

**Briefing for the Third Sector – The New Standard NHS Contracts**  
**for Community & Mental Health Services**

## **Introduction**

The Department of Health is developing two new standard contracts which will be used on a mandatory basis by Primary Care Trusts (PCTs) from April 2009.

The standard contracts will be used for health and care services with any provider for new contracts commencing on or after 1 April 2009. There is one for general community based services and another for specialist mental health/learning disability or substance misuse services.

These will sit alongside the standard contract for acute hospital services and the primary care contracts.

The contracts contain standard legal terms which cannot be changed and a service specification template for completion at a local level for each service. The standard legal terms are there to provide the basis for equal partnership working between all parties, and include for example review arrangements and dispute resolution procedures.

The standard contracts are not intended to be used for activity that would be more appropriately funded through a grant process. Alongside the standard contracts we are reinforcing with PCTs the role of grant funding for organisations, particularly those providing lower level community based support. The National Audit Office Decision Support Tool can be used to support decision making on the most appropriate funding mechanism to use.

## **FAQs**

*Do the new contracts apply to me?*

Yes if you intend to supply or have a contract with a PCT to provide general community or specialist mental health, learning disability or substance misuse services.

*Why have the new contracts been introduced?*

The new contracts are a tool to support commissioning at a local level by providing the basis of good practice when contracting with providers. It will also reduce the duplication and cost of legal and administrative costs at a local level.

*Does the contract apply to small providers?*

Yes – the contract structure has standard legal clauses as a background and a service specification template which can be scaled according to the complexity of the service(s) contracted which gives a proportional approach. If the range of services contracted increases then these can be added to the contract rather than requiring a separate contract to be agreed.

*Will the same contract be relevant to the Third sector?*

The contract is for use with all sectors, which provides a fair playing field between all providers, aims to encourage innovation, and increase the efficiency and quality of services. The contract has been written to ensure that, regardless of the financial value, the standards and requirements of any provider supplying NHS funded care are the same.

The contract also places responsibilities upon commissioners to ensure there are appropriate market management behaviours regardless of contract size.

*Isn't the contract too long & disproportionate for Third sector organisations?*

The main legal clauses are standard and will be used consistently by all PCTs when contracting for care services. This standardised approach will reduce the administrative and legal burden for individual contracts, which is in line with the conclusions in the Third Sector Commissioning Task Force report. Standardising the legal clauses should also assist umbrella organisations in supporting smaller third sector organisations as only one contract will be used by all PCTs.

A 'contract light' version was considered, although not pursued as it was felt it would not adequately cover potential risks, and may have an adverse consequence for third sector providers seeking to increase their market share in the future.

*This contract will place extra burdens on small organisations that are already overstretched.*

The standardised approach should reduce the administrative burden for providers and commissioners, as outlined above. In addition, the contract can be used for more than one service and if the range of services increases, these can be added to the existing contract rather than requiring another separate agreement. An advantage of this standardised approach is the option for commissioners to use 'co-ordinated commissioning' arrangements, this, means that one contract can be agreed for services which are provided to more than one PCT.

*What about Compact compliance?*

The contract has been reviewed against the principles of The Compact. The development of the contract has involved the third sector with representation in the working group and also during the testing process. The steps to consult with the sector are detailed below, and proportionality has been a key consideration. The payments section has been redrafted to provide the flexibility for payment in advance, where appropriate, for smaller contracts with an annual value of £130 000, or less with organisations with 50 staff or less.

The contracts will be working towards a default duration of 3 years, which should represent an improvement over most existing contracts. The default duration may be varied to give either a shorter or longer period by agreement with the relevant Strategic Health Authority.

Initially in 2009/10, to allow for any necessary changes following the review of implementation, the community contract may be for a duration of 1 to 3 years. The mental health contract will be an interim one year arrangement.

*Why is the contract so heavily focussed on medical services & the use of the term 'patient'?*

The latest version has been revised following feedback to use the terms 'service user' and 'care'

rather than 'healthcare' or 'patient' except where these refer to specific policies. The wording has been developed with a wide range of stakeholders including care trusts and third sector organisations.

*I have been told that it is no longer possible for PCTs to award grants and that all activity should be funded under a contract. Is this true?*

No. Alongside the standard contracts we are reinforcing with PCTs the role of grant funding for organisations, particularly those providing lower level community based support. The National Audit Office Decision Support Tool should be used to assist in deciding the most appropriate funding arrangement in each individual circumstance.

*What consultation has been undertaken so far?*

Consultation has been on an ongoing basis since April 2008 as the drafting has developed, including third sector specific events.

A webpage has been established which has been publicised at the events and contains draft documentation, there is also an opportunity to sign up for email updates. The webpage also includes a monthly bulletin has been developed which has been circulated widely including the Third sector and via 'The Week' (a weekly bulletin to Pacts).

Testing of the draft contract as it develops has been undertaken on a national basis and has been conducted in a structured manner, which has included Third sector, care trusts and social enterprises. The comments received have resulted in significant changes to the document, including terminology and the requirements in relation to communication processes.

*When will the final version be published?*

The final version is due to be released in December 2008 for use with contracts commencing from 1 April 2009. A review of the contract will be undertaken using feedback from PCTs and providers during the first year and an updated version is expected to be issued in the future to reflect any necessary changes, including the planned introduction from April 2020 of 'CQUIN', an incentive scheme that is focussed at quality.

*My contract isn't due to end until after April 2009 – will I have to move to this one?*

Not immediately unless both parties agree, your existing contract can remain in force and when it expires if a further contract is agreed the standard contract will then be used.

*What about contracts that are awarded jointly by PCTs and Local Authorities?*

Where the PCT is the lead contractor the standard contract should be used. If the lead contractor is a Local Authority, they will use a locally agreed format, although they may choose to use the NHS Standard contract as a model. It is worth noting that any locally agreed contract will need to encompass the core requirements of the NHS standard contract in relation to service specification, quality, information and pricing for PCT funded services.

*What support is available for organisations implementing the contract?*

At a national level, we are holding two rounds of workshops with Strategic Health Authorities, the first round was completed in November and there will be a further round in January following publication. We are also providing a helpline via email, details will be available on the DH contract webpage (see below). There will also be a national transition group established to help support implementation, Strategic Health Authorities and Primary Care Trusts will also be considering what support they provide locally.

*Where can I get further information?*

Go to the DH webpage for the contract -

[http://www.dh.gov.uk/en/Managingyourorganisation/Commissioning/Systemmanagement/DH\\_085048](http://www.dh.gov.uk/en/Managingyourorganisation/Commissioning/Systemmanagement/DH_085048)

This page has copies of the monthly bulletin and draft versions of the contracts. There is also an email address for any queries or comments and an opportunity to register your email address to automatically receive further updates.