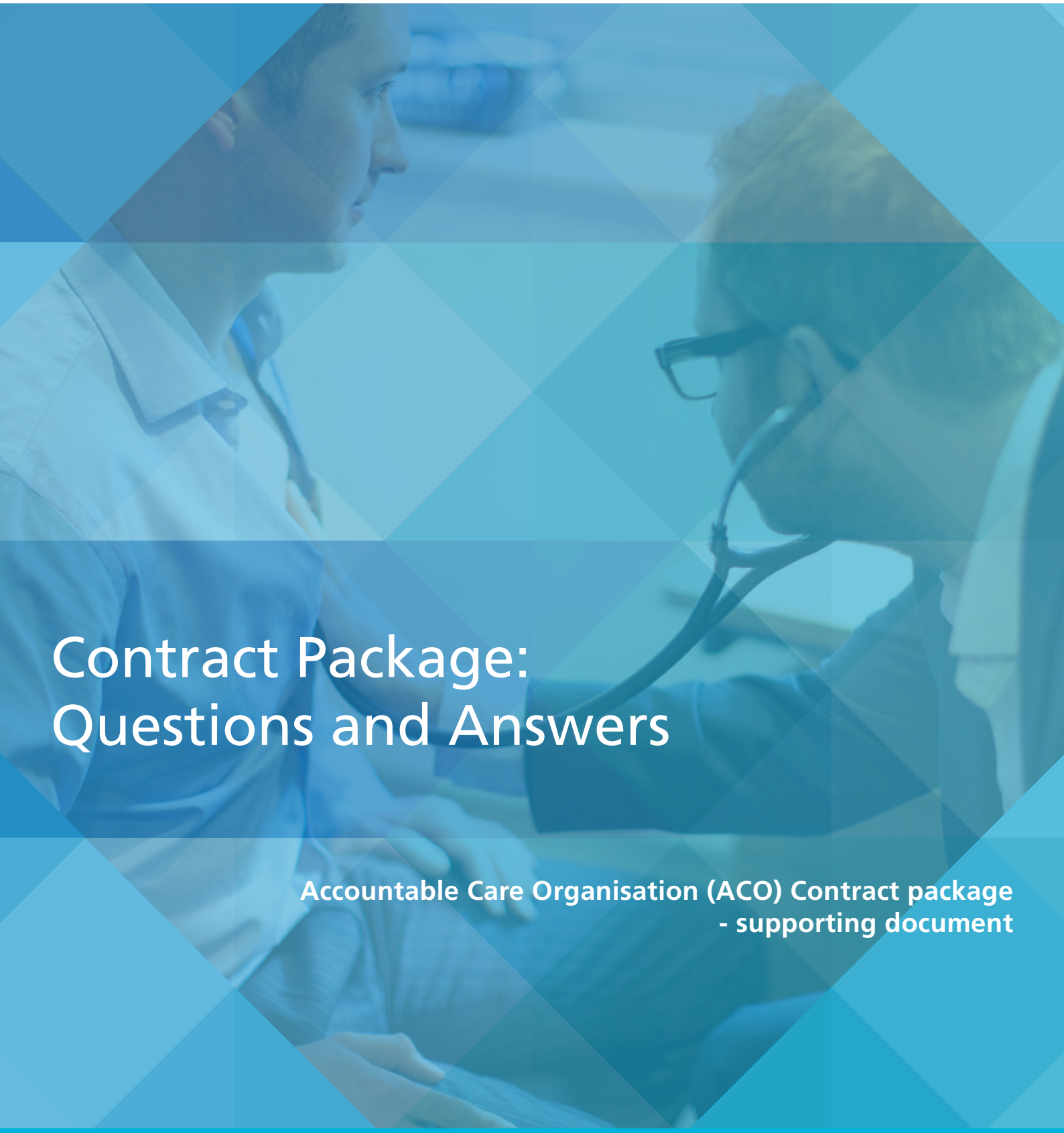
New care models



Contract Package: Questions and Answers

Accountable Care Organisation (ACO) Contract package - supporting document

Our values:
clinical engagement, patient involvement, local ownership, national support

August 2017

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Equality and health inequalities statement

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.

1. Why do we need a new contract for ACOs?

Much of an accountable care model can be delivered under current contractual frameworks through closer working. However, there is an opportunity to make sure that contracting and the financial environment supports this integration and delivery of the care model. By awarding the Contract commissioners can ensure that the integrated working and aligned incentives that providers have built through the model are sustainable and that organisational siloes are truly dissolved. The integrated budget, a key tool for integration, can only be given to the ACO provider if they hold the Contract.

2. When will the final Contract be available?

An updated Contract package has been published following public engagement. The Contract package has been updated to reflect the comments received. It is being published for early sites to use now, working with NHS England. The final Contract will be shaped by learning from these early sites and will be formally consulted on during 2018.

3. How will the Contract protect quality and patient safety?

NHS England would not release a contract for use unless we believe it protects the very best standards of care for patients. The Contract has been developed in partnership with stakeholders from across the health sector. The Contract has been updated to reflect feedback from public engagement. It sets out national service requirements with which every provider will need to comply. We fully expect an ACO care model to improve patients' experience of care.

4. Who can hold the Contract?

There will be no formal restrictions on who can hold the Contract. Both NHS bodies (e.g. a Foundation Trust) and non-NHS bodies (e.g. a GP Limited Liability Partnership) can bid to provide the ACO. Through the procurement process and the Integrated Support and Assurance Process (ISAP), providers will need to demonstrate to commissioners and to NHS England and NHS Improvement that they are capable of holding, and delivering, the contract.

5. Why does the Contract have a long duration (up to 10 years)?

NHS England expects the contract duration to be up to 10 years. This will offer the stability needed to incentivise the provider to invest in the new care model and the changes required. It will inevitably take some time for the full clinical and operational models to emerge and for the new provider to be able to show improvements in population health outcomes.

6. Why do commissioners have to run a procurement process before awarding the Contract?

Procurement rules are written into UK law. The Public Contracts Regulations (PCR 2015) require that contracts for clinical services with a lifetime cost over the £589,148 threshold must be advertised to the market. This does not necessarily mean that there will always need to be a competitive tendering exercise before a contract can be awarded, but in any event commissioners are required to act fairly and transparently and treat all potential providers of the relevant services equally.

7. Will patient choice be maintained under the Contract?

The Contract will require the provider to facilitate patients' legal rights to choice and offer them a choice of location from which to receive primary care and a preference for a named GP.

8. How could the nature of general practice change?

General practice is the foundation of the NHS and ACOs should help strengthen it, recognising the importance of the relationships that GPs have with their patients, their families and carers. Any bidder for the Contract (fully or partially-integrated) will be required to demonstrate how they will work with GPs. Accountable models are designed to improve patient experience of the whole system: GPs will be at the heart of multidisciplinary teams (MDTs) giving them much greater oversight of patients' whole pathways, and services will be aligned to deliver better outcomes for patients; to improve access and to free-up GP's time to do what only they can do - deliver expert generalist care.

9. How do social care and public health fit into the Contract?

As part of fully delivering the ACO (MCP or PACS) model of care, mental health, public health and social care services can be included in the Contract where this is agreed by the clinical commissioning group (CCG) and local authority - and a number of localities do intend for their integrated provider to deliver social care and public health services. The updated Contract allows for social care and public health provisions to be included in the Contract by local agreement, and we are working with local authorities, the Local Government Association (LGA) and Association of Directors of Adult Social Services (ADASS) to consider any further changes that may need to be made as the Contract evolves. Where local authority funded services are included, that portion of the whole population budget will be calculated based on current local authority spend for services in scope.

10. What does the Contract mean for the voluntary sector?

The MCP Framework describes the key role that the voluntary sector plays in delivering an MCP or PACS model of care. The vanguards have worked closely with local voluntary organisations to shape local services and pathways that support both health and, importantly, wellbeing. Any organisation can partner with others to bid for the Contract and this includes voluntary organisations. Where a Contract is awarded locally, we anticipate that the provider will work closely with the local voluntary sector and could enter into subcontracting arrangements with those organisations. In a virtual MCP or PACS we would expect local voluntary organisations to be party to the Alliance Agreement.

11. How will the roles of commissioners change?

The establishment of ACOs may lead to a shift in the activities of both providers and commissioners, but will not dissolve the established boundary between commissioning and provision. CCG statutory functions will not change, and CCGs will not be able to delegate responsibility for their statutory functions to the integrated provider. CCGs may, however, look to the ACO to carry out certain activities on their behalf.

12. Is this privatisation of NHS services?

No. The objective of the new care models programme is not to privatise the NHS. Regardless of organisational form, ACOs will offer free healthcare at the point of use. ACO models are about integrating health and care services across a range of sectors and bringing together the best elements of these, to deliver holistic, personalised care that improves local population health.

13. Why has NHS England created different contractual models?

General practice is fundamental to ACO models of care however we are absolutely clear that GP participation is voluntary. To give GPs more choice, and support participation, we have developed a range of contractual models with different implications for how core general practice and other providers can relate to the model. In a virtual provider arrangement the current commissioner to provider contracts (including GMS/PMS) remain in place and providers and commissioners sign an Alliance Agreement (draft published as part of this package) which sits alongside existing contracts. A Contract cannot be awarded in this model. In the partially integrated ACO the commissioner awards a Contract for all services excluding core general practice. GPs keep their active GMS / PMS and sign an Integration Agreement with the integrated provider (ACO). In the fully integrated ACO the commissioner awards an ACO Contract for all services including core general practice. GPs suspend their GMS/PMS and move into the ACO as employees, owners or subcontractors. The Contract requires salaried GPs to be employed on terms and conditions no less favourable than those in the BMA model terms and conditions for salaried GPs.

14. The Contract will be larger than current contracts in size and scope – how will the associated risks be managed?

Building on the learning from the reviews of the collapse of the Cambridgeshire and Peterborough CCG contract with Uniting Care Partnership in December 2015, NHS England and NHS Improvement have developed and published the Integrated Support and Assurance Process (ISAP) to support commissioners to make a robust assessment of the ability of any organisation to bear significant levels of financial risk and deliver a complex contract.

15. Will ACOs have access to additional NHS funding under the new contract?

The Contract is not about introducing new money into the local system, but rather it is about unlocking new and more flexible ways of organising and delivering care by creating a flexible integrated budget. ACOs will access capital from different sources depending on their organisational form.

16. Why have NHS England and NHS Improvement developed the integrated budget?

The integrated budget is a form of capitated payment designed to incentivise providers to work together towards outcomes rather than activity. The ACO provider has the power to deploy this budget flexibly to ensure the most effective allocation of its resources to meet the needs of its population.

17. Will funding for individual services be protected in the integrated budget?

The integrated budget baseline will be calculated on current commissioner spend and uplifted annually. It is for the ACO provider to determine how best to allocate their budget and to nationally ring fence funding for some services would undermine that flexibility.

18. Will provider income depend on reducing acute admissions?

Under the fully or partially-integrated variants of the model, in addition to its integrated budget and an Improvement Payment Scheme, ACOs will participate in gain / loss share arrangements agreed locally. MCPs, for example, will be in a position to influence the activity or risk in other providers within the local health economy. The gain / loss arrangement could seek to incentivise reductions in acute admissions, as an example, by allowing the MCP to share in any savings arising from reductions of activity in the acute sector.

19. What does this mean for the local workforce?

As a larger, multidisciplinary provider covering a broader scope of services, an ACO should be able to offer new opportunities to the local health and care workforce. Where staff roles fall under the services in scope of the Contract, and that Contract is awarded to a new provider, staff may transfer under TUPE regulations. Existing employers have a duty to engage and consult with the staff on any possible transfer. Under TUPE any employees that are transferred to a new employer will be able to retain their job role, their terms and conditions of employment, and their continuity of service.

20. How does this fit with the Sustainability and Transformation Partnerships (STPs)?

We are committed to achieving spread of the new care models across the country. As part of our operational planning, we invited local areas/STPs to consider how new care models could contribute to achieving their objectives.

21. The planning guidance sets out an ambition to award two-year contracts, does this mean that localities aiming to procure an ACO would have to wait until 2019 to procure?

We are aware that some commissioners are working towards the development of longer term contracts based on integrated budgets, for example ACOs. There may be a desire in these situations to run procurement processes which will result in a new contract being awarded in either 2017/18 or 2018/19. NHS England therefore is offering flexibility, based on local discretion, to allow commissioners to remain on annual contracts with local providers where this allows an accelerated transition to longer term contracting arrangements.

22. Will the additional VAT liabilities, demonstrated in the case of Uniting Care Partnership (UCP), continue to apply to NHS bodies in certain contracting arrangements such as corporate joint ventures?

We have raised with HMRC the issues around the loss of VAT recovery on NHS contracted out services as highlighted in the review of the UCP contract (described in the NAO's report on the matter: https://www.nao.org.uk/report/investigation-into-the-collapse-of-the-unitingcare-partnership-contract-in-cambridgeshire-and-peterborough/).

Those discussions have now concluded and it is clear that the position described in the UCP case stands.

This will be of interest to local health economies, particularly providers, so they can consider carefully the VAT implications of any organisational form they choose to develop

for the purpose of holding an accountable care contract for an MCP or PACS model: https://www.england.nhs.uk/ourwork/new-care-models/vanguards/care-models/community-sites/.

We will ensure that due consideration has been given to the issue through the Integrated Support and Assurance Process (ISAP) for complex contracts, which was established in response to the UCP case.

The NHS Five Year Forward View sets out a vision for the future of the NHS. It was developed by the partner organisations that deliver and oversee health and care services including:

- NHS England
- Care Quality Commission
- Health Education England
- The National Institute for Health and Care Excellence
- NHS Improvement
- Public Health England

Our values: clinical engagement, patient involvement, local ownership, national support

www.england.nhs.uk/newbusinessmodels **#futureNHS**