

## Briefing for commissioners on the NHS provider licence and Commissioner Requested Services

**This information is for: Clinical Commissioning Groups, NHS England Specialised Commissioning and Area teams, and Commissioning Support Units.**

**This document outlines the action you now need to take to be ready for 1 April 2014.**

### About the NHS provider licence

From 1 April 2014, all providers of health care services for the NHS including independent providers, will require a Monitor licence unless they are exempt (under regulations made by the Department of Health).

The licence sets out conditions providers must meet to help Monitor to ensure that the health sector works for the benefit of patients. These conditions give us the power, amongst other matters, to:

- help you as commissioners ensure essential local services continue if providers get into serious financial difficulty;
- ensure choice and competition operate in the best interests of patients;
- set prices for NHS-funded services; and
- use regulatory tools to incentivise and enable the delivery of more integrated care so services are less fragmented and easier to access for patients.

We opened the licence application process on 6 January 2014 and we are able to issue licences to eligible independent providers from 1 April 2014.

### How the NHS provider licence impacts you

Independent providers will need a Monitor licence from 1 April 2014, unless they are exempt. We ask that you familiarise yourself with the licensing requirements and in particular understand which providers are exempt. It is important to understand how and when providers would obtain a licence.

As an NHS commissioner you have a critical role to play as you have primary responsibility for ensuring the continuity of services for patients in your area. That responsibility includes designating a range of services you believe should continue to be

provided locally if any individual provider is at risk of failing financially. We call these services [Commissioner Requested Services](#). All providers of *Commissioner Requested Services* will need a licence.

#### Actions you need to take before 1 April 2014

1. We strongly recommend that you and those responsible for contract renewal and tendering for NHS funded services begin work now to consider the services that should be designated as *Commissioner Requested Services*. Please note: this process can take a number of months to complete, so work needs to begin well in advance of the contract signing stage. We published the [statutory guidance on the designation of Commissioner Requested Services in March 2013](#), which includes a [toolkit](#) on how to apply the guidance.
2. If you decide to designate some or all of a provider's services as *Commissioner Requested Services*, that provider will need to have a licence and be subject to all the conditions including the specific continuity of services conditions of the licence.
3. If you decide not to designate any of a provider's services then that provider will not be subject to the continuity of services aspect of our oversight regime, however the provider will still need to be licensed to operate (unless exempt) because they are nevertheless providers of services for the health service in England.
4. We ask you to check that providers you contract services from are aware of our [licensing requirements](#). From 1 April 2014, if a provider is required to hold a licence and does not hold one then that provider will be delivering NHS services in breach of the rules. In these circumstances, we can take enforcement action against providers and impose sanctions including regulatory requirements and fines.

#### Actions you need to take from 1 April 2014

1. Inform us of each provider you contract with to deliver *Commissioner Requested Services* or any changes to your designations [here](#). This is very important as it will ensure all relevant providers that you contract services from are subject to the continuity of services aspect of our oversight regime. Independent providers will also be required to confirm to us in their licence application if they are currently - or expect to be - providing *Commissioner Requested Services*.
2. Check that the providers you contract services from either hold, or have applied for, a licence (if they are not exempt). Our register of licence holders will be available on our website from 1 April 2014. This can be used to check whether a provider has a licence.

You can visit [our website](#) for further information and to access the webinar we ran recently to support you in designating *Commissioner Requested Services*.

## Further information about the NHS provider licence

### Who needs a licence?

All providers of health care services for the purposes of the NHS need a Monitor licence from 1 April 2014, unless exempt. The following providers **will be exempt**:

- providers not required to register with the Care Quality Commission, unless they provide *Commissioner Requested Services*;
- small providers of NHS-funded health care services whose annual turnover from the provision of NHS services is less than £10 million;
- providers of primary medical and dental services (eg GPs or dentists who do not provide any other NHS services);
- providers of NHS continuing health care and NHS-funded nursing care (eg care homes who provide no other NHS health care services); and
- NHS trusts (which will only be licensed upon authorisation as an NHS foundation trust).

In the event that the services are designated as *Commissioner Requested Services* then the first four exemptions are over-riden by this designation and the provider must hold a licence.

**Please note: providers do not need a licence to bid for NHS-funded services, but are required to hold a licence from 1 April 2014 (if they are not exempt).**

### Monitor's licensing criteria

Applicants will need to meet Monitor's licensing criteria in order to be granted a licence. Providers must:

1. hold a Care Quality Commission registration; and
2. confirm that its governors and directors, or those performing equivalent or similar functions, meet the fit and proper persons requirements.

### Timetable - at a glance

January 2014	Application process opened: <a href="http://www.monitor.gov.uk/licence">www.monitor.gov.uk/licence</a>
1 April 2014	Requirement to hold a licence comes into force and licences will begin to be issued.  Monitor and Care Quality Commission joint licence and registration application process starts for new providers of NHS-funded services.

### How we will monitor compliance with and enforce the licence

We are currently consulting on how we will assess, from 1 April 2014, financial risk at independent providers of *Commissioner Requested Services*. You can find out more and take part [here](#). You can find out more about the other [licence conditions](#) on our website.

### **About Monitor**

Monitor is the sector regulator for health services in England. Our job is to protect and promote the interests of patients by ensuring that the whole sector works for their benefit. Please visit our website – [www.monitor.gov.uk/licence](http://www.monitor.gov.uk/licence) – for more information on Monitor and the NHS provider licence.

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