

*From the Office of David Flory CBE  
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15 February 2012*

SHA CEs

cc SHA Cluster DoFs  
PCT Cluster CEs

## **Gateway Reference 17235**

Dear Colleague

**Subject: Guidance on varying the 2012/13 NHS Standard Contract one year default contract duration**

### **Introduction**

The 2012/13 NHS Standard Contract was issued with a default duration of one year and will expire on 31 March 2013. However, the relevant SHA Cluster will have the discretion to approve an extended duration up to a maximum of three years. This letter gives guidance on the processes to be adopted

### **Context**

As part of the transition to Clinical Commissioning Groups (CCG), PCT Clusters, and in turn SHA Clusters, should be mindful that contracts with providers of NHS funded services will need to smoothly transition to CCGs, and where appropriate, the NHSCB or local authorities.

It is essential for PCT Clusters to involve emerging CCGs and other clinicians in the development and negotiation of their contracts with providers.

The contract for 2013/14 will be issued by the NHSCB and will be developed, subject to the Parliamentary processes, in accordance with the requirements set out in the Health and Social Care Bill and subsequent secondary legislation.

There are two broad scenarios that may warrant contract duration of greater than the default one year.

(1) PCT Cluster commissioners advertising for clinical services during 2012/13.

(2) PCT clusters seeking to extend the duration of 2012/13 NHS Standard Contract for existing providers beyond the 1 year default duration

It is recognised that there are a limited number of circumstances where the default duration may need to be varied.

Where PCT Clusters wish to advertise a procurement with a contract duration in excess of one year but not more than three years, the PCT should seek the 'sign off of their SHA Cluster prior to advertisement.

SHA Clusters may exercise their discretion to allow the PCT Clusters to advertise for clinical services with a duration of up to three years.

Following the procurement process, the duration clause of the NHS standard contract will need to be varied so that it matches the advertised duration.

The default duration for new contracts for existing providers entered into for 2012/13 will be one year. This will support the transition of clinical services contracting by CCGs.

As the contracts durations will extend beyond April 2013, SHA Clusters should adopt a local 'test' when considering requests for an extension in contract duration. Matters which the SHA Cluster may wish to take into consideration include:

- there is evidenced support for the procurement from emerging CCGs and where applicable local authorities
- the implications for choice and competition have been considered
- the proposal meets the needs of the population
- the provider is investing in the development of services which has been agreed by the local commissioners
- the current contract for services is to expire during 2012/13 or the service provider has given notice of termination
- a contract with a duration of less than three years would potentially lead to greater cost
- the contract is for services commissioned from a newly authorised FT. FTs require an 18 month contract from the date of authorisation in line with the requirements of Monitor
- that the request is appropriate (for example to achieve service continuity) and that any potential liabilities are mitigated


For 2012/13 any procurement advert for more than three years or a or

contract duration of more than three years, PCT commissioners would need to be supported by the relevant SHA Cluster and signed off centrally through an application to the DH via the NHS Standard Contracts Team

### **Current contracts**

The one-year default duration only applies to new contracts from April 2012 and does not affect contracts entered into using the 2010/11 NHS Standard Contracts and any 2011/12 contracts that have an approved extended duration.

Yours Sincerely

A handwritten signature in black ink that reads "David Flory". The signature is written in a cursive style with a period at the end.

**David Flory**  
**Deputy NHS Chief Executive**