



PSNC response to draft 2019/20 NHS Standard Contract (full length and shorter-form versions): A consultation

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Introduction

Pharmaceutical Services Negotiating Committee (PSNC) welcomes the opportunity to comment on the proposals for the NHS Standard Contract for 2019 / 20. As in previous years, PSNC is keen to work with the NHS Standard Contracts team to reduce the complexity of the NHS Standard Contract, especially the shorter-form Standard Contract.

PSNC offer to assist the NHS Standard Contracts team to develop an “essentials contract” or a shorter-form Standard Contract mapped to community pharmacy

Like other primary care providers, community pharmacy has a comprehensive framework (the Community Pharmacy Contractual Framework (CPCF)) which sets out requirements and obligations.

Unlike some other primary care providers, community pharmacy does not have a formal contract, and instead operates under ‘terms of service’ set out in regulations (Schedule 4 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013). Failure to comply with these terms of service renders a pharmacy liable to removal from the pharmaceutical list and hence their entitlement to provide NHS services.

There are a number of relevant areas where we could read across from the terms of service and, thereby, reduce the complexity of the shorter-form Standard Contract. For example, requirements relating to governance, contract management, audit and information governance are included in the terms of service.

In addition, various requirements of the shorter-form Standard Contract are not relevant to community pharmacy and, accordingly, can cause confusion.

Also, there can be confusion about the application of the contract to each community pharmacy. One business may own more than one pharmacy and, therefore, need only one contract for the local area. Clarity is needed for commissioners.

We understand that both commissioners and community pharmacies are sometimes reluctant to use even the shorter-form Standard Contract for low value contracts, because of its complexity and the expense of legal advice to clarify terms and obligations.

We ask if it would be possible to develop a contract containing the essentials, which recognise pharmacy contractors' terms of service as set out in the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 and registration with the General Pharmaceutical Council.

Alternatively, we ask if the shorter-form Standard Contract could be mapped to community pharmacy, to assist and promote its use.

PSNC would welcome the opportunity to assist the NHS Standard Contracts team with the development of an “essentials” contract or a shorter-form Standard Contract mapped to community pharmacy, to assist increased local commissioning of pharmacy services.

Staffing (GC5)

The proposed amendment to require contractors to undertake quality impact assessments when making material changes to staff numbers, skill-mix or roles is unnecessary and a repetition of professional requirements. GPhC standards with regards to setting staffing levels and responding to concerns about patient safety including carrying risks assessments that are specific to the pharmacy and the team working at the pharmacy and the management of risk to include procedures to make judgements about the appropriate number of staff and the skill mix.

Also, as the pharmacy owner is to be involved in the professional requirement above, there is no need report to senior management. So, the proposed amendment to GC5.2.5 is unnecessary.

The proposed inclusion of GC5.3 will necessitate contractors to review and update their SOPs which is likely to be an unreasonable administrative burden when contractors have the professional duty to ensure that appropriate staffing levels are maintained.

Financial Withholdings (GC9)

The proposed amendments to GC9 relating to withholding of remuneration is predicated on the community pharmacy being the “at fault” party. With respect this isn't always the case and so it may be sensible to add a related provision which permits the contractor a financial enhancement to their remuneration and/or to temporarily suspend the provision of services to deal with the “unreasonableness or failure to engage on the part of the commissioner”. This would be equitable and appropriate.

It would also be reasonable for a provision to ensure that the commissioner makes reasonable efforts in good faith to communicate with a community pharmacy contractor with a view to establishing whether there was an explanation or 'good cause' for an apparent failure to engage.

Guarantee (GC12)

The requirement for the contractor to provide a guarantee in the form the commissioner requires is disproportionate and highly undesirable. The exact wording of the terms of the guarantee must be clear and will have legal obligations on all parties which the contractor may need to need to obtain independent legal advice for and which places an additional administrative and cost burden on the pharmacy.

Information Governance (GC21)

This is duplication and repetition of a contractor's terms of service requirement to provide IG assurances to the NHS through the Data and Security (IG) Protection Toolkit and publish the outcome of their IG assessment annually. We request that this be removed.

Conflicts of Interest and Transparency on Gifts and Hospitality (GC27)

Commissioning should be fair and perceived as fair and we suggest that there should be a requirement for commissioners to be named and any actual or potential conflict of interest in relation to a commissioner to be declared and recorded; and available for later inspection. This information could be recorded in the contract or the contract could record details of how that information may be obtained.

It may be acceptable for a contract process to rely on parties disclosing relevant information, but only if that information is readily available to interested parties. This is important to reassure the public and unsuccessful potential providers that there has been fair play. We ask that GC27 is amended accordingly.

Implementation of a Local System Operating Plan (SC4)

SC4.6 and related provisions could place a disproportionate administrative burden on contractors and we ask for it to be removed. Whilst, many contractors are willing to contribute to implementation of local system operating plan, to have it as a contractual provision seems to be a disproportionate broad-brush approach.

Information Technology Systems (SC23)

The amendment to SC23.7 is inappropriate. It is not within the control of contractors to ensure that their clinical IT systems through which patient data flows through is accessible to other healthcare providers. A contractor's main clinical system is likely to be their PMR system and contractors cannot insist that their PMR supplier allow access to this system to other healthcare providers. This proposed amendment is unreasonable as it requires contractors to do what is not within their control to do. Even if there was a technical solution to ensure the interoperability of the pharmacy IT system it could involve significant financial cost for the contractor and we consider that the "reasonable endeavours" wording should remain.

Data Quality Maturity Index (SC28)

We understand that this provision is applicable to NHS Trusts and other NHS organisations. Community pharmacies are neither and therefore, it is not relevant to contractors.

Evidence-based interventions policy (SC29)

The NHS England guidance is applicable to CCG commissioners to assist them in fulfil their duties relating to securing continuous improvements in the quality of services for patients and in outcomes, particularly regarding appropriate clinical intervention. Therefore, it is irrelevant for community pharmacy and we ask that this be removed.

Thank you for allowing us the opportunity of commenting on the 2019 / 20 NHS Standard Contract development, and we hope our comments are helpful.

About PSNC

PSNC promotes and supports the interests of all NHS community pharmacies in England. We are recognised by the Secretary of State for Health as the body that represents NHS pharmacy contractors. We work closely with Local Pharmaceutical Committees to support their role as the local NHS representative organisations.

Our goal is to develop the NHS community pharmacy service, and to enable community pharmacies to offer an increased range of high quality and fully funded services; services that meet the needs of local communities, provide good value for the NHS and deliver excellent health outcomes for patients.