

## Choice in mental health: advice for commissioners

April 2016

### Introduction

A legal right to choice of provider and team for mental health services was introduced in 2014, providing parity between physical and mental healthcare. At NHS Improvement we've recently received queries and complaints from people who do not think that choice is working properly for some mental health services. They tell us that:

- people are being prevented from accessing the provider of their choice
- reasons are not well communicated when a person's choice is refused
- care is unnecessarily delayed while referrals are processed.

We have spoken to people using mental health services, patient groups, providers and commissioners to understand how choice is working for mental health services and whether improvements can be made. To address some of the concerns raised, we have written some [practical advice](#) about how choice should be used to ensure people get care from the provider that's best for them. While aimed at users of mental health services, it is also intended to be useful for commissioners and GPs.

Our advice for commissioners on their role in facilitating choice is set out below.

### Commissioners need to be proactive in facilitating choice

Commissioners need to make arrangements so that people are able to choose and go to the provider they think best meets their needs.

Many of the queries and complaints we receive are because a person has been told they can't be treated by their chosen provider because the provider doesn't have a contract with the person's commissioner. This is an example of choice not working properly, and isn't a reason to refuse a person their choice.

Where we have seen commissioners making choice work well, there is a clear process in place to support the referral of a person, even to providers the commissioner doesn't usually work with or have existing arrangements with. Good processes that we've seen:

- don't delay the person receiving care
- include a method for agreeing the price for the service
- set out the expected timescales for referrals to be made and accepted
- ensure invoices are paid in a timely manner.

A clear process also helps commissioners and providers by reducing administrative costs, and preventing delays to invoicing and payment for treatment. Commissioners that do this well tend to use telephone and/or email to set up referrals to avoid delays, and use locally agreed prices or existing provider tariffs as a starting point to agree price.

Some commissioners hold meetings or panels to assess the needs of a small number of people who have complex conditions and make sure that they are able to choose the best care. Commissioners using these panels effectively tell us that local finance and contract arrangements aren't relevant to the decision-making, and the person's interests are put first.

We're aware of some commissioner policies that require the use of local providers either exclusively or for all initial referrals. These policies may prevent people from choosing the provider of care that is best for them; they aren't appropriate.

Doctors involved in commissioning and making decisions about choice need to keep in mind their professional responsibility to make the care of patients their first concern. This means acting consistently with their duty to patients when involved in management or commissioner decisions that may conflict with that duty.

## **New payment approaches for mental health services**

NHS Improvement has published information and support material for commissioners and providers about new payment approaches for mental health services.<sup>1</sup> This guidance may be useful to commissioners when thinking about arrangements to put in place to support choice for patients, for example, ensuring that local contracting arrangements do not result in a duplication of payment when a patient chooses to see a non-contracted provider. This information will be supplemented by more detailed information soon, including guidance on how to build choice into payment models.

Commissioners will also find it useful to refer to the *Choice in mental healthcare* guidance<sup>2</sup> and the *Who Pays* guidance,<sup>3</sup> both published by NHS England. A

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<sup>1</sup> See [www.gov.uk/guidance/new-payment-approaches-for-mental-health-services](http://www.gov.uk/guidance/new-payment-approaches-for-mental-health-services)

<sup>2</sup> *Choice in mental healthcare: Guidance on implementing patients' legal rights to choose the provider and team for their mental health care* ([www.england.nhs.uk/wp-content/uploads/2014/12/choice-mhc-14.pdf](http://www.england.nhs.uk/wp-content/uploads/2014/12/choice-mhc-14.pdf)).

common issue raised by CCGs we spoke to was how to arrange payment where a person has chosen a non-contracted provider. The *Who Pays* guidance explains the process that should be followed, including that the activity is undertaken on the same terms as the NHS standard contract already in place between the chosen provider and its host commissioner.

## **The choices people make can be helpful in identifying gaps in service provision and poor user experience**

Commissioners can use information about the choices people make to improve services for people in their local area. For example, if more people are choosing to go to a provider because of the way it runs a service, and the commissioner doesn't already have a contract with the provider, the commissioner could make arrangements with that provider or think about whether improvements can be made to local services. Commissioners could also consider satellite clinics from popular providers to provide more local options or to fill any service gaps identified.

For more information contact David du Parc Braham either by telephone on 020 3747 0954 or by email to [david.duparcbraham@monitor.gov.uk](mailto:david.duparcbraham@monitor.gov.uk).

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## **About NHS Improvement**

NHS Improvement is the operational name for the organisation that brings together Monitor, NHS Trust Development Authority, Patient Safety, the National Reporting and Learning System, the Advancing Change team and the Intensive Support Teams.

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<sup>3</sup> *Who Pays? Determining responsibility for payments to providers* ([www.england.nhs.uk/wp-content/uploads/2014/05/who-pays.pdf](http://www.england.nhs.uk/wp-content/uploads/2014/05/who-pays.pdf)). See paragraphs 38 to 45.