



Directions for Integrated Care Providers (ICPs)

Consultation on proposed Primary Medical Services Directions

October 2018

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Executive summary

Why is integration important?

As we live longer and more of us develop complex and/or long term medical conditions, it is increasingly important that providers of NHS services work together with each other and providers of social care and public health services to ensure we get the support we need to stay well.

Integrated care is centred around a person's needs; proactive in supporting wellbeing; focused on population health management by identifying and addressing the risks of health deteriorating; and coordinated so that it feels like it is provided by one service. It should improve outcomes for the population as a whole and enhance the quality of care delivered by providers. This will need providers of NHS services, local authorities and the voluntary and community sector to work together to enable the development of new models of care that focus on populations and their needs and, prevent ill health and unnecessary hospitalisation.

What is an Integrated Care Provider?

In some areas, commissioners are looking to strengthen integration by bringing together a range of health and care services under a single contract, with the provider of those services becoming - for the purposes of that contract - an 'Integrated Care Provider' (or 'ICP' – previously referred to as an 'accountable care organisation') that is responsible for the delivery and coordination of quality care and improved health outcomes for a defined population.

[NHS England](#) launched a 12 week consultation on the 3rd August on a proposed form of contract under which primary medical services may be commissioned as part of a package of integrated health and care services. This is the draft ICP Contract, which is a variant of the NHS Standard Contract. Following the consultation (which closes on Friday 26th October), NHS England will decide whether to make available the ICP Contract for use by commissioners (whether in its current form or in an amended form), as an alternative to the generic NHS Standard Contract. No ICPs are currently in place in England.

An ICP is not a new type of legal entity, but simply the name for a provider organisation awarded an ICP Contract (subject to the consultation outcome).

What are Directions?

Section 98A of the NHS Act 2006 gives the Secretary of State the power to issue Directions to NHS England relating to the provision of primary medical services (GP services). In practice he does so (amongst other things) by specifying the content that must be included in contracts under which primary medical services are to be delivered. Draft Directions to NHS England are attached to this consultation, relating to the primary medical services which may be included within the wider package of services commissioned under the proposed Integrated Care Provider Contract. If Directions are issued following this consultation, NHS England will have a statutory duty to comply with them.

Why do we need Directions for Integrated Care Providers?

New Directions are needed because, amongst other things, the ICP Contract (if adopted), would allow NHS England and local commissioners (Clinical Commissioning Groups - CCGs) to contract for primary medical services alongside other NHS services under a single contract - following agreement with local GP practices. There are currently three different contracting routes by which primary medical services can be commissioned, with each imposing mandatory requirements on providers of GP services. These are General Medical Services (GMS), Personal Medical Services (PMS), and Alternative Provider Medical Services (APMS) contracts. The Alternative Provider Medical Services Directions 2016 (APMS Directions) provide for a wide range of contract holders and allow for the inclusion of locally negotiated terms. However, the APMS Directions are not intended to apply in their present form to the proposed ICP contract and are not fully fit for purpose in this particular context. We want to ensure that where relevant, existing Government priorities for primary medical services would continue to apply to any such services delivered by an ICP. We also want to ensure that the Directions are suited to the commissioning of primary medical services as part of a package of integrated services.

We have developed a set of new ICP Directions, which will underpin the specific primary medical services within the ICP Contract and are specifically designed for a contract for integrated services. NHS England has ensured that the draft ICP Contract complies with the requirements of the draft Directions.

Annexed to this consultation are the content of the draft ICP Directions and, in table format, where these differ from the APMS Directions because we consider they are not appropriate for the ICP Contract. The table regularly cross-refers to [NHS England's draft ICP Contract](#) to demonstrate how the Directions relate to the draft ICP Contract.

Please note that a copy of the draft Directions was also enclosed alongside NHS England's consultation package for information purposes. The version included in this consultation has been slightly updated since that version.

How can I feed in my views on the wider ICP policy?

This consultation relates specifically to the Directions and asks the following questions:

- a) Do you think that the proposed Directions allow primary medical services to be commissioned effectively under an ICP Contract?
- b) Do you think that the mandatory terms, included in the Directions, are sufficient?
- c) Are any additional terms needed to ensure the effective commissioning of primary medical services through an ICP Contract?
- d) Do you have any comments about the impact the Directions may have on people sharing relevant protected characteristics as listed in the Equality Act 2010?
- e) Are there any additional comments you wish to provide with regard to the proposed requirements of the Directions or the Directions more generally?

This consultation is primarily intended as a technical consultation for GPs and others involved in the provision of primary medical services. Please respond via the Department's Citizen Space link on gov.uk. This consultation will close on 7th December 2018.

If you wish to feed in your views and comments on ICPs more generally, please use [NHS England's consultation](#) which is open until 26th October 2018.

What's next?

Following the conclusion of this consultation, the Department will review all responses to the consultation and decide what changes, if any, need to be made to make the Directions fit for purpose.

There will then be a need to review and confirm next steps on the basis of the responses to the consultation and the responses to the NHS England consultation.

If NHS England decides to introduce the ICP Contract (or an amended version of it), the Department will update the Directions to reflect the feedback received through this consultation process and make this version available.

The Directions will initially only be made available on a case by case basis for specific areas, after their proposals for an ICP contract are signed off through the [Integrated Support and Assurance Process \(ISAP\)](#), satisfying Government scrutiny requirements. ISAP is a coordinated review process undertaken by NHS England and [NHS Improvement](#). It was developed to operate as an additional safeguard over the award of ICP Contracts and other complex commissioning arrangements, recognising that ICPs could be of greater systemic importance than existing providers in the system holding contracts with a longer duration.

If introduced, NHS England plans to study the effects of the first ICP contracts that come into being and share learning with others that may follow.

Dudley, the first area that might use the draft ICP Contract, has a programme of evaluation underway. NHS England will work with the first systems using the draft ICP Contract to ensure that:

- in the near term, we capture the lessons around how to improve the local processes for designing and establishing an ICP, including how amending national rules could aid this, and
- in the longer term, there is ongoing evaluation of any change in population health outcomes and other measures of performance in areas served by an ICP relative to others and how these were achieved.

1. Improving integration in the NHS

1.1 Integrated care is centred around a person's needs; proactive in supporting wellbeing; focused on population health management by identifying and addressing the risk of deteriorations in health; and coordinated so that it feels like it's provided by one service. It should improve outcomes for the population as a whole and enhance the quality of care delivered by providers. The importance of integrated care was described in the [Five Year Forward View](#) (p.16):

"The traditional divide between primary care, community services, and hospitals – largely unaltered since the birth of the NHS – is increasingly a barrier to the personalised and coordinated health services patients need. And just as GPs and hospitals tend to be rigidly demarcated, so too are social care and mental health services even though people increasingly need all three."

1.2 The integration of care will need providers of NHS care, local authorities and the voluntary and charity sectors to work together to enable the development of new models of care that focus on populations and their needs and, prevent ill health and unnecessary hospitalisation.

1.3 If introduced, the ICP Contract would be a further option as part of a longstanding commitment to deliver care in a more integrated way. The Health and Social Care Act 2012 created a range of duties, on a variety of bodies, to promote integration across health and care. Through initiatives like the Government's [Better Care Fund](#) and [NHS England's Vanguard programme](#), there has been a major drive to build stronger partnerships between the different bodies involved in our health and care.

1.4 The Five Year Forward View proposed two 'new care models' through which collaborative care redesign could deliver integration of services for whole populations. These were referred to as the Multispecialty Community Provider (MCP) and the Integrated Primary and Acute Care System (PACS). Since then, the [Next Steps on the Five Year Forward View](#) further articulated the ambition 'to make the biggest national move to integrated care of any major western country'. To achieve this, across England, steps are already being taken to improve collaboration between commissioners and providers and to deliver better care for patients. In some parts of the country, organisations are coming together to form 'integrated care systems' (ICSs), where commissioners and providers of NHS services, in partnership with local authorities and others, voluntarily take collective responsibility for managing resources, delivering NHS standards and improving the health of the population they serve. They are also vehicles for spreading the integrated care models developed and tested through the vanguard programme.

The first wave of 'shadow ICSs' were announced in June 2017 with four more announced in 2018. Other collaborations will take place at a number of different levels in the system, including through provider partnerships, such as networks of primary care providers.

- 1.5 In some areas, commissioners are looking to strengthen integration by bringing together a range of health and care services under a single contract, with the holder of that contract becoming - for the purposes of that contract - an 'Integrated Care Provider' (or 'ICP' – previously referred to as an 'accountable care organisation') that is responsible for the delivery and coordination of quality care and improved health outcomes for a defined population. NHS England has published a draft ICP Contract which has been designed to be used for this purpose. This was previously referred to as the Accountable Care Organisation Contract. However, NHS England has changed its terminology in recognition that, [as reported by the House of Commons Health and Social Care Committee](#)¹, use of the term 'accountable care' has generated unwarranted misunderstanding about what is being proposed. NHS England believes that the term 'Integrated Care Provider' better describes its proposals – to promote integrated service provision through a contract to be held by a single lead provider.
- 1.6 The draft ICP Contract provides for:
- a consistent objective to deliver integrated, population based care;
 - as far as possible, consistency in terms and conditions in relation to different services, reducing the risk of conflicting priorities or requirements getting in the way of clinicians and care workers doing the right thing for people in their care;
 - a population based payment approach, allowing flexible redeployment of resources to best meet needs and encourages a stronger focus on overall health, rather than simply paying for tightly defined activities; and
 - aligned incentives across all teams and services.
- 1.7 During the development of the draft contract, the Department identified changes to secondary legislation that would be required to ensure that the regulatory framework that applies to providers of NHS services currently would also apply to ICPs. [In Autumn 2017, the Department consulted on these changes](#) to ensure that statutory requirements that relate to existing contracts (e.g. provision for complaints and reimbursement of travel expenses) apply equally to ICP contracts. At this time, the Department also consulted on amendments to regulations that would allow GPs, should they wish, to suspend their current contracts in order to deliver primary medical services as an employee or sub-contractor of an ICP commissioned to provide those services, whilst retaining the right to reactivate

their original contract if they decided to do so. [In April 2018, the Department published its response to this consultation](#). This response set out the intention to consult on new draft Directions at a later stage and confirmed that the regulations would not be laid in parliament until after the conclusion of NHS England's consultation on the ICP contract.

- 1.8 The Department would not normally consult on Directions setting out the mandatory terms to be included as part of locally negotiated contracts as these reflect the provisions negotiated with the General Practitioners' Committee of the BMA. However, as these Directions facilitate pilots of new care models and in line with our approach on the regulations that facilitate the pilots, we have decided to consult and ensure that the regime works within the existing legislation and effectively delivers the policy intention.
- 1.9 In July of this year, the High Court held that the ICP policy, as encapsulated in the draft ICP Contract, is permitted under the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012). This was the second of two separate Judicial Reviews relating to the ICP proposals*. In August 2018, NHS England commenced a [public consultation on the contracting arrangements for ICPs](#). The consultation will provide an opportunity for NHS England to take into account patient and public feedback before deciding whether, and if so how, to further develop the draft ICP Contract. The ICP Contract will not be used unless NHS England decides to make it available, whether in its current form or in an amended form, following the end of the consultation exercise. A draft of the Directions which are the subject of this consultation were also enclosed alongside NHS England's consultation package for information purposes. The version included in this consultation has been slightly updated since that version.
- 1.10 If, following consultation, NHS England decides to issue the ICP Contract, an incremental and controlled approach to its introduction would be adopted to ensure that insight from evaluation and experience of the forerunner sites is used to inform the plans of other areas, the contract itself and the controls in place to ensure its appropriate use.
- 1.11 Any decision to use the ICP Contract (following and subject to the outcome of the consultation), remains one for local commissioners who have their own duties to engage the public, patients and providers. Should a local commissioner decide, following engagement, to propose use of the ICP Contract, its award would be subject to successful completion of the Integrated Support and Assurance Process run by NHS England and [NHS Improvement](#). This is an additional safeguard around the award of a complex contract and an opportunity to ensure that learning from early sites has been incorporated into the process.

Consultation on proposed Primary Medical Services Directions

*NHS England successfully defended the R (oao Jennifer Shepherd) v NHS England [2018] EWHC 1067 (Admin) judicial review claim. Note, however, that the applicants have been granted permission to appeal. NHS England and the Department of Health and Social Care were also successful in defending the R (oao Hutchinson & others) v SSHSC and NHS England [2018] EWHC 1698 (Admin) claim for judicial review. The applicants in that case have not sought permission to appeal.

2. The role of GP services in an Integrated Care Provider

- 2.1 As set out by NHS England in its [consultation on contracting arrangements for ICPs](#), the active participation of GPs is critical to the successful delivery of integrated care models. But the participation of any individual practice or GP is entirely voluntary, and the way in which they integrate with an ICP will be for them to decide.
- 2.2 If the ICP Contract is introduced, the opportunities for GPs to be involved in the direction and leadership of the ICP will be central to their engagement and to the success of the care model and contract. To be awarded an ICP Contract, a provider will have to demonstrate that it can work closely with general practice providers to offer a joined-up set of services to their population. For their part, GPs will wish to take the opportunities presented by integrated care models to play a greater role in population-focused decision-making.
- 2.3 To support GPs to take a more central role in the health and care system, the draft ICP Contract has been developed to provide for two distinct means by which general practitioners can participate in an ICP model and therefore work more closely with other teams to join up pathways and deliver an improved service for patients.
- 2.4 Under a partially-integrated approach, GP practices would continue to deliver usual GP services to their patients under their existing GMS or PMS arrangements. The ICP would be responsible for delivery of a package of other services. The ICP will be required by the ICP Contract to ensure integration of its services with the primary medical services delivered by the practices, in pursuit of locally-defined 'integration goals'. The main difference for each GP practice is that they will enter into an Integration Agreement with the ICP, setting out how they will work more closely together.
- 2.5 Full integration - which is the option relevant to these proposed Directions - involves primary medical services being commissioned with other services under a single ICP Contract. The draft ICP Contract has been created to enable this, by including terms and conditions applicable to primary medical services (i.e. those set out in the proposed Directions). To enable primary medical services to be commissioned under such a contract, existing contractual arrangements (GMS or PMS) in relation to those services must be set aside, whether permanently (by ending their existing contract) or temporarily by suspension of their contracts for a limited period of time. This suspension would allow the GPs to, for example,

become employees within the organisation holding the ICP Contract, thereby delivering primary medical services in a more joined up way with other services being provided by the ICP. As set out in paragraph 6 of this document, changes to secondary legislation have been proposed which would provide that, where a GP practice decides that it wishes to become fully integrated with an ICP, it may suspend its current contract, allowing the primary medical services to be commissioned through the ICP Contract. GPs would then become either salaried GPs of the ICP or subcontractors to it. Practices would have the option to reactivate their suspended contracts at defined points throughout the lifetime of the ICP Contract, and this reactivation would otherwise happen by default following the expiry or termination of the ICP Contract.

- 2.6 NHS England has previously produced [a series of videos about what it is like to be a GP working to develop an integrated care model](#) and to support GPs to learn more about these models. These videos are based on real GPs' own views and site experiences.

3. The need for Directions

- 3.1 Section 98A of the NHS Act 2006 gives the Secretary of State the power to issue Directions to NHS England relating to the provision of primary medical services (GP services). In practice he does so (amongst other things) by specifying the content that must be included in contracts under which primary medical services are to be delivered.
- 3.2 New Directions are needed because, amongst other things, the ICP Contract (if adopted), would allow NHS England and local commissioners (Clinical Commissioning Groups - CCGs) to contract for primary medical services alongside other NHS services under a single contract - following agreement with local GP practices.
- 3.3 GP services (primary medical services) may only be provided under contracting arrangements described in Part 4 of the NHS Act 2006. Part 4 provides for three different contracting routes by which primary medical services can be commissioned, with each imposing mandatory requirements on providers of GP services. These are general medical services (GMS) contracts under section 84; personal medical services (PMS) contracts under section 92; and arrangements under section 83(2). Section 83(2) is currently used as the basis for alternative provider medical services (APMS) arrangements but is not restricted to these arrangements.
- 3.4 The majority of GP practices provide services under GMS contracts - around 65%. These contain terms which are nationally negotiated with the General Practitioners' Committee of the British Medical Association. The terms are set out in the NHS (General Medical Services Contracts) Regulations 2015.
- 3.5 PMS practices account for around 30% of all contracts for primary medical services. The contracts contain some mandatory terms but also allow for locally negotiated terms to be included. The mandatory terms are set out in the NHS (Personal Medical Services Agreements) Regulations 2015.
- 3.6 APMS contracts are the most flexible. They may be held by a wider range of contract holders and need contain fewer mandatory terms than GMS and PMS contracts while allowing for the inclusion of locally negotiated terms.
- 3.7 To ensure a degree of parity with GMS and PMS contracting arrangements, the Secretary of State issues [Directions to NHS England requiring it to ensure that any APMS contract it enters into, under section 83\(2\), includes certain mandatory terms.](#)

- 3.8 These mandatory terms ensure that, as far as possible, patients receive a service equivalent to that provided by other GP practices.
- 3.9 As APMS is the most flexible route for commissioning primary medical services, we propose to use this provision as the basis for commissioning primary medical services through Integrated Care Providers.
- 3.10 However, the APMS Directions are not intended to apply in their present form to the proposed ICP contract and are not fully fit for purpose in this particular context. We want to ensure that where relevant, existing Government priorities for primary medical services would continue to apply to any such services delivered by an ICP. We also want to ensure that the Directions are suited to the commissioning of primary medical services as part of a package of integrated services.
- 3.11 We have developed a set of new ICP Directions, which will underpin the specific primary medical services within the ICP Contract and are specifically designed for a contract for integrated services. NHS England has ensured that the draft ICP Contract complies with the requirements of the draft Directions.
- 3.12 A table which sets out the current requirements for APMS contracts and an indication of where those requirements are reflected in the ICP Directions and the draft ICP Contract is attached. Where APMS requirements have not been reflected in the Directions, the table explains why that is the case.

4. Consultation questions

1. Do you think that the proposed Directions allow primary medical services to be commissioned effectively under an ICP Contract?
2. Do you think that the mandatory terms, included in the Directions, are sufficient?
3. Are any additional terms needed to ensure the effective commissioning of primary medical services through an ICP Contract?
4. Do you have any comments about the impact the Directions may have on people sharing relevant protected characteristics as listed in the Equality Act 2010?
5. Are there any additional comments you wish to provide with regard to the proposed requirements of the Directions or the Directions more generally?

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