



NHS Standard Contract 2016/17

National Variation Agreement for existing 2013/14, 2014/15 and 2015/16 form contracts

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This updated version, published on 18 April 2016, makes:

* a minor correction, for consistency, to Schedule 4A ( E.B.15.i)
* minor clarificatory amendments to SC36.46A and GC9.28
* updates the web-link at Schedule 4G
* corrects an omission caused by a formatting error at Schedule 6A.

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**NHS [ ] CLINICAL COMMISSIONING GROUP (1)**

**[*insert names of other Commissioners*]**

**[ ]**

**[ ]**

**[ ]**

**[*Local Authority*]**

**[*NHS England*]**

**AND**

**[ ] (2)**

**AS PROVIDER**

|  |
| --- |
| **NATIONAL VARIATION AGREEMENT 2016/17****in relation to the Contract dated [*insert date of original contract*]****in the form of the****[NHS STANDARD CONTRACT 2015/16] [NHS STANDARD CONTRACT 2014/15] [NHS CONTRACT 2013/14] [*select year of original contract*]** |

**THIS NATIONAL VARIATION AGREEMENT is dated [ ] 2016 and made between:**

1. **NHS [ ] CLINICAL COMMISSIONING GROUP** whose principal office is at
[ ]

**[***insert other Commissioners’ names and addresses***]**

 **[***insert Local Authority name and address if applicable***]**

 **[***insert NHS England name and address if applicable***]**

 (the **Commissioners**)

and

1. **[ ]** whose principal and/or registered office address is at [ ] (the **Provider**).

**WHEREAS**

1. The Commissioners and the Provider entered into a contract dated [*insert date of original 2015/16, 2014/15 or 2013/14 contract*] as varied pursuant to GC13 of that contract (the **Contract**).
2. GC13 of the Contract requires the Parties to vary the Contract to apply National Variations.
3. The Parties wish to vary the Contract in accordance with GC13 so as to bring the Contract into alignment with certain provisions of the NHS Standard Contract published by NHS England for the year 2016/2017.
4. In consideration of their mutual obligations under this National Variation Agreement and the payment by each Party to the other of £1 (receipt of which each Party acknowledges), the Parties have therefore agreed to vary the Contract on the terms set out in this National Variation Agreement.

**IT IS AGREED:**

1. **Definitions and Interpretation**
	1. In this National Variation Agreement unless the context otherwise requires or an expression is defined as a capitalised term in clause 1.2 below, the expression shall have the same meaning given to it in the Contract.
	2. In this National Variation Agreement:

**Contract** has the meaning given to it in Recital A of this National Variation Agreement (and which may be the 2013/14 Contract, the 2014/15 Contract or the 2015/16 Contract);

**2013/14 Contract** means the NHS Standard Contract published by NHS England for the year 2013/14, as subsequently varied in accordance with applicable National Variations (and **2013/14 and 2014/15 Contracts** means the 2013/14 Contract and the 2014/15 Contract);

**2014/15 Contract** means the NHS Standard Contract published by NHS England for the year 2014/15, as subsequently varied in accordance with applicable National Variations;

**2015/16 Contract** means the NHS Standard Contract published by NHS England for the year 2015/16;

**2016/2017 Contract** means the NHS Standard Contract published by NHS England for the year 2016/2017;

**GC** and **SC** mean respectively any General Condition or Service Condition of the 2016/17 Contract or of the applicable the 2013/14 Contract, 2014/15 Contract, or the 2015/16 Contract, as the context requires;

**National Variation Agreement** means this agreement including its recitals and appendices; and

**Variations** means the variations set out in clauses 3 to 35 (inclusive) of this National Variation Agreement.

* 1. Except where otherwise expressly identified, all references in this National Variation Agreement to numbered SCs, GCs or Schedules relate to the SCs, GCs and Schedules of the Contract.
	2. Where the application of any content in the 2016/17 Contract is limited in the 2016/17 Contract to certain Service or Provider categories only, the same limitations will apply where that content is added to the Contract by this National Variation Agreement.
	3. Where any Variation refers to the 2013/14 Contract, 2014/15 Contract or 2015/16 Contract, that reference applies to the variation of the Contract according to whether the Contract itself is in the form of the 2013/14 Contract, the 2014/15 Contract or the 2015/16 Contract.
1. **Effective Date of VAriations**

The Variations apply with effect from 1 April 2016.

1. **SC1 (compliance with the Law and the NHS Constitution)**
	1. Delete the text of SC1.1 and replace with:

“1.1 The Provider must provide the Services in accordance with the Fundamental Standards of Care and the Service Specifications. The Provider must perform all of its obligations under this Contract in accordance with:

1.1.1 the terms of this Contract; and

1.1.2 the Law; and

1.1.3 Good Practice.

The Provider must, when requested by the Co-ordinating Commissioner, provide evidence of the development and updating of its clinical process and procedures to reflect Good Practice."

* 1. Delete the text of SC1.4 and replace with:

"1.4 The Parties must ensure that, in accordance with the Armed Forces Covenant, those in the armed forces, reservists, veterans and their families are not disadvantaged in accessing the Services."

1. **SC3 (Service Standards)**

Delete the text of SC3.4 (SC3.3A in the case of the 2013/14 Contract) and replace with:

“The Provider must continually review and evaluate the Services, must implement Lessons Learned from those reviews and evaluations, from feedback, complaints, Patient Safety Incidents, Never Events, and Service User, Staff, GPs and public involvement (including the outcomes of Surveys), and must demonstrate at Review Meetings the extent to which Service improvements have been made as a result and how these have been communicated to Service Users, their Carers, GPs and the public."

1. **SC4 (Co-operation)**
	1. Delete the text of SC4.3 and replace with:

“4.3 The Provider and each Commissioner must, in accordance with Law and Good Practice, co-operate fully and share information with each other and with any other commissioner or provider of health or social care in respect of a Service User in order to:

4.3.1 ensure that a consistently high standard of care for the Service User is maintained at all times;

4.3.2 ensure that a co-ordinated and integrated approach is taken to promoting the quality of care for the Service User across all pathways spanning more than one provider;

4.3.3 achieve continuity of service that avoids inconvenience to, or risk to the health and safety of, the Service User, employees of the Commissioners or members of the public; and

4.3.4 seek to ensure that the Services and other health and social care services delivered to the Service User are delivered in such a way as to maximise value for public money."

* 1. Insert a new SC4.5 as follows:

"4.5 The Provider and each Commissioner must co-operate with each other and with any third party provider to ensure that, wherever possible, an individual requiring admission to acute inpatient mental health services can be admitted to an acute bed close to their usual place of residence."

1. **SC5 (commissioner requested services / Essential Services)**

Delete the text of SC5.1 (2013/14 Contract: SC5.1A) and replace with:

“The Provider must comply with its obligations under Monitor’s Licence in respect of any Services designated as CRS by any Commissioner from time to time in accordance with CRS Guidance."

1. **SC6 (Choice, Referral and Booking)**
	1. Delete the text of SC6.2 and SC6.3 (2013/14 and 2014/15 Contracts: SC6.2 only) and replace with:

“6.2 The Provider must describe and publish all Primary Care Referred Services in the NHS e-Referral Service through a Directory of Service, offering choice of any clinically appropriate team led by a named Consultant or Healthcare Professional, as applicable. In relation to Primary Care Referred Services:

6.2.1 the Provider must ensure that all such Services are Directly Bookable or (if that is not possible for technical reasons) that a development plan is agreed with the Co-ordinating Commissioner to enable, within a reasonable timescale, all Primary Care Referred Services to be Directly Bookable. In such cases, all Primary Care Referred Services must in any event be published in the NHS e-Referral Service as Indirectly Bookable;

6.2.2 the Provider must use all reasonable endeavours to make sufficient appointment slots available within the NHS e-Referral Service to enable any Service User to book an appointment for a Primary Care Referred Service within a reasonable period via the NHS e-Referral Service;

6.2.3 the Provider must offer clinical advice and guidance to GPs and other primary care Referrers on potential Referrals through the NHS e-Referral Service, whether this leads to a Referral being made or not;

6.2.4 the Commissioners must use all reasonable endeavours to ensure that all Referrals by GPs and other primary care Referrers are made through the NHS e-Referral Service; and

6.2.5 each Commissioner must take the necessary action, as described in NHS e-Referral Guidance, to ensure that all Primary Care Referred Services are available to their local Referrers within the NHS e-Referral Service.

6.3 The Provider must make the specified information available to prospective Service Users through the NHS Choices Website, and must in particular use the NHS Choices Website to promote awareness of the Services among the communities it serves, ensuring the information provided is accurate, up-to-date, and complies with the provider profile policy set out at [www.nhs.uk](http://www.nhs.uk)."

(and, in the case of the 2013/14 and 2014/15 Contracts, with the above SC6.3 numbered as SC6.2A).

* 1. Insert a new SC6.4A (2013/14 and 2014/15 Contracts: SC6.3A) as follows:

“The Provider must operate and publish on its website a Local Access Policy complying with the requirements of the Co-ordinating Commissioner.”

* 1. Delete the text of SC6.5 and SC6.5A (2013/14 and 2014/15 Contracts: SC6.4 and SC 6.4A, with the numbering and cross-references below amended accordingly) and replace with:

“6.5 Subject to SC7 (*Withholding and/or Discontinuance of Service*), the Provider must:

6.5.1 accept any Referral of a Service User made in accordance with the Referral processes and clinical thresholds set out or referred to in this Contract and/or as otherwise agreed between the Parties and/or as specified in any Prior Approval Scheme, and in any event where necessary for a Service User to exercise their legal right to choice as set out in the NHS Choice Framework; and

6.5.2 accept any clinically appropriate referral for any Service of an individual whose Responsible Commissioner (CCG or NHS England) is not a Party to this Contract where necessary for that individual to exercise their legal right to choice as set out in the NHS Choice Framework; and

6.5.3 where it can safely do so, accept a referral or presentation for emergency treatment, within the scope of the Services, of or by any individual whose Responsible Commissioner is not a Party to this Contract.

Any referral or presentation as referred to in SC6.5.2 or 6.5.3 will not be a Referral under this Contract and the relevant provisions of Who Pays? Guidance will apply in respect of it.

6.5A The Parties must comply with LD Guidance in relation to the making and acceptance of Referrals and must ensure that the Referral processes and clinical thresholds set out or referred to in this Contract and/or as otherwise agreed between the Parties and/or specified in any Prior Approval Scheme at all times comply with LD Guidance. Notwithstanding SC6.5.1, the Provider must not accept any Referral made otherwise than in accordance with LD Guidance."

1. **SC8 (Unmet Needs)**

Delete the text of SC8 and replace with the text of SC8 of the 2016/17 Contract. All numbering and cross-references to be amended accordingly. Where any provisions were previously agreed under the Contract in relation to Schedule 2 Part J (*Social Care Provisions*), such provisions to continue to apply notwithstanding this variation to SC8.

1. **SC10 (Personalised Care Planning and Shared Decision-Making)**

Delete the text of SC10.1 and replace with:

“10.1 The Provider must comply with regulation 9 of the 2014 Regulations. The Provider must employ Shared Decision-Making, and Patient Decision Aids relevant to the Services and approved by the Co-ordinating Commissioner, in planning and reviewing the care or treatment which a Service User receives."

1. **SC11 (Transfer of and Discharge from Care)**

Delete the text of SC11 and replace with the text of SC11 of the 2016/17 Contract. All numbering and cross-references to be amended accordingly.

1. **SC12 (Service User, Public and Staff Involvement)**

Delete the text of SC12 and replace with the text of SC12 of the 2016/17 Contract. All numbering and cross-references to be amended accordingly.

1. **SC13 (Equity of Access, Equality and Non-Discrimination)**

Delete the text of SC13.3 and replace with:

“13.3 In performing its obligations under this Contract the Provider must comply with the obligations contained in section 149 of the Equality Act 2010, the Equality Act 2010 (Specific Duties) Regulations and section 6 of the HRA. If the Provider is not a public authority for the purposes of those sections it must comply with them as if it were."

1. **SC14 (Pastoral, Spiritual and Cultural Care)**

Delete the text of SC14.1 and replace with:

“14.1 The Provider must take account of the spiritual, religious, pastoral and cultural needs of Service Users.

14.2 The Provider must have regard to NHS Chaplaincy Guidelines."

1. **SC15 (Places of Safety)**

Delete the text of SC15.1 (2013/14 Contract and 2014/15 Contracts: SC16.1) and replace with:

“The Parties must have regard to the Mental Health Crisis Care Concordat and must reach agreement on the identification of, and standards for operation of, Places of Safety in accordance with the Law, the 1983 Act Code and Royal College of Psychiatrists Standards.”

1. **SC23 (SErvice User Health Records)**
	1. Delete the text of SC23 and replace with the text of SC23 of the 2016/17 Contract, all numbering and cross-references to be amended accordingly.
	2. Amend the definition of "Information Breach" to refer to SC23.4
2. **SC24 (NHS Counter-Fraud and Security Management)**
	1. Delete the text of SC24 (2013/14 Contract: GC6) and replace with the text of SC24 of the 2016/17 Contract. All numbering and cross-references to be amended accordingly (including renumbering that text within GC6 for the 2013/14 Contract).
3. **SC28 (Information Requirements)**
	1. Delete the text of SC28.4 and replace with:

“28.4 The Co-ordinating Commissioner must act reasonably in requesting the Provider to provide any information under this Contract, having regard to the burden which that request places on the Provider, and may not, without good reason, require the Provider:

28.4.1 to supply any information to any Commissioner locally where that information is required to be submitted centrally under SC28.2; or

28.4.2 where information is required to be submitted in a particular format under SC28.2, to supply that information in a different or additional format (but this will not prevent the Co-ordinating Commissioner from requesting disaggregation of data previously submitted in aggregated form); or

28.4.3 to supply any information to any Commissioner locally for which that Commissioner cannot demonstrate purpose and value in connection with the discharge of that Commissioner’s statutory duties and functions."

* 1. Delete the text of SC28.6 and replace with:

“28.6 The Provider must ensure that each dataset that it provides under this Contract contains the ODS code and/or other appropriate identifier for the relevant Commissioner. The Parties must have regard to Commissioner Assignment Methodology Guidance and Who Pays? Guidance when determining the correct Commissioner code in activity datasets.”

* 1. Delete the text of SC28.15 and replace with:

“28.15 If the Information Breach is not rectified within 5 Operational Days of the date of the notice served in accordance with SC28.14.2 (unless due to any act or omission of any Commissioner), the Co-ordinating Commissioner may (subject to SC28.17) instruct the Commissioners to withhold, or itself withhold (on behalf of all Commissioners), a reasonable and proportionate sum of up to 1% of the Actual Monthly Value in respect of the current month and then for each and every month until the Provider has rectified the relevant Information Breach to the reasonable satisfaction of the Co-ordinating Commissioner."

* 1. Insert a new SC28.18A as follows:

“28.18A The aggregate of sums withheld in any month in respect of Information Breaches is not to exceed 5% of the Actual Monthly Value.”

* 1. Delete the text of SC28.19 (2013/14 and 2014/15 Contracts: SC28.20) and replace with:

“The Co-ordinating Commissioner and the Provider may at any time agree a Data Quality Improvement Plan (which must be appended to this Contract at Schedule 6C (*Data Quality Improvement Plan*)). Any Data Quality Improvement Plan must set out milestones to be met and may set out reasonable and proportionate financial sanctions for failing to meet those milestones. If the Provider fails to meet a milestone by the agreed date, the Co-ordinating Commissioner may exercise the relevant agreed consequence."

(and with the reference above to Schedule 6C to read Schedule 6D in the case of the 2013/14 Contract).

1. **SC29 (Managing Activity and Referrals)**
	1. Delete the text of SC29.3.1 and replace with:

“29.3.1 procure that all Referrers adhere to Referral processes and clinical thresholds set out or referred to in this Contract and/or as otherwise agreed between the Parties and/or as specified in any Prior Approval Scheme;"

* 1. Delete the text of SC29.4 and replace with:

“29.4 The Provider must:

29.4.1 comply with and use all reasonable endeavours to manage Activity in accordance with Referral processes and clinical thresholds set out or referred to in this Contract and/or as otherwise agreed between the Parties and/or as specified in any Prior Approval Scheme, and in accordance with any Activity Planning Assumptions; and

29.4.2 comply with the reasonable requests of the Commissioners to assist the Commissioners in understanding and managing patterns of Referrals."

* 1. Delete the text of SC29.22 and replace with:

“29.22 The Provider must manage Referrals in accordance with the terms of any Prior Approval Scheme. If the Provider does not comply with the terms of any Prior Approval Scheme in providing a Service to a Service User, the Commissioners will not be liable to pay for the Service provided to that Service User."

1. **SC30 (Emergency Preparedness, Resilience and Response)**

Delete the text of SC30 and replace with the text of SC30 of the 2016/17 Contract. All numbering and cross-references to be amended accordingly.

1. **SC32 (Safeguarding, Mental Capacity and Prevent)**
	1. Delete the text of SC32.1, SC32.2, SC32.3, SC32.4 and SC32.5 and replace with:

“32.1 The Provider must ensure that Service Users are protected from abuse and improper treatment in accordance with the Law, and must take appropriate action to respond to any allegation of abuse.

32.2 The Provider must nominate:

32.2.1 a Safeguarding Lead and a named professional for safeguarding children, in accordance with Safeguarding Guidance;

32.2.2 a Child Sexual Exploitation Lead;

32.2.3 a Mental Capacity and Deprivation of Liberty Lead; and

32.2.4 a Prevent Lead,

and must ensure that the Co-ordinating Commissioner is kept informed at all times of the identity of the persons holding those positions.

32.3 The Provider must comply with the requirements and principles in relation to the safeguarding of children and adults, including in relation to deprivation of liberty safeguards and child sexual exploitation, set out or referred to in:

32.3.1 the 2014 Act and associated Guidance;

32.3.2 the 2014 Regulations;

32.3.3 the Children Act 1989 and the Children Act 2004 and associated Guidance;

32.3.4 the 2005 Act and associated Guidance;

32.3.5 Safeguarding Guidance; and

32.3.6 Child Sexual Exploitation Guidance.

32.4 The Provider has adopted and must comply with the Safeguarding Policies and MCA Policies. The Provider has ensured and must at all times ensure that the Safeguarding Policies and MCA Policies reflect and comply with:

32.4.1 the Law and Guidance referred to in SC32.3;

32.4.2 the local multi-agency policies and any Commissioner safeguarding and MCA requirements.

32.5 The Provider must implement comprehensive programmes for safeguarding (including in relation to child sexual exploitation) and MCA training for all relevant Staff and must have regard to Safeguarding Training Guidance. The Provider must undertake an annual audit of its conduct and completion of those training programmes and of its compliance with the requirements of SC32.1 to 32.4."

1. **SC34 (Care of Dying People and Death of a Service User)**
	1. Delete the text of SC34.1 and replace it with the following (or, for the 2013/14 and 2014/15 Contracts, add the following as a new SC34.1A):

“The Provider must have regard to Guidance on Care of Dying People and must, where applicable, comply with ISN 1580 (Palliative Care Co-ordination: Core Content) and the associated EPACCS IT System Requirements to ensure implementation of interoperable solutions."

1. **SC35 (Duty of Candour)**

Delete the text of SC35 and replace with the text of SC35 of the 2016/17 Contract. All numbering and cross-references to be amended accordingly.

1. **SC36 (Payment Terms)**
	1. Delete the text of SC36.45 and replace with:

"36.45 Where the Parties have not agreed an Expected Annual Contract Value and SUS applies to some or all of the Services, the Provider must issue a monthly invoice within 5 Operational Days after the Final Reconciliation Date for that month to each Commissioner in respect of those Services provided for that Commissioner in that month. Subject to SC36.54, the Commissioner must settle the invoice within 10 Operational Days of its receipt."

* 1. Delete the text of SC36.46 (2013/14 and 2015/16 Contacts: SC36.47, with the numbering and cross-references below amended accordingly) and replace with:

“36.46 Subject to SC36.46A, if the Provider breaches any of the thresholds in respect of the Operational Standards, the National Quality Requirements or the Local Quality Requirements the Provider must repay to the relevant Commissioner or the relevant Commissioner must deduct from payments due to the Provider (as appropriate), the relevant sums as determined in accordance with Schedule 4A (*Operational Standards*) and/or Schedule 4B (*National Quality Requirements*) and/or Schedule 4C (*Local Quality Requirements*). The sums repaid or deducted under this SC36.46 in respect of any Quarter will not in any event exceed 2.5% of the Actual Quarterly Value.

36.46A If the Provider has been granted access to the general element of the Sustainability and Transformation Fund, and has, as a condition of access:

36.46A.1 agreed with the national teams of Monitor/NHSTDA (as appropriate) and NHS England an overall financial control total and other associated conditions; and

36.46A.2 (where required by those bodies):

36.46A2.1 agreed with those bodies and with the Commissioners specific performance trajectories to be achieved during the Contract Year 1 April 2016 to 31 March 2017 (as set out in an SDIP contained or referred to in Schedule 6E (*Service Development and Improvement Plans*)); and/or

36.46A2.2 submitted to those bodies assurance statements setting out commitments on performance against specific Operational Standards and National Quality Requirements to be achieved during the Contract Year 1 April 2016 to 31 March 2017 which have been accepted by those bodies (as set out in an SDIP contained or referred to in Schedule 6E (*Service Development and Improvement Plans*)),

no repayment will be required to be made, nor any deduction made, in relation to any breach of any threshold which occurs during that Contract Year in respect of any Operational Standard shown in bold italics in Schedule 4A (*Operational Standards*) or any National Quality Requirement shown in bold italics in Schedule 4B (*National Quality Requirements*)."

with the references to the SDIP in these SCs to refer to Schedule 6F in the case of the 2013/14 Contract, and amending the cross-references in Schedule 4G (4H in the case of the 2013/14 Contract) (*Clostridium difficile*) to refer to the above SCs.

* 1. Delete the text of SC36.47 (2013/14 and 2015/16 Contracts: SC36.48) and replace with:

“If a Never Event occurs, the relevant Commissioner may deduct from payments due to the Provider, in accordance with Never Events Policy Framework, a sum equal to the costs to that Commissioner of the procedure or episode (or, where these cannot be accurately established, £2,000) plus any additional charges incurred by that Commissioner (whether under this Contract or otherwise) for any corrective procedure or necessary care in consequence of the Never Event."

* 1. Insert a new SC36.58 as follows:

“**Submission of Invoices**

36.58 The Provider must use all reasonable endeavours to submit all invoices via the e-Invoicing Platform in accordance with e-Invoicing Guidance or via an alternative PEPPOL-compliant e-invoicing system."

* 1. Insert a new SC36.59 as follows:

“**Nominated Supply Agreements**

36.59 The Co-ordinating Commissioner may at any time, by reasonable notice (having regard to the terms of existing supply agreements entered into prior to 1 October 2015 pursuant to a lawful procurement process) in writing, require the Provider to purchase (and that any Sub-Contractor purchases) any item listed in Annex B1 (*High Cost Drugs, Devices and Listed Procedures*) to the National Tariff and used in the delivery of the Services from a supplier, intermediary or via a framework listed in that notice. The Provider will not be entitled to payment for any such item purchased and used in breach of such a notice."

1. **GC5 (Staff)**
	1. Delete the text of GC5.6 (2013/14 Contract: GC5.4B) and replace with:

“The Provider must cooperate with the LETB and Health Education England in the manner and to the extent they request in planning the provision of, and in providing, education and training for healthcare workers, and must provide them with whatever information they request for such purposes."

* 1. Delete the text of GC5.8 (2013/14 Contract: GC5.5A) and replace with:

“The Provider must, by 1 October 2016, nominate a Freedom To Speak Up Guardian. The Provider must have in place and promote (and must ensure that all Sub-Contractors have in place and promote) a code and effective procedures to ensure that Staff have appropriate means through which they may raise any concerns they may have in relation to the Services. The Provider must ensure that nothing in any contract of employment or contract for services or any other agreement entered into by it or any Sub-Contractor with any member of Staff will prevent or inhibit, or purport to prevent or inhibit, the making of any protected disclosure (as defined in section 43A of the Employment Rights Act 1996) by that member of Staff nor affect the rights of that member of Staff under that Act."

1. **GC9 (Contract Management)**
	1. Add a new GC9.28 (2013/14 Contract: GC9.26, with numbering below amended accordingly and with references to the SDIP to refer to Schedule 6F) as follows:

“**Sustainability and Transformation Fund**

9.28 If the Provider has been granted access to the general element of the Sustainability and Transformation Fund, and has, as a condition of access:

9.28.1 agreed with the national teams of Monitor/NHSTDA (as appropriate) and NHS England an overall financial control total and other associated conditions; and

9.28.2 (where required by those bodies):

9.28.2.1 agreed with those bodies and with the Commissioners specific performance trajectories to be achieved during the Contract Year 1 April 2016 to 31 March 2017 (as set out in an SDIP contained or referred to in Schedule 6E (*Service Development and Improvement Plans*)); and/or

9.28.2.2 submitted to those bodies assurance statements setting out commitments on performance against specific Operational Standards and National Quality Requirements to be achieved during the Contract Year 1 April 2016 to 31 March 2017 which have been accepted by those bodies (as set out in an SDIP contained or referred to in Schedule 6E (*Service Development and Improvement Plans*)),

no Commissioner may withhold or retain payment under this GC9 (*Contract Management*) or otherwise in respect of any failure to agree a RAP, or to comply with any RAP, in relation to any breach of any threshold which occurs during that Contract Year in respect of any Operational Standard shown in bold italics in Schedule 4A (*Operational Standards*) or any National Quality Requirement shown in bold italics in Schedule 4B (*National Quality Requirements*), and/or any failure to comply with specific performance trajectories or assurances as referred to above."

1. **GC11 (Liability and Indemnity)**
	1. Add a new GC11.7A as follows:

"11.7A No later than 3 months prior to the expiry of this Contract, or within 10 Operational Days following the date of service of notice to terminate or of agreement to terminate this Contract (as appropriate), the Provider must provide to the Co-ordinating Commissioner satisfactory evidence in writing of its (and its Sub-Contractors’) arrangements to satisfy the requirements of GC11.7. If the Provider fails to do so the Commissioners may themselves procure appropriate Indemnity Arrangements in respect of such ongoing liabilities and the Provider must indemnify and keep the Commissioners indemnified against the costs incurred by them in doing so."

1. **GC12 (Assignment and Sub-contracting)**
	1. Delete the text of GC12.10.3 (2013/14 Contract: GC12.9.3) and replace with:

“to a Local Authority pursuant to a Partnership Agreement or to devolution arrangements under the Cities and Local Government Devolution Act 2016; or"

1. **GC15 (governance, Transaction Records and Audit)**
	1. Delete the text of GC15.2 (2013/14 and 2014/15 Contracts: GC15.1) and replace with:

“The Provider must comply with all reasonable written requests made by any relevant Regulatory or Supervisory Body (or its authorised representatives), a Local Auditor or any Authorised Person for entry to the Provider’s Premises and/or the Services Environment and/or the premises of any Sub-Contractor for the purposes of auditing, viewing, observing or inspecting those premises and/or the provision of the Services, and for information relating to the provision of the Services."

* 1. Delete the text of GC15.5 (2013/14 and 2014/15 Contracts: GC15.4, with the numbering below amended accordingly) and replace with:

“15.5 Subject to compliance with the Law and Good Practice the Parties must implement and/or respond to all relevant recommendations:

15.5.1 made in any report by a relevant Regulatory or Supervisory Body; or

15.5.2 agreed with the National Audit Office or a Local Auditor following any audit; or

15.5.3 of any appropriate clinical audit; or

15.5.4 that are otherwise agreed by the Provider and the Co-ordinating Commissioner to be implemented."

1. **GC17 (Termination)**
	1. Delete the text of GC17.8 and replace it with the following (or, for 2013/14 and 2014/15 Contracts, add the following as a new GC17.5A):

“The Co-ordinating Commissioner may by not less than 3 months’ written notice to the Provider terminate this Contract if it reasonably believes that any of the circumstances set out in regulation 73(1)(a) or 73(1)(c) of the Public Contract Regulations 2015 applies."

* 1. Delete the text of GC17.10.17 and replace it with the following (or add the following as a new GC 17.8.14 (2013/14 Contract) or a new GC17.7.15 (2014/15 Contract)):

“the Co-ordinating Commissioner reasonably believes that the circumstances set out in regulation 73(1)(b) of the Public Contracts Regulations 2015 apply."

1. **GC21 (Patient Confidentiality, Data Protection, Freedom of Information and Transparency)**
	1. Delete the text of GC21.4 and replace with:

“21.4 The Provider must adopt and implement the recommendations of the Caldicott Information Governance Review and the Response to Caldicott. The Provider must adopt and implement the recommendations of the Caldicott review into data security and must comply with any Guidance issued by the Department of Health, NHS England and/or HSCIC pursuant to or in connection with those recommendations."

* 1. Delete the text of GC21.12, GC21.13 and GC21.14 and replace with:

“21.12 Where a Commissioner requires information for the purposes of quality management of care processes, the Provider must consider whether the Commissioner’s request can be met by providing anonymised or aggregated data which does not contain Personal Data. Where Personal Data must be shared in order to meet the requirements of the Commissioner, the Provider must:

21.12.1 provide such information in pseudonymised form where possible; and in any event

21.12.2 ensure that there is a lawful basis for the sharing of Personal Data.

21.13 Notwithstanding GC21.12, the Provider must (unless it can lawfully justify non-disclosure) disclose defined or specified confidential patient information to or at the request of the Co-ordinating Commissioner where support has been provided under the Section 251 Regulations, respecting any individual Service User’s objections and complying with other conditions of the relevant approval.

**Responsibilities when engaging Sub-Contractors**

21.13A Subject always to GC12 (*Assignment and Sub-Contracting*), if the Provider is to engage any Sub-Contractor to deliver any part of the Services (other than as a Data Processor) and the Sub-Contractor is to access personal or confidential information or interact with Service Users, the Provider must impose on its Sub-Contractor obligations that are no less onerous than the obligations imposed on the Provider by this GC21.

21.14 Subject always to GC12 (*Assignment and Sub-Contracting*), if the Provider is to require any Sub-Contractor to process Personal Data on its behalf, the Provider must:

21.14.1 require that Sub-Contractor to provide sufficient guarantees in respect of its technical and organisational security measures governing the data processing to be carried out, and take reasonable steps to ensure compliance with those measures;

21.14.2 ensure that the Sub-Contractor is engaged under the terms of a written agreement requiring the Sub-Contractor to:

21.14.2.1 process such personal data only in accordance with the Provider’s instructions;

21.14.2.2 comply at all times with obligations equivalent to those imposed on the Provider by virtue of the Seventh Data Protection Principle;

21.14.2.3 allow rights of audit and inspection in respect of relevant data handling systems to the Provider or to the Co-ordinating Commissioner or to any person authorised by the Provider or by the Co-ordinating Commissioner to act on its behalf; and

21.14.2.4 impose on its own Sub-Contractors (in the event the Sub-Contractor further sub-contracts any of its obligations under the Sub-Contract) obligations that are substantially equivalent to the obligations imposed on the Sub-Contractor by this GC21.14."

* 1. Delete the text of GC21.16, GC21.17 and GC21.18 and replace with:

“**Freedom of Information and Transparency**

21.16 The Provider acknowledges that the Commissioners are subject to the requirements of FOIA and EIR. The Provider must assist and co-operate with each Commissioner to enable it to comply with its disclosure obligations under FOIA and EIR. The Provider agrees:

21.16.1 that this Contract and any other recorded information held by the Provider on a Commissioner’s behalf for the purposes of this Contract are subject to the obligations and commitments of the Commissioner under FOIA and EIR;

21.16.2 that the decision on whether any exemption under FOIA or exception under EIR applies to any information is a decision solely for the Commissioner to whom a request for information is addressed;

21.16.3 that where the Provider receives a request for information relating to the Services provided under this Contract and the Provider itself is subject to FOIA or EIR, it will liaise with the relevant Commissioner as to the contents of any response before a response to a request is issued and will promptly (and in any event within 2 Operational Days) provide a copy of the request and any response to the relevant Commissioner;

21.16.4 that where the Provider receives a request for information and the Provider is not itself subject to FOIA or as applicable EIR, it will not respond to that request (unless directed to do so by the relevant Commissioner to whom the request relates) and will promptly (and in any event within 2 Operational Days) transfer the request to the relevant Commissioner;

21.16.5 that any Commissioner, acting in accordance with the codes of practice issued and revised from time to time under both section 45 of FOIA and regulation 16 of EIR, may disclose information concerning the Provider and this Contract either without consulting with the Provider, or following consultation with the Provider and having taken its views into account; and

21.16.6 to assist the Commissioners in responding to a request for information, by processing information or environmental information (as the same are defined in FOIA or EIR) in accordance with a records management system that complies with all applicable records management recommendations and codes of conduct issued under section 46 of FOIA, and providing copies of all information requested by that Commissioner within 5 Operational Days of that request and without charge.

21.17 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of FOIA, or for which an exception applies under EIR, the content of this Contract is not Confidential Information.

21.18 Notwithstanding any other term of this Contract, the Provider consents to the publication of this Contract in its entirety (including variations), subject only to the redaction of information that is exempt from disclosure in accordance with the provisions of FOIA or for which an exception applies under EIR."

1. **GC22 (Intellectual Property)**

Delete the text of GC22 and replace with the text of GC22 of the 2016/17 Contract. All numbering and cross-references to be amended accordingly.

1. **GC23 (NHS Branding, Marketing and Promotion)**

Delete the text of GC23 and replace with the text of GC23 of the 2016/17 Contract, with the Condition heading amended to "NHS Identity, Marketing and Promotion". All numbering and cross-references to be amended accordingly.

1. **GC27 (Conflicts of Interest)**

Delete the text of GC27 and replace with the text of GC27 of the 2016/17 Contract, with the Condition heading amended to "Conflicts of Interest and Transparency on Gifts and Hospitality". All numbering and cross-references to be amended accordingly.

1. **General Conditions: Definitions and Interpretation**

Insert the new definitions set out in Part 1 of Appendix 1, and amend the definitions set out in Part 2 of Appendix 1 as described in that Part 2.

1. **PARTICULARS**
	1. Delete the contents of the following Parts of Schedule 4:
		1. Part A: Operational Standards; and
		2. Part B: National Quality Requirements

and replace with the equivalent Parts A and B set out in Appendix 2 completed with local content where applicable. Any references to “Applicable Service Category” to be interpreted as in the 2016/17 Contract.

* 1. Delete the contents of the Schedule 4D (*Never Events*) and mark as "Not used".
	2. In Schedule 4G (*Clostridium difficile*), update the web-link at “B” to refer to:[<https://www.england.nhs.uk/patientsafety/associated-infections/clostridium-difficile/>
	3. Except where the Provider is a Small Provider, delete the contents of Schedule 6 Part B (2013/14 Contract: Part C) (*Reporting Requirements*) and replace with the equivalent content set out in Appendix 3, completed with Local Requirements Reported Locally as applicable.
	4. Where the Provider is a Small Provider, update the web-link in the table in Schedule 6 Part B (2013/14 Contract: Part C) (*Reporting Requirements*) in relation to National Requirements Reported Centrally to refer to: <http://www.hscic.gov.uk/article/5073/Central-Register-of-Collections>.
	5. Delete the contents of the Schedule 6 Part E (2013/14 Contract: Part F) (*Service Development and Improvement Plan*) and replace with the equivalent content set out in Appendix 4. Any previously agreed Service and Development and Improvement Plan in respect of the Contract to remain unaffected.
1. **Counterparts**

This National Variation Agreement may be executed in any number of counterparts, each of which shall be regarded as an original, but all of which together shall constitute one agreement binding on all of the Parties, notwithstanding that all of the Parties are not signatories to the same counterpart.

1. **Precedence of this National Variation Agreement**

In the event of any inconsistency between the terms of this National Variation Agreement and the Contract, the terms of this National Variation Agreement shall take precedence.

1. **Continuing effect**

Subject to the Variations, the Contract shall continue in full force and effect in all respects.

1. **Governing Law and Jurisdiction**

This National Variation Agreement shall be subject to the provisions of General Condition 39 of the Contract.

**IN WITNESS OF WHICH the Parties have signed this National Variation Agreement on the date(s) shown below**

|  |  |
| --- | --- |
| **SIGNED by**  | ………………………………………………….Signature |
| **[INSERT AUTHORISED** **SIGNATORY’S****NAME] for****and on behalf of** **[INSERT COMMISSIONER NAME]** | ………………………………………………….Title………………………………………………….Date |
| **[INSERT AS ABOVE FOR** **EACH COMMISSIONER]** |  |
| **SIGNED by**  | …………………………………………………Signature |
| **[INSERT AUTHORISED** **SIGNATORY’S****NAME] for****and on behalf of** **[INSERT PROVIDER NAME]** | ………………………………………………Title………………………………………………Date |

**Definitions**

**Appendix 1 Part 1: New Defined Terms**

Add the following definitions to the General Conditions (*Definitions and Interpretation*) in alphabetical sequence:

| **Term** | **Definition** |
| --- | --- |
| **Accessible Information Standard** | guidance aimed at ensuring that disabled people have access to information that they can understand and any communication support they might need, as set out at: <http://www.england.nhs.uk/ourwork/patients/accessibleinfo-2/> |
| **Child Sexual Exploitation Guidance** | the *Child Sexual Exploitation: Health Working Group Report* and the Department of Health’s response to its recommendations, available at: <https://www.gov.uk/government/publications/health-working-group-report-on-child-sexual-exploitation> and all Guidance issued pursuant to those recommendations |
| **Child Sexual Exploitation Lead** | the officer of the Provider responsible for implementation and dissemination of Child Sexual Exploitation Guidance |
| **Commissioner Assignment Methodology Guidance** | detailed technical guidance published by NHS England to enable Providers to allocate the correct commissioner code within specified commissioning data sets for the healthcare activities they provide, available at: <https://www.england.nhs.uk/ourwork/tsd/data-services/> |
| **Commissioner Deliverables** | all documents, products and materials developed by the Commissioner in relation to the Services in any form and submitted by any Commissioner to the Provider under this Contract, including data, reports, policies, plans and specifications |
| **e-Invoicing Guidance** | guidance relating to the application and use of the NHS e-Invoicing Platform, available at: <https://networkgrowth.s3.amazonaws.com/Tradeshift%20Supplier%20Training%20Guide.pdf> |
| **e-Invoicing Platform** | the NHS Shared Business Services e-invoicing platform provided by Tradeshift |
| **EIR** | the Environmental Information Regulations 2004 |
| **EPACCS IT System Requirements** | guidance on the implementation of Electronic Palliative Care Co-ordination Systems available at <http://systems.hscic.gov.uk/qipp/library/epaccsreq.pdf> |
| **e-Prescribing** | use of electronic systems to facilitate and enhance the communication of a prescription or medicine order, aiding the choice, administration and supply of a medicine through knowledge and decision support and providing a robust audit trail for the entire medicines use processes |
| **Freedom To Speak Up Guardian** | the individual appointed by the Provider in accordance with the Department of Health publication [*Learning Not Blaming*](https://www.gov.uk/government/publications/learning-not-blaming-response-to-3-reports-on-patient-safety) available at: <https://www.gov.uk/government/publications/learning-not-blaming-response-to-3-reports-on-patient-safety> and identified as such in the Particulars |
| **Incident or Emergency** | an event or occurrence which:* 1. constitutes an emergency for the purposes of the Civil Contingencies Act 2004; and/or
	2. is defined as an incident in the NHS England Emergency Preparedness, Resilience and Response Framework; and/or
	3. constitutes an emergency under local and community risk registers; and/or
	4. is designated as an incident under the Incident Response Plan
 |
| **Indirectly Bookable** | in relation to any Service, the Provider’s patient administration system being compliant with and able to communicate with the NHS e-Referral Service enabling the Referral of a Service User via the NHS e-Referral Service, but not enabling a Referrer to book a Service User appointment directly onto the Provider’s patient administration system |
| **LETB** | the local education and training board for each area in which the Provider provides the Services and any local education and training board which represents the Provider by virtue of arrangements made by Health Education England under paragraph 2(4)(c) of Schedule 6 to the Care Act 2014 |
| **Local Access Policy** | a policy, consistent with the 18 Weeks Referral-to-Treatment Standard, setting out the application of waiting time rules, the role and the rights and responsibilities of the Provider and of Service Users and describing how the Provider will manage situations where a Service User does not attend an appointment or chooses to delay an appointment or treatment, ensuring that any decisions to discharge patients after non-attendance are made by clinicians in the light of the circumstances of individual Service Users and avoiding blanket policies which require automatic discharge to the GP following a non-attendance |
| **Local Auditor** | a local auditor appointed by a relevant authority in accordance with the Local Audit and Accountancy Act 2014 |
| **Making Every Contact Count Guidance** | the guidance and tools issued by NHS England, Public Health England and Health Education England, available via: <https://www.england.nhs.uk/ourwork/futurenhs/forward-view/sop/red-prem-mort/php/#two-three> |
| **Mental Health Crisis Care Concordat** | a national agreement between services and agencies involved in the care and support of people in crisis, setting out how organisations will work together better to make sure that people get the help they need when they are having a mental health crisis: <http://www.crisiscareconcordat.org.uk/> |
| **NHS Chaplaincy Guidelines** | *NHS England – NHS Chaplaincy Guidelines 2015: Promoting Excellence in Pastoral, Spiritual & Religious Care*, available at: <https://www.england.nhs.uk/wp-content/uploads/2015/03/nhs-chaplaincy-guidelines-2015.pdf>  |
| **NHS e-Referral Guidance** | Guidance in relation to best practice use of the NHS e-Referral Service, available at: [eRS Best-Practice-Guidelines](http://www.hscic.gov.uk/media/18859/Best-Practice-Guidelines/pdf/Best_Practice_Guidelines_all_102015.pdf)  |
| **NHS Identity** | the name and logo of the NHS and any other names, logos and graphical presentations as held by the Secretary of State required to be used in connection with the provision of the Services |
| **NHS Identity Guidelines** | NHS Identity policy and guidelines, available at [www.nhsidentity.nhs.uk](http://www.nhsidentity.nhs.uk), and any other Guidance issued from time to time in relation to the NHS Identity |
| **Notifiable Safety Incident** | has the definition given to it in the 2014 Regulations |
| **Patient Decision Aids** | tools to assist patients in making decisions about their own care, available here: <https://www.england.nhs.uk/ourwork/pe/sdm/tools-sdm/> |
| **PEPPOL** | Pan-European Public Procurement Online. See: https://www.gov.uk/government/publications/nhs-e-procurement-strategy and <http://www.peppol.eu/>  |
| **Place of Safety** | a safe place where a mental health assessment can be carried out; this may be a hospital, care home, or any other suitable place where the occupier is willing to receive the person while the assessment is completed. Police stations should be only be used in exceptional circumstances |
| **Primary Care Referred Service** | a Service which accepts Referrals from GPs and/or other primary care Referrers (as set out in NHS e-Referral Service guidance) |
| **Provider Deliverables** | all documents, products and materials developed by the Provider or its agents, subcontractors, consultants and employees in relation to the Services in any form and required to be submitted to any Commissioner under this Contract, including data, reports, policies, plans and specifications |
| **Records Management Guidance** | Department of Health guidance on management and retention of records available at:<https://www.gov.uk/government/publications/records-management-nhs-code-of-practice> |
| **Royal College of Psychiatrists Standards** | standards on the application of section 136 of the Mental Health Act 1983 (England and Wales), published by the Royal College of Psychiatrists (<http://www.rcpsych.ac.uk/usefulresources/publications/collegereports/cr/cr159.aspx>) |
| **SCCI** | the Standardisation Committee for Care Information, the body with delegated responsibility for appropriate information standards for the health and social care system (or that body’s predecessor): <http://www.hscic.gov.uk/isce> |
| **Sustainability and Transformation Fund** | the arrangement described in [Delivering the Forward View: NHS planning guidance 2016/17 – 2020/21](https://www.england.nhs.uk/ourwork/futurenhs/deliver-forward-view/) through which NHS Trusts and Foundation Trusts can access non-recurrent funding during 2016/17 |
| **Very Senior Manager** | whether or not the relevant NHS Employer operates the Pay Framework for Very Senior Managers in Strategic and Special Health Authorities, Primary Care Trusts and Ambulance Trusts, an individual as described in paragraph 4 of that framework, whether that individual is engaged under a contract of employment or a contract for services |

**Appendix 1 Part 2: Variations to Defined Terms**

Delete the definitions given to the following defined terms and replace with the amended definitions as follows (and, where the defined term itself is amended, any use in the Contract of the original term is to be read as the amended term):

| **Term:** | **Amended definition:** |
| --- | --- |
| **“18 Weeks Referral-to-Treatment Standard”** | “in relation to Consultant-led Services, the NHS’s commitment that no-one should wait more than 18 weeks from the time they are referred to the start of their treatment unless it is clinically appropriate to do so, or they choose to wait longer, as set out in the Rules Suite published by the Department of Health (<https://www.gov.uk/government/publications/right-to-start-consultant-led-treatment-within-18-weeks>) and in the recording and reporting guidance published by NHS England (<https://www.england.nhs.uk/statistics/statistical-work-areas/rtt-waiting-times/rtt-guidance/>)” |
| **“Best Practice IPR”** – replace with **“Best Practice”** | “any methodologies, pathway designs and processes relating to the Services developed by the Provider or any Sub-Contractor (whether singly or jointly with any Commissioner or other provider) for the purposes of delivering the Services and which are capable of wider use in the delivery of healthcare services for the purposes of the NHS, but not including inventions that are capable of patent protection or copyright in software” |
| **“Contract Technical Guidance”** | “technical guidance in relation to the NHS Standard Contract, available at: <https://www.england.nhs.uk/nhs-standard-contract/16-17/>” |
| **“Directly Bookable”** | “in relation to any Service, the Provider’s patient administration system being compliant with and able to communicate with the NHS e-Referral Service enabling available appointment slots to show on the NHS e-Referral Service, thereby enabling a Referrer or Service User to book a Service User appointment directly onto the Provider’s patient administration system” |
| **“Discharge Summary”** | “a summary of information relevant to the Service User to be produced by the Provider in accordance with the relevant Transfer of and Discharge from Care Protocol and, for discharges from inpatient or daycase Services, using or consistent with the Academy of Medical Colleges endorsed clinical headings (<https://www.rcplondon.ac.uk/resources/standards-clinical-structure-and-content-patient-records>)” |
| **“Fundamental Standards”** – replace with **“Fundamental Standards of Care”** | “the requirements set out in regulations 9 to 19 of the 2014 Regulations” |
| **“Incident Response Plan”** | “means each Party’s operational plan for response to and recovery from Incidents or Emergencies as identified in national, local and community risk registers and in accordance with the requirements of the NHS England Emergency Preparedness, Resilience and Response Framework and the Civil Contingencies Act 2004” |
| **“NHS Choice Framework”** | “the framework providing information about patients’ rights to choice in the NHS: <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/417057/Choice_Framework_2015-16.pdf>” |
| **“NHS E-Referral System”** – replace with **“NHS e-Referral Service”** | “the national electronic booking service that gives patients a choice of place, date and time for first hospital or clinic appointments” |
| **“NHS Protect Guidance”** – replace with **“NHS Protect Standards”** | “the standards and guidance issued from time to time by NHS Protect under the NHS Business Authority Directions 2006 available at: <http://www.nhsbsa.nhs.uk/4882.aspx>” |
| **“Open API Policy”** | “the guidance available at:<https://www.england.nhs.uk/digitaltechnology/info-revolution/interoperability/open-api/>” |
| **“Personalised Care Plan”** | “a plan developed by the Provider in partnership with a Service User and/or their Carer or Legal Guardian (as appropriate) to deliver Services appropriate to the Service User’s needs, which:reflects the Service User’s goals; helps the Service User to manage their physical and mental health and wellbeing, including access to support for self-management;pays proper attention to the Service User’s preferences, culture, ethnicity, gender, age and sexuality; and takes account of the needs of any children and CarersNHS England, in partnership with The Coalition for Collaborative Care, has published a handbook which provides information on care and support, which is available at: <http://www.england.nhs.uk/resources/resources-for-ccgs/out-frwrk/dom-2/ltc-care/>” |
| **“Regulatory or Supervisory Body”** | “any statutory or other body having authority to issue guidance, standards or recommendations with which the relevant Party and/or Staff must comply or to which it or they must have regard, including:1. CQC;
2. Monitor;
3. NHSTDA;
4. NHS England;
5. the Department of Health;
6. NICE;
7. Healthwatch England and Local Healthwatch;
8. Public Health England; and
9. the General Pharmaceutical Council”
 |
| **“Relevant Person”** | “has the meaning given to it in the 2014 Regulations” |
| **“s251 Regulations”** – replace with **“Section 251 Regulations”** | “the Health Service (Control of Patient Information) Regulations 2002, made pursuant to section 251 of the 2006 Act” |

**Appendix 2:**

**Operational Standards and National Quality Requirements**

**Schedule 4 Part A: Operational Standards**

| **Ref** | **Operational Standards** | **Threshold****(2016/17)** | **Method of Measurement****(2016/17)** | **Consequence of breach** | **Timing of application of consequence** | **Application** |
| --- | --- | --- | --- | --- | --- | --- |
|  | **RTT waiting times for non-urgent consultant-led treatment** |  |  |  |  |  |
| ***E.B.3*** | ***Percentage of Service Users on incomplete RTT pathways (yet to start treatment) waiting no more than 18 weeks from Referral\**** | ***Operating standard of 92% at specialty level (as reported on Unify)*** | ***Review of Service Quality Performance Reports*** | ***Where the number of Service Users waiting******more than 18 weeks at the end of the month exceeds the tolerance permitted by the threshold, £300 in respect of each such Service User above that threshold*** | ***Monthly*** | ***Services to which 18 Weeks applies*** |
|  | **Diagnostic test waiting times** |  |  |  |  |  |
| ***E.B.4*** | ***Percentage of Service Users waiting 6 weeks or more from Referral for a diagnostic test\**** | ***Operating standard of no more than 1%*** | ***Review of Service Quality Performance Reports*** | ***Where the number of Service Users waiting 6 weeks or more at the end of the month exceeds the tolerance permitted by the threshold, £200 in respect of each such Service User above that threshold*** | ***Monthly*** | ***A******CS******CR******D*** |
|  | **A&E waits** |  |  |  |  |  |
| ***E.B.5*** | ***Percentage of A & E attendances where the Service User was admitted, transferred or discharged within 4 hours of their arrival at an A&E department\**** | ***Operating standard of 95%*** | ***Review of Service Quality Performance Reports*** | ***Where the number of Service Users in the month not admitted, transferred or discharged within 4 hours exceeds the tolerance permitted by the threshold, £120 in respect of each such Service User above that threshold. To the extent that the number of such Service Users exceeds 15% of A&E attendances in the relevant month, no further consequence will be applied in respect of the month*** | ***Monthly*** | ***A+E******U*** |
|  | **Cancer waits - 2 week wait** |  |  |  |  |  |
| E.B.6 | Percentage of Service Users referred urgently with suspected cancer by a GP waiting no more than two weeks for first outpatient appointment\* | Operating standard of 93% | Review of Service Quality Performance Reports | Where the number of Service Users who have waited more than two weeks during the Quarter exceeds the tolerance permitted by the threshold, £200 in respect of each such Service User above that threshold  | Quarterly | ACRR |
| E.B.7 | Percentage of Service Users referred urgently with breast symptoms (where cancer was not initially suspected) waiting no more than two weeks for first outpatient appointment\* | Operating standard of 93% | Review of Service Quality Performance Reports | Where the number of Service Users who have waited more than two weeks during the Quarter exceeds the tolerance permitted by the threshold, £200 in respect of each such Service User above that threshold | Quarterly | ACRR |
|  | **Cancer waits – 31 days** |  |  |  |  |  |
| E.B.8 | Percentage of Service Users waiting no more than one month (31 days) from diagnosis to first definitive treatment for all cancers\* | Operating standard of 96% | Review of Service Quality Performance Reports | Where the number of Service Users who have waited more than 31 days during the Quarter exceeds the tolerance permitted by the threshold, £1,000 in respect of each such Service User above that threshold | Quarterly | ACRR |
| E.B.9 | Percentage of Service Users waiting no more than 31 days for subsequent treatment where that treatment is surgery\* | Operating standard of 94% | Review of Service Quality Performance Reports | Where the number of Service Users who have waited more than 31 days during the Quarter exceeds the tolerance permitted by the threshold, £1,000 in respect of each such Service User above that threshold | Quarterly | ACRR |
| E.B.10 | Percentage of Service Users waiting no more than 31 days for subsequent treatment where that treatment is an anti-cancer drug regimen\* | Operating standard of 98% | Review of Service Quality Performance Reports | Where the number of Service Users who have waited more than 31 days during the Quarter exceeds the tolerance permitted by the threshold, £1,000 in respect of each such Service User above that threshold | Quarterly | ACRR |
| E.B.11 | Percentage of Service Users waiting no more than 31 days for subsequent treatment where the treatment is a course of radiotherapy\* | Operating standard of 94% | Review of Service Quality Performance Reports  | Where the number of Service Users who have waited more than 31 days during the Quarter exceeds the tolerance permitted by the threshold, £1,000 in respect of each such Service User above that threshold | Quarterly | ACRR |
|  | **Cancer waits – 62 days** |  |  |  |  |  |
| ***E.B.12*** | ***Percentage of Service Users waiting no more than two months (62 days) from urgent GP referral to first definitive treatment for cancer\**** | ***Operating standard of 85%*** | ***Review of Service Quality Performance Reports***  | ***Where the number of Service Users who have waited more than 62 days during the Quarter exceeds the tolerance permitted by the threshold, £1,000 in respect of each such Service User above that threshold*** | ***Quarterly*** | ***A******CR******R*** |
| ***E.B.13*** | ***Percentage of Service Users waiting no more than 62 days from referral from an NHS screening service to first definitive treatment for all cancers\****  | ***Operating standard of 90%*** | ***Review of Service Quality Performance Reports***  | ***Where the number of Service Users in the Quarter who have waited more than 62 days during the Quarter exceeds the tolerance permitted by the threshold, £1,000 in respect of each such Service User above that threshold*** | ***Quarterly*** | ***A******CR******R*** |
|  | **Category A ambulance calls** |  |  |  |  |  |
| ***E.B.15.i*** | ***Percentage of Category A Red 1 ambulance calls resulting in an emergency response arriving within 8 minutes\**** | ***Operating standard of 75%*** | ***Review of Service Quality Performance Reports*** | ***Where, for the Contract Year as a whole, the number of Red 1 calls where the emergency response did not arrive within 8 minutes exceeds the tolerance permitted by the threshold, £300 in respect of each call above that threshold*** | ***Annual*** | ***AM*** |
| ***E.B.15.ii*** | ***Percentage of Category A Red 2 ambulance calls resulting in an emergency response arriving within 8 minutes\****  | ***Operating standard of 75%*** | ***Review of Service Quality Performance Reports*** |  ***Where, for the Contract Year as a whole, the number of Red 2 calls where the emergency response did not arrive within 8 minutes exceeds the tolerance permitted by the threshold, £100 in respect of each call above that threshold\*\**** | ***Annual***  | ***AM*** |
| ***E.B.16*** | ***Percentage of Category A calls resulting in an ambulance arriving at the scene within 19 minutes\****  | ***Operating standard of 95%*** | ***Review of Service Quality Performance Reports*** | ***Where, for the Contract Year as a whole, the number of calls where the response did not arrive within 19 minutes exceeds the tolerance permitted by the threshold, £100 in respect of each call above that threshold\*\**** | ***Annual***  | ***AM*** |
|  | **Mixed sex accommodation breaches** |  |  |  |  |  |
| E.B.S.1 | Mixed sex accommodation breach\* | >0 | Review of Service Quality Performance Reports | £250 per day per Service User affected | Monthly | ACRMH |
|  | **Cancelled operations** |  |  |  |  |  |
| E.B.S.2  | All Service Users who have operations cancelled, on or after the day of admission (including the day of surgery), for non-clinical reasons to be offered another binding date within 28 days, or the Service User’s treatment to be funded at the time and hospital of the Service User’s choice\* | Number of Service Users who are not offered another binding date within 28 days >0 | Review of Service Quality Performance Reports | Non-payment of costs associated with cancellation and non- payment or reimbursement (as applicable) of re-scheduled episode of care | Monthly | ACR |
|  | **Mental health** |  |  |  |  |  |
| E.B.S.3  | Care Programme Approach (CPA): The percentage of Service Users under adult mental illness specialties on CPA who were followed up within 7 days of discharge from psychiatric in-patient care\* | Operating standard of 95% | Review of Service Quality Performance Reports  | Where the number of Service Users in the Quarter not followed up within 7 days exceeds the tolerance permitted by the threshold, £200 in respect of each such Service User above that threshold  | Quarterly | MHMHSS |

In respect of those Operational Standards shown in ***bold italics***, the provisions of SC36.46A (2013/14 and 2014/15 Contracts: SC36.47A) apply.

**\***(as further described in *Technical Guidance for Commissioners,* available at <https://www.england.nhs.uk/ourwork/futurenhs/deliver-forward-view/>)

\*\* (The Co-ordinating Commissioner has discretion to vary the consequence of breach, in agreement with the Provider, where it is appropriate to do so to take account of the operation of a nationally-approved pilot project.)

**Schedule 4 Part B: National Quality Requirements**

|  | **National Quality Requirement** | **Threshold****(2016/17)** | **Method of Measurement** **(2016/17)** | **Consequence of breach** | **Timing of application of consequence** | **Application** |
| --- | --- | --- | --- | --- | --- | --- |
| E.A.S.4 | Zero tolerance methicillin-resistant *Staphylococcus aureus*\* | >0 |  Review of Service Quality Performance Reports  | £10,000 in respect of each incidence in the relevant month | Monthly | A |
| E.A.S.5 | Minimise rates of Clostridium difficile\* | [Insert Baseline Threshold identified for Provider] |  Review of Service Quality Performance Reports  | As set out in Schedule 4G (Schedule 4H in the case of the 2013/14 Contract), in accordance with applicable Guidance | Annual  | A |
| ***E.B.S.4*** | ***Zero tolerance RTT waits over 52 weeks for incomplete pathways\**** | ***>0*** | ***Review of Service Quality Performance Reports*** | ***£5,000 per Service User with an incomplete RTT pathway waiting over 52 weeks at the end of the relevant month*** | ***Monthly*** | ***Services to which 18 Weeks applies*** |
| ***E.B.S.7a*** | ***All handovers between ambulance and A & E must take place within 15 minutes with none waiting more than 30 minutes\**** | ***>0*** | ***Review of Service Quality Performance Reports*** | ***£200 per Service User waiting over 30 minutes in the relevant month*** | ***Monthly*** | ***A+E*** |
| ***E.B.S.7b*** | ***All handovers between ambulance and A & E must take place within 15 minutes with none waiting more than 60 minutes\**** | ***>0*** | ***Review of Service Quality Performance Reports*** | ***£1,000 per Service User waiting over 60 minutes (in total, not aggregated with E.B.S.7a consequence) in the relevant month*** | ***Monthly*** | ***A+E*** |
| ***E.B.S.8a*** | ***Following handover between ambulance and A & E, ambulance crew should be ready to accept new calls within 15 minutes and no longer than 30 minutes\**** | ***>0*** | ***Review of Service Quality Performance Reports*** | ***£20 per event where > 30 minutes in the relevant month*** | ***Monthly*** | ***AM*** |
| ***E.B.S.8b*** | ***Following handover between ambulance and A & E, ambulance crew should be ready to accept new calls within 15 minutes and no longer than 60 minutes\**** | ***>0*** | ***Review of Service Quality Performance Reports*** | ***£100 per event where > 60 minutes (in total, not aggregated with E.B.S.8a consequence) in the relevant month*** | ***Monthly*** | ***AM*** |
| ***E.B.S.5*** | ***Trolley waits in A&E not longer than 12 hours\**** | ***>0*** | ***Review of Service Quality Performance Reports*** | ***£1,000 per incidence in the relevant month*** | ***Monthly*** | ***A+E*** |
| E.B.S.6 | No urgent operation should be cancelled for a second time\* | >0 | Review of Service Quality Performance Reports | £5,000 per incidence in the relevant month | Monthly | ACR |
|  | VTE risk assessment: all inpatient Service Users undergoing risk assessment for VTE, as defined in Contract Technical Guidance | 95% | Review of Service Quality Performance Reports | Issue of Contract Performance Notice and subsequent process in accordance with GC9  | Quarterly | A |
|  | Duty of candour | Each failure to notify the Relevant Person of a suspected or actual Reportable Patient Safety Incident in accordance with Regulation 20 of the 2014 Regulations | Review of Service Quality Performance Reports | Recovery of the cost of the episode of care, or £10,000 if the cost of the episode of care is unknown or indeterminate | Monthly | All |
|  | Completion of a valid NHS Number field in mental health and acute commissioning data sets submitted via SUS, as defined in Contract Technical Guidance | 99% | Review of Service Quality Performance Reports | Where the number of breaches in the month exceeds the tolerance permitted by the threshold, £10 in respect of each excess breach above that threshold | Monthly | AMHMHSS |
|  | Completion of a valid NHS Number field in A&E commissioning data sets submitted via SUS, as defined in Contract Technical Guidance | 95% | Review of Service Quality Performance Reports | Where the number of breaches in the month exceeds the tolerance permitted by the threshold, £10 in respect of each excess breach above that threshold | Monthly | A&E |
|  | Completion of Mental Health Services Data Set ethnicity coding for all Service Users, as defined in Contract Technical Guidance | Operating standard of 90% | Review of Service Quality Performance Reports  | Where the number of breaches in the month exceeds the tolerance permitted by the threshold, £10 in respect of each excess breach above that threshold | Monthly | MHMHSS |
|  | Completion of IAPT Minimum Data Set outcome data for all appropriate Service Users, as defined in Contract Technical Guidance | Operating standard of 90% | Review of Service Quality Performance Reports  | Where the number of breaches in the month exceeds the tolerance permitted by the threshold, £10 in respect of each excess breach above that threshold | Monthly | MHMHSS |
| E.H.4 | Early Intervention in Psychosis programmes: the percentage of Service Users experiencing a first episode of psychosis who commenced a NICE-concordant package of care within two weeks of referral | Operating standard of 50% | Review of Service Quality Performance Reports  | Issue of Contract Performance Notice and subsequent process in accordance with GC9  | Quarterly | MHMHSS |
| E.H.1 | Improving Access to Psychological Therapies (IAPT) programmes: the percentage of Service Users referred to an IAPT programme who are treated within six weeks of referral | Operating standard of 75% | Review of Service Quality Performance Reports  | Issue of Contract Performance Notice and subsequent process in accordance with GC9  | Quarterly | MHMHSS |
| E.H.2 | Improving Access to Psychological Therapies (IAPT) programmes: the percentage of Service Users referred to an IAPT programme who are treated within 18 weeks of referral | Operating standard of 95% | Review of Service Quality Performance Reports  | Issue of Contract Performance Notice and subsequent process in accordance with GC9 | Quarterly | MHMHSS |
|  | Full implementation of an effective e-Prescribing system for chemotherapy across all relevant clinical teams within the Provider (other than those dealing with children, teenagers and and young adults) across all tumour sites | Failure to produce a robust implementation plan, by 30 June 2016, to achieve full implementation as described under Service Specification B15/S/a Cancer: Chemotherapy (Adult) by 31 March 2017 | Review of Service Quality Performance Reports  | 5% of the Actual Monthly Value for the Services provided under Service Specification B15/S/a (Cancer: Chemotherapy (Adult) per month, until a robust  implementation plan is produced | Monthly | Where both Specialised Services and Cancer apply |
|  | Full implementation of an effective e-Prescribing system for chemotherapy across all relevant clinical teams within the Provider dealing with children, teenagers and young adults across all tumour sites | Failure to produce a robust implementation plan, by 30 September 2016 to achieve full implementation as described under Service Specification B15/S/b Cancer: Chemotherapy (Children, Teenagers and Young Adults) by 30 September 2017 | Review of Service Quality Performance Reports  | 5% of the Actual Monthly Value for the Services provided under Service Specification B15/S/b Cancer: Chemotherapy (Children, Teenagers and Young Adults) per month, until a robust  implementation plan is produced | Monthly | Where both Specialised Services and Cancer apply |

In respect of the National Quality Requirement shown in ***bold italics*** the provisions of SC36.46A (2013/14 and 2014/15 Contracts: 36.47A) apply.

**\***(as further described in *Technical Guidance for Commissioners,* available at <https://www.england.nhs.uk/ourwork/futurenhs/deliver-forward-view/>)

**Appendix 3:**

**Reporting Requirements**

**Schedule 6 Part B [2013/14 Contract: Part C]: Reporting Requirements (all Providers other than Small Providers)**

|  | **Reporting Period** | **Format of Report** | **Timing and Method for delivery of Report** | **Application** |
| --- | --- | --- | --- | --- |
| **National Requirements Reported Centrally** |  |  |  |  |
| 1. As specified in the list of omnibus, secure electronic file transfer data collections and BAAS schedule of approved collections published on the HSCIC website to be found at <http://www.hscic.gov.uk/article/5073/Central-Register-of-Collections>

where mandated for and as applicable to the Provider and the Services | As set out in relevant Guidance | As set out in relevant Guidance | As set out in relevant Guidance | **All** |
| 1. Patient Reported Outcome Measures (PROMS) <http://www.hscic.gov.uk/proms>
 | As set out in relevant Guidance | As set out in relevant Guidance | As set out in relevant Guidance | **All** |
| **National Requirements Reported Locally** |  |  |  |  |
| 1. Activity and Finance Report (note that, if appropriately designed, this report may also serve as the reconciliation account to be sent by the Provider by the First Reconciliation Date under SC36)
 | Monthly | [For local agreement] | By no later than the First Reconciliation Date for the month to which it relates, consistent with data submitted to SUS, where applicable | **All** |
| 1. Service Quality Performance Report, detailing performance against Operational Standards, National Quality Requirements, Local Quality Requirements, Never Events and the duty of candour, including, without limitation:
2. details of any thresholds that have been breached and any Never Events and breaches in respect of the duty of candour that have occurred;
3. details of all requirements satisfied;
4. details of, and reasons for, any failure to meet requirements
5. the outcome of all Root Cause Analyses and audits performed pursuant to SC22 (*Venous Thromboembolism*)
6. report on performance against the HCAI Reduction Plan
 | Monthly | [For local agreement] | Within 15 Operational Days of the end of the month to which it relates. | **All****All****All****A****A** |
| 1. CQUIN Performance Report and details of progress towards satisfying any Quality Incentive Scheme Indicators, including details of all Quality Incentive Scheme Indicators satisfied or not satisfied
 | [For local agreement] | [For local agreement] | [For local agreement] | **All** |
| 1. NHS Safety Thermometer Report, detailing and analysing:
2. data collected in relation to each relevant NHS Safety Thermometer;
3. trends and progress;
4. actions to be taken to improve performance.
 | [Monthly, or as agreed locally] | [For local agreement], according to published NHS Safety Thermometer reporting routes | [For local agreement], according to published NHS Safety Thermometer reporting routes | **All (not AM, CS, D, 111, PT, U)** |
| 1. Complaints monitoring report, setting out numbers of complaints received and including analysis of key themes in content of complaints
 | [For local agreement] | [For local agreement] | [For local agreement] | **All** |
| 1. Report against performance of Service Development and Improvement Plan (SDIP)
 | In accordance with relevant SDIP | In accordance with relevant SDIP | In accordance with relevant SDIP | **All** |
| 1. Cancer Registration dataset reporting (ISN): report on staging data in accordance with Guidance
 | As set out in relevant Guidance | As set out in relevant Guidance | As set out in relevant Guidance | **CR****R** |
| 1. Summary report of all incidents requiring reporting
 | Monthly | [For local agreement] | [For local agreement] | **All** |
| 1. Data Quality Improvement Plan: report of progress against milestones
 | In accordance with relevant DQIP | In accordance with relevant DQIP | In accordance with relevant DQIP | **All** |
| 1. Report and provide monthly data and detailed information relating to violence-related injury resulting in treatment being sought from Staff in A&E departments, urgent care and walk-in centres to the local community safety partnership and the relevant police force, in accordance with applicable Guidance (Information Sharing to Tackle Violence (ISTV) Initial Standard Specification

<http://www.isb.nhs.uk/documents/isb-1594/amd-31-2012/index_html#Information> | Monthly | As set out in relevant Guidance | As set out in relevant Guidance | **A****A+E****U** |
| 1. Report on outcome of reviews and evaluations in relation to Staff numbers and skill mix in accordance with GC5.2(*Staff*)
 | Six monthly (or more frequently if and as required by the Co-ordinating Commissioner from time to time) | [For local agreement] | [For local agreement] | **All** |
| 1. Report on compliance with National Workforce Race Equality Standard
 | Annually | [For local agreement] | [For local agreement] | **All** |
| 1. Specific reports required by NHS England in relation to Specialised Services and other services directly commissioned by NHS England, as set out at

<http://www.england.nhs.uk/nhs-standard-contract/ss-reporting>(where not otherwise required to be submitted as a national requirement reported centrally or locally) | As set out at <http://www.england.nhs.uk/nhs-standard-contract/ss-reporting> | As set out at <http://www.england.nhs.uk/nhs-standard-contract/ss-reporting> | As set out at <http://www.england.nhs.uk/nhs-standard-contract/s-reporting> | **Specialised Services** |
| **Local Requirements Reported Locally** |  |  |  |  |
| **Insert as agreed locally.\*** |  |  |  |  |

\*In completing this section, the Parties should, where applicable, consider the change requirements for local commissioning patient-level data flows which will need to be implemented from 01 April 2017 when the new national Data Services for Commissioners technical solution becomes operational. These change requirements will be published within the *Data Services for Commissioners Resources* website: <https://www.england.nhs.uk/ourwork/tsd/data-services/resources>.

**Appendix 4:**

**Service Development and Improvement Plan**

**Schedule 6E [2013/14 Contract: 6F]: Service Development and Improvement Plans**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Milestones** | **Timescales** | **Expected Benefit** | **Consequence of Achievement/ Breach** |
| **[Seven Day Services]\*** |  |  |  |  |
| **[Mental Health Access Standards]\*** |  |  |  |  |
| **[Digital Transformation]\*** |  |  |  |  |
| **[e-Referral]\*** |  |  |  |  |
| **Insert text locally**  |  |  |  | [Subject to GC9 (*Contract Management*)] or [locally agreed] |
|  |  |  |  |  |

\*Refer to Contract Technical Guidance for detail of requirements