



**NHS Standard Contract 2017/2018  
and 2018/2019  
Service Conditions (Full Length)  
Contract Reference: NHS West  
Lancashire CCG Community Pain  
Service**

# **NHS Standard Contract 2017/2018 and 2018/2019 Service Conditions**

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## PROVISION OF SERVICES

### SC1 Compliance with the Law and the NHS Constitution

1.1 The Provider must provide the Services in accordance with the Fundamental Standards of Care and the Service Specifications. The Provider must perform all of its obligations under this Contract in accordance with:

1.1.1 the terms of this Contract; and

1.1.2 the Law; and

1.1.3 Good Practice.

The Provider must, when requested by the Co-ordinating Commissioner, provide evidence of the development and updating of its clinical process and procedures to reflect Good Practice.

1.2 The Commissioners must perform all of their obligations under this Contract in accordance with:

1.2.1 the terms of this Contract; and

1.2.2 the Law; and

1.2.3 Good Practice.

1.3 The Parties must abide by and promote awareness of the NHS Constitution, including the rights and pledges set out in it. The Provider must ensure that all Sub-Contractors and all Staff abide by the NHS Constitution.

1.4 The Parties must ensure that, in accordance with the Armed Forces Covenant, those in the armed forces, reservists, veterans and their families are not disadvantaged in accessing the Services.

### SC2 Regulatory Requirements

2.1 The Provider must:

2.1.1 comply, where applicable, with the registration and regulatory compliance guidance of any relevant Regulatory or Supervisory Body;

2.1.2 respond to all applicable requirements and enforcement actions issued from time to time by any relevant Regulatory or Supervisory Body;

2.1.3 comply, where applicable, with the standards and recommendations issued from time to time by any relevant Regulatory or Supervisory Body;

2.1.4 consider and respond to the recommendations arising from any audit, Serious Incident report or Patient Safety Incident report;

- 2.1.5 comply with the standards and recommendations issued from time to time by any relevant professional body and agreed in writing between the Co-ordinating Commissioner and the Provider;
- 2.1.6 comply, where applicable, with the recommendations contained in NICE Technology Appraisals and have regard to other Guidance issued by NICE from time to time;
- 2.1.7 respond to any reports and recommendations made by Local Healthwatch; and
- 2.1.8 meet its obligations under Law in relation to the production and publication of Quality Accounts.

### **SC3 Service Standards**

#### **3.1 The Provider must:**

- 3.1.1 not breach the thresholds in respect of the Operational Standards;
- 3.1.2 not breach the thresholds in respect of the National Quality Requirements;
- 3.1.3 not breach the thresholds in respect of the Local Quality Requirements; and
- 3.1.4 ensure that Never Events do not occur.

3.2A A failure by the Provider to comply with SC3.1 will be excused if it is directly attributable to or caused by an act or omission of a Commissioner, but will not be excused if the failure was caused primarily by an increase in Referrals.

3.2B Not Used

3.3 If the Provider does not comply with SC3.1 the Co-ordinating Commissioner may, in addition and without affecting any other rights that it or any Commissioner may have under this Contract:

- 3.3.1 issue a Contract Performance Notice under GC9.4 (*Contract Management*) in relation to the breach, failure or Never Event occurrence; and/or
- 3.3.2 take action to remove any Service User affected from the Provider's care; and/or
- 3.3.3 if it reasonably considers that there may be further non-compliance of that nature in relation to other Service Users, take action to remove those Service Users from the Provider's care.

3.4 The Provider must continually review and evaluate the Services, must implement Lessons Learned from those reviews and evaluations, from feedback, complaints, Patient Safety Incidents, Never Events, and Service User, Staff, GPs and public involvement (including the outcomes of Surveys), and must demonstrate at Review Meetings the extent to which Service improvements have been made as a result and how these have been communicated to Service Users, their Carers, GPs and the public.

3.5 Not Used

3.6 The Provider must co-operate fully with the Responsible Commissioner and the original Referrer in any re-referral of the Service User to another provider (including providing Service User Health Records, other information relating to the Service User's care and clinical opinions if reasonably requested). Any failure to do so will constitute a material breach of this Contract.

3.7 Not Used

3.8 The Provider must identify and give notice to the Co-ordinating Commissioner of the name, address and position in the Provider of the Nominated Individual. The Nominated Individual will be the individual responsible for supervising the management of the Services.

3.9 Not Used

3.10 Not Used

#### **SC4 Co-operation**

4.1 The Parties must at all times act in good faith towards each other and in the performance of their respective obligations under this Contract.

4.2 The Parties must co-operate in accordance with the Law and Good Practice to facilitate the delivery of the Services in accordance with this Contract, having regard at all times to the welfare and rights of Service Users.

4.3 The Provider and each Commissioner must, in accordance with Law and Good Practice, co-operate fully and share information with each other and with any other commissioner or provider of health or social care in respect of a Service User in order to:

4.3.1 ensure that a consistently high standard of care for the Service User is maintained at all times;

4.3.2 ensure that a co-ordinated and integrated approach is taken to promoting the quality of care for the Service User across all pathways spanning more than one provider;

4.3.3 achieve continuity of service that avoids inconvenience to, or risk to the health and safety of, the Service User, employees of the Commissioners or members of the public; and

4.3.4 seek to ensure that the Services and other health and social care services delivered to the Service User are delivered in such a way as to maximise value for public money, optimise allocation of resources and minimise unwarranted variations in quality and outcomes.

4.4 The Provider must ensure that its provision of any service to any third party does not hinder or adversely affect its delivery of the Services or its performance of this Contract.

4.5 Not Used

#### **SC5 Commissioner Requested Services/Essential Services**

5.1 The Provider must comply with its obligations under Monitor's Licence in respect of any Services designated as CRS by any Commissioner from time to time in accordance with CRS Guidance.

5.2 Not Used

5.3 Not Used

5.4 Not Used

5.4.1 Not Used

5.4.2 Not Used

5.4.3 Not Used

#### **SC6 Choice, Referral and Booking**

6.1 The Parties must comply with NHS e-Referral Guidance and Guidance issued by the Department of Health, NHS England and NHS Improvement regarding patients' rights to choice of provider and/or consultant.

6.2 The Provider must describe and publish all Primary Care Referred Services in the NHS e-Referral Service through a Directory of Service, offering choice of any clinically appropriate team led by a named Consultant or Healthcare Professional, as applicable. In relation to Primary Care Referred Services:

6.2.1 the Provider must ensure that all such Services are able to receive Referrals through the NHS e-Referral Service

6.2.2 the Provider must, in respect of Services which are Directly Bookable:

6.2.2.1 use all reasonable endeavours to make sufficient appointment slots available within the NHS e-Referral Service to enable any Service User to book an appointment for a Primary Care Referred Service within a reasonable period via the NHS e-Referral Service; and

- 6.2.2.2 ensure that it has arrangements in place to accept Referrals via the NHS e-Referral Service where the Service User or Referrer has not been able to book a suitable appointment, ensuring that it has safe systems in place for offering appointments promptly where this occurs;
  - 6.2.3 the Provider must offer clinical advice and guidance to GPs and other primary care Referrers on potential Referrals through the NHS e-Referral Service, whether this leads to a Referral being made or not;
  - 6.2.4 the Commissioners must use all reasonable endeavours to ensure that in respect of all Referrals by GPs and other primary care Referrers the Provider is given accurate Service User contact details and all pertinent information required by relevant local Referral protocols;
  - 6.2.5 the Commissioners must use all reasonable endeavours to ensure that all Referrals by GPs and other primary care Referrers are made through the NHS e-Referral Service; and
  - 6.2.6 each Commissioner must take the necessary action, as described in NHS e-Referral Guidance, to ensure that all Primary Care Referred Services are available to their local Referrers within the NHS e-Referral Service.
- 6.2A Not Used
- 6.3 The Provider must make the specified information available to prospective Service Users through the NHS Choices Website, and must in particular use the NHS Choices Website to promote awareness of the Services among the communities it serves, ensuring the information provided is accurate, up-to-date, and complies with the provider profile policy set out at [www.nhs.uk](http://www.nhs.uk).

### **18 Weeks Information**

- 6.4 In respect of Consultant-led Services to which the 18 Weeks Referral-to-Treatment Standard applies, the Provider must ensure that the confirmation to the Service User of their first outpatient appointment includes the 18 Weeks Information.
- 6.5 The Provider must operate and publish on its website a Local Access Policy complying with the requirements of the Co-ordinating Commissioner.

### **Acceptance and Rejection of Referrals**

- 6.6 Subject to SC6.2A and to SC7 (*Withholding and/or Discontinuation of Service*), the Provider must:
  - 6.6.1 accept any Referral of a Service User made in accordance with the Referral processes and clinical thresholds set out or referred to in this Contract and/or as otherwise agreed between the Parties and/or as specified in any Prior Approval Scheme, and in any event where necessary for a Service User to exercise their legal right to choice as set out in the NHS Choice Framework; and

6.6.2 accept any clinically appropriate referral for any Service of an individual whose Responsible Commissioner (CCG or NHS England) is not a Party to this Contract where necessary for that individual to exercise their legal right to choice as set out in the NHS Choice Framework; and

6.6.3 where it can safely do so, accept a referral or presentation for emergency treatment, within the scope of the Services, of or by any individual whose Responsible Commissioner is not a Party to this Contract.

Any referral or presentation as referred to in SC6.6.2 or 6.6.3 will not be a Referral under this Contract and the relevant provisions of Who Pays? Guidance will apply in respect of it.

6.7 Not Used

6.8 The existence of this Contract does not entitle the Provider to accept referrals in respect of, provide services to, nor to be paid for providing services to, individuals whose Responsible Commissioner is not a Party to this Contract, except where such an individual is exercising their legal right to choice as set out in the NHS Choice Framework or where necessary for that individual to receive emergency treatment.

## **SC7 Withholding and/or Discontinuation of Service**

7.1 Nothing in this SC7 allows the Provider to refuse to provide or to stop providing a Service if that would be contrary to the Law.

7.2 The Provider will not be required to provide or to continue to provide a Service to a Service User:

7.2.1 who in the Provider's reasonable professional opinion is unsuitable to receive the relevant Service, for as long as they remain unsuitable;

7.2.2 in respect of whom no valid consent (where required) has been given in accordance with the Service User consent policy;

7.2.3 who displays abusive, violent or threatening behaviour unacceptable to the Provider (acting reasonably and taking into account the mental health of that Service User);

7.2.4 in that Service User's domiciliary care setting or circumstances (as applicable) where that environment poses a level of risk to the Staff engaged in the delivery of the relevant Service that the Provider reasonably considers to be unacceptable; or

7.2.5 where expressly instructed not to do so by an emergency service provider who has authority to give that instruction, for as long as that instruction applies.

7.3 If the Provider proposes not to provide or to stop providing a Service to any Service User under SC7.2:



- 7.3.1 where reasonably possible, the Provider must explain to the Service User, Carer or Legal Guardian (as appropriate), taking into account any communication or language needs, the action that it is taking, when that action takes effect, and the reasons for it (confirming that explanation in writing within 2 Operational Days);
- 7.3.2 the Provider must tell the Service User, Carer or Legal Guardian (as appropriate) that they have the right to challenge the Provider's decision through the Provider's complaints procedure and how to do so;
- 7.3.3 wherever possible, the Provider must inform the relevant Referrer (and if the Service User's GP is not the relevant Referrer, subject to obtaining consent in accordance with Law and Guidance, the Service User's GP) in writing without delay before taking the relevant action; and
- 7.3.4 the Provider must liaise with the Responsible Commissioner and the relevant Referrer to seek to maintain or restore the provision of the relevant care to the Service User in a way that minimises any disruption to the Service User's care and risk to the Service User.
- 7.4A If the Provider, the Responsible Commissioner and the Referrer cannot agree on the continued provision of the relevant Service to a Service User, the Provider must (subject to any requirements under SC11 (*Transfer of and Discharge from Care; Communication with GPs*)) notify the Responsible Commissioner (and where applicable the Referrer) that it will not provide or will stop providing the Service to that Service User. The Responsible Commissioner must then liaise with the Referrer to procure alternative services for that Service User.
- 7.4B Not Used
- 7.4C Not Used
- 7.4D Not Used
- 7.5 If the Provider stops providing a Service to a Service User under SC7.2, and the Provider has complied with SC7.3, the Responsible Commissioner must pay the Provider in accordance with SC36 (*Payment Terms*) for the Service provided to that Service User before the discontinuance.

## **SC8 Unmet Needs, Making Every Contact Count and Self Care**

- 8.1 If the Provider believes that a Service User or a group of Service Users may have an unmet health or social care need, it must notify the Responsible Commissioner accordingly. The Responsible Commissioner will be responsible for making an assessment to determine any steps required to be taken to meet those needs.
- 8.2 If the Provider considers that a Service User has an immediate need for treatment or care which is within the scope of the Services it must notify the Service User, Carer or Legal Guardian (as appropriate) of that need without delay and must provide the required treatment or care in accordance with this Contract, acting at all times in the best interest of the Service User. The Provider must notify the Service User's GP as soon as reasonably practicable of the treatment or care provided.

- 8.3 If the Provider considers that a Service User has an immediate need for care which is outside the scope of the Services, it must notify the Service User, Carer or Legal Guardian (as appropriate) and the Service User's GP of that need without delay and must co-operate with the Referrer to secure the provision to the Service User of the required treatment or care, acting at all times in the best interests of the Service User.
- 8.4 If the Provider considers that a Service User has a non-immediate need for treatment or care which is within the scope of the Services and which is directly related to the condition or complaint which was the subject of the Service User's original Referral or presentation, it must notify the Service User, Carer or Legal Guardian (as appropriate) of that need without delay and must (unless referral back to the Service User's GP is required as a condition of an Activity Planning Assumption or Prior Approval Scheme) provide the required treatment or care in accordance with this Contract, acting at all times in the best interest of the Service User. The Provider must notify the Service User's GP as soon as reasonably practicable of the treatment or care provided.
- 8.5 Except as permitted under an applicable Prior Approval Scheme, the Provider must not carry out, nor refer to another provider to carry out, any non-immediate or routine treatment or care that is not directly related to the condition or complaint which was the subject of the Service User's original Referral or presentation without the agreement of the Service User's GP.
- 8.6 The Provider must develop and maintain an organisational plan to ensure that Staff use every contact that they have with Service Users and the public as an opportunity to maintain or improve health and wellbeing, in accordance with the principles and using the tools comprised in Making Every Contact Count Guidance.
- 8.7 Where clinically appropriate, the Provider must support Service Users to develop the knowledge, skills and confidence to take increasing responsibility for managing their own ongoing care.

### **SC9 Consent**

- 9.1 The Provider must publish, maintain and operate a Service User consent policy which complies with Good Practice and the Law.

### **SC10 Personalised Care Planning and Shared Decision-Making**

- 10.1 The Provider must comply with regulation 9 of the 2014 Regulations. In planning and reviewing the care or treatment which a Service User receives, the Provider must employ Shared Decision-Making, using supporting tools and techniques approved by the Co-ordinating Commissioner, and must have regard to NICE guideline NG56 (*multi-morbidity clinical assessment and management*).
- 10.2 Where required by Guidance, the Provider must, in association with other relevant providers of health and social care, develop and agree a Personalised Care Plan with the Service User and/or their Carer or Legal Guardian, and must provide the Service User and/or their Carer or Legal Guardian (as appropriate) with a copy of that Personalised Care Plan.
- 10.3 The Provider must prepare, evaluate, review and audit each Personalised Care Plan on an on-going basis. Any review must involve the Service User and/or their Carer or Legal Guardian (as appropriate).

- 10.4 Not Used
- 10.5 Where a Local Authority requests the cooperation of the Provider in securing an Education, Health and Care Needs Assessment, the Provider must use all reasonable endeavours to comply with that request within 6 weeks of the date on which it receives it.
- SC11 Transfer of and Discharge from Care; Communication with GPs**
- 11.1 The Provider must comply with:
- 11.1.1 the Transfer of and Discharge from Care Protocols;
  - 11.1.2 Not Used
  - 11.1.3 Not Used
  - 11.1.4 Not Used
  - 11.1.5 the 2014 Act and the Care and Support (Discharge of Hospital Patients) Regulations 2014; and
  - 11.1.6 Transfer and Discharge Guidance and Standards.
- 11.2 The Provider and each Commissioner must use its best efforts to support safe, prompt discharge from hospital and to avoid circumstances and transfers and/or discharges likely to lead to emergency readmissions or recommencement of care.
- 11.3 Before the transfer of a Service User to another Service under this Contract and/or before a Transfer of Care or discharge of a Service User, the Provider must liaise as appropriate with any relevant third party health or social care provider, and with the Service User and any Legal Guardian and/or Carer, to prepare and agree a Care Transfer Plan. The Provider must implement the Care Transfer Plan when delivering the further Service, or transferring and/or discharging the Service User, unless (in exceptional circumstances) to do so would not be in accordance with Good Practice.
- 11.4 A Commissioner may agree a Shared Care Protocol in respect of any clinical pathway with the Provider and representatives of local primary care and other providers. Where there is a proposed Transfer of Care and a Shared Care Protocol is applicable, the Provider must, where the Service User's GP has confirmed willingness to accept the Transfer of Care, initiate and comply with the Shared Care Protocol.
- 11.5 Not Used
- 11.6 When transferring or discharging a Service User from a Service which is not an inpatient or day case or accident and emergency Service, the Provider must, if required by the relevant Transfer of and Discharge from Care Protocol, issue the Discharge Summary to the Service User's GP and/or Referrer and to any relevant third party provider of health or social care within the timescale, and in accordance with any other requirements, set out in that protocol.

- 11.6A Not Used
- 11.7 Not Used
- 11.8 The Commissioners must use all reasonable endeavours to assist the Provider to access the necessary national information technology systems to support electronic submission of Discharge Summaries and Clinic Letters and to ensure that GPs are in a position to receive Discharge Summaries and Clinic Letters transmitted electronically.
- 11.9 Not Used
  - 11.9.1 Not Used
  - 11.9.2 Not Used
- 11.10 Not Used
- 11.11 Not Used
  - 11.11.1 Not Used
  - 11.11.2 Not Used
  - 11.11.3 Not Used

**SC12 Communicating with and involving Service Users, Public and Staff**

- 12.1 The Provider must:
  - 12.1.1 arrange and carry out all necessary steps in a Service User's care and treatment promptly and in a manner consistent with the relevant Service Specifications and Quality Requirements until such point as the Service User can appropriately be discharged in accordance with the Transfer of and Discharge from Care Protocols;
  - 12.1.2 ensure that Staff work effectively and efficiently together, across professional and Service boundaries, to manage their interactions with Service Users so as to ensure that they experience co-ordinated, high quality care without unnecessary duplication of process;
  - 12.1.3 notify the Service User (and, where appropriate, their Carer and/or Legal Guardian) of the results of all investigations and treatments promptly and in a readily understandable, functional, clinically appropriate and cost effective manner; and
  - 12.1.4 communicate in a readily understandable, functional and timely manner with the Service User (and, where appropriate, their Carer and/or Legal Guardian), their GP and other providers about all relevant aspects of the Service User's care and treatment
- 12.2 The Provider must:

- 12.2.1 provide Service Users (in relation to their own care) and Referrers (in relation to the care of an individual Service User) with clear information in respect of each Service about who to contact if they have questions about their care and how to do so;
  - 12.2.2 ensure that there are efficient arrangements in place in respect of each Service for responding promptly and effectively to such questions and that these are publicised to Service Users and Referrers using all appropriate means, including appointment and admission letters and on the Provider's website; and
  - 12.2.3 wherever possible, deal with such questions from Service Users itself, and not by advising the Service User to speak to their Referrer.
- 12.3 The Provider must comply with the Accessible Information Standard.
- 12.4 The Provider must actively engage, liaise and communicate with Service Users (and, where appropriate, their Carers and Legal Guardians), Staff, GPs and the public in an open and clear manner in accordance with the Law and Good Practice, seeking their feedback whenever practicable.
- 12.5 The Provider must involve Service Users (and, where appropriate, their Carers and Legal Guardians), Staff, Service Users' GPs and the public when considering and implementing developments to and redesign of Services. As soon as reasonably practicable following any reasonable request by the Co-ordinating Commissioner, the Provider must provide evidence of that involvement and of its impact.
- 12.6 The Provider must:
- 12.6.1 carry out the Friends and Family Test Surveys as required in accordance with FFT Guidance, using all reasonable endeavours to maximise the number of responses from Service Users;
  - 12.6.2 carry out Staff Surveys which must, where required by Staff Survey Guidance, include the appropriate NHS staff surveys;
  - 12.6.3 carry out all other Surveys; and
  - 12.6.4 co-operate with any surveys that the Commissioners (acting reasonably) carry out.
- The form, frequency and reporting of the Surveys will be as set out in Schedule 6E (Surveys) or as otherwise agreed between the Co-ordinating Commissioner and the Provider in writing and/or required by Law or Guidance from time to time.
- 12.7 The Provider must review and provide a written report to the Co-ordinating Commissioner on the results of each Survey. The report must identify any actions reasonably required to be taken by the Provider in response to the Survey. The Provider must implement those actions as soon as practicable. The Provider must publish the outcomes of and actions taken in relation to all Surveys.

### **SC13 Equity of Access, Equality and Non-Discrimination**

- 13.1 The Parties must not discriminate between or against Service Users, Carers or Legal Guardians on the grounds of age, disability, gender reassignment; marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, sexual orientation or any other non-medical characteristics, except as permitted by Law.
- 13.2 The Provider must provide appropriate assistance and make reasonable adjustments for Service Users, Carers and Legal Guardians who do not speak, read or write English or who have communication difficulties (including hearing, oral or learning impairments). The Provider must carry out an annual audit of its compliance with this obligation and must demonstrate at Review Meetings the extent to which Service improvements have been made as a result.
- 13.3 In performing its obligations under this Contract the Provider must comply with the obligations contained in section 149 of the Equality Act 2010, the Equality Act 2010 (Specific Duties) Regulations and section 6 of the HRA. If the Provider is not a public authority for the purposes of those sections it must comply with them as if it were.
- 13.4 In consultation with the Co-ordinating Commissioner, and on reasonable request, the Provider must provide a plan setting out how it will comply with its obligations under SC13.3. If the Provider has already produced such a plan in order to comply with the Law, the Provider may submit that plan to the Co-ordinating Commissioner in order to comply with this SC13.4.
- 13.5 Not Used
- 13.6 The Provider must implement the National Workforce Race Equality Standard and submit an annual report to the Co-ordinating Commissioner on its progress in implementing that standard.
- 13.7 The Provider must implement the National Workforce Disability Equality Standard from 1 April 2018 and must submit a report by 31 March 2019 and then annually to the Co-ordinating Commissioner on its progress in implementing that standard.

#### **SC14 Pastoral, Spiritual and Cultural Care**

- 14.1 The Provider must take account of the spiritual, religious, pastoral and cultural needs of Service Users.
- 14.2 Not Used

#### **SC15 Places of Safety**

- 15.1 Not Used

#### **SC16 Complaints**

- 16.1 The Commissioners and the Provider must each publish, maintain and operate a complaints procedure in compliance with the Fundamental Standards of Care and other Law and Guidance.
- 16.2 The Provider must:

- 16.2.1 provide clear information to Service Users, their Carers and representatives, and to the public, displayed prominently in the Services Environment as appropriate, on how to make a complaint or to provide other feedback and on how to contact Local Healthwatch; and
- 16.2.2 ensure that this information informs Service Users, their Carers and representatives, of their legal rights under the NHS Constitution, how they can access independent support to help make a complaint, and how they can take their complaint to the Health Service Ombudsman should they remain unsatisfied with the handling of their complaint by the Provider.

### **SC17 Services Environment and Equipment**

- 17.1 The Provider must ensure that the Services Environment and the Equipment comply with the Fundamental Standards of Care.
- 17.2 Unless stated otherwise in this Contract, the Provider must at its own cost provide all Equipment necessary to provide the Services in accordance with the Law and any necessary Consents.
- 17.3 The Provider must ensure that all Staff using Equipment, and all Service Users and Carers using Equipment independently as part of the Service User's care or treatment, have received appropriate and adequate training and have been assessed as competent in the use of that Equipment.

### **SC18 Sustainable Development**

- 18.1 In performing its obligations under this Contract the Provider must take all reasonable steps to minimise its adverse impact on the environment.
- 18.2 The Provider must maintain a sustainable development plan in line with NHS Sustainable Development Guidance. The Provider must demonstrate its progress on climate change adaptation, mitigation and sustainable development, including performance against carbon reduction management plans, and must provide an annual summary of that progress to the Co-ordinating Commissioner.
- 18.3 The Provider must, in performing its obligations under this Contract, give due regard to the impact of its expenditure on the community, over and above the direct purchase of goods and services, as envisaged by the Public Services (Social Value) Act 2012.

### **SC19 Food Standards**

#### **Food Standards**

- 19.1 Not Used
- 19.2 The Provider must have regard to (and where mandatory comply with) Food Standards Guidance, as applicable.
- 19.3 Not Used

## RECORDS AND REPORTING

### SC20 Service Development and Improvement Plan

- 20.1 The Co-ordinating Commissioner and the Provider must agree an SDIP where required by and in accordance with Guidance.
- 20.2 The Co-ordinating Commissioner and the Provider may at any time agree an SDIP.
- 20.3 Any SDIP must be appended to this Contract at Schedule 6D (*Service Development and Improvement Plans*). The Commissioners and Provider must comply with their respective obligations under any SDIP. The Provider must report performance against any SDIP in accordance with Schedule 6A (*Reporting Requirements*).

### SC21 Antimicrobial Resistance and Healthcare Associated Infections

- 21.1 The Provider must comply with the Code of Practice on the Prevention and Control of Infections.
- 21.2 The Provider must ensure that all laboratory services (whether provided directly or under a Sub-Contract) comply with the UK Standard Methods for Investigation.
- 21.3 The Provider must have an HCAI Reduction Plan for each Contract Year and must comply with its obligations under that plan. The HCAI Reduction Plan must reflect local and national priorities relating to HCAI including antimicrobial resistance.

### SC22 Venous Thromboembolism

- 22.1 Not Used
- 22.1.1 Not Used
- 22.1.2 Not Used
- 22.1.3 Not Used

### SC23 Service User Health Records

- 23.1 The Provider must create and maintain Service User Health Records as appropriate for all Service Users. The Provider must securely store and retain those records for the periods of time required by Law and/or by Information Governance Alliance Guidance and/or otherwise by the Department of Health, NHS England or NHS Digital, and then securely destroy them.
- 23.2 The Provider must:
- 23.2.1 if and as so requested by a Commissioner, whether during or after the Contract Term, promptly deliver to any third party provider of healthcare or social care services nominated by that Commissioner a copy of the Service User Health Record held by the Provider for any Service User for whom that Commissioner is responsible; and



23.2.2 notwithstanding SC23.1, if and as so requested by a Commissioner at any time following the expiry or termination of this Contract, promptly deliver to any third party provider of healthcare or social care services nominated by that Commissioner, or to the Commissioner itself, the Service User Health Record held by the Provider for any Service User for whom that Commissioner is responsible.

23.3 The Provider must give each Service User full and accurate information regarding their treatment and must evidence that in writing in the relevant Service User Health Record.

#### **NHS Number**

23.4 Subject to and in accordance with Law and Guidance the Provider must:

23.4.1 ensure that the Service User Health Record includes the Service User's verified NHS Number;

23.4.2 use the NHS Number as the consistent identifier in all clinical correspondence (paper or electronic) and in all information it processes in relation to the Service User; and

23.4.3 be able to use the NHS Number to identify all Activity relating to a Service User.

23.5 The Commissioners must ensure that each Referrer (except a Service User presenting directly to the Provider for assessment and/or treatment) uses the NHS Number as the consistent identifier in all correspondence in relation to a Referral.

#### **Information Technology Systems**

23.6 Subject to GC21 (*Patient Confidentiality, Data Protection, Freedom of Information and Transparency*) the Provider must ensure that all Staff involved in the provision of urgent, emergency and unplanned care are able to view key Service User clinical information from GP records, whether via the Summary Care Records Service or a locally integrated electronic record system supplemented by the Summary Care Records Service.

23.7 The Provider must use all reasonable endeavours to ensure that its clinical information technology systems provide open interfaces in accordance with Open API Policy and must ensure that, by no later than 31 December 2018, all of its major clinical information technology systems enable the Key Clinical Data Fields to be accessible as structured information through open interfaces (subject to the provisions of GC21 (*Patient Confidentiality, Data Protection, Freedom of Information and Transparency*)) to other providers of services to Service Users.

23.8 The Provider must ensure that its information technology systems comply with ISB0160 in relation to clinical risk management.

#### **Urgent Care Data Sharing Agreement**

23.9 Not Used

#### **Health and Social Care Network**

- 23.10 The Provider must, where applicable, collaborate with NHS Digital in taking the necessary steps to procure access to the Health and Social Care Network and must manage transition to the Health and Social Care Network in a timely and efficient manner.

#### **SC24 NHS Counter-Fraud and Security Management**

- 24.1 The Provider must put in place and maintain appropriate arrangements to address security management and counter-fraud issues, having regard to NHS Protect Standards.

- 24.2 The Provider (if it holds Monitor's Licence or is an NHS Trust) must take the necessary action to meet NHS Protect Standards.

- 24.3 If requested by the Co-ordinating Commissioner or NHS Protect, the Provider must allow a person duly authorised to act on behalf of NHS Protect or on behalf of any Commissioner to review, in line with the appropriate standards, security management and counter-fraud arrangements put in place by the Provider.

- 24.4 The Provider must implement any reasonable modifications to its security management and counter-fraud arrangements required by a person referred to in SC24.3 in order to meet the appropriate standards within whatever time periods as that person may reasonably require.

- 24.5 The Provider must, on becoming aware of:

24.5.1 any suspected or actual bribery, corruption or fraud involving a Service User or public funds, promptly report the matter to the Local Counter Fraud Specialist of the relevant NHS Body and to NHS Protect;

24.5.2 any suspected or actual security incident or security breach involving staff who deliver NHS funded services or involving NHS resources,

promptly report the matter to the Local Security Management Specialist of the relevant NHS Body and to NHS Protect.

- 24.6 On the request of the Department of Health, NHS England, NHS Protect or the Co-ordinating Commissioner, the Provider must allow NHS Protect or any Local Counter Fraud Specialist or any Local Security Management Specialist appointed by a Commissioner, as soon as it is reasonably practicable and in any event not later than 5 Operational Days following the date of the request, access to:

24.6.1 all property, premises, information (including records and data) owned or controlled by the Provider; and

24.6.2 all Staff who may have information to provide,

relevant to the detection and investigation of cases of bribery, fraud or corruption, or security incidents or security breaches directly or indirectly in connection with this Contract.

#### **SC25 Procedures and Protocols**

- 25.1 If requested by the Co-ordinating Commissioner or the Provider, the Co-ordinating Commissioner or the Provider (as the case may be) must within 5 Operational Days following receipt of the request send or make available to the other copies of any Services guide or other written agreement, policy, procedure or protocol implemented by any Commissioner or the Provider (as applicable).
- 25.2 The Co-ordinating Commissioner must notify the Provider and the Provider must notify the Co-ordinating Commissioner of any material changes to any items it has disclosed under SC25.1.
- 25.3 The Parties must comply with their respective obligations under any Other Local Agreements, Policies and Procedures.

## **SC26 Clinical Networks, National Audit Programmes and Approved Research Studies**

- 26.1 The Provider must:
- 26.1.1 participate in the Clinical Networks, programmes and studies listed in Schedule 2F (*Clinical Networks*);
  - 26.1.2 participate in the national clinical audits within the National Clinical Audit and Patient Outcomes Programme relevant to the Services; and
  - 26.1.3 make national clinical audit data available to support national publication of Consultant-level activity and outcome statistics in accordance with HQIP Guidance.
- 26.2 The Provider must adhere to all protocols and procedures operated or recommended under the programmes and arrangements referred to in SC26.1, unless in conflict with existing protocols and procedures agreed between the Parties, in which case the Parties must review all relevant protocols and procedures and try to resolve that conflict.
- 26.3 The Provider must put arrangements in place to facilitate recruitment of Service Users and Staff as appropriate into Approved Research Studies.
- 26.4 In respect of any Approved Research Study the Parties must have regard, as applicable, to NHS Treatment Costs Guidance.

## **SC27 Formulary**

- 27.1 Not Used
- 27.1.1 Not Used
  - 27.1.2 Not Used
  - 27.1.3 Not Used

## **SC28 Information Requirements**

- 28.1 The Parties acknowledge that the submission of complete and accurate data in accordance with this SC28 is necessary to support the commissioning of all health and social care services in England.
- 28.2 The Provider must:
- 28.2.1 provide the information specified in this SC28 and in Schedule 6A (*Reporting Requirements*):
    - 28.2.1.1 with the frequency, in the format, by the method and within the time period set out or referred to in Schedule 6A (*Reporting Requirements*); and
    - 28.2.1.2 as detailed in relevant Guidance; and
    - 28.2.1.3 if there is no applicable time period identified, in a timely manner;
  - 28.2.2 where and to the extent applicable, conform to all NHS information standards notices, data provision notices and information and data standards approved or published by the Secretary of State, NHS England or by NHS Digital on their behalf, as appropriate;
  - 28.2.3 implement any other datasets and information requirements agreed from time to time between it and the Co-ordinating Commissioner;
  - 28.2.4 comply with Guidance issued by NHS England and NHS Digital, and with the Law, in relation to protection of patient identifiable data;
  - 28.2.5 subject to and in accordance with Law and Guidance and any relevant standards issued by the Secretary of State, NHS England or NHS Digital, use the Service User's verified NHS Number as the consistent identifier of each record on all patient datasets; and
  - 28.2.6 comply with the Law and Guidance on the use and disclosure of personal confidential data for other than direct care purposes.
- 28.3 The Co-ordinating Commissioner may request from the Provider any information in addition to that to be provided under SC28.2 which any Commissioner reasonably and lawfully requires in relation to this Contract. The Provider must supply that information in a timely manner.
- 28.4 The Co-ordinating Commissioner must act reasonably in requesting the Provider to provide any information under this Contract, having regard to the burden which that request places on the Provider, and may not, without good reason, require the Provider:
- 28.4.1 to supply any information to any Commissioner locally where that information is required to be submitted centrally under SC28.2; or

28.4.2 where information is required to be submitted in a particular format under SC28.2, to supply that information in a different or additional format (but this will not prevent the Co-ordinating Commissioner from requesting disaggregation of data previously submitted in aggregated form); or

28.4.3 to supply any information to any Commissioner locally for which that Commissioner cannot demonstrate purpose and value in connection with the discharge of that Commissioner's statutory duties and functions.

28.5 The Provider and each Commissioner must ensure that any information provided to any other Party in relation to this Contract is accurate and complete.

### **Counting and coding of Activity**

28.6 The Provider must ensure that each dataset that it provides under this Contract contains the ODS code and/or other appropriate identifier for the relevant Commissioner. The Parties must have regard to Commissioner Assignment Methodology Guidance and Who Pays? Guidance when determining the correct Commissioner code in activity datasets.

28.7 The Parties must comply with Guidance relating to clinical coding published by the NHS Clinical Classifications Service and with the definitions of Activity maintained under the NHS Data Model and Dictionary.

28.8 Either the Co-ordinating Commissioner (on behalf of the Commissioners) or the Provider may propose a change of practice in the counting and coding of Activity compliant with national information and data standards. The Party proposing such a change must give the other Party written notice of the proposed change at least 6 months before the date on which that change is proposed to be implemented.

28.9 The Party receiving notice of the proposed change of practice must not unreasonably withhold or delay its agreement to the change, and must agree to the proposed change if it is mandated by applicable Guidance.

28.10 Any change of practice agreed must be implemented on 1 April of the following Contract Year, unless:

28.10.1 the Parties agree a different date (or phased sequence) for its implementation; or

28.10.2 a specific date for implementation for the change is mandated in applicable Guidance, in which case the change must come into effect on the date (or in any phased sequence) specified in that Guidance.

28.11 Where any change in counting and coding practice proposed under SC28.8 and agreed under SC28.9 is projected, once implemented, to have an impact on the Actual Annual Value of Services, the Parties must adjust the relevant Prices payable:

28.11.1 where the change is to be implemented within the Contract Year in which the change was proposed, in respect of the remainder of that Contract Year; and

28.11.2 in any event, in respect of the whole of the Contract Year following the Contract Year in which the change was proposed,

in accordance with the National Tariff to ensure that that impact is rendered neutral for that Contract Year or those Contract Years, as applicable.

### **Aggregation and disaggregation of information**

28.12 Information to be provided by the Provider under this SC28 and Schedule 6A (*Reporting Requirements*) and which is necessary for the purposes of SC36 (*Payment Terms*) must be provided:

28.12.1 to the Co-ordinating Commissioner in aggregate form; and/or

28.12.2 directly to each Commissioner in disaggregated form relating to its own use of the Services, as the Co-ordinating Commissioner may direct.

### **SUS**

28.13 The Provider must submit commissioning data sets to SUS in accordance with SUS Guidance, where applicable. Where SUS is applicable, if:

28.13.1 there is a failure of SUS; or

28.13.2 there is an interruption in the availability of SUS to the Provider or to any Commissioner,

the Provider must comply with Guidance issued by NHS England and/or NHS Digital in relation to the submission of the national datasets collected in accordance with this SC28 pending resumption of service, and must submit those national datasets to SUS as soon as reasonably practicable after resumption of service.

### **Information Breaches**

28.14 If the Co-ordinating Commissioner becomes aware of an Information Breach it must notify the Provider accordingly. The notice must specify:

28.14.1 the nature of the Information Breach; and

28.14.2 the sums (if any) which the Co-ordinating Commissioner intends to instruct the Commissioners to withhold, or itself withhold (on behalf of all Commissioners), under SC28.15 if the Information Breach is not rectified within 5 Operational Days following service of that notice.

28.15 If the Information Breach is not rectified within 5 Operational Days of the date of the notice served in accordance with SC28.14.2 (unless due to any act or omission of any Commissioner), the Co-ordinating Commissioner may (subject to SC28.17) instruct the Commissioners to withhold, or itself withhold (on behalf of all Commissioners), a reasonable and proportionate sum of up to 1% of the Actual Monthly Value in respect of the current month and then for each and every month until the Provider has rectified the relevant Information Breach to the reasonable satisfaction of the Co-ordinating Commissioner.

- 28.16 The Commissioners or the Co-ordinating Commissioner (as appropriate) must continue to withhold any sums withheld under SC28.15 unless and until the Provider rectifies the relevant Information Breach to the reasonable satisfaction of the Co-ordinating Commissioner. The Commissioners or the Co-ordinating Commissioner (as appropriate) must then pay the withheld sums to the Provider within 10 Operational Days. Subject to SC28.17 no Interest will be payable by the Co-ordinating Commissioner to the Provider on any sum withheld under SC28.15.
- 28.17 If the Provider produces evidence satisfactory to the Co-ordinating Commissioner that any sums withheld under SC28.15 were withheld without justification, the Commissioners or the Co-ordinating Commissioner (as appropriate) must pay to the Provider any sums wrongly withheld or retained and Interest on those sums for the period for which those sums were withheld or retained. If the Co-ordinating Commissioner disputes the Provider's evidence the Provider may refer the matter to Dispute Resolution.
- 28.18 Any sums withheld under SC28.15 may be retained permanently if the Provider fails to rectify the relevant Information Breach to the reasonable satisfaction of the Co-ordinating Commissioner by the earliest of:
- 28.18.1 the date 3 months after the date of the notice served in accordance with SC28.14;
  - 28.18.2 the termination of this Agreement; and
  - 28.18.3 the Expiry Date.
- If any sums withheld by the Co-ordinating Commissioner on behalf of all Commissioners are to be retained permanently, the Co-ordinating Commissioner must distribute the sums withheld between the Commissioners in proportion to their respective shares of the Actual Monthly Value for each month in respect of which those sums were withheld.
- 28.19 The aggregate of sums withheld in any month in respect of Information Breaches is not to exceed 5% of the Actual Monthly Value.

#### **Data Quality Improvement Plan**

- 28.20 The Co-ordinating Commissioner and the Provider may at any time agree a Data Quality Improvement Plan (which must be appended to this Contract at Schedule 6B (*Data Quality Improvement Plans*)). Any Data Quality Improvement Plan must set out milestones to be met and may set out reasonable and proportionate financial sanctions for failing to meet those milestones. If the Provider fails to meet a milestone by the agreed date, the Co-ordinating Commissioner may exercise the relevant agreed consequence.
- 28.21 If a Data Quality Improvement Plan with financial sanctions is agreed in relation to any Information Breach, the Commissioners (or the Co-ordinating Commissioner on their behalf, as appropriate) may not withhold sums under SC28.15 in respect of the same Information Breach. This will not affect the rights of the Commissioners (or the Co-ordinating Commissioner on their behalf, as appropriate) under SC28.15 in respect of any period before the agreement of a DQIP in relation to that Information Breach.

- 28.22 If an Information Breach relates to the National Requirements Reported Centrally the Parties must not by means of a Data Quality Improvement Plan agree the waiver or delay or foregoing of any withholding or retention under SC28.15 to which the Commissioners (or the Co-ordinating Commissioner on their behalf, as appropriate) would otherwise be entitled.

## **MANAGING ACTIVITY AND REFERRALS**

### **SC29 Managing Activity and Referrals**

- 29.1 The Commissioners and the Provider must each monitor and manage Activity and Referrals for the Services in accordance with this SC29 and the National Tariff.
- 29.2 The Parties must not agree or implement any action that would operate contrary to the NHS Choice Framework or so as to restrict or impede the exercise by Service Users or others of their legal rights to choice.
- 29.3 The Commissioners must use all reasonable endeavours to:
- 29.3.1 procure that all Referrers adhere to Referral processes and clinical thresholds set out or referred to in this Contract and/or as otherwise agreed between the Parties and/or as specified in any Prior Approval Scheme;
  - 29.3.2 manage Referral levels in accordance with any Activity Planning Assumptions; and
  - 29.3.3 notify the Provider promptly of any anticipated changes in Referral numbers.
- 29.3A Not Used
- 29.4 The Provider must:
- 29.4.1 comply with and use all reasonable endeavours to manage Activity in accordance with Referral processes and clinical thresholds set out or referred to in this Contract and/or as otherwise agreed between the Parties and/or as specified in any Prior Approval Scheme, and in accordance with any Activity Planning Assumptions; and
  - 29.4.2 comply with the reasonable requests of the Commissioners to assist the Commissioners in understanding and managing patterns of Referrals.

### **Indicative Activity Plan**

- 29.5 The Parties must agree an Indicative Activity Plan for each Contract Year, either before the date of this Contract or (failing that) before the start of the relevant Contract Year, specifying the threshold for each activity (and those agreed thresholds may be zero). If the Parties have not agreed an Indicative Activity Plan before the start of any Contract Year an Indicative Activity Plan with an indicative activity of zero will be deemed to apply for that Contract Year.



- 29.6 The Indicative Activity Plan will comprise the aggregated Indicative Activity Plans of all of the Commissioners.

#### **Activity Planning Assumptions**

- 29.7 Not Used

#### **Early Warning**

- 29.8 The Co-ordinating Commissioner must notify the Provider within 3 Operational Days after becoming aware of any unexpected or unusual patterns of Referrals and/or Activity in relation to any Commissioner, specifying the nature of the unexpected pattern and the Commissioner's initial opinion as to its likely cause.

- 29.9 The Provider must notify the Co-ordinating Commissioner and the relevant Commissioner within 3 Operational Days after becoming aware of any unexpected or unusual patterns of Referrals and/or Activity in relation to any Commissioner, specifying the nature of the unexpected pattern and the Provider's initial opinion as to its likely cause.

#### **Reporting and Monitoring Activity**

- 29.10 The Provider must submit an Activity and Finance Report to the Co-ordinating Commissioner in accordance with Schedule 6A (*Reporting Requirements*).

- 29.11A The Co-ordinating Commissioner and the Provider will monitor actual Activity reported in each Activity and Finance Report in respect of each Commissioner against:

29.11A.1 thresholds set out in the Indicative Activity Plan; and

29.11A.2 thresholds set out in any Activity Planning Assumptions.

- 29.11B Not Used

- 29.11C Not Used

#### **Activity Management Meeting**

- 29.12 Following:

29.12.1 notification by the Co-ordinating Commissioner of any unexpected or unusual patterns of Referrals and/or of Activity in accordance with SC29.8; or

29.12.2 notification by the Provider of any unexpected or unusual patterns of Referrals and/or of Activity in accordance with SC29.9; or

29.12.3A the submission of any Activity and Finance Report in accordance with SC29.10 indicating variances against the thresholds set out in the Indicative Activity Plan and/or any breaches of the thresholds set out in any Activity Planning Assumptions,

29.12.3B Not Used

29.12.3C Not Used

in relation to any Commissioner, either the Co-ordinating Commissioner or the Provider may issue to the other an Activity Query Notice.

29.13 The Co-ordinating Commissioner and the Provider must meet to discuss any Activity Query Notice within 10 Operational Days following its issue.

29.14 At that meeting the Co-ordinating Commissioner and the Provider must:

29.14.1 consider patterns of Referrals, of Activity and of the exercise by Service Users of their legal rights to choice; and

29.14.2 agree either:

29.14.2.1 that the Activity Query Notice is withdrawn; or

29.14.2.2 to hold a meeting to discuss Utilisation, in which case the provisions of SC29.15 will apply; or

29.14.2.3 to conduct a Joint Activity Review, in which case the provisions of SC29.16 to 29.20 will apply.

#### **Utilisation Review Meeting**

29.15 Within 10 Operational Days following agreement to hold a meeting under SC29.14, the Co-ordinating Commissioner and the Provider must meet:

29.15.1 to agree a plan to improve Utilisation and/or update any previously agreed plan; and

29.15.2 to discuss any matter that either considers necessary in relation to Utilisation.

#### **Joint Activity Review**

29.16 Within 10 Operational Days following agreement to conduct a Joint Activity Review under SC29.14, the Co-ordinating Commissioner and the Provider must meet:

29.16.1 to consider in further detail the matters referred to in SC29.14.1 and the causes of the unexpected or unusual pattern of Referrals and/or Activity; and

29.16.2 (if they consider it necessary or appropriate) to agree an Activity Management Plan.

29.17 The Co-ordinating Commissioner and the Provider should not agree an Activity Management Plan in respect of any unexpected or unusual pattern of Referrals and/or Activity which they agree was caused wholly or mainly by the exercise by Service Users of their rights to choice.

- 29.18 If the Co-ordinating Commissioner and the Provider fail to agree an Activity Management Plan at or within 10 Operational Days following the Joint Activity Review they must issue a joint notice to that effect to the Governing Body of the Provider and of each Commissioner. If the Co-ordinating Commissioner and the Provider have still not agreed an Activity Management Plan within 10 Operational Days following the date of the joint notice, either may refer the matter to Dispute Resolution.
- 29.19 The Parties must implement any Activity Management Plan agreed or determined in accordance with SC29.16 to 29.18 inclusive in accordance with its terms.
- 29.20 If any Party breaches the terms of an Activity Management Plan, the Commissioners or the Provider (as appropriate) may exercise any consequences set out in it.

### **Prior Approval Scheme**

- 29.21 Before the start of each Contract Year, the Co-ordinating Commissioner must notify the Provider of the terms of any Prior Approval Scheme for that Contract Year. In determining whether to implement any new or replacement Prior Approval Scheme or to amend any existing Prior Approval Scheme, the Commissioners must have regard to the burden which Prior Approval Schemes may place on the Provider. The Commissioners must use reasonable endeavours to minimise the number of separate Commissioner-specific Prior Approval Schemes in relation to any individual condition or treatment. The terms of any Prior Approval Scheme may specify the information which the Provider must submit to the Commissioner about individual Service Users requiring or receiving treatment under that Prior Approval Scheme, including details of the scope of the information to be submitted and the format, timescale and process for submission (which may be paper-based or via specified electronic systems).
- 29.22 The Provider must manage Referrals in accordance with the terms of any Prior Approval Scheme. If the Provider does not comply with the terms of any Prior Approval Scheme in providing a Service to a Service User, the Commissioners will not be liable to pay for the Service provided to that Service User.
- 29.23 If a Prior Approval Scheme imposes any obligation on a Provider that would operate contrary to the NHS Choice Framework:
- 29.23.1 that obligation will have no contractual force or effect; and
  - 29.23.2 the Prior Approval Scheme must be amended accordingly; and
  - 29.23.3 if the Provider provides any Service in accordance with the Prior Approval Scheme as amended in accordance with SC29.23.2 the relevant Commissioner will be liable to pay for that Service in accordance with SC36 (*Payment Terms*).
- 29.24 The Co-ordinating Commissioner may at any time during a Contract Year give the Provider not less than one month's notice in writing of any new or replacement Prior Approval Scheme, or of any amendment to an existing Prior Approval Scheme. That new, replacement or amended Prior Approval Scheme must be implemented by the Provider on the date set out in the notice, and will only be applicable to Referrals made after that date.

- 29.25 Subject to the timely provision by the Provider of all of the information specified within a Prior Approval Scheme, the relevant Commissioner must respond within the Prior Approval Scheme Response Time Standard to any request for approval for treatment for an individual Service User. If the Commissioner fails to do so, it will be deemed to have given Prior Approval.
- 29.26 Each Commissioner and the Provider must use all reasonable endeavours to ensure that the design and operation of Prior Approval Schemes does not cause undue delay in Service Users accessing clinically appropriate treatment and does not place at risk achievement by the Provider of any Quality Requirement.
- 29.27 At the Provider's request in case of urgent clinical need or a risk to patient safety, and if approved by the Commissioner's medical director or clinical chair (that approval not be unreasonably withheld or delayed), the relevant Commissioner must grant retrospective Prior Approval for a Service provided to a Service User.

## EMERGENCIES AND INCIDENTS

### SC30 Emergency Preparedness, Resilience and Response

- 30.1 The Provider must comply with EPRR Guidance if and when applicable. The Provider must identify and have in place an Accountable Emergency Officer.
- 30.2 The Provider must notify the Co-ordinating Commissioner as soon as reasonably practicable and in any event no later than 5 Operational Days following:
- 30.2.1 the activation of its Incident Response Plan;
  - 30.2.2 any risk, or any actual disruption, to CRS or Essential Services; and/or
  - 30.2.3 the activation of its Business Continuity Plan.
- 30.3 The Commissioners must have in place arrangements that enable the receipt at all times of a notification made under SC30.2.
- 30.4 The Provider must at the request of the Co-ordinating Commissioner provide whatever support and assistance may reasonably be required by the Commissioners and/or NHS England and/or Public Health England in response to any national, regional or local public health emergency or incident.
- 30.5 The right of any Commissioner to:
- 30.5.1 withhold or retain sums under GC9 (*Contract Management*); and/or
  - 30.5.2 suspend Services under GC16 (*Suspension*),
- will not apply if the relevant right to withhold, retain or suspend has arisen only as a result of the Provider complying with its obligations under this SC30.
- 30.6 Not Used

- 30.6.1 Not Used
- 30.6.2 Not Used
- 30.7 Not Used
- 30.8 Not Used
  - 30.8.1 Not Used
  - 30.8.2 Not Used
  - 30.8.3 Not Used
- 30.9 Not Used
  - 30.9.1 Not Used
  - 30.9.2 Not Used
  - 30.9.3 Not Used
  - 30.9.4 Not Used
  - 30.9.5 Not Used

30.10 Not Used

**SC31 Force Majeure: Service-specific provisions**

- 31.1 Not Used
- 31.2 Not Used
- 31.3 Not Used
- 31.4 Not Used

**SAFETY AND SAFEGUARDING**

**SC32 Safeguarding, Mental Capacity and Prevent**

- 32.1 The Provider must ensure that Service Users are protected from abuse, neglect and improper or degrading treatment, and must take appropriate action to respond to any allegation or disclosure of abuse in accordance with the Law.
- 32.2 The Provider must nominate:

- 32.2.1 a Safeguarding Lead and/or a named professional for safeguarding children, young people and adults, in accordance with Safeguarding Guidance;
- 32.2.2 a Child Sexual Abuse and Exploitation Lead;
- 32.2.3 a Mental Capacity and Deprivation of Liberty Lead; and
- 32.2.4 a Prevent Lead,

and must ensure that the Co-ordinating Commissioner is kept informed at all times of the identity of the persons holding those positions.

32.3 The Provider must comply with the requirements and principles in relation to the safeguarding of children, young people and adults, including in relation to deprivation of liberty safeguards, child sexual abuse and exploitation, domestic abuse and female genital mutilation (as relevant to the Services) set out or referred to in:

- 32.3.1 the 2014 Act and associated Guidance;
- 32.3.2 the 2014 Regulations;
- 32.3.3 the Children Act 1989 and the Children Act 2004 and associated Guidance;
- 32.3.4 the 2005 Act and associated Guidance;
- 32.3.5 Safeguarding Guidance; and
- 32.3.6 Child Sexual Abuse and Exploitation Guidance.

32.4 The Provider has adopted and must comply with the Safeguarding Policies and MCA Policies. The Provider has ensured and must at all times ensure that the Safeguarding Policies and MCA Policies reflect and comply with:

- 32.4.1 the Law and Guidance referred to in SC32.3;
- 32.4.2 the local multi-agency policies and any Commissioner safeguarding and MCA requirements.

32.5 The Provider must implement comprehensive programmes for safeguarding (including in relation to child sexual abuse and exploitation) and MCA training for all relevant Staff and must have regard to Safeguarding Training Guidance. The Provider must undertake an annual audit of its conduct and completion of those training programmes and of its compliance with the requirements of SC32.1 to 32.4.

32.6 At the reasonable written request of the Co-ordinating Commissioner, and by no later than 10 Operational Days following receipt of that request, the Provider must provide evidence to the Co-ordinating Commissioner that it is addressing any safeguarding concerns raised through the relevant multi-agency reporting systems.

- 32.7 If requested by the Co-ordinating Commissioner, the Provider must participate in the development of any local multi-agency safeguarding quality indicators and/or plan.
- 32.8 Not Used
- 32.9 The Provider must:
- 32.9.1 include in its policies and procedures, and comply with, the principles contained in the Government Prevent Strategy and the Prevent Guidance and Toolkit; and
  - 32.9.2 include in relevant policies and procedures a programme to raise awareness of the Government Prevent Strategy among Staff and volunteers in line with the NHS England Prevent Training and Competencies Framework; and
  - 32.9.3 include in relevant policies and procedures a WRAP delivery plan that is sufficient resourced with WRAP facilitators.

### **SC33 Incidents Requiring Reporting**

- 33.1 The Provider must comply with the arrangements for notification of deaths and other incidents to CQC, in accordance with CQC Regulations and Guidance (where applicable), and to any other relevant Regulatory or Supervisory Body, any NHS Body, any office or agency of the Crown, or to any other appropriate regulatory or official body in connection with Serious Incidents, or in relation to the prevention of Serious Incidents (as appropriate), in accordance with Good Practice and the Law.
- 33.2 The Provider must comply with the NHS Serious Incident Framework and the Never Events Policy Framework, and must report all Serious Incidents and Never Events in accordance with the requirements of those Frameworks.
- 33.3 The Parties must comply with their respective obligations in relation to deaths and other incidents in connection with the Services under Schedule 6C (*Incidents Requiring Reporting Procedure*) and under Schedule 6A (Reporting Requirements).
- 33.4 If a notification the Provider gives to any relevant Regulatory or Supervisory Body directly or indirectly concerns any Service User, the Provider must send a copy of it to the relevant Commissioner, in accordance with the timescales set out in Schedule 6C (*Incidents Requiring Reporting Procedure*) and in Schedule 6A (*Reporting Requirements*).
- 33.5 The Commissioners will have complete discretion (subject only to the provisions of the DPA and other Law) to use the information provided by the Provider under this SC33, Schedule 6C (*Incidents Requiring Reporting Procedure*) and Schedule 6A (*Reporting Requirements*) in any report which they make to any relevant Regulatory or Supervisory Body, any NHS Body, any office or agency of the Crown, or to any other appropriate regulatory or official body in connection with Serious Incidents, or in relation to the prevention of Serious Incidents, provided that in each case they notify the Provider of the information disclosed and the body to which they have disclosed it.

### **SC34 Care of Dying People and Death of a Service User**

34.1 The Provider must have regard to Guidance on Care of Dying People and must, where applicable, comply with SCCI 1580 (Palliative Care Co-ordination: Core Content) and the associated EPACCS IT System Requirements to ensure implementation of interoperable solutions.

34.2 The Provider must maintain and operate a Death of a Service User Policy.

### **SC35 Duty of Candour**

35.1 The Provider must act in an open and transparent way with Relevant Persons in relation to Services provided to Service Users.

35.2 The Provider must, where applicable, comply with its obligations under regulation 20 of the 2014 Regulations in respect of any Notifiable Safety Incident.

35.3 If the Provider fails to comply with any of its obligations under SC35.2 the Co-ordinating Commissioner may:

35.3.1 notify the CQC of that failure; and/or

35.3.2 require the Provider to provide the Relevant Person with a formal, written apology and explanation for that failure, signed by the Provider's chief executive and copied to the relevant Commissioner; and/or

35.3.3 require the Provider to publish details of that failure prominently on the Provider's website.

35.4 Any action taken or required by the Co-ordinating Commissioner under SC35.3 will be in addition to any consequence applied in accordance with Schedule 4 (*Quality Requirements*).

## **PAYMENT TERMS**

### **SC36 Payment Terms**

#### **Payment Principles**

36.1 Subject to any express provision of this Contract to the contrary, each Commissioner must pay the Provider in accordance with the National Tariff, to the extent applicable, for all Services that the Provider delivers to it in accordance with this Contract.

36.2 To avoid any doubt, the Provider will be entitled to be paid for Services delivered during the continuation of:

36.2.1 any Incident or Emergency, except as otherwise provided or agreed under SC30 (*Emergency Preparedness, Resilience and Response*); and

36.2.2 any Event of Force Majeure, except as otherwise provided or agreed under GC28 (*Force Majeure*).

#### **Prices**



- 36.3 The Prices payable by the Commissioners under this Contract will be:
- 36.3.1 for any Service for which the National Tariff mandates or specifies a price:
- 36.3.1.1 the National Price; or
  - 36.3.1.2 the National Price as modified by a Local Variation; or
  - 36.3.1.3 (subject to SC36.16 to 36.20 (*Local Modifications*)) the National Price as modified by a Local Modification approved or granted by NHS Improvement,
- for the relevant Contract Year;
- 36.3.2 for any Service for which the National Tariff does not mandate or specify a price, the Local Price for the relevant Contract Year.

#### **Local Prices**

- 36.4 The Co-ordinating Commissioner and the Provider may agree a Local Price for one or more Contract Years or for the duration of the Contract. In respect of a Local Price agreed for more than one Contract Year the Co-ordinating Commissioner and the Provider may agree and document in Schedule 3A (*Local Prices*) the mechanism by which that Local Price is to be adjusted with effect from the start of each Contract Year. Any adjustment mechanism must require the Co-ordinating Commissioner and the Provider to have regard to the efficiency and uplift factors set out in the National Tariff where applicable.
- 36.5 Any Local Price must be determined and agreed in accordance with the rules set out in the National Tariff where applicable.
- 36.6 The Co-ordinating Commissioner and the Provider must apply annually any adjustment mechanism agreed and documented in Schedule 3A (*Local Prices*). Where no adjustment mechanism has been agreed, the Co-ordinating Commissioner and the Provider must review and agree before the start of each Contract Year the Local Price to apply to the following Contract Year, having regard to the efficiency and uplift factors set out in the National Tariff where applicable. In either case the Local Price as adjusted or agreed will apply to the following Contract Year.
- 36.7 If the Co-ordinating Commissioner and the Provider fail to review or agree any Local Price for the following Contract Year by the date 2 months before the start of that Contract Year, or there is a dispute as to the application of any agreed adjustment mechanism, either may refer the matter to Dispute Resolution for escalated negotiation and then (failing agreement) mediation.
- 36.8 If on or following completion of the mediation process the Co-ordinating Commissioner and the Provider still cannot agree any Local Price for the following Contract Year, within 10 Operational Days of completion of the mediation process either the Co-ordinating Commissioner or the Provider may terminate the affected Services by giving the other not less than 6 months' written notice.

- 36.9 If any Local Price has not been agreed or determined in accordance with SC36.6 and 36.7 before the start of a Contract Year then the Local Price will be that which applied for the previous Contract Year increased or decreased in accordance with the efficiency and uplift factors set out in the National Tariff where applicable. The application of these prices will not affect the right to terminate this Contract as a result of non-agreement of a Local Prices under SC36.8.
- 36.10 All Local Prices and any annual adjustment mechanism agreed in respect of them must be recorded in Schedule 3A (*Local Prices*). Where the Co-ordinating Commissioner and the Provider have agreed to depart from an applicable national currency that agreement must be submitted by the Co-ordinating Commissioner to NHS Improvement in accordance with the National Tariff.

### **Local Variations**

- 36.11 The Co-ordinating Commissioner and the Provider may agree a Local Variation for one or more Contract Years or for the duration of this Contract.
- 36.12 The agreement of any Local Variation must be in accordance with the rules set out in the National Tariff.
- 36.13 If the Co-ordinating Commissioner and the Provider agree any Local Variation for a period less than the duration (or remaining duration) of this Contract, the relevant Price must be reviewed before the expiry of the last Contract Year to which the Local Variation applies.
- 36.14 If the Co-ordinating Commissioner and the Provider fail to review or agree any Local Variation to apply to the following Contract Year, the Price payable for the relevant Service for the following Contract Year will be the National Price.
- 36.15 Each Local Variation must be recorded in Schedule 3B (*Local Variations*), submitted by the Co-ordinating Commissioner to NHS Improvement in accordance with the National Tariff and published in accordance with section 116(3) of the 2012 Act.

### **Local Modifications**

- 36.16 The Co-ordinating Commissioner and the Provider may agree (or NHS Improvement may determine) a Local Modification in accordance with the National Tariff.
- 36.17 Any Local Modification agreed and proposed by the Co-ordinating Commissioner and the Provider must be submitted for approval by NHS Improvement in accordance with the National Tariff. If NHS Improvement approves the application, the Price payable for the relevant Service will be the National Price as modified in accordance with the Local Modification specified in NHS Improvement's notice of approval. The date on which that Local Modification takes effect and its duration will be as specified in that notice. Pending NHS Improvement's approval of an agreed and proposed Local Modification, the Price payable for the relevant Service will be the National Price as modified by the Local Modification submitted to NHS Improvement.

- 36.18 If the Co-ordinating Commissioner and the Provider have failed to agree and propose a Local Modification, the Provider may apply to NHS Improvement to determine a Local Modification. If NHS Improvement determines a Local Modification, the Price payable for the relevant Service will be the National Price as modified in accordance with the Local Modification specified in NHS Improvement's notice of decision. The date on which that Local Modification takes effect and its duration will be as specified in that notice. Pending NHS Improvement's determination of a Local Modification, the Price payable for the relevant Service will be the National Price (subject to any Local Variation which may have been agreed in accordance with SC36.11 to 36.15).
- 36.19 If NHS Improvement has refused to approve an agreed and proposed Local Modification, the Price payable for the relevant Service will be the National Price (subject to any Local Variation which may be agreed in accordance with SC36.11 to 36.15), and the Co-ordinating Commissioner and the Provider must agree an appropriate mechanism for the adjustment and reconciliation of the relevant Price to effect the reversion to the National Price (subject to any Local Variation which may have been agreed in accordance with SC36.11 to 36.15). If NHS Improvement has refused an application by the Provider for a Local Modification, the Price payable for the relevant Service will be the National Price (subject to any Local Variation which may have been agreed in accordance with SC36.11 to 36.15).
- 36.20 Each Local Modification agreement and each application for determination of a Local Modification must be submitted to NHS Improvement in accordance with section 124 or section 125 of the 2012 Act (as appropriate) and the National Tariff. Each Local Modification agreement and each Local Modification approved or determined by NHS Improvement must be recorded in Schedule 3C (*Local Modifications*).

#### **Marginal Rate Emergency Rule**

- 36.21 Not Used

#### **Emergency Readmission Within 30 Days**

- 36.22 Not Used

#### **Aggregation and Disaggregation of Payments**

- 36.23 The Co-ordinating Commissioner may make or receive all (but not only some) of the payments due under SC36 in aggregate amounts for itself and on behalf of each of the Commissioners provided that it gives the Provider 20 Operational Days' written notice of its intention to do so. These aggregated payments will not prejudice any immunity from liability of the Co-ordinating Commissioner, or any rights of the Provider to recover any overdue payment from the relevant Commissioners individually. However, they will discharge the separate liability or entitlement of the Commissioners in respect of their separate Services. To avoid doubt, notices to aggregate and reinstate separate payments may be repeated or withdrawn from time to time. Where notice has been given to aggregate payments, references in SC36 to "a Commissioner", "the Commissioner" or "each Commissioner" are where appropriate to be read as referring to the Co-ordinating Commissioner.

#### **Payment where the Parties have agreed an Expected Annual Contract Value**

- 36.24 Each Commissioner must make payments on account to the Provider in accordance with the following provisions of SC36.25, or if applicable SC36.26 and 36.27.
- 36.25 The Provider must supply to each Commissioner a monthly invoice before the first day of each month setting out the amount to be paid by that Commissioner for that month. The amount to be paid will be one twelfth of the individual Expected Annual Contract Value for the Commissioner. Subject to receipt of the invoice, on the fifteenth day of each month (or other day agreed by the Provider and the Co-ordinating Commissioner in writing) after the Service Commencement Date each Commissioner must pay such amount to the Provider.
- 36.26 If the Service Commencement Date is not 1 April the timing and amounts of the payments for the period starting on the Service Commencement Date and ending on the following 31 March will be as set out in Schedule 3G (*Timing and Amounts of Payments in First and/or Final Contract Year*).
- 36.27 If the Expiry Date is not 31 March the timing and amounts of the payments for the period starting on the 1 April prior to the Expiry Date and ending on the Expiry Date will be as set out in Schedule 3G (*Timing and Amounts of Payments in First and/or Final Contract Year*).

**Reconciliation where the Parties have agreed an Expected Annual Contract Value and SUS applies to some or all of the Services**

- 36.28 Not Used
- 36.29 Not Used
- 36.30 Not Used

**Reconciliation for Services where the Parties have agreed an Expected Annual Contract Value and SUS does not apply to any of the Services**

- 36.31 Where the Parties have agreed an Expected Annual Contract Value and SUS does not apply to any of the Services, in order to confirm the actual sums payable for delivered Services the Provider must provide a separate reconciliation account for each Commissioner for each month (unless otherwise agreed by the Parties in writing in accordance with the National Tariff), showing the sum equal to the Prices for all relevant Services delivered and completed in that month. That reconciliation account must be based on the information submitted by the Provider to the Co-ordinating Commissioner under SC28 (*Information Requirements*) and sent by the Provider to the relevant Commissioner within 20 Operational Days after the end of the month to which it relates.
- 36.32 Each Commissioner and Provider must either agree the reconciliation account produced in accordance with SC36.31 or wholly or partially contest the reconciliation account in accordance with SC36.45. No Commissioner may unreasonably withhold or delay its agreement to a reconciliation account.

**Other aspects of reconciliation for all Prices where the Parties have agreed an Expected Annual Value**

- 36.33 For the avoidance of doubt, there will be no reconciliation in relation to Block Arrangements.

- 36.34 Each Commissioner's agreement of a reconciliation account or agreement of a final reconciliation account as the case may be (or where agreed in part in relation to that part) will trigger a reconciliation payment by the relevant Commissioner to the Provider or by the Provider to the relevant Commissioner, as appropriate. The Provider must supply to the Commissioner an invoice or credit note (as appropriate) within 5 Operational Days of that agreement and payment must be made within 10 Operational Days following the receipt of the invoice or issue of the credit note.

**Payment where the Parties have not agreed an Expected Annual Contract Value for any Services and SUS applies to some or all of the Services**

- 36.35 Not Used

**Payment where the Parties have not agreed an Expected Annual Contract Value for any Services and SUS does not apply to any of the Services**

- 36.36 Not Used

## **GENERAL PROVISIONS**

### **Operational Standards, National Quality Requirements and Local Quality Requirements**

- 36.37 Subject to SC36.37A, if the Provider breaches any of the thresholds in respect of the Operational Standards, the National Quality Requirements or the Local Quality Requirements the Provider must repay to the relevant Commissioner or the relevant Commissioner must deduct from payments due to the Provider (as appropriate), the relevant sums as determined in accordance with Schedule 4A (*Operational Standards*) and/or Schedule 4B (*National Quality Requirements*) and/or Schedule 4C (*Local Quality Requirements*). The sums repaid or deducted under this SC36.37 in respect of any Quarter will not in any event exceed 2.5% of the Actual Quarterly Value.

- 36.37A If the Provider has been granted access to the general element of the Sustainability and Transformation Fund, and has, as a condition of access:

36.37A.1 agreed with the national teams of NHS Improvement and NHS England an overall financial control total and other associated conditions for either the Contract Year 1 April 2017 to 31 March 2018 or the Contract Year 1 April 2018 to 31 March 2019 or both; and

36.37A.2 (where required by those bodies):

36.37A2.1 agreed with those bodies and with the Commissioners specific performance trajectories to be achieved during either the Contract Year 1 April 2017 to 31 March 2018 or the Contract Year 1 April 2018 to 31 March 2019 or both (as set out in an SDIP contained or referred to in Schedule 6D (*Service Development and Improvement Plans*)); and/or

36.37A2.2 submitted to those bodies assurance statements setting out commitments on performance against specific Operational Standards and National Quality Requirements to be achieved during either the Contract Year 1 April 2017 to 31 March 2018 or the contract Year 1 April 2018 to 31 March 2019 or both which have been accepted by those bodies (as set out in an SDIP contained or referred to in Schedule 6D (*Service Development and Improvement Plans*)),

no repayment will be required to be made, nor any deduction made, in relation to any breach of any threshold which occurs during any Contract Year or Contract Years for which such financial control totals and specific performance trajectories have been agreed and/or such assurance statements have been submitted and accepted in respect of any Operational Standard shown in bold italics in Schedule 4A (*Operational Standards*) or any National Quality Requirement shown in bold italics in Schedule 4B (*National Quality Requirements*).

### **Never Events**

36.38 If a Never Event occurs, the relevant Commissioner may deduct from payments due to the Provider, if and as permitted by the Never Events Policy Framework, a sum equal to the costs to that Commissioner of the procedure or episode (or, where these cannot be accurately established, £2,000) plus any additional charges incurred by that Commissioner (whether under this Contract or otherwise) for any corrective procedure or necessary care in consequence of the Never Event.

### **Statutory and Other Charges**

36.39 Where applicable, the Provider must administer all statutory benefits to which the Service User is entitled and within a maximum of 20 Operational Days following receipt of an appropriate invoice the relevant Commissioner must reimburse the Provider any statutory benefits correctly administered.

36.40 The Provider must administer and collect all statutory charges which the Service User is liable to pay and which may lawfully be made in relation to the provision of the Services, and must account to whoever the Co-ordinating Commissioner reasonably directs in respect of those charges.

36.41 The Parties acknowledge the requirements and intent of the Overseas Visitor Charging Regulations and Overseas Visitor Charging Guidance, and accordingly:

36.41.1 the Provider must comply with all applicable Law and Guidance (including the Overseas Visitor Charging Regulations, the Overseas Visitor Charging Guidance and the Who Pays? Guidance) in relation to the identification of and collection of charges from Chargeable Overseas Visitors, including the reporting of unpaid NHS debts in respect of Services provided to non-EEA national Chargeable Visitors to the Department of Health

36.41.2 if the Provider has failed to take all reasonable steps to:

36.41.2.1 identify a Chargeable Overseas Visitor; or

36.41.2.2 recover charges from the Chargeable Overseas Visitor or other person liable to pay charges in respect of that Chargeable Overseas Visitor under the Overseas Visitor Charging Regulations,

no Commissioner will be liable to make any payment to the Provider in respect of any Services delivered to that Chargeable Overseas Visitor and where such a payment has been made the Provider must refund it to the relevant Commissioner;

36.41.3 (subject to SC36.41.2) each Commissioner must pay the Provider, in accordance with all applicable Law and Guidance (including the Overseas Visitor Charging Regulations, Overseas Visitor Charging Guidance and Who Pays? Guidance), the appropriate contribution on account for all Services delivered by the Provider in accordance with this Contract to any Chargeable Overseas Visitor in respect of whom that Commissioner is the Responsible Commissioner;

36.41.4 the Provider must refund to the relevant Commissioner any such contribution on account if and to the extent that charges are collected from a Chargeable Overseas Visitor or other person liable to pay charges in respect of that Chargeable Overseas Visitor, in accordance with all applicable Law and Guidance (including Overseas Visitor Charging Regulations, Overseas Visitor Charging Guidance and the Who Pays? Guidance);

36.41.5 the Provider must make full use of existing mechanisms designed to increase the rates of recovery of the cost of Services provided to overseas visitors insured by another EEA state, including the EEA reporting portal for EHIC and S2 activity; and

36.41.6 each Commissioner must pay the Provider, in accordance with all applicable Law and Guidance (including Overseas Visitor Charging Regulations, Overseas Visitor Charging Guidance and the Who Pays? Guidance), the appropriate sum for all Services delivered by the Provider to any overseas visitor in respect of whom that Commissioner is the Responsible Commissioner and which have been reported through the EEA reporting portal.

36.42 In its performance of this Contract the Provider must not provide or offer to a Service User any clinical or medical services for which any charges would be payable by the Service User except in accordance with this Contract, the Law and/or Guidance.

#### **Patient Pocket Money**

36.43 Not Used

#### **VAT**

36.44 Payment is exclusive of any applicable VAT for which the Commissioners will be additionally liable to pay the Provider upon receipt of a valid tax invoice at the prevailing rate in force from time to time.

#### **Contested Payments**

36.45 If a Party contests all or any part of any payment calculated in accordance with this SC36:

36.45.1 the contesting Party must (as appropriate):

36.45.1.1 within 5 Operational Days of the receipt of the reconciliation account in accordance with SC36.28 or 36.31, or the final reconciliation account in accordance with SC36.30 (as appropriate); or

36.45.1.2 within 5 Operational Days of the receipt by that Party of an invoice in accordance with SC36.35 or 36.36,

notify the other Party or Parties, setting out in reasonable detail the reasons for contesting that account or invoice (as applicable), and in particular identifying which elements are contested and which are not contested; and

36.45.2 any uncontested amount must be paid in accordance with this Contract by the Party from whom it is due; and

36.45.3 if the matter has not been resolved within 20 Operational Days of the date of notification under SC36.45.1, the contesting Party must refer the matter to Dispute Resolution,

and following the resolution of any Dispute referred to Dispute Resolution in accordance with this SC36.45, insofar as any amount shall be agreed or determined to be payable the Provider must immediately issue an invoice or credit note (as appropriate) for such amount. Any sum due must be paid immediately together with interest calculated in accordance with SC36.46. For the purposes of SC36.46 the date the amount was due will be the date it would have been due had the amount not been disputed.

#### **Interest on Late Payments**

36.46 Subject to any express provision of this Contract to the contrary (including without limitation the Withholding and Retention of Payment Provisions), each Party will be entitled, in addition to any other right or remedy, to receive interest at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998 on any payment not made from the date after the date on which payment was due up to and including the date of payment.

#### **Set Off**

36.47 Whenever any sum is due from one Party to another as a consequence of reconciliation under this SC36 or Dispute Resolution or otherwise, the Party due to be paid that sum may deduct it from any amount that it is due to pay the other, provided that it has given 5 Operational Days' notice of its intention to do so.

#### **Invoice Validation**

36.48 The Parties must comply with Law and Guidance (including Who Pays? Guidance and Invoice Validation Guidance) in respect of the use of data in the preparation and validation of invoices.



### **Submission of Invoices**

- 36.49 The Provider must use all reasonable endeavours to submit all invoices via the e-Invoicing Platform in accordance with e-Invoicing Guidance or via an alternative PEPOL-compliant e-invoicing system.

### **Nominated Supply Agreements**

- 36.50 Not Used

## **QUALITY REQUIREMENTS AND INCENTIVE SCHEMES**

### **SC37 Local Quality Requirements and Quality Incentive Scheme**

- 37.1 The Parties must comply with their duties under the Law to improve the quality of clinical and/or care services for Service Users, having regard to Guidance.
- 37.2 Nothing in this Contract is intended to prevent this Contract from setting higher quality requirements than those laid down under Monitor's Licence (if any) or required by any relevant Regulatory or Supervisory Body.
- 37.3 Before the start of each Contract Year, the Co-ordinating Commissioner and the Provider will agree the Local Quality Requirements and Quality Incentive Scheme Indicators that are to apply in respect of that Contract Year. In order to secure continual improvement in the quality of the Services, those Local Quality Requirements and Quality Incentive Scheme Indicators must not, except in exceptional circumstances, be lower or less onerous than those for the previous Contract Year. The Co-ordinating Commissioner and the Provider must give effect to those revised Local Quality Requirements and Quality Incentive Scheme Indicators by means of a Variation (and, where revised Local Quality Requirements and Quality Incentive Scheme Indicators are in respect of a Service to which a National Price applies and if appropriate, a Local Variation in accordance with SC36.11 to 36.15 (*Local Variations*)).
- 37.4 If revised Local Quality Requirements and/or Quality Incentive Scheme Indicators cannot be agreed between the Parties, the Parties must refer the matter to Dispute Resolution for escalated negotiation and then (failing agreement) mediation.
- 37.5 For the avoidance of doubt, the Quality Incentive Scheme Indicators will apply in addition to and not in substitution for the Local Quality Requirements.

### **SC38 Commissioning for Quality and Innovation (CQUIN)**

- 38.1 Where and as required by CQUIN Guidance, the Parties must implement a performance incentive scheme in accordance with CQUIN Guidance for each Contract Year or the appropriate part of it.
- 38.2 If the Provider has satisfied a CQUIN Indicator a CQUIN Payment calculated in accordance with CQUIN Guidance will be payable by the Commissioners to the Provider in accordance with CQUIN Table 1.

### **Payment on Account**

38.3 Before the start of each Contract Year the Co-ordinating Commissioner and the Provider may agree a schedule of payments to be made by the Commissioners during the relevant Contract Year on account in expectation of the Provider satisfying the CQUIN Indicators. That schedule of payments must be recorded in CQUIN Table 2.

38.4 Each Commissioner must, on receipt of the appropriate invoice, pay to the Provider its CQUIN Payments on Account in accordance with CQUIN Table 2

#### **CQUIN Performance Report**

38.5 The Provider must submit to the Co-ordinating Commissioner a CQUIN Performance Report at the frequency and otherwise in accordance with the National Requirements Reported Locally.

38.6 The Co-ordinating Commissioner must review and discuss with each Commissioner the contents of each CQUIN Performance Report.

38.7 If any Commissioner wishes to challenge the content of any CQUIN Performance Report (including the clinical or other supporting evidence included in it) the Co-ordinating Commissioner must serve a CQUIN Query Notice on the Provider within 10 Operational Days of receipt of the CQUIN Performance Report.

38.8 In response to any CQUIN Query Notice the Provider must, within 10 Operational Days of receipt, either:

38.8.1 submit a revised CQUIN Performance Report (including, where appropriate, further supporting evidence); or

38.8.2 refer the matter to Dispute Resolution.

38.9 If the Provider submits a revised CQUIN Performance Report in accordance with SC38.8, the Co-ordinating Commissioner must, within 10 Operational Days of receipt, either:

38.9.1 accept the revised CQUIN Performance Report; or

38.9.2 refer the matter to Dispute Resolution.

38.10 The CQUIN Payments on Account may be adjusted from time to time as may be set out in CQUIN Table 2, on the basis of accepted CQUIN Performance Reports.

#### **Reconciliation**

38.11 Within 20 Operational Days following the later of:

38.11.1 the end of the Contract Year; and

38.11.2 the agreement or resolution of all CQUIN Performance Reports in respect of that Contract Year,

the Provider must submit a CQUIN Reconciliation Account to the Co-ordinating Commissioner.

- 38.12 If payment is made in accordance with Clause 38.14 before the final reconciliation account for the relevant Contract Year is agreed under SC36 (*Payment Terms*), and the Actual Annual Value for the relevant Contract Year is not the same as the value against which the CQUIN Payment was calculated, the Provider must within 10 Operational Days following the agreement of the final reconciliation account under SC36 (*Payment Terms*), send the Co-ordinating Commissioner a reconciliation statement reconciling the CQUIN Payment against what it would have been had it been calculated against the Actual Annual Value.
- 38.13 Within 5 Operational Days of receipt of either the CQUIN Reconciliation Account under SC38.11 or the reconciliation statement under SC38.12 (as the case may be), the Co-ordinating Commissioner must either agree it or wholly or partially contest it in accordance with SC38.15. The Co-ordinating Commissioner's agreement of either the CQUIN Reconciliation Account under SC38.11 or the reconciliation statement under SC38.12 must not be unreasonably withheld or delayed.
- 38.14 The Co-ordinating Commissioner's agreement of the CQUIN Reconciliation Account under SC38.11 or a reconciliation statement under SC38.12 (or where agreed in part in relation to that part) will trigger a reconciliation payment by each relevant Commissioner to the Provider or by the Provider to each relevant Commissioner (as appropriate). The Provider must supply to each Commissioner an invoice or credit note (as appropriate) within 5 Operational Days of the agreement and payment must be made within 10 Operational Days following receipt of the invoice or issue of the credit note.
- 38.15 If the Co-ordinating Commissioner contests either the CQUIN Reconciliation Account or the reconciliation statement:
- 38.15.1 the Co-ordinating Commissioner must within 5 Operational Days notify the Provider accordingly, setting out in reasonable detail the reasons for contesting the account, and in particular identifying which elements are contested and which are not contested;
  - 38.15.2 any uncontested amount identified in either the CQUIN Reconciliation Account under SC38.11 or the reconciliation statement under SC38.12 must be paid in accordance with SC38.14 by the Party from whom it is due; and
  - 38.15.3 if the matter has not been resolved within 20 Operational Days following the date of notification under SC38.15.1, either the Provider or the Co-ordinating Commissioner may refer the matter to Dispute Resolution,

and within 20 Operational Days following the resolution of any Dispute referred to Dispute Resolution in accordance with this SC38.15, if any amount is agreed or determined to be payable the Provider must immediately issue an invoice or credit note (as appropriate) for that amount. The Party from whom any amount is agreed or determined to be payable must immediately pay the amount due to together with Interest calculated in accordance with SC36.46. For the purposes of SC36.46 the date the amount was due will be the date it would have been due had the amount not been disputed.

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## Service Categories

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

## Contract Options

Indicative Activity Plan	Yes
Activity Planning Assumptions	No
Essential Services (NHS Trusts only)	No
Services to which 18 Weeks applies	Yes
Expected Annual Contract Value Agreed	Yes
Provider Type	Other
Specialised Services	No
Must data be submitted by SUS for any of the Services?	No