

2025/26 NHS Payment Scheme – a consultation notice

Annex DpE: Elective and other activity-based payment



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1. Limit for elective and activity-based payments

1. This document is Annex DpE of the [consultation on proposals for the 2025/26 NHS Payment Scheme](#) (NHSPS). It is proposed that this document would, as an annex, form part of the 2025/26 NHSPS on publication.
2. This document describes the process for setting a notified payment limit for elective services, and all services paid for on an activity basis.

1.1 Scope

3. The payment arrangements described in this document apply to all services paid for on an activity basis, for all providers, where the planned value of activity is above a minimum threshold of £0.1m.
4. For providers on an aligned payment and incentive (API) contract, this would include the following services:
 - Ordinary electives
 - Day cases
 - Outpatient first attendances
 - Outpatient procedures
 - Unbundled diagnostic imaging
 - Unbundled nuclear medicine
 - Chemotherapy delivery
5. The payment arrangements apply to activity delivered by Community Diagnostic Centres (CDCs). They do not apply to provider-commissioner relationships with a low volume activity (LVA) arrangement, which will be paid on a fixed basis.
6. The payment arrangements apply to both nationally and locally priced services, covering both NHS and non-NHS providers.

1.2 Planned activity and notified payment limits

7. Commissioners and providers are required by the NHSPS to agree a planned level of activity, and associated financial value, for services paid for on a variable or activity basis. This should be included in their contract as the Indicative Activity Plan and should be equal to their Expected Annual Contract Value for services funded on an activity basis. This includes providers on API contracts where the activity-based

element of the contract is above £0.1m, as well as those reimbursed on activity-based payment models with a planned value of activity above £0.1m.

8. As a minimum, commissioners need to ensure that the planned level of activity would deliver their activity floor and the target RTT improvement, taking into account affordability – NHS England will seek assurance on commissioned levels of elective activity. Commissioners should also ensure that all their elective recovery funding (ERF) is committed in the payment limits, when combined with any expected expenditure on variable activity below the payment limit threshold.
9. The financial value of the planned level of activity will represent the notified payment limit between the commissioner and provider. The notified payment limit is the value of activity above which the commissioner is not required to make further payments. A notified payment limit must be set for each commissioner/provider relationship where the planned value of activity is above £0.1m, except where the relationship is on an LVA basis and the provider will receive a fixed payment.
10. The notified payment limit can comprise specific limits set at service, specialty or procedure level, taking into account where additional activity is required or less activity where waiting times are already within the 18-week standard.
11. Where a commissioner and provider do not agree an activity plan and financial value, the commissioner may set the notified payment limit for that provider.
12. The commissioner should use a consistent approach to agreeing activity plans and setting payment limits with providers, regardless of whether the provider is within their system or in another system and whether the provider is on an API contract or is paid solely on an activity basis. NHS England is developing a national analysis of activity volumes consistent with the allocated funding for each commissioner/provider relationship, which could be used to inform the payment limit. This will be available on [FutureNHS](#).
13. The notified payment limit should reflect plans to reduce outpatient follow-up attendances to benchmark levels.

1.3 In-year monitoring

14. Commissioners and providers should review performance against the activity plan on a monthly basis in line with the provisions of the NHS Standard Contract Service Condition 29 – Managing Activity and Referrals. Providers should update activity

forecasts quarterly and inform the commissioner if, based on all available information, they expect to exceed the payment limit.

15. If the provider expects to exceed the notified payment limit, the provider should notify the commissioner as soon as possible. Following this notification, the commissioner and provider should discuss whether the commissioner needs to impose the payment limit, or is able to increase the provider's payment limit (eg, if other providers are underperforming against their plans and, in consequence, an element of their notified payment limit can be reallocated). Contract variations should be completed to adjust the Indicative Activity Plan, the Notified Payment Limit and the Expected Annual Contract Value where this takes place and to adjust any associated Local Quality Requirements.
16. Commissioners cannot change overall payment levels in-year but, in agreement with providers, can increase payment limits for individual providers.

1.4 Operation of the payment limits between commissioners

17. Providers will have different payment limits for each of their commissioners above the threshold. They will also have a single waiting list covering patients from all commissioners.
18. For some providers with contracts of significant value with multiple commissioners there is the potential for the provider to be within their total payment limit, but to be above the payment limit for some commissioners and below for others. NHS England will develop guidance on how commissioners and providers should work together to agree arrangements and manage funding flows in-year to reduce complexity and uncertainty so that providers are reimbursed for the total activity they do within their overall payment limit.

1.5 Specialised commissioning

19. Commissioners and providers of specialised services should agree planned levels of activity, and payment limits, for specialised commissioning. For elective activity previously in the scope of the ERF, this should be done on a host provider basis for delegated specialised commissioning.
20. ICBs will have separate payment limits for each of their host providers for ICB and delegated specialised commissioning. ICBs will be able to flex between the payment limits for ICB and specialised commissioning, in accordance with the NHSPS, to reflect actual activity levels in-year.

21. NHS England regional specialised commissioners, and national commissioners where relevant, will agree activity plans and payment limits with providers for retained specialised services.

1.6 Non-contract activity

22. For non-contract activity (NCA) above the £0.1m threshold, the commissioner would set an appropriate payment limit, following consideration of current activity levels and activity targets.
23. The NCA commissioner should set a payment limit by written notification to the provider and the host commissioner of their qualifying contract.
24. The provider should notify the NCA commissioner if they expect to exceed the notified payment limit and discuss with the commissioner whether that payment limit will be applied. If no agreement is reached with the commissioner to raise the notified payment limit, no payment will be made above the limit.

1.7 New providers

25. Where a new provider starts to provide services for an ICB during the year, for services above the £0.1m threshold, the commissioner should notify the provider and, if applicable, the co-ordinating commissioner of the payment limit.

1.8 Notification of the payment limit

26. Commissioners should notify all providers in writing of the payment limit by 30 April 2025, unless limits are being set at specialty/procedure level. This may be before a written contract is agreed and signed. Notification of payment limits set at service, specialty or procedure level should be sent by 30 June 2025.
27. A payment limit would not be notified in-year other than as a result of a provider reaching the £0.1m threshold or if a new provider starts to provide services for a commissioner which are expected to exceed the £0.1m threshold.