



briefing

Commercial - January 2010

NHS standard acute contract

The new acute contract contains new provisions that are designed to help you manage the provision of good quality services for patients. We strongly recommend that you read them, negotiate your Quality Requirements for 2010/11 with them in mind and then actively manage the contract, month on month to deal with performance issues as they arise.

Your contract negotiations should not be based on the revenue your provider earned last year, but rather on your assessment of the services your population will require next year and should take service reconfiguration into account, if necessary.

Key changes

This is not an exclusive list, but highlights the key changes:

- 1. New performance management regime:** previously, the regime was “[remedial plan before sanction](#)”. Under the new contract you will have the following rights:
 - the right to apply locally agreed financial sanctions immediately – see clause 31.6 which links to Schedule 3 Part 4A;
 - the right not to pay/recoup payment immediately in the event of a Nationally Specified Event Threshold breach – see clause 7.23 which links to Schedule 3 Part 4B;
 - the right to apply the cashflow sanctions (i.e. withholding a percentage of monthly payments until the remedy of a breach) for performance issues not covered by your locally agreed Quality Requirements, or Nationally Specified Events and for failure to provide information. However, note that withholdings turn into retentions (i.e. permanent deductions) in certain circumstances

(see clauses 29 which links to Schedule 5, and clauses 32.27 and 32.29).

- 2. New variation provisions:** optional termination on three and six months notice for non agreement of specific types of variations. Variations in the 09 and 08 contracts; the variations provisions required variations by agreement and in the absence of agreement the parties went to dispute resolution, withdrew the variation proposal, or could terminate the services affected on 12 months written notice. In the new contract, where variations are Service Variations, an additional option is to terminate on three months notice (or six months notice where Staff would be affected). Where the variations are required by the Operating Framework, an additional option for the party proposing it is termination on three months notice. This will allow for much more flexibility and swifter service transformation. See clauses 35.1.2, 35.1.3, 35.2.2, and 35.2.3.
- 3. New payment reconciliation provisions:** to tie in with PbR rules. The intention is that reconciliation is completed monthly and financial adjustments for over-heating are dealt with monthly and not saved until year end. You should aim to close activity for April in June, May in July etc (see PbR guidance for dates). This should help you manage activity levels and implement an Activity Management Plan at an early enough stage in the contract year to bring the contract back to affordable levels. You will still need an end of year mop up to deal with C Diff and Nationally Specified Events sanctions though.
- 4. Delivering same sex accommodation:** new obligations relating to the need for a plan and monitoring progress against the plan with sanctions ranging from termination of contract to financial deductions for failure to have a plan and achieve the milestones in it.
- 5. Service development and improvement plan:** a new plan to drive service improvements in quality.
- 6. New right to inspect Provider’s premises:** clause 19.1.

7. **New suspension right:** to deal with the SHA discretion to suspend contracts that are demonstrably not operating in patients' best interests (clause 34.1.9).
8. **New model Activity Plan:** published alongside the contract.
9. **New service specification:** Schedule 2.

More information

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