awards takes some time, effort, thought, self-confidence even a little courage and resilience. But the good news is it’s the same for everyone, and although we can’t say this too loudly – it feels good to be a winner. So this year get your talent noticed and have a go, you could win the respect and recognition of your professional community.

The HPMA Excellence Awards have been recognising and rewarding outstanding contributions to human resource management for almost twenty years.

Since the programme was established in 1992, there have been numerous truly remarkable projects brought under the spotlight by the Healthcare People Management Association. We believe it is important to share this good HR practice widely; projects large and small that have made a tangible difference to patient care and influenced HR practice in healthcare and beyond.

We can’t give you a blueprint for award success; but we are looking for enthusiasm, innovation, strength, leadership, partnership, generosity, influence, sustainability, engagement, imagination, simplicity, adaptation, focus, passion, dedication, co-operation, commitment maybe even entrepreneurial spirit. And we think you have it – so tell us how you, your team or your HR director has made a difference this year.

This year HPMA, together with our generous sponsors, welcome entries across twelve categories, please remember project entries should be entered into only ONE category.

BMJ Careers award for supporting medical staff - an HR or medical staffing led initiative or project that has secured a measureable improvement in doctors’ working lives or career progression

Sponsored by BMJ Careers

BMJ Careers provides a comprehensive range of career and recruitment services for doctors and employers, including job vacancies, medical careers fairs, careers articles and podcasts. BMJ Careers’ advertisement section and its sister website, careers.bmj.com, attract more medical job seekers than any other recruitment medium and contain the UK’s fullest listing of medical vacancies across all specialties and grades.

NEW CATEGORY NHS Discounts award for staff engagement - an HR project or initiative that has led to employees being more intellectually and emotionally committed to the goals of their organisation

Sponsored by NHS Discounts

NHS discounts staff benefits is 9 years old, has over 800k registered members and is available free to all NHS employees. It is totally committed to supporting staff engagement through its arrangements with over 400 NHS Trusts, including support for the Health and Well-being initiative, with an extensive range of exclusive services for staff including discounted shopping, dedicated helplines, insurance and financial benefits, holidays, and property services.

Beachcroft Award for diversity and equality - a project or initiative that demonstrates progress in addressing the equality or diversity challenges within an organisation.

Sponsored by Beachcroft

Offering expert guidance on all aspects of employment law within the NHS, Beachcroft is one of the most progressive commercial law firms in the UK. We have the largest health employment team nationally and our expertise in the health sector includes representing the interests of all types of NHS bodies, private providers, social enterprise organisation on issues such as competition, Board issues, TUPE, organisational change, Agenda for Change, equal pay as well as equality and diversity issues. Chambers Legal Directory ranks us 1 out of 5 of leading law firms in the health and social care sector.

NHS Plus award for excellence in improving employee health and wellbeing - a project with an emphasis on health, work and wellbeing strategies to boost staff and business performance

Sponsored by NHS Plus

NHS Plus is a network of over 100 NHS Occupational Health Units across England. NHS Plus aims to increase the quality and delivery of health and work services and supports the Governments’ broader Health, Work and Wellbeing Strategy through:
• Helping develop the NHS as a model employer
• Delivering services to other public sector bodies and smaller businesses
• Supporting the development of quality occupational health practices
www.nhsplus.nhs.uk

Capsticks award for innovation in HR – a cutting edge, creative initiative within any sphere of HR management that has led to improved practice

Sponsored by Capsticks

Capsticks is the UK’s leading specialist healthcare law firm. We act for over 200 healthcare clients, including NHS trusts and health authorities, regulatory bodies, charities and independent healthcare providers. Our lawyers are all healthcare legal specialists who have the skills and experience to help you achieve your goals, because we understand how it all fits together. In short, we know the healthcare business inside out.

HSE award for best management practice in tackling workplace stress – initiatives which demonstrate progress in identifying work-related stressors and finding solutions, as a partnership between managers and staff.

Sponsored by HSE

HSE is proud to sponsor this year’s HPMA awards, helping to showcase some of the excellent work carried out by healthcare organisations. We continue to work in partnership with the public sector to address key causes of sickness absence and improve business productivity by helping to reduce work-related stress.

Sponsored by Capsticks

Offering expert guidance on all aspects of employment law within the NHS, Beachcroft is one of the most progressive commercial law firms in the UK. We have the largest health employment team nationally and our expertise in the health sector includes representing the interests of all types of NHS bodies, private providers, social enterprise organisation on issues such as competition, Board issues, TUPE, organisational change, Agenda for Change, equal pay as well as equality and diversity issues. Chambers Legal Directory ranks us 1 out of 5 of leading law firms in the health and social care sector.

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NHS ESR Programme award for best practice and innovation using ESR - initiatives that can demonstrate innovate and best practice use of the Electronic Staff Record system within an organisation

**Sponsored by NHS ESR Programme**

The NHS Electronic Staff Record (ESR) provides integrated recruitment, HR, Learning Management, eLearning and Payroll functionality for the NHS in England and Wales. It provides the complete workforce information solution to support workforce planning and education commissioning and enables realisation of benefits that contribute to the quality and productivity challenge.

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Social Partnership Forum award for partnership working - an initiative that demonstrates inclusion of all stakeholders in the processes of formulating, consulting, implementing and evaluating issues related to the provision of health or social care

**Sponsored by Social Partnership Forum**

The partnership agreement between the Department of Health, NHS Employers and NHS Trade Unions outlines how partners work together to promote effective partnership working on the workforce implications of policy. It recognises their respective roles and responsibilities, establishes shared values and common purpose and sets some key principles for effective joint working. This provides the basis for improving partnership which will lead to long-term solutions that work both for staff and, more importantly, for patients.

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**NEW CATEGORY** XpertHR Award for excellence in organisational development - an OD initiative or project that has significantly benefited the organisation through improved effectiveness or viability.

**Sponsored by Xpert HR**

XpertHR Health prides itself on being the most cost-effective online information source for good practice, compliance and benchmarking tailored for HR professionals within the NHS, and includes:

- An employment reference manual
- Good practice guides
- Line manager briefings
- Case reports
- Legal advice

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**NEW CATEGORY** GateHouse award for excellence in learning, training or development – a project or initiative that demonstrates excellence and innovation in education or professional development to enhance knowledge and skills to the benefit of patient care.

**Sponsored by GateHouse**

GateHouse offers an extensive range of open training courses that help develop the skills of staff in management, leadership, finance, personal development and project management. They also deliver high quality training onsite that is tailor-made to meet each organisation's strategic objectives.

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Overall winner sponsored by the NHS Institute for Innovation and Improvement – The category winner which in the opinion of the judges deserves this special accolade

**Sponsored by NHS Institute for Innovation and Improvement**

The NHS Institute for Innovation and Improvement was established in 2005 to support the NHS by rapidly developing and spreading new ways of working, new technology and world class leadership. The work of the NHS Institute will touch every NHS commissioning and provider organisation and their boards, thousands of front line clinical teams and thousands of individual clinicians.

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HR team of the year - a UK healthcare HR team working together and achieving exceptional things over the past 12 months

**Sponsored by HPMA and the UK Health Departments**

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HR director of the year - a UK healthcare HR director demonstrating excellent leadership and an outstanding contribution to the HR profession over the past 12 months

**Sponsored by West London Mental Health NHS Trust**

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**Important information for entrants**

**How to enter**

- Visit www.hpma.org.uk and follow the links to register for the awards programme
- Review our 12 categories, and decide which best fits your project or initiative
- Review the category criteria and submission questions online
- Prepare your entry offline (eg using a word processing package)
- Check you have followed word limits, and fully answered each question, reflecting the criteria listed
- Ask a colleague to double check your submission
- Confirm that your nomination or head of department is happy to endorse your entry
- Cut and paste your entry onto the website
- Make a final check that all details are correct
- Confirm your entry is ready for submission
- You can enter as many different projects as you wish, but please do not enter more than one category with the same project.

**Judging process and rules of entry**

- Entries must be submitted online by 31 March 2010
- Project submissions may be submitted into only one award category (although you can enter as often as you like with different projects)
- The judges reserve the right to re-allocate an entry to a different category, if appropriate.
- Entries will be initially assessed against the judging criteria set out (appendices WILL NOT be considered). Failure to address a submission question will have a negative impact on your score at this shortlisting stage of the competition.
- All entrants must be available on 9 May 2010, as shortlisted projects will be asked to attend a judging day to present their project in greater detail (central London location).
- Winning submissions will be published in a variety of media
- There will be no feedback on entries that are not shortlisted
- The judges' decision is final.

**Previous winners**

You can review the HPMA award winners' compendium online at www.hpma.org.uk, and find out more about the shortlisted teams, projects and initiatives from last year’s competition.

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**Dates for your diary**

**Closing date for entries** 31 March 2010  
**Awards ceremony** 17 June 2010