Draft NHS Standard Contract for 2017/18 and 2018/19 (full-length and shorter-form versions)

A consultation

Draft NHS Standard Contract 2017/18 and 2018/19 (full-length and shorter-form versions): A consultation

Proposed changes to the full-length and shorter-form NHS Standard Contract for 2017/18 and 2018/19

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Promoting equality and addressing health inequalities are at the heart of NHS England's values. Throughout the development of the policies and processes cited in this document, we have:

- given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as cited under the Equality Act 2010) and those who do not share it; and

- given regard to the need to reduce inequalities between patients in access to, and outcomes from healthcare services and to ensure services are provided in an integrated way where this might reduce health inequalities.

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Description	This paper summarises the changes we intend to make to the full-length and shorter-form versions of the NHS Standard Contract for 2017/18 and 2018/19, and is published alongside the draft Contracts. The changes arise from the feedback we received to our engagement exercises in July-Sept 2016, and from updates to legislation and policy.
Cross Reference	NHS Standard Contract 2017/18 draft (full-length and shorter-form versions) https://www.england.nhs.uk/nhs-standard-contract/17-18/
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Document Status

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1 Introduction

The NHS Standard Contract is published by NHS England and is mandated, under Standing Rules regulations, for use by NHS commissioners to contract for all healthcare services other than primary care.

In March 2016, NHS England published for the first time a shorter-form version of the Contract, for use in defined circumstances. This shorter-form Contract complements the full-length version, which will continue to be used in respect of the bulk of services by value. (A further variant for use when commissioning services from a Multi-Specialty Community Provider is in preparation and will be published in due course).

NHS England has been considering a range of changes to the Contract – to keep it up-to-date and relevant; to ensure it correctly relates to new legislation; to ensure it reflects significant new policies; and to deliver technical improvements. NHS England is now consulting on updated versions of both the full-length and shorter-form versions of the Contract. Both are available on the NHS Standard Contract 2017/18 webpage.

This paper describes the main, material changes we are proposing to make to both versions of the Contract, and we would welcome comments from stakeholders on our proposals, along with any other suggestions for improvement.

Comments on the draft Contracts should be sent to england.contractsengagement@nhs.net by Friday 21 October 2016. We will then publish the final version of the Contract (both full-length and shorter-form) shortly afterwards.

2 A national Contract for two years

National planning guidance to the NHS sets the expectation that commissioners will offer their high-value contracts with a term of at least two years. The intention behind this is to support organisations as they work on service quality and transformation.

As with other national business rules such as CQUIN and the National Tariff, therefore, the NHS Standard Contract has been designed, as far as possible, to set out national requirements and contractual process for the whole two-year period, from 1 April 2017 to 31 March 2019. For this reason, more than in previous iterations, the draft Contract features requirements which will come into effect at a specific stage within the two-year timeframe – rather than all the requirements necessarily applying from 1 April 2017.

The Contract has been designed to include all the requirements which we can currently foresee for both 2017/18 and 2018/19. In the event of, say, significant legislative or policy changes, there may be a need for some further updating of the national terms of the Contract for 2018/19. If this is the case, NHS England will

consult on a National Variation to the two-year Contract, which commissioners and providers would then implement locally.

Even where two-year (or longer) contracts are agreed, there may be a need in some cases for a limited local process of contract updating and variation from 2017/18 to 2018/19. This can be managed by use of the established Variation provisions in the Contract. Our detailed Contract Guidance on the Variations Process (published separately) will provide further advice on this.

3 Proposed changes to the full-length Contract

This section of the paper describes the main, material changes we have proposed to the full-length version of the Contract for 2017/18 and 2018/19. Some of these changes are also applicable to the shorter-form Contract, and these are marked with asterisks ***. Our approach to updating the Contract this year has been to focus on a small number of key areas that reflect the important policies for the system. In particular, we are offering continued support to the Sustainability and Transformation Fund process, we are supporting delivery of '*Making Time in General Practice'*, and we are making some technical improvements in respect of burden on providers. As in previous years, we have also updated references to legislation and guidance.

3.1 New legislation, policy and guidance

These changes are made in order to ensure that the Contract remains consistent with legislation and national policy guidance, and highlights for commissioners and providers where new guidance has been issued.

Topic	**Change**	**Contract Reference**
Seven day services	This service condition confirms that acute providers should report on their progress in implementing the national clinical seven day services standards, as well confirming that providers of vascular, stroke, major trauma, heart attack and children's critical care services should meet the four clinical priority standards (standards 2, 5, 6 and 8) in respect of those services from November 2017.	Service Condition 3
Right Care	To support implementation of the national Right Care programme, we have clarified that the duty to co-operate within the Contract includes working to optimise efficient allocation of resources and minimise unwarranted variations in quality and outcomes.	Service Condition 4
Electronic Referral System (ERS)	A national CQUIN indicator will incentivise providers to maximise slot availability on ERS during 2017/18. Building on the CCG QP incentive, where non ERS referrals continue to be made by GPs from October 2018, acute providers will be able to returns these to GPs. Equally, providers will only be paid for the resulting activity where the GP referral was made through ERS.	Service Condition 6

Topic	Change	Contract Reference
Self-care	We have included a high-level goal of supporting patients to develop the knowledge, skills and confidence they need to take increasing responsibility for managing their own ongoing care.	Service Condition 8 ***
Education, Health and Care needs assessments.	Consistent with existing legislation, we have introduced a new requirement to respond to requests for input into Education, Health and Care Needs Assessments for children with special educational needs and disabilities within six weeks.	Service Condition 10 ***
Discharge arrangements	We have strengthened the provisions of the Contract relating to discharge from care by: • introducing a new contractual obligation on commissioners to use their best efforts to support safe prompt discharge from hospital; and • by updating the Contract wording to reference relevant NICE guidelines and national policy on patient choice of care home placement.	Service Condition 11 and Definitions ***
Co-ordinated care	We have included a new requirement around coordinated care, aimed at ensuring that a provider's staff work effectively and efficiently together, across professional boundaries, so that patients experience co-ordinated, high quality care without unnecessary duplication of process.	Service Condition 12
Workforce Disability Equality Standard	As recommended by the Equality and Diversity Council, we have included a requirement on providers to comply, from April 2018, with the new national Workforce Disability Equality Standard (WDES). The NHS Equality and Diversity Council will be engaging shortly on the WDES. More information is available on the WDES webpage.	Service Condition 13
Healthy eating and drinking options	We have included new provisions relating to the promotion of healthy eating and drinking options and the adoption of the full range of mandatory and best practice requirements in Government Buying Standards.	Service Condition 19
Sugar-sweetened beverages	We have set out two alternative options for new provisions aimed at reducing sales of sugar-sweetened beverages on NHS premises, for consultation.	Service Condition 19
Data sharing in urgent care services	We have included a new requirement on providers of urgent and emergency care services to sign up to data sharing agreements with commissioners and other relevant providers, allowing commissioners to analyse service utilisation and effectiveness across the whole system.	Service Condition 23
Interoperable IT systems	We have included a new requirement on providers to use all reasonable endeavours to ensure that, from January 2019, key clinical data can be shared appropriately with healthcare professionals in other providers via interoperable IT systems.	Service Condition 23
Safeguarding	We have updated the Contract provisions on safeguarding to include references to domestic abuse and female genital mutilation.	Service Condition 32 ***

Topic	Change	Contract Reference
End of life care	We have included a requirement for acute service providers to have regard to the NHSIQ guide, *Transforming end of life care in acute hospitals*.	Service Condition 34 and Definitions
Electronic prescribing for chemotherapy	As recommended by the National Cancer Taskforce, we have updated the national quality standards relating to e-prescribing for chemotherapy, so that these now relate to the completion of implementation, rather than simply to the production of an implementation plan.	Particulars Schedule 4B
Data security	We have revised the information governance provisions to require compliance with the new national data security standards recommended by the Caldicott review (subject to their final publication after conclusion of the current Department of Health consultation).	General Condition 21 ***
Conflicts of interest and transparency on gifts and hospitality	We have updated the provisions of the Contract relating to the management of conflicts of interest and to transparency on the receipt of gifts and hospitality to reflect new system-wide guidance for commissioners and providers. (This guidance is currently the subject of a separate consultation).	General Condition 27 ***

3.2 Interface between primary and secondary care

We propose to introduce a number of changes which will clarify the expectations across the primary care / secondary care interface, improve experiences for patients, support better integration, and reduce avoidable extra workload for GPs. These changes will help to address concerns raised in *Making Time in General Practice*.

Topic	Change	Contract Reference
Fit notes	We have included a new requirement on providers to issue 'fit notes' (previously sick notes) to patients under their care, where required under existing guidance from the Department for Work and Pensions.	Service Condition 11
Outpatient clinic letters	To support care integration, as signalled when we published the 2016/17 Contract, we have tightened the requirements for the production and transmission to GPs of letters following clinic attendance. The current timescale for production (within 14 days of attendance) will reduce progressively to 10 days (from 1 April 2017) and 7 days (from 1 April 2018). A new requirement for electronic transmission of clinic letters, as structured messages using standardised clinical headings, will take effect from 1 October 2018.	Service Condition 11
Patient queries	We have further strengthened the requirements on providers to communicate properly with patients about their care, adding new obligations to put in place efficient arrangements for handling patient queries promptly and publicise these arrangements to patients, on websites and appointment / admission letters.	Service Condition 12

Topic	Change	Contract Reference
Discharge summaries	Discharge summaries following inpatient or day case admission must already be sent electronically as structured messages using standardised clinical headings. From 1 October 2018, this requirement also applies to discharge summaries after A&E attendance. From 1 October 2018, transmission of both clinic letters and discharge summaries to general practices must be via direct electronic transmission, not via email.	Definitions
Outpatient prescribing	We have included a new requirement that providers must supply medication following a patient's attendance at clinic, where clinically indicated, for the period required in local protocols, but at least sufficient to meet the patient's immediate needs.	Service Condition 11

3.3 Financial sanctions

Arrangements in respect of financial sanctions under the Contract will continue broadly as in 2016/17. This applies to both the full-length and the shorter-form versions of the Contract.

Where, in respect of both 2017/18 and 2018/19, a provider:

- is granted funding from the general element of the Sustainability and Transformation Fund (STF) and agrees an annual financial control total with NHS Improvement; and

- with regard to its performance against key national quality standards either agrees performance improvement trajectories with NHS Improvement and NHS England, and/or provides those bodies with assurance statements,

then the operation of certain contractual sanctions will continue to be suspended for both 2017/18 and 2018/19. The suspension is described in Service Condition 36.37A and General Condition 9.26 of the full-length Contract (Service Condition 36.27A and General Condition 9.9 of the shorter-form version).

This measure applies to the financial sanctions which would otherwise apply where providers fail to deliver certain the national standards set out in Schedules 4A and 4B of the Particulars of the Contract. The sanctions affected are those covering A&E waits (four-hour wait and twelve-hour trolley waits), RTT waits (18-week incomplete pathway, 52-week waits and six-week diagnostic waits), cancer 62-day waits following GP referral, ambulance response times (Red1, Red 2, other Category A) and ambulance handover standards (affecting both A&E and ambulance providers).

As in 2016/17, the expectation is that performance trajectories and assurance statements should be included in local contracts as Service Development and Improvement Plans (SDIPs) at Schedule 6D of the Particulars. We will again make available a separate template for this purpose.

Further detail on the operation of these arrangements is set out in our Contract Technical Guidance.

3.4 Technical improvements

We propose to make a number of technical changes, primarily as a result of external feedback, which we believe will make the Contract more effective in practice.

Topic	Detailed change	Contract Reference
Referral information	We have set out a new responsibility for commissioners to ensure that referrals from primary care contain accurate patient contact details as well as the clinical information required under local referral protocols.	Service Condition 6
Prior Approval Schemes	We have introduced new requirements on commissioners to have regard to the burden which Prior Approval Schemes may place on providers and, as far as possible, to minimise the number of separate commissioner-specific Prior Approval Schemes which operate under one local contract in relation to any individual condition or treatment.	Service Condition 29
Audit	We have clarified the provisions on independent audit, making clear that any audit undertaken must be objective and impartial.	General Condition 15 ***

3.5 Service Development and Improvement Plans

Over recent years, we have required commissioners to agree Service Development and Improvement Plans (SDIPs) in their local contracts with major providers, covering a range of topics. This will continue for 2017/18 and 2018/19.

- Commissioners will be required to agree SDIPs with each major local provider, setting out the actions they will take jointly to improve working across the secondary / primary care interface, tackling some of the issues described in *Making Time in General Practice*. The aim of these SDIPs must be to ensure full implementation of the specific requirements already included within the Contract for 2016/17 (see the joint letter sent by NHS England and NHS Improvement on 28 July 2016) and those being added for 2017-19 (outlined in section 3.2 above).

- Commissioners must also agree SDIPs with those providers (particularly of mental health services) who are not yet compliant with the recommendations in NICE Guideline PH48, Smoking: acute, maternity and mental health services setting out the action those providers will take to ensure that their premises (including grounds and vehicles) are smoke-free by no later than 31 December 2018. This will support delivery of the commitment in the Five Year Forward View for Mental Health for the NHS in England.

3.6 Other changes

We have, in addition, made minor changes to rationalise and improve the Contract where we have considered it appropriate to do so.

4 Developing the shorter-form Contract

4.1 Engagement prior to consultation

The shorter-form version of the Contract is still a relatively new concept. We have undertaken a brief engagement process, during August and September, to understand stakeholders' views on whether significant changes were needed to the version which we first published in March 2016.

Overall, the consensus from this exercise was that the level of detail in the current shorter-form Contract is about right. Around 70% of those responding to our questionnaire felt that we had pitched the detailed requirements at the right level (rather than making them too onerous on providers) and that there was no material scope to slim down the shorter-form Contract further. A majority of respondents also favoured making minimal changes to the shorter-form Contract for 2017/18.

We have taken this feedback into account in considering to what extent we should amend the shorter-form Contract for 2017/18 and 2018/19.

4.2 New legislation, policy and guidance

A small number of the changes described in sections 3.1 to 3.4 above are also appropriate to include within the shorter-form version. These changes are identified with asterisks (***) in the tables above and relate to:

- self-care;
- Education, Health and Care needs assessments;
- discharge arrangements;
- safeguarding;
- data security;
- conflicts of interest and transparency on gifts and hospitality; and
- audit.

They are made in order to ensure that the Contract remains consistent with legislation and national policy guidance or to help make it more effective in practice.

4.3 Where the shorter-form Contract should be used

The shorter-form Contract is appreciably 'lighter-touch' than the full-length version, and we are keen to ensure that it is used to the maximum appropriate extent by commissioners. We will continue to set out clearly, in our Contract Technical

Guidance, the situations where use of the shorter-form Contract is encouraged – as well as those for which it is not designed. (The Guidance is available on the NHS Standard Contract 2017/18 webpage.)

A number of commissioners have specifically contacted us, however, to ask that we reverse one of the decisions that we took in publishing the first shorter-form Contract in March. In the interests of brevity, we decided at that point to leave out of the Contract the wording which deals with services to which National Prices apply (as defined in the National Tariff Payment System, published by NHS Improvement and NHS England). Commissioners have since told us that this is placing an artificial constraint on use of the shorter-form Contract, by preventing its being used for low-value, non-complex diagnostic services being provided in community settings, often on an AQP basis. National prices do of course apply for some such services.

We are therefore proposing to add back the relevant wording relating to national Prices to Service Condition 36 of the shorter-form Contract – so that the shorter form can be used for commissioning of straightforward diagnostic services in isolation (though not of course for mainstream acute hospital services). This will add slightly to the length of the Contract, but – so long as commissioners use the eContract system to generate their documentation – the additional wording need only appear in those contracts for which it is relevant.

5 Consultation responses

We invite you to review this consultation document and the two draft Contracts (available on the NHS Standard Contract 2017/18 webpage) and provide us with feedback on any of our proposals.

Comments on the draft Contracts should be sent to england.contractsengagement@nhs.net **by Friday 21 October 2016**. We will then publish the final versions of the Contracts shortly afterwards.