HEALTHY PEOPLE
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NHS
Northern, Eastern and Western Devon
Clinical Commissioning Group

CF05 - Contracting Principles 2014 - 2016

NEW Devon CCG Commissioning Framework 2014 - 2016

CF05 : Contracting Principles

5.1 Overview

Northern, Eastern and Western Devon Clinical Commissioning Group

Our intention

- Our intention is to contract and negotiate in a way that supports our ambition to work in collaboration with all providers to create locally sustainable health systems.
- In this document we describe our intention to start from national guidance in order to fully understand the challenge. It also describes how we will act if a traditional commissioning-provision relationship is used in any particular area.
- However, our ambition is to agree ways to vary these approaches to achieve maximum benefit for patients, providers and the CCG and use ideas from one area across the whole CCG.
- Manage risk to both parties through development of longer term agreements, extension of benefit-sharing arrangements and implementation of pace of change policy
- Incentivise targeted and non-face to face activity, where appropriate
- Contract to incentivise prevention and early intervention
- Work collaboratively with partner commissioners
- Enforce contractual terms and challenge non-compliance
- Work with providers and follow Monitor Guidance when agreeing local prices and departures from national tariffs

Background and context

The CCG's Contracting Principles set out how we will conduct contract negotiations in order to support the CCG in commissioning safe, patient-centred services, within the local financial context.

We have outlined how we want to work with providers and communities in collaboration and we will work to produce contracts that support this. Notwithstanding this intent, we recognise that all contracts need to be based on the highest quality of technical contracting work that clearly and explicitly give an exposition of the financial, activity and quality position.

We will work within national guidance/NHS Constitution and Monitor's guidance regarding agreement of local prices and authorisation of departures from tariff.

Contracts will have an outcome-focused approach, that provides assurance regarding quality, safety and patient experience, and will facilitate change through the alignment of incentives and disincentives.

We will agree conduct expectations for negotiations for all parties.

5.2 Collaborative Contracting Approach

Northern, Eastern and Western Devon Clinical Commissioning Group

Our intention

- To contract in a way that supports our collaborative ambitions and ensure a greater degree of certainty and stability for both providers and commissioner, through mutually-beneficial risk management arrangements
- To develop longer term agreements
- To extend and embed risk/benefit-sharing arrangements for pass through costs
- To secure for both parties the opportunity to benefit from improvements in care and outcomes
- To work with providers to ensure that CQUIN payments can be earned in full, but reduce payments in accordance with Guidance when agreed outcomes are not achieved
- To continue to improve our definition of the portfolio of services provided across all contracts and link the funding to service specifications, currencies and key performance indicators with a particular focus on community services and mental health contracts
- To operate a standard Pace of Change Policy, applying equally to all providers
- Incentivise targeted and non-face to face activity, where appropriate
- Use contractual mechanisms to incentivise prevention and early intervention
- Work collaboratively with partner commissioners
- Enforce contractual terms and challenge non-compliance
- Work with providers and follow Monitor Guidance when agreeing local prices and departures from national tariffs

Background and context

We want a contracting approach that is robust and based on the highest standards of technical contracting, but where we are able to use the information and analysis that we gain to work with providers in the most collaborative way to give us the outcomes we are seeking.

Providers have sought consistency from the CCG and we will move to standard policies wherever we can and to apply the same approaches, recognising the different areas we work in and two local authority partners and that opportunities and pace will need to be determined by local circumstances.

We will co-ordinate commissioning for our main providers and ensure that we work collaboratively with partner commissioners, as far as is practical to give a single, unified view in areas with an overlap of responsibility.

5.3 Negotiation Approach

Northern, Eastern and Western Devon Clinical Commissioning Group

Our intention

- To build on our model of commissioning and contracting for 2013/14 and strengthen for 2014/15 and beyond
- To further embed our CCG model with local application of a single, consistent, clear and robust framework
- To add senior expertise to negotiation teams for the two providers where we recognise the greatest challenge:
  - Tim Burke, CCG Chair to join the Plymouth Hospitals NHS Trust negotiation team
  - Hugh Groves, CCG Chief Finance Officer to join the North Devon Healthcare Trust negotiation team
- To hold events that facilitate direct relationships at Chief Executive, Director of Finance and Chief Nursing Officer level throughout the negotiation process to ensure effective connection and oversight

Background and context

The CCG commissions on behalf of different populations and it is important that local views drive our approach. We have created a single, clear, consistent and robust framework for commissioning in 2014 - 2016 and Locality and Partnerships Boards will endorse the local application of this overarching plan.

Locality negotiating teams will lead contracting discussions, supported by the high levels of expertise that our operating model affords in terms of Finance, Contracting, Business Intelligence, Patient Safety and Quality and other areas. This approach was largely successful for 2013/14 and we will strengthen it for 2014 - 2016.

We recognise that whilst most of our commissioning and contracting processes were successful in 2013/14 there are some areas where the scale of the challenge or the nature of the relationships have given outcomes that are in contrast to the overall picture. We are reaffirming our intention to create arrangements that allow for positive, collaborative outcomes in all areas and therefore identify two contracts where we will provide additional senior expertise that recognises the issues to be addressed.

We will be open and transparent and will hold workshop sessions in January, February and March 2014 where we will invite all major providers, co-commissioners and stakeholders to discuss progress collectively. This will ensure the CCG Chair, Chief Officer and Governing Body members are connected to the views of all providers throughout the planning process. A similar arrangement is in place for Directors of Finance and Directors of Nursing to receive regular briefings from respective CCG Chief Officers.

5.4 Local Negotiation Process

Northern, Eastern and Western Devon Clinical Commissioning Group

Our intention

- To have single, consistent, clearly mandated local negotiation teams for each provider
- To use Joint Technical Working Groups (JTWGs), Contract Development Groups (CDGs) to work through technical details and agree contract schedules
- To escalate issues to the Contract Negotiation Meeting
- Consistent with NHS England, the CCG will remove excluded drug and device budgets from the contract value to which CQUIN applies
- We will not fund Interventional Procedures Guidance (IPGs) nor implement other NICE guidelines apart from TAGs, other than through Individual Request, unless endorsed by the relevant CCG governance and approvals mechanism
- Community providers will assess and review all individually funded clients wherever they are living in line with national framework timescales. These will be person centred and with outcome based care planning. Providers will ensure accurate and robust patient record keeping

Engagement and involvement

- To meet with providers regularly, through JTWGs, CDGs and Contract Negotiation Meetings

Next steps and actions

- To confirm negotiating teams with each provider, including Associate and Collaborative commissioner representation
- To produce a detailed contracting timeline for each provider

Background and context

For each major provider we contract with, it is imperative that we have clear processes and that will give us the very best opportunity to agree mutually beneficial contracts that focus on the best outcome for the population.

We know that this is best achieved by undertaking detailed technical work robustly and diligently and by separating this from the strategic issues within a complex contract. We also need to agree timelines early to ensure we have the right representation.

Within our single, provider specific, negotiation teams we will ensure consistent representation that harnesses our clinical leadership and the senior locality management. We will ensure that we have aligned our contracting, business intelligence and patient safety and quality resources to support the negotiation team.

We have identified contracts where we will add additional expertise from the outset to address the significant provider challenges faced to ensure that local negotiation teams have the range of experience and skill.

5.5 Internal CCG Contracting Governance

Northern, Eastern and Western Devon Clinical Commissioning Group

Our intention

- To take a consistent approach, sharing information with all providers simultaneously
- To understand the impact across the CCG before responding to provider proposals
- To ensure local negotiating teams are fully empowered and able to discuss and agree contracts with all providers
- To work through the Contract Negotiation Oversight Group to review progress against agreed timeframes and support negotiation teams
- To be able to report progress promptly and precisely to NHS England Area Team, as required
- To ensure the CCG Governing Body is fully aware of the contracting progress and issues
- To operate a clear and appropriate escalation process;
- To ensure collaboration with other commissioning organisations

Engagement and involvement

- The Contract Negotiation Oversight Group will allow effective internal communication and engagement with NHS England

Next steps and actions

- Confirm meeting schedule
- Agree reporting requirements and proforma with NHS England

Background and context

We recognise that, whilst we can demonstrate the level of expertise and experience that our operating model allows us to draw on, there are legitimate requests that we are consistent, act in a unified way and are able to respond appropriately to the complexity of issues across our providers.

Our Commissioning Framework and the modular approach is a key part of our drive to create a step change in our contracting for 2014 - 2016 whilst acknowledging the many successful negotiations we concluded in 2013/14.

Our Contract Negotiation Oversight Group will ensure that all key staff in the CCG – the Governing Body, Clinical Leads, the Leadership Team, Locality Boards and Local Negotiation Teams – are consistent and aware of issues that may impact on the approach to take locally.

In order to get consistency, we will ensure we fully understand impact before agreeing local variation in a way that is both timely and ensures that local negotiation teams are empowered.

The oversight will also ensure we are able to report accurately on our progress.

5.6 Aligning Levers for Change

Northern, Eastern and Western Devon Clinical Commissioning Group

Our intention

- **To use levers for change to work collaboratively**
- To support delivery of our key commissioning intentions by aligning levers for change
- Look to apply some CQUINs across a community, thereby incentivising cooperation between providers
- Headroom paid on achievement of measurable outcomes to providers with agreed transformation schemes
- To review independent and voluntary sector contracts to align them with the CCG strategy
- To focus levers on the delivery of sustainable, recurrent change

Engagement and involvement

- We will discuss the overall approach with providers to ensure the alignment of levers matches the outcome we are seeking
- Through contract negotiation and service redesign forums including Clinical Partnership Groups

Next steps and actions

- Clarify Financial Framework at contract level
- Set out decision-making framework for allocating incentives

Background and Context

We recognise that for many years there have been criticisms that commissioners have not managed to align incentives to their key intentions. One of our key success criteria for this framework is to provide coherent alignment of incentives across all of our workplan.

This means looking at all mechanisms we have and providing one meaningful statement of alignment (albeit that many areas will not require all levers)

Levers include:

- Contract terms
- CQUIN
- QIPP
- Fines and penalties
- Headroom
- Quality Premium
- GP Enhanced Services

This means, for example, that for an area of change we will write clear contract terms, where the change is supported by headroom with a quality element attracting CQUIN payments and the primary care change required incentivised using an enhanced service mechanism.

5.6.1 Aligning Levers for Change - CQUIN

Northern, Eastern and Western Devon Clinical Commissioning Group

Our intention

Use CQUIN to support a collaborative approach

- Use some CQUINs across a community at interfaces between providers to incentivise co-operation
- Adopt provider-sponsored schemes that resonate with our key themes
- Define clear standards of achievement, setting stretching targets for providers to achieve as soon as it is practicable
- Link CQUIN to the delivery of transformation
- Deliver fully all national CQUINS

We will agree CQUINs which:

- Maximise Quality Premium income and mitigate the financial impact of under-performance
- Incentivise optimal follow-up care
- Set out quality and timeliness standards for communications with GPs having regard to starting positions of each provider
- Define optimal case/patient management and incentivise delivery for each provider with specific milestones for CAMHS, Adult MH, LD, elective in hospital care and care of the frail elderly
- Incentivise a reduction in time from arrival to consultant assessment, in line with recent national directives

Background and context

NEW Devon CCG will use CQUIN to:

- improve the quality and safety of care that patients experience;
- maximise the gain in the quality of care for individuals for the investment we make;
- improve the consistency of care that patients experience.

We consider that CQUIN resources are a real addition to a provider's baseline spend. Whilst intending that CQUIN should be earned in full, we will, where appropriate, link CQUIN to performance against QP targets and QIPP delivery, such that community risk is mitigated and we are therefore able to commit the maximum amount of resource at the beginning of the year. CQUIN will therefore be fully variable.

In considering how best to incentivise partners we will have regard to financial sustainability over the next two years and beyond. Where we agree that some CQUINs with some providers can be delivered without additional spend or that CQUIN financial risk will be mitigated, we will do this openly, documenting risks to sustainability. We will share our risk assessment and the outcomes of our negotiations with Monitor, NHS England and the NHSTDA.

5.6.2 Aligning Levers for Change - Headroom

Northern, Eastern and Western Devon Clinical Commissioning Group

Our intention

Use Headroom to support collaborative approaches

- To provide sufficient headroom to allow the incentivisation of the level of recurrent change required, in line with national planning assumptions
- To use headroom for the delivery of our transformation schemes
- As we move investment towards prevention and use the Better Care Fund as a key element of commissioning in 2014 - 2016, we will invest headroom to support our strategic direction to better target elective spend to ensure we have resources for urgent care growth
- Headroom will be directed at those providers with whom we have agreed transformation, evidenced by measurable outcomes
- It will be paid on the achievement of the required outcomes, rather than for a new service – and therefore will offset the risk of any failure of delivery
- It will be applied proportionate to the need for change and not apportioned across communities pro rata to contract values or populations
- We will publish details of our use of headroom for 2014 - 2016 periodically so that all stakeholders can review our investment

Context

For several years the CCG and previous PCTs in Plymouth and Devon have looked to blocked contract arrangements to give the certainty of income for providers that would allow in year changes to be made without financial penalty.

Whilst well intentioned, we recognise that this approach has not fully delivered the level of change we want and need to see within health systems locally.

In particular, a decision to invest headroom up front in order to maximise investment in health services, has helped to deal with current year issues, but this may be at the expense of investing in longer term change.

For 2014 - 2016 we therefore will fully provide for the nationally expected level of headroom and use this to invest in the CCG's transformation programme through our commissioning intentions.

We need to ensure that headroom delivers the level of recurrent change required and we will therefore need to spend more of this resource in areas that will be making the largest changes in order to create sustainable systems. We expect to use headroom collaboratively where we have joint plans agreed, in line with our preferred contracting approach.

5.6.3 Aligning Levers for Change

Northern, Eastern and Western Devon Clinical Commissioning Group

QIPP
Our intention

- Our QIPP challenge is fully embedded explicitly within all of our commissioning intentions
- We therefore have a range of QIPP schemes that apply consistently across the whole CCG
- We have “top 6” schemes – that will give the biggest retains on quality and sustainability
- We will agree the implementation of QIPP schemes with local providers
- We will develop additional local QIPP schemes with providers and work to support their cost improvement schemes, or have a single set of plans, where a collaborative approach is adopted

Primary Care Enhanced Services
Our intention

- All 2013/14 primary care enhanced schemes have been reviewed and are being re-commissioned for 2014/15 to support the CCG’s strategic direction
- We will continue to pursue ways to incentivise primary care to change, where investment is believed to lead to system efficiencies
- We will look to create bids for additional resources to invest in primary care and to use additional monies to support our key commissioning intentions
- We will clearly articulate the link between primary care investment and targets and secondary care investment and targets

Quality Premium
Our intention

- We will work collaboratively with providers to maximise the potential Quality Premium income to the local healthcare system
- We will work with NHS England to ensure that we agree the rationale for full investment of the quality premium within NEW Devon in 2014 - 2016
- We will ensure we choose targets that guide improvement in areas that link with our commissioning intentions

Emergency Marginal Saving and Readmissions
Our intention

- We will operate emergency threshold arrangements and emergency readmission adjustments in accordance with Guidance
- As part of our implementation of the Better Care Fund, we will repeat our exposition of the investment of the marginal rate savings in each area and show how these support the delivery of our commissioning intentions and agreed priorities with Health and Wellbeing Boards

5.6.4 Aligning Levers for Change

Northern, Eastern and Western Devon Clinical Commissioning Group

Contract terms

Our intention

To clearly document contract terms that support our collaborative approach

- We will determine clear contract terms that support the delivery of our commissioning intentions and align with our other system levers
- Whilst Audit Commission audits confirm that clinical coding is good across the patch, we will continue to review perceived inaccuracies in recording of activity and inconsistencies between local providers and between Reference Cost submissions and charging
- The PbR Code of Conduct states that providers are expected to treat patients in the most appropriate and efficient setting, taking into account clinical need. We will seek improved understanding of care pathways and their recording, particularly definitions of: admission, outpatient attendances and diagnostics
- Improvement in provider performance against key ratios, reflecting a move towards use of technology to reduce face-to-face consultations and appropriate definition of activity
- Following review of the pharmaceutical services standards in all contracts, we will issue a revised, consistent framework document

Fines and Penalties

Our intention

- We will work with providers to ensure that we have a realistic joint expectation of the delivery of all patient targets in order that we secure the best possible care for our population
- Where necessary, we will enforce contractual terms, including contract deductions, when quality and performance standards are not delivered

Pricing

Our intention

- We will follow Monitor Guidance regarding local pricing (2014/15 National Tariff Payment System)
- In collaboration with providers we will review local prices, explore variation and work towards greater consistency
- We will recurrently contract for direct access Pathology using best value prices and currencies;
- We will agree standard prices across the CCG for WA14Z (planned procedure not carried out)
- We will agree Local Variations and Local Modifications to national tariffs by 31 January 2014

5.6.5 Aligning Levers for Change – Example

Optimising follow-up care – example

- We seek to align system levers to deliver transformational change. This may include consideration of:
  - challenge clinicians to come up with the best possible models of follow up care, that they could proudly represent to their colleagues in the UK and across the world
  - use Headroom to resource provider-driven follow-up protocols across key specialties, focussing on the major cohorts of patients
  - CQUIN could incentivise creation of a risk assessed, specialty level, plan, adherence to protocol, reduction in the actual numbers of follow-up attendances, backlog reduction according to a trajectory, a 'green card' system for patients to manage their own care
  - quality markers would be defined to capture patient experience and, in the course of time, we could target improvement in these scores
  - A LES could be agreed with Primary Care to manage patients in the community in accordance with agreed protocols
  - Any loss of CQUIN money (e.g. if the backlog does not reduce or the number of follow-ups increase) would mitigate or even eliminate any increased spend on follow ups

Context

A CCG theme is to create integrated, patient-friendly, self-managed pathways of care which minimise demand and avoid transactions that do not add value.

Out-patient follow-ups are remunerated mainly on a cost per case basis under PbR. The number of follow-ups rises each year, often disproportionately to changes in new attendances, and there are extensive backlogs containing significant clinical risk which may, or may not, be well understood and mitigated.

We have tried to address this issue in many different ways over the years but these have not delivered. We have been unable to agree contracts based on benchmarking new-to-follow up ratios and have simply paid for all follow up events.

5.7 Activity Planning

Northern, Eastern and Western Devon Clinical Commissioning Group

Our intention

- To work on a jointly-produced baseline (do nothing) activity plan
- To share our activity planning assumptions by 31 December
- To adjust plans to exclude non-recurrent activity delivered in achieving sustainable RTT performance during 2013/14
- To establish contract values on the basis that income from Best Practice Tariffs will be maximised through the delivery of very high quality services
- To agree the baseline activity plan by 31 January, including:
    - Applying road test tariffs
    - Emergency threshold and readmissions adjustments

Next steps

- Share activity planning assumptions - 31 December 2013
- Agree baseline (do nothing) activity plan - 31 January 2014
- Agree emergency threshold and readmissions adjustment - 31 January 2014
- Agree Local Variations and Local Modifications – 14 February 2014
- Where the CCG is an Associate or there is a collaborative commissioning arrangement we will work with co-commissioners to align timescales and planning assumptions

Background and context

Activity forecasts will be agreed between providers and the CCG and will take account of demography, past trends, as well as past and planned service redesign. It is important to recognise that demand can go up or down and that it is a shared issue, to which joint solutions need to be found.

The CCG will commission to ensure that the NHS Constitution is met with regard to Referral To Treatment (RTT) times. We will require monthly waiting list information from providers, to enable comparison of waiting times across the CCG footprint, and analysis of RTT breaches and incomplete pathways, to ensure a focus on over 18 week waiters.

5.8 Escalation and Arbitration

Northern, Eastern and Western Devon Clinical Commissioning Group

Our intention

- We will work towards agreeing contracts with all providers within the timescales set out nationally
- We will ensure that the best standards of technical contracting, based on national guidance, is used in all cases
- We will carefully document all agreements to ensure clarity for all parties throughout
- We will involve NHS England at an early stage if we believe a contract will not progress adequately
- We will use a three step process of internal escalation (Executive, Locality Board and Governing Body)
- We will seek to avoid arbitration and use external mediation as a first step
- Use of arbitration will need to be formally agreed by the CCG Governing Body

Engagement and involvement

- Work co-operatively with providers and partner commissioners to conclude all negotiations successfully
- Early involvement of NHS England if progress is not being made

Next steps and actions

- Ensure careful documentation of all agreements and technical issues to ensure clarity

Background and context

NEW Devon CCG holds a vast array of contracts and the overwhelming majority of these were successfully negotiated in 2013/14, with only one contract requiring arbitration.

We recognise the concerns that any failure of local agreement raises. We will look to make sure that all contracts are concluded by 28 February 2014.

We have created a strong locality commissioning structure, supported in specific instances by additional expertise.

We will adopt a three step phase of internal escalation if exceptionally, problems arise.
Executive – involving the Chief Officer and Chief Nursing Officer
Locality Board – issue presented to the clinically-led Board for direction and advice
Governing Body- for key strategic issues and for formal agreement if arbitration is used as a last resort

Additionally in all cases, we will involve the Area Team of NHS England at an early stage if agreement looks problematic and we will seek external mediation in all cases prior to arbitration.