

# Draft NHS Standard Contract 2020/21

Audio presentation 1 of 4

Introduction to the Contract

January 2020

Publications Approval Number 001456

NHS England and NHS Improvement



# Welcome

- This is the first of four audio presentations which we have prepared to help to explain the changes proposed to the NHS Standard Contract for 2020/21.
- This is the agenda we will be working through in the four separate presentations:

Presentation 1	Introduction to the Contract
Presentation 2	Local system collaboration and integration
Presentation 3	New national policy initiatives included in the draft Contract for 2020/21
Presentation 4	Changes affecting national standards and NHS “business rules” for 2020/21

# What is the NHS Standard Contract?

It is the form of contract mandated for use by NHS commissioners (CCGs and NHS England) for all of their healthcare commissioning contracts other than core primary care

<http://www.england.nhs.uk/nhs-standard-contract/>

It comes in two versions – full-length and shorter-form

# Why have a Standard Contract?

It gives a lever to drive local implementation of national policy priorities

And there are benefits in a standardised approach:

- one set of rules which everyone understands
- a level playing field for all types of provider
- economies of scale (contract production, legal advice)

# National and local elements

There are elements of the Contract which are set nationally:

- boiler-plate legal clauses (payment, contract management, dispute resolution, variation, suspension, termination)
- national quality standards and reporting requirements for some services

But much of the key detail is for local negotiation:

- service specifications and local prices
- local quality standards and reporting requirements

# Format of the Contract

The Contract is structured into three sections:

- *General Conditions* set out national terms that apply in all contracts
- *Service Conditions* set out national terms that apply where specific services are being commissioned
- *Particulars* set out who the contracting parties are and include schedules with locally-agreed detail

Capitalised words or phrases in the text are “defined terms” – definitions are listed at the back of the General Conditions

# “Tailoring” the Contract

This isn't intended as a “one size fits all” approach

- The General Conditions are the same in all contracts
- But the content of the Service Conditions and Particulars varies depending on the specific services being commissioned
- So provisions or requirements that aren't relevant don't apply

This “tailoring” approach

- uses a limited number of “service categories”
- works best when the electronic contract system (the eContract) is used

# Service categories

Accident and Emergency Services (Type 1 and Type 2 only) (A+E)	End of Life Care Services (ELC)
Acute Services (A)	Mental Health and Learning Disability Services (MH)
Ambulance Services (AM)	Mental Health and Learning Disability Secure Services (MHSS)
Cancer Services (CR)	NHS 111 Services (111)
Continuing Healthcare Services (including continuing care for children) (CHC)	Patient Transport Services (PT)
Diagnostic, Screening and/or Pathology Services (D)	Radiotherapy Services (R)
Community Services (CS)	Urgent Treatment Centre Services (including Walk-in Centre Services/Minor Injuries Units) (U)



## But some things you must not change

But what you mustn't do is

- remove wording from the GCs or SCs (other than through tailoring)
- substitute amended wording
- add additional wording

If you need to say something extra

- use the Schedules (including the catch-all Other Local Agreements, Policies and Procedures Schedule, 2G)
- but beware of contradicting the national elements of the Contract by that route and remember the order of precedence – GCs, then SCs, then Ps (see GC1)

# Use of the Contract is mandated

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STATUTORY INSTRUMENTS

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2012 No. 2996

MENTAL HEALTH, ENGLAND

NATIONAL HEALTH SERVICE, ENGLAND

The National Health Service  
Commissioning Board and  
Clinical Commissioning Groups  
(Responsibilities and Standing  
Rules) Regulations 2012

Made - - - - 3rd December 2012  
Laid before Parliament 5th December 2012  
Coming into force in accordance with regulation 1



## But when do you use it?

The NHS Standard Contract must be used when commissioning

- any healthcare service other than core primary care
- from any type of provider
- for any value or duration of contract

There are no circumstances where NHS commissioners should draft a local alternative form of contract or SLA for a healthcare service

# Who can be party to an NHS Standard Contract?

An NHS Standard Contract can be between:

- a single commissioner or multiple commissioners (CCGs, NHSE, LAs) and
- a single provider

The provider could take many different organisational forms – NHS Trust, Foundation Trust, charity, different forms of company – but it must be a legal entity

# Collaborative contracting

This is where multiple commissioners are party to the same contract with a single provider

This approach is strongly encouraged – it saves time and avoids the confusion of multiple separate contracts

Commissioners need to

- put in place a Collaborative Commissioning Agreement (model version available on the [website](#))
- identify one to act as Co-ordinating Commissioner (see next slide)

Involvement of a local authority may mean that a section 75 agreement is needed (lead commissioner / pooled budget)

# The Co-ordinating Commissioner role

Where there are multiple commissioners under one contract, one must be identified as the Co-ordinating Commissioner

Each individual commissioner has some specific responsibilities and may take certain actions under the Contract – making, validating and contesting payment (SC36), for example, or initiating and resolving disputes (GC14)

But many other contract management actions fall to the Co-ordinating Commissioner to undertake on behalf of the commissioners collectively, including

- managing provider performance through Contract Performance Notices and Remedial Action Plans (GC9)
- approving proposed subcontracts (GC12)
- proposing and agreeing Variations (GC13)
- suspending services (GC16) or terminating the contract or any individual service (GC17)
- notifying Prior Approval Schemes (SC29)

Where there is only one commissioner, that commissioner automatically takes on the responsibilities of the Co-ordinating Commissioner

# The shorter-form Contract and grant agreement

## The [shorter-form Contract](#):

- is less onerous on the provider in terms of performance requirements
- contains less detailed contract management processes
- can only be used for certain services – non-inpatient mental health, community, end of life care, continuing healthcare, non-inpatient diagnostic
- can't be used for acute, cancer, A&E, 111, emergency ambulance, or any hospital inpatient services (including MH)

Otherwise, use is at the commissioner's discretion – but we encourage use for lower-value contracts, especially with smaller non-NHS organisations.

The [NHS Grant Agreement](#) is used where the CCG wishes to support the activities of a voluntary organisation.

See the Contract [Technical Guidance](#) s9 and s11 for more information.

# The eContract system

- The eContract system hosts both the full-length and the shorter-form versions of the Contract and:
  - is simple, quick to use, and reliable
  - focuses on the production of tailored, shorter contract documentation which strips out content that is not relevant to the services being commissioned.
- To generate contract documentation, the user selects basic contract options, and the system produces a tailored and shorter version of the Particulars and Service Conditions, which include only the contract provisions relevant to the specific services being commissioned.
- A user can also create a contract proforma for use when the user intends to use the same tailored Service Conditions multiple times.
- The eContract system is available with a user guide at <https://www.econtract.england.nhs.uk/Home/>
- Queries in its use may be sent to [england.econtract@nhs.net](mailto:england.econtract@nhs.net)



# Contract duration and National Variations

Where commissioners and providers are putting new contracts in place from 1 April 2020, they will simply use the new 2020/21 Contract.

But if you have an existing longer-term contract in place with a duration which goes beyond 31 March 2020, you will still need to update its terms by applying a National Variation to take effect from 1 April 2020. We will publish this, with guidance on its use, on our [website](#) alongside the final version of the Contract.

We are setting the national terms of the Contract for 2020/21 only – but commissioners may still choose to let contracts with a duration longer than the single year of 2020/21 – see section 17 of our [Contract Technical Guidance](#).

Note that we may also need to publish a separate, additional National Variation to the Contract in-year during 2020/21 (for instance, to give effect to the outcomes of the [Clinical Review of Standards](#)). If we do this, commissioners and providers will need to apply that National Variation in-year to their local contracts as relevant.

# Help and support

Website:

<https://www.england.nhs.uk/nhs-standard-contract/20-21/>

This hosts the full-length and shorter-form Contracts, the Contract Technical Guidance and other publications including

- model Collaborative Commissioning Agreement
- model sub-contracts and guidance

Model grant agreement and guidance <https://www.england.nhs.uk/nhs-standard-contract/grant-agreement/>

Email helpdesks for queries:

- on the NHS Standard Contract via [nhscb.contractshelp@nhs.net](mailto:nhscb.contractshelp@nhs.net)
- on CQUIN via [e.cquin@nhs.net](mailto:e.cquin@nhs.net)
- on Who Pays? via [england.responsiblecommissioner@nhs.net](mailto:england.responsiblecommissioner@nhs.net)
- on the eContract system [england.econtract@nhs.net](mailto:england.econtract@nhs.net)
- on the National Tariff Payment System [nhsi.pricing@nhs.net](mailto:nhsi.pricing@nhs.net)

# Contract Technical Guidance

Our [Contract Technical Guidance](#) contains detailed advice on use and interpretation of the NHS Standard Contract and, more broadly, on many aspects of commissioning and contracting within the NHS, including

Contract duration and extension	Managing provider performance and quality of care
Varying contracts	Managing activity and referrals
Financial sanctions	Information requirements and counting and coding changes
Sub-contracting	Managing payment
Managing disputes	Contract termination and exit arrangements

Please do use the Technical Guidance as a reference point.

# Feeding back

The Contract consultation closes on Friday 31 January 2020.

You are welcome to feedback your views on the changes we are proposing to the Contract for 2020/21. You can do this in two ways:

- by using the online survey available at <https://www.engage.england.nhs.uk/consultation/proposed-changes-nhs-standard-contract/>
- by email to [england.contractsengagement@nhs.net](mailto:england.contractsengagement@nhs.net), using the template response document available at <https://www.england.nhs.uk/publication/draft-nhs-standard-contract-2020-21-a-consultation-stakeholder-response-document/>

We will publish the final version of the Contract as soon as possible after we have reviewed the consultation responses.

# Conclusion

- Thanks for listening.
- Remember, there are three other separate presentations which you can access on the NHSE/I YouTube channel:

Presentation 1	Introduction to the Contract
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