



Department
of Health &
Social Care

SPECIFICATIONS

Mental Health Act Approval Panel Function

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1. INTRODUCTION	2
2. PURPOSE	3
3. OVERVIEW OF REQUIREMENT	3
4. SCOPE OF REQUIREMENT	4
The Recruitment of Panel Members	5
Establishing appropriate governance and risk management arrangements for the work of the Panel	6
Operating the Panel	6
Review of Panel decisions	7
Administration of the Panel	8
Training for Approved Clinicians and section 12 doctors	10
5. DATA BASE	10
6. CONTRACT MANAGEMENT ARRANGEMENTS	11
7. INFORMATION PROVISION	11
8. SERVICE KPIs	11
9. SOCIAL VALUE KPIs	12
10. CONTRACT PERIOD	13
11. CONTRACT BUDGET BY LOT AND PAYMENTS	13
12. FURTHER INFORMATION	14

1. INTRODUCTION

- 1.1. The Department of Health and Social Care (DHSC) is the Government Department responsible for the National Health Service, public health and adult social care in England.
- 1.2. Under the Mental Health Act, the Secretary of State for Health and Social Care is responsible for the approval of Section 12 doctors and Approved Clinicians, roles with specific responsibilities under the Act relating to the assessment for detention and to the treatment of patients. It is unlawful for those duties reserved to these roles to be performed by people who are not approved.
- 1.3. The approval function is currently delegated to four suppliers that cover four geographical areas in England. The role of the four suppliers is to manage the application and approvals process of Section 12 Doctors and Approved Clinicians on behalf of the Secretary of State under section 12ZA of the Act.



2. PURPOSE

- 2.1. The purpose of this tender exercise is to appoint qualified and competent suppliers to manage the Mental Health Act approvals functions, specifically the management of the two types of approval needed for clinicians to work under the Mental Health Act as :
- i. Section 12 Doctor, and
 - ii. Approved Clinician.

3. OVERVIEW OF REQUIREMENT

- 3.1. To establish four regional panels of experts which will work in accordance with statutory and other instructions issued by the Secretary of State (for example the 2015 Instructions under section 12ZA of the Mental Health Act) with respect to the exercise of the Approval functions. [Mental Health Act: exercise of approval instructions 2015 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/432121/Mental_Health_Act_exercise_of_approval_instructions_2015.pdf)
- 3.2. To assess applications for Approved Clinicians or Section 12 Doctors against set national criteria to determine whether each individual applicant has the necessary experience, qualifications, and competency; have attended a recognised training course; and have appropriate references.
- 3.3. To maintain a panel of experts to assess the evidence presented by applicants.
- 3.4. To maintain a record of approval decisions (approval dates and any conditions or reason for declining) in an online database, managed by NHSBSA, which is available to professionals and those services that may need to confirm or identify a clinician holds appropriate approval under the Act. The database lists all those who have approval as a section 12 doctor or AC and must be kept up to date.
- 3.5. To assess providers of initial and refresher training courses against set national standards, approval to be given annually.
- 3.6. To record whether approved doctors have completed initial and annual refresher medical assessor Deprivation of Liberty Safeguards training.
- 3.7. Attend quarterly meetings with the DHSC Mental Health Act Approvals Manager to ensure the service provided meets the necessary standards.
- 3.8. Attend two national meetings annually, chaired by DHSC, at which all the appointed providers delivering the approval function consider issues and practice.



- 3.9. To develop and maintain effective working relationships with employers of s12 doctors and Approved Clinicians in the area for which the panel is responsible, including maintaining an overview of their use of the Database.
- 3.10. To develop effective working relationships with local authority Approved Mental Health Professional networks including encouraging their use of the database as end users.
- 3.11. To provide consistent expert advice about the approvals process to s12 doctors and Approved Clinicians and applicants for approval.
- 3.12. To obtain Disclosure and Barring Service (DBS) checks from applicants where required by the Instructions.
- 3.13. To work with DHSC to input into discussions around the need for and potential specifications of any future digital platforms designed to help panels to process applications (if appropriate).

4. SCOPE OF REQUIREMENT

- 4.1. For each regional panel where they are awarded the contract the Contractor will enter into an agreement under s12 ZA of the MHA with the Secretary of State for the exercise of the approval functions, thus becoming an “approving body” within the meaning of the current instructions, which came into force on 5th January 2016 (‘the current Instructions’). The Contractor must exercise all elements of the Approvals Function itself and must not delegate the function to another organisation.
- 4.2. The Contractor must comply with the MHA, the MHA Code of Practice: and any such instructions as the Secretary of State may publish from time to time under section 12ZA(5) of the MHA (including the current instructions) with respect to the exercise of the Approval Functions within the meaning of the current Instructions.
- 4.3. For each area where it is awarded a contract, the Contractor will maintain or establish an internal Mental Health Act Approvals Panel (“the Panel”) to exercise the Approval functions
- 4.4. Geographical Panel Areas
[\(J38370 NHS England ICS England Map Web May22 v4\)](#)
 - Panel 1: the area covered by NHS England North East and Yorkshire and North West



Department of Health & Social Care

- Panel 2: the area covered by NHS England Midlands and East of England
- Panel 3: London
- Panel 4: the area covered by NHS England South East and South West.

4.5. Total registered ACs and s12 doctors by region (March 2023)

Region	Psychiatrist Approved Clinicians	MPACS					Total ACs	S12 doctors (not incl. Psychiatrist)	TOTAL approved practitioners
		Psych- ologists	Nurses	OTs	Social Workers	TOTAL			
North	1,749	24	23	0	0	47	1,796	844	2,640
Midlands and East	1,825	8	13	0	2	23	1,848	879	2,725
London	1,688	6	2	1	0	9	1,697	831	2,528
South	1,554	11	13	0	2	26	1,580	701	2,281

4.6. Current service figures:

Midlands and East of England panel		South panel		North Panel		London	
Total number of applications processed	portfolio applications processed	Total number of applications processed	portfolio applications processed	Total number of applications processed	portfolio applications processed	Total number of applications processed	portfolio applications processed
2021/22	855	15	781	27	793	23	522
2022/23	535	13	474	32	521	20	582
2023/24	752	19	552	40	644	20	522
Total	2142	47	1807	99	1958	63	1626

Total number of applications processed (AC & S12(2) Initial and Renewal Applications)
Portfolio applications processed (included in the total)

The Recruitment of Panel Members

- 4.7. The recruitment of experts to sit on the Panel should draw from across the geography of the region and represent the range of psychiatric sub-specialties, and professions eligible to practice as Approved Clinicians.
- 4.8. All members of the Panel, that makes decisions about applications for s12 doctors and Approved Clinician approval, must be approved at the level of the approval they are making or higher.
- 4.9. The Contractor should take all reasonable steps to recruit at least one forensic medical examiner and one GP to the Panel.
- 4.10. The Contractor should take all reasonable steps to include at least one person from the following professions to the Panel; chartered psychology, mental health or learning disability nursing, occupational therapy and social work. All non-medical members of the Panel should be either Approved Clinicians or nominated by their professional body as having sufficient knowledge and experience to assess applicants for Approved Clinician approval.
- 4.11. The contractor will have the freedom to determine the method and extent of rewarding panel members for their involvement in the evaluation process.



Appointment of Panel Chair

- 4.12. The person who is appointed the Chair will be a Consultant Psychiatrist who will ensure at all times that the Approval Functions. The Chair shall:
- a. be a registered medical practitioner;
 - b. be approved under section 145(1) of the MHA;
 - c. have a CPD Certificate of Good Standing;
 - d. be revalidated in line with GMC requirements; and
 - e. hold a substantive contract with a provider of mental health services
- 4.13. The Vice-Chair must meet either the same criteria as the panel chair or be a non-medical approved clinician who holds a substantive contract with a provider of mental health services and is registered with the Health Professions Council or equivalent regulator.

Establishing appropriate governance and risk management arrangements for the work of the Panel

- 4.14. The Contractor must put in place appropriate governance and risk management processes to cover the work of each Panel for which the Contractor is responsible.

Operating the Panel

- 4.15. The Contractor must ensure that:
- Minimum meetings: The Panel holds a minimum of three meetings each year throughout the duration of the contract.
 - Thorough and Timely Consideration: During these meetings, the Panel is required to consider the following thoroughly and promptly:
 - all applications for s12(2) approval.
 - all applications for Approved Clinician approval; and
 - renewal of those approvals
 - Evaluation of Applications: The contractor must carefully assess each application and consider the supporting documents to determine whether to approve or



refuse it. The decision-making process should be based on how well each applicant meets or fails to meet the criteria outlined in the application instructions.

- Notification of Decision: After reaching a decision, the contractor is required to promptly notify the applicants, providing clear reasons for the panel's decision. This ensures transparency and allows applicants to understand the basis for the outcome.
- Imposition of Conditions: When necessary, the contractor should impose appropriate conditions on approvals. The contractor also has the responsibility to diligently follow up on these conditions. This includes actively monitoring compliance and progress against the requirements outlined in the conditions.
- Suspension or Termination of Approvals: The contractor will exercise authority to suspend or end the approval of section 12 doctors and Approved Clinicians in specific circumstances as outlined in the application instructions.

- 4.16. Review of Panel Decisions: In situations where an applicant requests a review of their decision, it is the contractor's responsibility to undertake a thorough review process. This review aims to carefully assess the decision made and address any concerns or issues raised by the applicant. The review process must comply with the requirements set out in heading 'Review of Panel Decisions'.

Review of Panel decisions

- 4.17. It is the responsibility of the Panel to provide written notification, including reasons, to applicants regarding the outcome of their application. These decisions include:

- Non-approval of an application: If the Panel decides not to approve an applicant after careful consideration of their application, the Panel must notify the applicant in writing. The notification will include clear reasons explaining the decision and providing the applicant with a comprehensive understanding of the factors considered.; or
- Imposition or Variation of Discretionary Conditions: In cases where the Panel determines that it is necessary to impose or modify discretionary conditions to which an approval is subject, the Panel is obliged to notify the applicant in writing. This notification will include the reasons behind the decision, ensuring transparency and providing the applicant with a clear understanding of the conditions and their rationale.

- 4.18. The Contractor must put in place a review procedure which allows a person



to seek a review of a decision of the Panel. The review procedure must be available to all applicants. As part of the contractor's review procedure, the applicant must submit a written request to the Panel within 14 days of the date of the Panel's decision. This request should clearly specify the decision that the applicant seeks to have reviewed. In the written request, the applicant must include any representations or additional information they wish the Panel to consider during the review process. This would provide the applicant with an opportunity to present their case and provide any relevant details or supporting evidence that may impact the review outcome.

- 4.19. The Panel is required to conduct a review of a specified decision within 21 days of receiving the review request. This review process will be carried out internally, in accordance with the Panel's established internal review procedures. The decision resulting from this review is referred to as the "review decision". Within seven days of reaching the review decision, the Panel must provide written notification to the person who requested the review. This notification includes the reasons behind the review decision, ensuring transparency and providing the person with a clear understanding of the outcome.
- 4.20. In the event that the person is not satisfied with the review decision, the Panel has the responsibility to inform the Secretary of State's representative (refer to the 'Authority Representatives' in the contract). This notification triggers an additional seven-day period during which the applicant can make any final representations.
- 4.21. The Secretary of State's representative will be responsible for arranging a meeting within one month of receiving the final representation from the person who requested the review. This meeting involves the Chair or a nominated Vice Chair from each of the panels. During this meeting, the review request and any additional representations from the person are thoroughly discussed and considered. The decision that arises from this process is referred to as the "national decision." It signifies the final decision in the applicant's appeal process.

Administration of the Panel

- 4.22. The Contractor must:

- employ a suitable number of suitably qualified and experienced staff to carry out



Department of Health & Social Care

duties under the contract, including a Contract Manager, all of whom should have sufficient understanding of the Approvals function and of the Data Protection Act to administer the work of the Panel and provide advice for new applicants and those seeking re-approval.

- develop effective working relationships with the employers of s12 doctors and Approved Clinicians in their area.
- develop effective working relationships with local authority approved mental health professional networks.
- correspond with regulatory authorities in a timely and accurate way.
- ensure that the Panel processes applications for approval in an accurate and timely way.
- comply with the MHA and any statutory instructions issued under s.12ZA(5) of the MHA issued by the Secretary of State.
- use the standard document set.
- obtain DBS checks as required by the Instructions. [Mental Health Act: exercise of approval instructions 2015 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/434442/Mental_Health_Act_exercise_of_approval_instructions_2015.pdf)
- audit the accuracy of records held on the Database (as explained above, a national database of s12 doctors and Approved Clinicians) and the process used by the Panel to consider applications.
- maintain records as part of the national s12 doctors/AC database. hosted by NHSBSA. The database lists all those who have approval as a section 12 doctor or AC and must be kept up to date.
- scan completed approvals and rejected applications and attach them to the Database or secure drives in the cloud or office. All records should be clearly legible and include the information required in the Instructions to be provided to the Panels for approval to be given
- encourage end users of the Database (providers of mental health services, police, courts and Approved Mental Health Professionals) in the Panel's geographical area to use the Database for legal and HR checks
- work with existing training providers to ensure sufficient initial and refresher courses for s12 doctors and Approved Clinicians are available for applicants in the Panel's area
- ensure annually that all training providers for s12 doctors and Approved Clinicians in the Panel's geographical area:
 - comply with the curriculum agreed by the National Reference Group
 - include appropriate information about the approvals process used by the Panel
 - use the feedback forms agreed by the National Reference Group



Training for Approved Clinicians and section 12 doctors

- 4.23. New Panels will be given a list of training providers in their area who have been approved by the existing Panels. Training is expected to adhere to agreed national guidelines and Panels must re- approve training providers within the first 12 months of the contract and in each subsequent year of the contract.
- 4.24. Payment for the training will be the responsibility of either the employers or the individual themselves.

Types of training:

- Initial s12 doctor training (2 days)
- Refresher training for approved s12 doctors (1 day)
- Initial Approved Clinician training
- Refresher training for Approved Clinicians

5. DATA BASE

- 5.1. The contractor will be responsible for including the approved S12 doctors or AC into the Mental Health Approval data base.
- 5.2. What does the Database do? It records who is approved to act as a s12 doctor or an Approved Clinician and whether they are willing to undertake work out of hours
- 5.3. Who uses the Database? Within Mental Health Trusts and private providers, staff responsible for pay and medical staffing often have access to the Database. Approved Mental Health Professionals, the police and local authorities also have access to the Database to ensure their organisations comply with the MHA.
- 5.4. Who manage the Database? Database is provided by the Department of Health and Social Care and NHSBSA with NHS BSA having responsibility for the operational management of the database. What support is available? Training for Panel administrators will be provided by NHS BSA. A manual for end users will also be available.



6. CONTRACT MANAGEMENT ARRANGEMENTS

- 6.1. The Contractor must appoint a Contract Manager to oversee the work of the panel and liaise with the DHSC Mental Health Act Approvals Manager. The manager will be the primary point of contact between the Contractor and the Authority and shall be responsible for managing the relationship with the Authority which shall include:
- Contract administration
 - Provision of management information
 - Attending contract review meetings
 - Resolution of complaints and queries
 - Service planning, monitoring and continuous improvement.
 - Escalating any issues that cannot be resolved between the Supplier and the Buyer.
- 6.2. Quarterly reviews: The Supplier contract management contacts, DHSC designated policy personnel and commercial directorate, where required, will meet at the end of every financial year quarter. Quarterly contract management will focus to formally performance review KPIs, report, payments, risks and any other ad hoc issues raised by the parties.

7. INFORMATION PROVISION

- 7.1. The Contractor will be required to submit quarterly reports covering as a minimum the following information:
- activity statistics, including as a minimum Information on Geographical and professional representation, application and review requests. Bidders are invited to propose suitable Key Performance Indicators (KPI's).
 - co-ordination of training including annual approval of training courses.
 - any complaints from applicants or organisations
 - a list of members of the Panel and their employers; and
 - confirmation that end users of the Database have been audited and rights to access removed where appropriate
- 7.2. The contractor will be required to submit an annual report that cover information and data for the whole preceding year by 1st June.

8. SERVICE KPIs



- 8.1. The Supplier's performance will be monitored quarterly against relevant quality outcomes indicators. The following table sets out various such indicators:

Key Performance Indicators=Milestones	Good (=Target)	Approaching Target	Requires Improvement	Inadequacy =Remedial action
Completion reports	100%	>85% <100%	<85% >75%	<75%
Data breaches reported within maximum of 10 hours of the contractor being aware of the breach	100%	>85% <100%	<85% >75%	<75%
Complaints received by applicants	0	>0 <5	≥5 <10	<10%

9. SOCIAL VALUE KPIs

- 9.1. The COVID-19 pandemic has exacerbated existing economic and social challenges and created many new ones. Social value provides additional benefits which can aid the recovery of local communities and economies, especially through employment, re-training and return to work opportunities, community support, developing new ways of working and supporting the health of those affected by the virus.
- 9.2. The DHSC follows the Social Value model created by the Government ([Social Value Act: information and resources - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/social-value-model) ; [Social-Value-Model-Edn-1.1-3-Dec-20.pdf \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/publications/social-value-model-edn-1.1-3-dec-20) and that includes 5 themes and 8 policy outcomes which flow from these themes, as follows:
- Theme 1 COVID-19 recovery: Help local communities to manage and recover from the impact of COVID-19
 - Theme 2 Tackling economic inequality: Create new businesses, new jobs and new skills; Increase supply chain resilience and capacity
 - Theme 3 Fighting climate change: Effective stewardship of the environment
 - Theme 4 Equal opportunity: Reduce the disability employment gap; Tackle workforce inequality
 - Theme 5 Wellbeing: Improve health and wellbeing; Improve community cohesion
- 9.3. This contract will support theme 4 Equal Opportunities; Outcome – Tackle workforce inequality.MAC 6.1: Demonstrate action to identify and tackle inequality in employment, skills and pay in the contract workforce.



Department of Health & Social Care

- 9.4. The Supplier will develop and maintain a plan throughout the life of the contract detailing how the Supplier will contribute to the overall achievement of our Social Value priorities. The Supplier must manage, measure and report on the delivery of Social Value throughout the life of contract. The supplier will report on quarterly basis against the metrics target proposed.
- 9.5. The Buyer reserves the right to publish information on the delivery of Social Value through this contract and may request case studies for the purpose of increasing awareness and sharing knowledge.
- 9.6. The commitments and targets made in the contract will be monitored through the metrics on a quarterly basis. The Supplier acknowledges that the Buyer may make reasonable adjustments to the SV KPIs and its measurements during the Term of the contract.
- 9.7. If the Supplier achieves <75% of the Social Value targets, the supplier will be requested to submit a Remedial Action Plan (Schedule Joint Schedule 10).

Key Performance Indicators=Milestones	Good (=Target)	Approaching Target	Requires Improvement	Inadequacy= Remedial Action
Social Value commitments	100%	>85% <100%	<85% >75%	<75%

10. CONTRACT PERIOD

- 10.1. The contract will be in place for an initial period of two years (from 1st April 2025 to 31st March 2027). The Department of Health and Social Care may at its own discretion extend the initial term of the contract for additional periods of up to 3 years (2 +1). The total duration of the contract, including all extensions, cannot exceed 5 years.

11. CONTRACT BUDGET BY LOT AND PAYMENTS

- 11.1. The total value by lot is specified below:

Lot	Area	Year 1	Year 2	Year 3	Year 4	Year 5	Total Lot value
Lot 1	NHS England North East and Yorkshire and North West	£257,220	£270,000	£283,500	£297,700	£312,600	£1,421,020.00
Lot 2	NHS England Midlands and East of England	£279,700	£293,700	£308,400	£323,800	£340,000.00	£1,545,600.00
Lot 3	NHS London	£293,400	£308,000	£323,400	£339,600	£356,600.00	£1,621,000.00



Lot	Area	Year 1	Year 2	Year 3	Year 4	Year 5	Total Lot value
Lot 4	NHS England South East and South West.	£251,600	£264,200	£277,400	£291,200	£305,800.00	£1,390,200.00
TOTAL COST		£1,081,920	£1,135,900	£1,192,700	£1,252,300	£1,315,000.00	£5,977,820.00

- 11.2. The estimated value of the contract for the extension period has been calculated considering a forecast 5% Consumer Prices Index (CPI). However, it is important to note that the final determination of the extension and its corresponding value will be agreed upon by the Authority. The percentage change in the Office of National Statistics' Consumer Prices Index (CPI) will serve as the basis for determining the permissible increase (refer to the terms of contract). However, the supplier will be required to provide evidence of such an increase on the contract price.
- 11.3. Payment will be made quarterly/monthly in arrears and subject to the successful delivery of quarterly report.

12. FURTHER INFORMATION

What do s 12(2) doctors and Approved Clinicians do?

Some decisions taken under the MHA may only be taken by s 12(2) doctors. For example, section 12 of the MHA itself provides that an application for detention or guardianship under Part 2 of the MHA must be supported by two medical recommendations, one of which must be made by a doctor approved under section 12 of the MHA. Similarly, courts may not order the detention of a person in hospital under Part 3 of the MHA unless they have received evidence from at least one section 12 approved doctor. Section 12 doctors also have functions under certain other legislation. For example, a court may not impose a mental health treatment requirement as part of a suspended sentence order under the Criminal Justice Act 2003 without evidence from a section 12 doctor (see section 207(3)(a) of that Act).

Section 12 doctors also play a valuable role in conducting assessments for the purpose of proposed deprivation of liberty authorisations given under the Mental Capacity Act 2005 (MCA). Section 12 doctors may act as 'mental health assessors' to establish whether a person is suffering from mental disorder, and 'eligibility assessors' to assess whether the person is eligible to be the subject of a deprivation of liberty authorisation under the MCA. Deprivation of Liberty Safeguards training is required for these roles.



There are various functions under the MHA which are reserved (partly or wholly) to Approved Clinicians in relation to the renewal of detention or the administration of certain treatment without the patient's consent. An Approved Clinician with overall responsibility for a patient is known as the Responsible Clinician in that capacity. As Responsible Clinician, Approved Clinicians are the clinical lead for patients and exercise important decision-making powers in relation to detention, discharge and authorising leave of absence. Doctors who are Approved Clinicians are also deemed to be s 12(2) approved.

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