Draft NHS Standard Contract 2020/21: A consultation

Stakeholder response document

NHS Clinical Commissioners Response

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Introduction

The NHS Standard Contract is published by NHS England and is mandated, under Standing Rules regulations, for use by NHS commissioners when contracting for all healthcare services other than primary care. The Contract is published in two generic versions – the full-length version, and the shorter-form version.

NHS England is now consulting on proposed changes to both versions of the Contract. Draft versions of the Contracts are published, alongside a consultation document describing the main, material changes NHS England is proposing to make, on the NHS Standard Contract 2020/21 webpage.

1 How to respond

NHS England would welcome comments from stakeholders on the proposals, along with any other suggestions for improvement. Comments can be made either by using an online feedback form (available soon) or by email to england.contractsengagement@nhs.net, using this template.

Full details of the proposed changes are given in the consultation document and draft Contracts, all of which are published on the NHS Standard Contract 2020/21 webpage. Only brief details are given below.

A small number of the changes are also applicable to the shorter-form version of the Contract. These changes are identified with asterisks (***).

For each area, please indicate whether a) your organisation supports the proposal, b) your organisation does not support the proposal, or c) the proposal is not applicable to your organisation, and add comments where relevant. Please do not add extra columns or rows to the template, and please return it as a Word document, rather than as a pdf.

The deadline for receipt of responses is Friday 31 January 2020. We will publish the final versions of the generic Contract (both full-length and shorter-form) as soon after that as possible.

We are also seeking feedback on five further areas which are either not proposed or mandated for inclusion in the Contract for 2020/21. These are set out in section 3.4 below:

- trajectory for the cancer 28-day faster diagnosis standard;
- model System Control Financial Management Agreement;
- declarations of interest;
- Anticipatory Care and Enhanced Health in Care Homes system models; and
- 18-week patient choice.

2 Your details

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3 Proposed changes

We describe the changes we propose to make to the Contract for 2020/21 in the consultation document and draft Contracts, published on the NHS Standard Contract 2020/21 web page. Only brief details are given below.

3.1 Key policy changes

Changes affecting specific clinical services

These proposed changes are aimed at improving care in specific clinical services

	Topic	Proposed Change (for full details, please refer to the consultation document and draft Contracts)	Support proposal?			Comments
			Yes	No	NA	
1	Maternity services SC3 Definitions	Providers of maternity services must ensure that 51% of women receive continuity of carer during their care by March 2021.				
2	Eating disorder services for children and young people	Providers of eating disorder services for children and young people must achieve the Access	X but see comment			Please note these services are usually quite small and may not have the capacity from a bed or staffing point of view to meet the standard by March 2021

	SC3 Definitions	and Waiting Time Standard in full by March 2021.				
3	Procurement of emergency ambulance vehicles SC39	Providers of emergency ambulance services must source any new vehicles under nationally-specified supply contracts for the base vehicle and the conversion.	X but see comment			If the costs of the vehicles are the same or less than each organisation currently pays, then this would support each Trust. If this is not the case (i.e. not the case on other national single supply route changes) then prior to release, a national balancing pot should be created to avoid winners and losers of the change, hence can focus on quality and cost for the NHS as a whole. We are unclear what the nationally specified supply contract is or says.
4	Guidance on inter-facility transfers Definitions	All providers must comply with the national framework for arranging emergency inter-hospital ambulance transfers.	X but see comment			This qualitative change is understood but have more onerous new standards, likely to cause direct cost pressures to Trust hence commissioners and STP/ICS.
5	Early Intervention in Psychosis standards Schedule 4B	Providers of mental health services must ensure that 60% of patients experiencing a first episode of psychosis wait less than two weeks to start treatment.***	X			
6	72-hour post-discharge follow-up in mental health services Schedule 4A	Providers of CCG-commissioned mental health services must ensure that 80% of patients discharged from inpatient care are followed up within 72 hours. ***	x			

Integrated system working and Primary Care Networks (PCNs)

These proposed changes are aimed at promoting effective system-wide collaboration between commissioners and providers within a local health community.

	Topic	Proposed Change (for full details, please refer to the consultation document and draft Contracts)	Support proposal?			Comments
			Yes	No	NA	
7	System-wide collaboration to manage performance and finance SC4 Schedule 1A	NHS Trusts / FTs and CCGs within each ICS/STP will sign, and act in accordance with, an overarching System Collaboration and Financial Management Agreement (SCFMA), setting out how they will work together to deliver system financial balance. NHSE/I regional teams will also be party to these agreements. Please indicate here if your organisation supports its inclusion in the Contract, and submit any comments on the content of the SCFMA itself in accordance with s3.4 below.	X See comment			System control totals and a collaborative stance should support STP/ICS plan deliverables. Issues remain that providers may not wish to see their 'margins' for being an efficient and prudent provider in the past be 'lost' to the system's inefficiencies/inefficient providers. So very much depends on what the content of these agreements are and is on the assumption the commissioners and providers are in the same starting point. Also, how has the legal stance around independent Foundation Trusts been resolved (separate legal entities)?

8	Supporting implementation of system-level plans SC4 Schedule 8	Where applicable, CCGs and providers within an ICS/STP must contribute towards the implementation of local system-level plans.	X BUT see comment			This is essential, and we do support it but the contract still requires both parties to agree to delivery, which in many cases, especially those with deep seated systemic problems/financial issues/disagreements, has been the problem in itself which this will not resolve at face value.
9	Alignment of community mental health services with PCNs SC4	Providers of community mental health services for adults and older adults must ensure that they put in place arrangements with all PCNs within their footprints, by March 2021, to organise and begin delivering services in an integrated manner.	x			Many of the pilots testing out the Community MH Framework are including PCNs within their models. So, we will have more information on what is possible when they are up and running and evaluated. However it is worth noting that due to the differing levels of maturity of PCNs, this may be a challenge to achieve.

10	Supplying or recommending medication for ongoing use in primary care SC11	Providers of acute, mental health and cancer services must have regard to guidance published by NHS England for GPs on conditions for which over-the-counter items should not routinely be prescribed and items which should not be routinely prescribed when supplying or recommending medication to patients or the patient's GP.	x			We very much welcome this proposal to align the CCG implementation guidance on conditions for which over the counter items should not routinely be prescribed in primary care. NHSCC approached NHS England in 2016 and suggested exploring a strategic national approach to reducing prescribing rates of medicines of limited clinical value in primary care. As a result, an NHSCC co-chaired clinical working group was formed to review products, and items for inclusion were consulted upon. This process resulted in the above implementation guidance which places expectation upon CCGs to have 'due regard' to this guidance. In addition to this proposal, it would be most beneficial for implementation of the above guidance if secondary care consultants were to consistently follow all local CCG medicines operation guidance or formularies and not only national ones.

11	Supporting PCNs to deliver Anticipatory Care and Enhanced Health in Care Homes SC4 Schedules 2Ai and 2Aii	Please indicate here if your organisation supports inclusion of Schedules 2Ai and 2Aii in the Contract where applicable, and submit any comments on the service models themselves to england.networkscontract@nhs.net in accordance with s3.4 below by **Wednesday 15 January 2020**.		X See Comment		Please see comment above. NHSCC has submitted a detailed response to the Draft PCN DES specifications – you can access this here https://www.nhscc.org/consultation/response-to-the-consultation-on-the-primary-care-network-direct-enhanced-service-draft-service-specifications/

Changes relating to patient safety

These proposed changes are aimed at improving patient safety, partly in response to the new NHS Patient Safety Strategy launched in July 2019.

	Topic	**Proposed Change (for full details, please refer to the consultation document and draft Contracts)**	**Support proposal?**			**Comments**
			Yes	**No**	**NA**	
12	Medical Examiners of Deaths SC3	Providers of acute services (NHS Trusts and FTs) must establish a Medical Examiner's Office, in accordance with guidance published by the National Medical Examiner.	X but see comment			This change is welcomed from a safety and system learning point of view but will add costs to the provider and hence pressure into the STP/ICS. This is particularly difficult for areas with currently resourcing (finance and staffing availability) to implement – would it be possible to have timescales over a longer period for implementation?

13	Common sources of harm to patients in hospital / Safety Thermometer SC3, SC22 Schedule 6A	We propose to remove the Safety Thermometer requirements from the Contract and to introduce a higher-level obligation on acute providers to ensure standards of care for venous thromboembolism, catheter-acquired urinary tract infections, falls and pressure ulcers.				
14	Patient Safety Incident Response Framework SC33	We propose to signpost the change to the forthcoming single Patient Safety Incident Response Framework. ***				
15	National Patient Safety Alerts SC33	All providers must ensure that they can receive and respond appropriately to National Patient Safety Alerts. ***				
16	Patient Safety Specialists SC33	All providers must designate an existing staff member as their Patient Safety Specialist.	X but see comment			At a time of significant pressures both financial, workload and staff resources, a long lead in time would be appreciated to support providers, possibly reducing short term staffing cost pressures.

17	Infection control targets Schedule 4B	Providers of acute services (NHS Trusts and FTs) must achieve specific targets for the reduction of gram-negative bloodstream infections.	X but see comment			As a new implementation area, it would be helpful to create 2020/21 as a shadow year for understanding the level of the problem at a local and system level before target setting. Reflecting on initial issues around MRSA and CDiff implementation locally, a cross cutting group from Trust clinicians to CCGs to PH England level would also support a bottom up approach?
18	Infection control sanctions Schedules 4B, 4F	We propose to remove the financial sanctions relating to MRSA and C difficile (CDI) from the Contract.	X but see comment			This is very much welcomed as suggested by many Trusts and commissioners and will should release both clinical and managerial capacity for frontline services.

Other broader policy initiatives

These proposed changes are aimed at promoting other more general improvements in how care and treatment are delivered for patients.

	Topic	**Proposed Change (for full details, please refer to the consultation document and draft Contracts)**	**Support proposal?**			**Comments**
			Yes	**No**	**NA**	
19	EU Exit	We propose to include a new requirement for providers to comply with applicable EU Exit Guidance.			x	

20	Care and Treatment Reviews SC6	Providers of mental health services and of mental health secure services must ensure that CTRs are completed within the applicable timescales. Where this is not done, through any error or omission of the provider, a financial sanction will apply.	X but see comment			How does the sanction apply if the Trust or an FT signs up to a Financial Improvement Trajectory for 2020/21, and certain contractual sanctions continue to be suspended?
21	Choice of clinician SC7	A provider may withhold treatment where a patient displays behaviour which constitutes discrimination or harassment (within the meaning of the Equality Act 2010).	x			This is very much welcomed.
22	Screening and onward referral to smoking cessation and alcohol advisory services SC8	Providers must screen inpatients for alcohol and tobacco use, and offer brief advice, interventions and/or onward referral as appropriate.	X but see comment			Just a note here that in some parts of the country, these services have been closed by councils due to financial pressures, hence onward referral may not be available. Due to these actions, other English councils currently under pressure are also considering taking the same action, i.e. only carrying out statutory services of which Public Health is not one, hence this clause may not be able to be applied by providers or validated by commissioners.

23	Prescribing SC11	Providers of acute, mental health and cancer services must have regard to national guidance on over-the-counter medicines and items that should not be routinely prescribed.	x			We very much welcome this proposal to align the CCG implementation guidance on conditions for which over the counter items should not routinely be prescribed in primary care. NHSCC approached NHS England in 2016 and suggested exploring a strategic national approach to reducing prescribing rates of medicines of limited clinical value in primary care. As a result, an NHSCC co-chaired clinical working group was formed to review products, and items for inclusion were consulted upon. This process resulted in the above implementation guidance which places expectation upon CCGs to have 'due regard' to this guidance. In addition to this proposal, it would be most beneficial for implementation of the above guidance if secondary care consultants were to consistently follow all local CCG medicines operation guidance or formularies and not only national ones.
24	Smoke-free premises SC17 Definitions	NHS Trusts and FTs must use reasonable endeavours to ensure that their premises are smoke-free.	x			
25	NHS Premises Assurance Model SC17	NHS Trusts and FTs must complete the safety and patient experience domains of the NHS Premises Assurance Model, and report the findings to their Governing Bodies.				

26	NHS Food Standards SC19 Definitions	Each provider must ensure that, from retail outlets and vending machines, catering provision and facilities as appropriate, patients, staff and visitors are offered ready access 24 hours a day to healthy eating and drinking options and that products provided and/or offered for sale meet the requirements set out in NHS Food Standards, including in respect of labelling and portion size.				

27	Evidence-Based Interventions SC29	Commissioners and Providers of acute services must agree local goals consistent with those set out in the Evidence-Based Interventions Policy, for the aggregate number of interventions to be undertaken by the Provider.	x			We welcome this proposal to align the national EBI policy with the NHS Standard Contract and believe it provides a strong lever by which local commissioners and providers can ensure implementation of the national EBI policy. Although a worthwhile issue, it must be acknowledged and understood that this is likely to take up management and clinical capacity at a time of significant change separately to what is in the main contractual requirements above for 2020/21. More detail is required on whether the expectation is that CCG or providers should set activity plans that match a NHSEI target level of activity. We also know from our CCG members that the ongoing issues with coding of some of the interventions is leading to distortion of activity levels. The national reported data for some interventions is inconsistent to what local CCGs are reporting as often either the interventions are coded incorrectly or inconsistently, or the threshold for permitting a particular intervention is often higher locally. Further comments on this particular proposal will be submitted by individual CCGs.

Changes relating to workforce issues

These proposed changes relate to staff working in the NHS.

	Topic	Proposed Change (for full details, please refer to the consultation document and draft Contracts)	Support proposal?			Comments
			Yes	No	NA	
28	Influenza vaccinations SC21	Providers must use all reasonable endeavours to ensure that all staff are vaccinated against influenza.				
29	NHS People Plan GC5	NHS Trusts and NHS Foundation Trusts must develop a plan to implement in full the NHS People Offer (that is, the core standards in relation to work environment and experience of work for staff working in NHS services) to be published in conjunction with the final NHS People Plan.	X but see comment			Does some of this also need to be discussed at system level?

30	Redundancy and re-hiring GC5	We propose to extend the existing redundancy and re-hiring provisions in the Contract to VSMs who have been made redundant and have subsequently been re-hired by commissioners. We also propose to expand the coverage of the repayment provision to apply to any VSM who is made redundant, then re-hired by a management consultancy and provides services back to the NHS. We are also proposing to expand the definition of NHS Employer, to include NHS Improvement.		X and See Comment		It should be noted that compulsory redundancies have been required by providers and commissioners as part of the national changes over the last few years, to deliver QIPP and CIPs to meet financial challenges, and to realign roles in the NHS. There has also been a lack of other opportunities for senior colleagues to take other roles/projects to avoid redundancy hence this issue occurring. As part of the discussions between NHS Employers and respective unions clarity is needed prior to an implementation phase for future redundancy situations (previous redundancies are subject to their terms and conditions on departure at the time). Our other concern is what is the timeline for the repayment provision after redundancy? This must be reasonable so this does not cause harm to the individual's future career and income.

31	Declarations of interest GC27	Providers must publish the names and positions of any decision-making staff who have neither completed a declaration of interest nor submitted a nil return on their websites each year. *** Please indicate here if your organisation supports this inclusion in the Contract, and submit any comments on this proposal and on any other ways in which arrangements for managing declarations of interest can appropriately be strengthened, in accordance with s3.4 below.	X but see comment			Conflicts of Interest in public life are extremely important hence are required to be effectively managed. A possible way of delivering this would be to have it as a standard requirement by annual audit, similar to the Greenbury declarations currently, therefore forms would be required to be completed for final year accounts. Additionally, similar to IG training, training on conflicts of interest should be completed regularly, e.g. every 2 years, and recorded - this could be asked for by the regulator for the next 3 years to ensure the change is embedded?

Changes to bring about a greener NHS

These significant proposed changes are to the requirements of the Contract relating to environmental issues.

	Topic	**Proposed Change (for full details, please refer to the consultation document and draft Contracts)**	**Support proposal?**			**Comments**
			Yes	**No**	**NA**	

32	Environmental issues SC18	Providers must put in place and implement a Green Plan, which sets out the provider's detailed approach to reducing air pollution, cutting carbon emissions, mitigating risks associated with climate change, reducing the use of single-use plastic, reducing levels of waste and water usage, and making provision for the return of walking aids for re-use or recycling.	X but see comment			The immediate removal (where not planned) of plastics may cause a system cost pressure leading to STP/ICS issues – a planned change would support removal of current stock over 2020 and in-house/external service change at lower cost.

Changes relating to technology, booking systems and data

These proposed changes relate to the use of technology, booking systems and data in the NHS.

	Topic	Proposed Change (for full details, please refer to the consultation document and draft Contracts)	Support proposal?			Comments
			Yes	No	NA	
33	Funding for medical technology SC2	We propose to include Contract provisions requiring the Parties to comply with the proposed new Medical Technology Funding Mandate.				
34	Booking of appointments from 111 services into Urgent	Providers of Urgent Treatment Centres must, when replacing or updating IT systems and software, they enable direct booking of UTC appointments by providers of NHS	x			This alignment to other commissioner and system requirements is helpful for system wide delivery. Does this need to include ambulance services too?

	Treatment Centres SC6	111 and UEC Clinical Assessment Services.				
35	Health and Social Care Network SC23	Providers must terminate any remaining N3 services and have in place appropriate access to the Health and Social Care Network by 31 August 2020.				
36	Internet First and Code of Conduct for Data-Driven Technology SC23	When updating, developing or procuring any information technology system or software, providers must have regard to the NHS Internet First Policy and the Code of Conduct for Data-Driven Health and Care Technology.				
37	Data sharing principles and framework GC21	Commissioners and providers must comply with the NHS data sharing principles.				
38	Daily submission of Emergency Care Data Sets (ECDS) Schedule 6A	Providers of A&E and Urgent Treatment Centre services are already required to submit ECDS daily. NHS Digital will shortly issue guidance to support the relevant Information Standard, clarifying that ECDS data must be submitted each day for the previous day. We propose to include a specific requirement in the Contract to support this.				

3.2 NHS financial and business rules

Contract sanctions and financial improvement trajectories

	Topic	Proposed Change (for full details, please refer to the consultation document and draft Contracts)	Support proposal?			Comments
			Yes	No	NA	
39	Contract sanctions and financial improvement trajectories SC36, GC9	Where a Trust or an FT signs up to a Financial Improvement Trajectory for 2020/21, certain contractual sanctions will continue to be suspended.		X and see comment		Although this is, and has been a helpful incentive for Trusts to deliver on this most crucial requirement, it has left commissioners in a continually unenviable position of not be able to have any leverage on other public targets and requirements, as there is no real sanction. For example, how would the 18/26 week choice target be delivered if a Trust refuses/says doesn't have capacity to deliver it, when this clause overrides most all targets?

3.3 Technical improvements

	Topic	Proposed Change (for full details, please refer to the consultation document and draft Contracts)	Support proposal?			Comments
			Yes	No	NA	
40	Dispute resolution GC14	We propose to make two changes to the arrangements for dispute resolution, reflecting the arrangements which have	x			This change, alignment and clarity for a NHS system approach should be commended.

		been put in place at national level over recent years.				

3.4 Other areas

We also welcome comments on the following:

41	Cancer 28-day Faster Diagnosis Standard,	The performance threshold for the cancer 28-day faster diagnosis standard will initially be set in the range between 70% and 85%, with a phased increase in future years if appropriate, subject to the recommendations of the Clinical Review of Standards. We welcome comments on this approach – please submit them here.	Can it be assumed there has been specific targeting funding for this to improve the goal, and commissioners were advised to establish this with providers 2019/20 in readiness/preparation for this 2020 change?
42	18 or 26 week choice	We welcome views on whether the national policy and contractual requirement should be to offer choice at 26 weeks separately or whether we should instead adopt an approach of mandating an offer of choice to patients who have breached 18 weeks. We welcome comments on this proposal – please submit them here.	A clear decision needs to be made to avoid duplicative and confusing targets/markers for patients. We had mixed views on this from CCGs. • Some suggested a decision must be made for one or the other – i.e. ensure the18-week choice point is removed legally for the 26 week choice initiative or that the current legally required 18 week point is enforced. • For some CCGs 18 weeks makes more sense as 26 weeks feels too late for patients. • The key question is how do you provide a sensible choice offer at 18 weeks? That would require the CCG having access to summary clinical data, TCI dates to work out whether 18 weeks + 10 weeks

			(minimum transfer wait to surgery) is less than wait to TCI date. • There is also a significant financial implication of implementing this agenda. • When choice is offered, in the majority of cases patients decide to wait for their local consultant team (choosing continuity) but dislike the waiting time. This requires NHSE/I to work with the public around their expectations. NHSCC would be keen to work with NHSE/I on the next stages of this proposal.
43	Declarations of interest	We intend to include a specific requirement for providers to disclose, on their websites each year, the names and positions of any decision-making staff who have neither completed a declaration of interest nor submitted a nil return. We welcome view on this proposal and on any other ways in which arrangements for managing conflicts of interest can appropriately be strengthened – please submit them here.	No comment
44	System Collaboration and Financial Management Agreement (SCFMA)	The draft model System Collaboration and Financial Management Agreement (SCFMA) is available on the NHS Standard Contract 2020/21 web page. The detailed content of the SCFMA is not mandatory, but we welcome comments on it; these should be sent under separate cover to england.contractsengagement@nhs.net by **Friday 31 January 2020**.	
45	Anticipatory Care and Enhanced Health in Care Homes	Comments on the Anticipatory Care and Enhanced Health in Care Homes service models are subject to a separate consultation (see https://www.engage.england.nhs.uk/), and those wishing to feedback on these should do so to england.networkscontract@nhs.net by **Wednesday 15 January 2020**.	

Other comments

NHS England would welcome further suggestions for improving the Contract. Please add any further comments you may have below.

In addition to the above we seek further information and guidance around local modifications on risk and gain shares and the application of these within the contract.
How CCGs monitor that providers are delivering against these requirements in the contract as information requirements need to be proportionate. There is also the impact of the changes outlined in this consultation to some smaller providers who don't have the same infrastructure

Consultation responses

The deadline for receipt of responses is Friday 31 January 2020. We will publish the final versions of the generic Contract (both full-length and shorter-form) as soon after that as possible.

Equality and diversity 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:

- reduce health inequalities in access and outcomes of healthcare services integrate services where this might reduce health inequalities
- eliminate discrimination, harassment and victimisation
- advance equality of opportunity and foster good relations between people who share a relevant protected characteristic (as cited in under the Equality Act 2010) and those who do not share it.

This information can be made available in alternative formats, such as easy read or large print, and may be available in alternative languages, upon request. Please contact 0300 311 22 33 or email england.contactus@nhs.net stating that this document is owned by NHS Standard Contract team, Strategy and Innovation Directorate.

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