

**Integrated care licence
condition: consultation
on draft guidance for
providers of NHS-
funded services**
**Issued on: 14 January
2015**
**Deadline for responses:
13 February 2015**



About Monitor

As the sector regulator for health services in England, our job is to make the health sector work better for patients. As well as making sure that independent NHS foundation trusts are well led so that they can deliver quality care on a sustainable basis, we make sure: essential services are maintained if a provider gets into serious difficulties; the NHS payment system promotes quality and efficiency; and patients do not lose out through restrictions on their rights to make choices, through poor purchasing on their behalf, or through inappropriate anti-competitive behaviour by providers or commissioners.

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Introduction

Under the Health and Social Care Act 2012, Monitor has a duty to enable better integration of services, both in healthcare and between healthcare, health-related services and social care, where this is in patients' interests. Therefore, Monitor has included an integrated care licence condition within the NHS provider licence that requires licensed providers not to act in a way that could be reasonably regarded as against the interests of healthcare users by being detrimental to enabling integrated care. We may take action if this is found to be the case.

We are consulting on draft guidance for the integrated care licence condition to receive your comments and suggestions. This guidance is to help licensed providers of NHS-funded services in England (licensees), as well as NHS trusts,¹ understand when we may take action under the integrated care licence condition and how to minimise the risk of breaching the licence condition and potentially incurring regulatory action. It also sets out how we will enforce the licence condition.

Integrated care is important to many healthcare users and providers play an important role in enabling the delivery of care that is person-centred and co-ordinated. Further, the Five Year Forward View sets out the need for change across the NHS, and highlights certain models that can play a role in integrating services across different providers.²

As we build the evidence around integrated care and gain more experience in dealing with potential breaches of the licence conditions, we expect to update, supplement or replace the guidance from time to time. Therefore, this guidance reflects Monitor's views at the time of publication and may be revised to reflect changes in best practice, legislation, experience, legal judgments and research. Our website will display the latest version of the guidance.

In this guide, we have tried to be clear, using straightforward language and avoid quoting the NHS provider licence repeatedly. This means that we do not always use the exact wording of the licence. However, the licence conditions themselves ultimately override this guidance.

¹Although NHS trusts are not required to hold a licence, they are required by the NHS Trust Development Authority to comply with certain licence conditions (specifically, the conditions covering general obligations, pricing, choice and competition, and integrated care). Section 5(1) and Annex A of the NHS Trust Development Authority and Monitor Partnership Agreement set out the equivalent obligations that NHS trusts must comply with. See the Partnership Agreement between NHS Trust Development Authority and Monitor [at www.ntda.nhs.uk/wp-content/uploads/2013/08/Monitor-and-TDA-Partnership-Agreement-2014-15.pdf](http://www.ntda.nhs.uk/wp-content/uploads/2013/08/Monitor-and-TDA-Partnership-Agreement-2014-15.pdf) for further details.

² Further details about the Five Year Forward View can be found at www.england.nhs.uk/wp-content/uploads/2014/10/5yfv-web.pdf

We may find it necessary to deviate from the guidance if, for example, an investigation raises new issues. If this happens, we will acknowledge that we have deviated from the guidance and will give our reasons for doing so.

Structure of the guidance

To help providers understand their obligations under the integrated care licence condition, we have included in this guidance some high level principles that can help providers deliver care that is better integrated and some example of actions or behaviours that may breach the licence condition.

This guidance is structured as follows:

1. Background and overview
2. Principles for delivering integrated care
3. Examples of ways in which licensed providers may breach the integrated care licence condition
4. How we take enforcement action

Responding to the draft guidance

We would like to hear from providers, service users and patients, commissioners and other interested parties in response to this draft version of the guidance. We will use your responses to inform our final guidance.

We especially welcome your comments on:

- sections that need additional clarification
- the principles for providers to deliver care in an integrated way and the associated examples, including any examples you consider could be added to the guidance
- the examples of behaviours or actions that might go against the interests of service users and patients and breach the licence condition, including any examples you consider could be added to the guidance.

How to respond

Please submit your suggestions and comments by 5pm on 13 February 2015 by email to integration@monitor.gov.uk, or by post to:

Guidance on licence conditions – integrated care
Strategy and Policy
Monitor
Wellington House, 133-155 Waterloo Road, London SE1 8UG

Confidentiality

If you would like your name or the name of your organisation to be kept confidential and excluded from the published summary of responses or other published documents, please let us know by emailing integration@monitor.gov.uk.

If you would like any part of your response - instead of or as well as your identity - to be kept confidential, please let us know and make it obvious by marking in your response which parts we should keep confidential - an automatic computer-generated confidentiality statement will not count for this purpose. However, as we are a public body subject to Freedom of Information legislation we cannot guarantee that we will not be obliged to release your response even if you say it is confidential.

Next steps

After considering the responses to the consultation we will update and publish the final guidance, along with a summary of responses. If you have any questions about this process please contact integration@monitor.gov.uk

We are planning to hold a limited number of workshops or webinars during or shortly after the consultation period to gather additional feedback. If you are interested in attending one of these please email integration@monitor.gov.uk for further details by the end of January.

You can sign up to receive emails when we publish other engagement and consultation publications [here](#) on our website.

1. Background and overview

1.1 What is integrated care?

Integrated care is care that is person-centred and better co-ordinated. For care to be integrated, institutions and care professionals need to bring together the different elements of care that the patient or service user needs, sequentially or simultaneously, to address the entirety of these needs and to seek to improve the patient's outcomes and experience of care. We endorse the narrative developed by National Voices and the underpinning "I statements" that set out what person-centred, better co-ordinated care should mean in practice. For example:

- "I only need to tell my story once"
- "I can plan my care with people who work together to understand me and my carer(s), allow me control, and bring together services to achieve the outcomes important to me"
- "I am supported to understand my choices and to set and achieve my goals"
- "The professionals involved with my care talk to each other. We all work as a team"
- "I am told about the other services that are available to someone in my circumstances, including support organisations"
- "I have information, and support to use it, that helps me manage my condition(s)"³

Integrated care can be delivered in many different ways; there is no single approach. It can be delivered across healthcare organisations (primary, community, secondary care), across health and social care organisations or within a single organisation. Providers can participate in commissioner-led schemes or improve services aimed at delivering integrated care, for example, by developing compatible IT systems or improving discharge notes. Providers can organise themselves in a range of ways to deliver integrated care, for example, alliances, clinical networks, virtual teams, joint working arrangements or protocols, joint ventures and mergers. Monitor will not specify how integrated care is to be delivered: it is for local commissioners to decide, with input from their providers and other key stakeholders in line with relevant regulatory frameworks. Commissioners should design and implement an approach best suited to the needs of their populations and the circumstances of their area. It is then for the providers to deliver that care in an integrated way.

³ Further information about this work undertaken by National Voices, and the full list of I statements can be found here: www.nationalvoices.org.uk/coordinated-care

As set out in the Five Year Forward View,⁴ the way that care needs to be delivered will need to change, and providers will need to work together more closely across different settings to achieve this. Providers of all services have an important role in helping to design, trial and implement innovative models to deliver integrated care.

1.2 Why is integrated care important?

Healthcare is not a simple, standardised service. People can sometimes experience health and social care services that are fragmented, difficult to access and not based around their and their carers' needs. Many people can benefit from care which is better integrated. This includes those with complex health and wellbeing needs, multiple conditions and long-term conditions who access different health, social, housing and other support services, often on an ongoing basis.

Reducing or removing gaps and duplications in service provision can improve effectiveness and safety, as well as the experience of patients and service users. More person-centred, better co-ordinated care is a means of improving outcomes for patients, service users, carers and families and also offers the potential to make financial savings through system efficiencies.

1.3 What is the integrated care licence condition?

The NHS provider licence is Monitor's main tool for regulating providers of NHS services. It is designed to protect and promote the interests of patients and service users and allow providers to operate as flexibly as possible. The licence sets out important conditions that licensees must meet. It helps Monitor ensure that the health sector works for the benefit of patients, including provisions relating to the delivery of care in an integrated way.⁵

The integrated care licence condition requires licensees not to act or behave in a way which would be reasonably regarded as against the interests of people who use healthcare services by being detrimental to enabling:

- healthcare services to be integrated with healthcare services provided by other providers⁶
- healthcare services to be integrated with health-related services or social care services provided by other providers⁷

⁴ Further details about the Five Year Forward View can be found at www.england.nhs.uk/wp-content/uploads/2014/10/5yfv-web.pdf

⁵ <https://www.gov.uk/government/publications/the-nhs-provider-licence>

⁶ Healthcare services are services for all forms of healthcare provided for individuals, whether relating to physical or mental health, for the purposes of the NHS (ie not social care or private patients). See Section 64 of the Health and Social Care Act 2012.

⁷ Health-related services are services that can affect a person's health but are not healthcare or social services. Examples include lip reading or sign language lessons and community support groups for

- co-operation with other providers of healthcare services.⁸

The licence condition applies when pursuing one or more of the following four objectives: improving the quality of any services (including the outcomes that are achieved from their provision); improving the efficiency of services; reducing inequalities in relation to access; or reducing inequalities in relation to outcomes.

When assessing what is reasonable Monitor will focus on the impact of patients and service users. We will look at whether the actions in question would result in worse outcomes (in terms of quality or access) for patients and service users.

A single complaint about the conduct of a health professional or one-off incident as a result of operational management issues are unlikely to amount to a licence breach on their own. Evidence of systemic issues is more likely to engage the licence condition. We give examples of conduct that may breach the integrated care licence condition later in the guidance.

Licensees are required as part of the licence condition to have regard to this guidance.⁹

Annex A includes the integrated care licence condition. All of the standard licence conditions are available on our website.¹⁰

1.4 When will Monitor act in relation to a suspected breach of the integrated care licence condition?

This guidance should be read alongside Monitor's enforcement guidance,¹¹ which explains how we go about our work in relation to potential and actual breaches of the licence. It sets out when we may decide to take action and what action we might take, what sanctions are likely and the processes we intend to follow when taking enforcement action.

Whether Monitor investigates a possible breach of the integrated care licence condition depends on the circumstances of the case, including whether the conduct

loneliness. Social services may be provided by local authorities but are increasingly commissioned by local authorities from, for example, voluntary sector providers. Examples include additional support for people who need it, such as older people, disabled people and people with mental health problems. See Section 62 of the Health and Social Care Act 2012.

⁸Co-operating with other providers' means working together and communicating constructively with other providers, for the purposes of delivering integrated care, while having due regard to the choice and competition licence conditions and competition law more generally. For example, we expect providers not to share commercially sensitive information in advance of submitting separate bids for an upcoming tender.

⁹ As set out in clause 5 of IC1 of the NHS provider licence.

¹⁰ Monitor's standard licence is available at: <https://www.gov.uk/government/publications/the-nhs-provider-licence>

¹¹ Monitor's enforcement guidance can be found here: <https://www.gov.uk/government/publications/monitors-enforcement-guidance>

is likely to be against the interest of patients and service users. More information on our 'prioritisation principles' is set out in 'How we take enforcement action'.

Some of the behaviours that enable integrated care are also fundamental to the delivery of safe and effective care. As such, many of the issues that affect integrated care may also affect the quality of service delivered by an organisation or an individual and may be more appropriately dealt with by another regulator such as the Care Quality Commission (CQC) or a professional body. Monitor will work with other organisations to understand the scope of the potential breach,¹² and will make referrals when we believe a matter is better handled by another organisation.

If an NHS trust is potentially in breach of the integrated care licence condition,¹³ we may investigate and will inform the NHS Trust Development (TDA) of our investigation. Following an investigation, we advise the TDA, which as the body accountable for NHS trusts determines how to act in light of our findings. In doing so, the TDA will have regard to our advice and recommendations and will notify us of any decision it takes in light of them.

Please see the section 'Examples of ways in which providers may breach the integrated care licence condition' for actions or behaviours that might reasonably be regarded as against the interests of patients and service users.

1.5 Does Monitor have other tools to enable integrated care?

The integrated care licence condition is just one of the tools we have to enable integrated care. Our responsibilities relating to competition and choice and the payment system may also be relevant.

1.6 How can Monitor help?

This document is designed to help licensees understand when we may take action under the integrated care licence condition and how to minimise the risk of breaching the licence condition and potentially incurring regulatory action. We are happy to discuss any queries or concerns you may have about the integrated care licence condition and how it is likely to apply in particular circumstances. In the past, people have approached us to discuss, for example, how plans for integrated care may interact with the competition licence condition or our other competition and pricing powers. If you would like to speak to us, please refer to the contact details on our website.¹⁴

¹² See for example the Memorandum of Understanding signed between Monitor and the CQC.

¹³ Section 5(1) and Annex A of the TDA and Monitor Partnership Agreement set out the obligations for NHS trusts that are equivalent to those in the NHS provider licence. Further information can be found in the TDA and Monitor Partnership Agreement: www.ntda.nhs.uk/wp-content/uploads/2013/08/Monitor-and-TDA-Partnership-Agreement-2014-15.pdf

¹⁴ <https://www.gov.uk/government/organisations/monitor/about/complaints-procedure>

Our website has further details about integrated care and Monitor's role. Content is regularly updated, and includes answers to questions that are frequently asked of us.¹⁵

In addition, Monitor's guidance on the competition and choice licence conditions includes information on how the competition licence condition applies to delivering integrated care.¹⁶ We have published examples of how the competition licence condition might apply to hypothetical case scenarios, including those involving integrated care arrangements.¹⁷ Our guidance on the procurement, patient choice and competition regulations¹⁸ also refers to how choice and competition are relevant to the delivery of integrated care.

¹⁵ <https://www.gov.uk/government/publications/integrated-care-how-to-comply-with-monitors-requirements/complying-with-monitors-integrated-care-requirements>

¹⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/354079/cc_licence_conditions_guidance.pdf

¹⁷ <https://www.gov.uk/government/publications/hypothetical-scenarios-choice-and-competition-conditions-of-the-nhs-provider-licence-and-competition-law>

¹⁸ The NHS Procurement, Patient Choice and Competition Regulations 2013 implement Section 75 of the Health and Social Care Act 2012. We have published guidance to help commissioners make more effective procurement decisions in line with the regulations. See here for further details: <https://www.gov.uk/government/publications/procurement-patient-choice-and-competition-regulations-guidance>

2. Principles for how providers can deliver care in an integrated way

This section sets out some high level principles for providers delivering care in an integrated way, and examples of how these principles might be applied in practice. Some providers have been pursuing an integrated approach for several years, so we recognise many of the actions described will be well known to the sector. Service conditions and people's needs vary locally, so the examples will be more or less relevant to providers depending on the circumstances.

Other research and literature, including publications by Monitor,¹⁹ provide examples of enablers and barriers to integrated care. We used this information, and listened to recent experiences and case studies, to outline three core principles around how care can be delivered in a more integrated way.

Three principles for how providers can deliver care in an integrated way

1. Champion and facilitate the delivery of care that is person-centred and co-ordinated.
2. Engage constructively with other health and care organisations to identify and improve ways of delivering person-centred, co-ordinated care.
3. Facilitate good communication and share a person's medical and social history and health and care records where appropriate²⁰ across and within organisations involved in their care.

Principle 1: Providers champion and facilitate the delivery of care that is person-centred and co-ordinated

Providers can champion and facilitate the delivery of integrated care by: acknowledging the importance of care that is person-centred and co-ordinated and setting a tone that facilitates frontline staff to work together and with the patient or service user, their family and carers to assess, plan and deliver care in an integrated way. Championing integrated care starts with the provider's leadership team ensuring that staff have the necessary time and tools to support delivery of

¹⁹ Enablers and barriers to integrated care can be found here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/285986/Enablers_and_barriers_to_integrated_care_report_June_2012.pdf

²⁰ Where appropriate in this context means subject to consent, confidentiality and information governance requirements such as the Data Protection Act 1998, the updated Caldicott Principles and the NHS Confidentiality Code of Practice.

integrated care effectively. Changes to systems and structures alone are unlikely to be sufficient without demonstrating these wider behaviours.

Examples of how providers can champion and facilitate the delivery of care in an integrated way

- Acknowledging the need for change and effectively communicating throughout the organisation what change is needed to enable integrated care and why
- Developing strategic and operational plans for delivering care in an integrated way with frontline staff, patients and service users and then cascading the plans throughout the whole organisation
- Developing mechanisms to gather regular feedback from patients and service users on how co-ordinated and person-centred their services are and using feedback to improve the way that care is delivered
- Developing mechanisms to gather and share patient stories regularly to demonstrate to staff how the changes are happening in practice and their effect on patients and service users
- Recognising the potential value of innovative skill-mix and staff roles, and changes to traditional settings in which care is delivered. This could include exploring and creating new interface roles such as general practitioners and consultants running sessions in family intervention projects
- Facilitating more effective multidisciplinary team working within and between organisations
- Enabling frontline staff to develop care plans with patients, service users and their families where appropriate, to create active participation and ownership: for example, through providing high quality training on the principle of shared decision making
- Encouraging frontline staff to inform patients and service users about complementary services that can help meet their needs.

Principle 2: Providers engage constructively with other health and care organisations to identify and improve ways of delivering person-centred, co-ordinated care

To deliver services in an integrated way, providers need to engage constructively and work effectively with other health and social care organisations involved in patients' and service users' care. This could include working with commissioners, other healthcare providers (such as acute, mental health, specialist, ambulance and community providers, GPs and pharmacists), social care providers and local authorities as part of a co-ordinated attempt to plan and deliver care.

Examples of constructive engagement with other organisations

- Speaking to, and constructively responding to approaches from other providers about any difficulties they encounter (such as high readmission rates or delayed discharges to other services) that could be resolved through better communication or co-ordination between the providers
- Engaging with commissioners to understand their plans for integrated care and accounting for these plans when developing organisational strategy
- Establishing or taking part in integrated care working groups or forums for engagement with local providers, commissioners and local authorities to discuss ways to deliver services in a more integrated way
- Disseminating case studies and experiences of integrated care across the sector, through engagement tools such as seminars, webinars and websites.

Principle 3: Providers facilitate good communication and share a person's medical and social history and health and care records where appropriate²¹ across and within organisations involved in their care

Effective communication within and across organisations about individual patients' and service users' care is essential to the delivery of integrated care. This includes communicating effectively whenever a patient or service user moves from one organisation or clinician to another, and sharing health and care records between and within organisations where appropriate. This is also important when services are reconfigured or otherwise transferred from one provider to another.

²¹ Where appropriate in this context means subject to consent, confidentiality and information governance requirements such as the Data Protection Act 1998, the updated Caldicott Principles and the NHS Confidentiality Code of Practice.

Examples of sharing information effectively²²

- Working with other local providers and care co-ordinators to support or improve multidisciplinary working across organisations
- Developing mechanisms for capturing the preferences of patients and service users in respect of sharing information about them, consulting where appropriate with carers and family members
- Having processes in place to ensure effective and timely handovers of patients and service users between different organisations or care settings
- Working with other local providers to introduce for certain patients and service users a system of shared care plans that address multiple needs, are accessible by all relevant staff and include clear protocols for which service leads care delivery in different situations
- Having processes in place so that a service user or patient can move effectively and in a timely way when they ask to transfer service provider
- Exploring ways to make IT systems useable or compatible between providers, or exploring other ways to share information: for example, using applications or web-based tools in line with the Caldicott Principles²³ and the National Information Board framework for using data and technology to improve patient outcomes²⁴
- Supporting ways for patients and service users to access their own records in a transparent and user-friendly way.

²² The Information Governance Alliance is developing guidance to support integrated care, for example, on integrated discharge planning (for more information, please email: IGA@nhs.net).

²³ See the information governance review (Caldicott review) for more details here:

<https://www.gov.uk/government/publications/personalised-health-and-care-2020>

²⁴ National information board strategy can be found here:

<https://www.gov.uk/government/publications/personalised-health-and-care-2020>

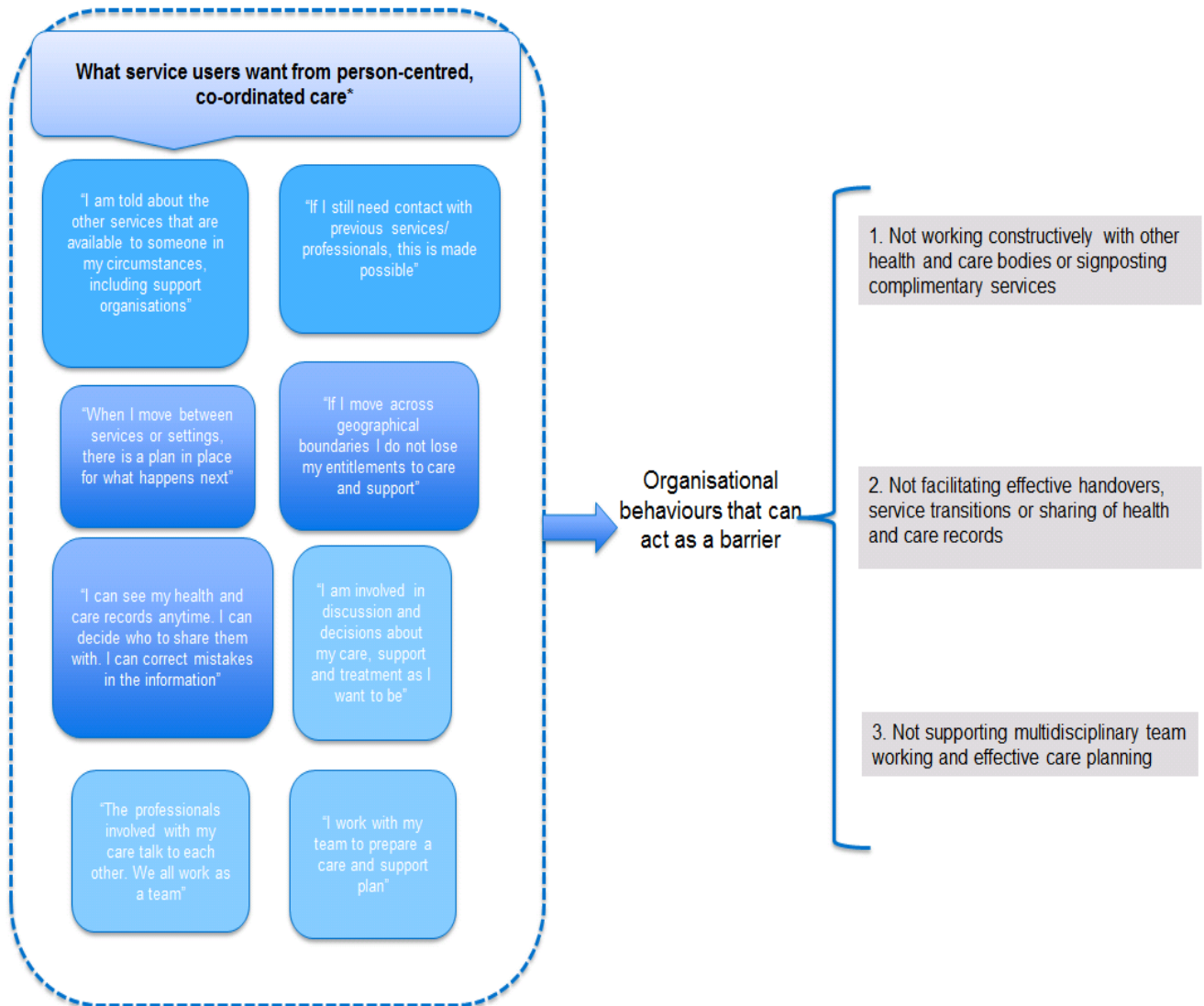
3. Examples of ways in which providers may breach the integrated care licence condition

This section sets out examples of some actions and behaviours by providers that could reasonably be regarded as against the interests of patients and service users and in breach of the integrated care licence condition.

The examples focus on behaviours or actions that are within a licensee's control. They are not intended to be an exhaustive list of behaviours that could breach the licence condition and should not be used as a compliance checklist. We will take a proportionate response to any actions or behaviours that may amount to a breach of the integrated care licence condition in accordance with our enforcement guidelines (see 'How we take enforcement action').

Using the National Voices "I statements" and considering where providers in particular play an important role, we have identified three areas where their behaviour could act as a barrier to people receiving the person-centred care they would like. Under each area we have provided examples of behaviours that could constitute a licence breach, and included a more detailed scenario linked to one or more of the examples. Diagram 1 highlights the three areas we have focused on.

Diagram 1: Behaviours that could constitute a licence breach



*Based on the National Voices "I statements" narrative

3.1 Behaviours that may prevent constructive engagement with other health and care bodies or signposting complementary services to service users and patients

To deliver services in an integrated way, providers should work with and communicate effectively with other health and social care organisations, as well as with patients, service users and their families.

Providers should also ensure that patients and service users are aware of the different services provided by other organisations that could support their health and wellbeing. For example, a community podiatrist treating someone living in poor housing conditions should engage appropriately with relevant local authority departments (such as environmental health). This approach helps ensure patients and service users have access to the full range of services they require regardless of their initial point of contact.

Examples of these behaviours include licensees:

- failing to respond to commissioners' reasonable requests to discuss how local services can be better co-ordinated
- refusing reasonable requests to engage with another provider (either from the commissioner or the provider) about delivering integrated care to patients and service users
- citing existing rules and regulations (such as procurement rules or the national tariff) to obstruct the progress of integrated care plans in a local area
- refusing to direct service users or patients to complementary health and/or care services that may help with their needs.

Example scenario 1: How poor engagement and communication between providers could be detrimental to integrated care

An acute trust has worked with local community providers to develop a model of care aimed at providing people at immediate risk of hospital admission with safe and intensive care at home, to reduce avoidable admissions. The plans are also likely to affect the admission rate of neighbouring acute trusts.

One neighbouring trust with significant influence has repeatedly raised concerns to commissioners and other providers about the model of care, specifically that it may delay a patient being reviewed by a specialist and cause serious patient harm. Local commissioners suspect these concerns may be unfounded but do not want the plans to progress until they are confident the proposed model of care is safe. The neighbouring trust says there is evidence that substantiates its concerns but does not provide it when asked. Trust staff also repeatedly fail to attend meetings to discuss the concerns. The trust's behaviour therefore makes it hard for the community providers and acute trust to develop their plans, causing material delays to the implementation of more co-ordinated care that may ultimately benefit patients.

3.2 Behaviours that could act as a barrier to appropriately sharing a person's health and care history and effective patient handovers

Sharing a person's health and care records and history appropriately²⁵ is an important enabler of integrated care, particularly when a patient or service user is treated by different health and care professionals across multiple settings and providers. In addition, effective communication between different providers involved in a patient's or service user's care is important whenever they are transferred from the care of one provider to another (eg discharging someone from a hospital into the care of their GP or a social care provider, or when a patient or service user has requested to transfer to another provider).

Examples of these behaviours include licensees:

- withholding access to a patient's or service user's medical records from other providers involved in the delivery of their care unless done in accordance with data protection, Caldicott Principles and patient confidentiality obligations²⁶
- not responding to complaints about compliance with information-sharing protocols, not monitoring compliance with protocols, or not taking appropriate action if protocols are not followed

²⁵ Subject to consent, confidentiality and information governance requirements such as the Data Protection Act 1998, the updated Caldicott Principles and the NHS Confidentiality Code of Practice

²⁶ Such as the Data Protection Act 1998, the updated Caldicott Principles for information governance and the NHS Confidentiality Code of Practice.

- not responding to complaints by other providers about the quality of discharge summaries or handover notes
- not giving liaison staff²⁷ access to the care records they need to fully assess service users and patients, when sharing protocols have been agreed
- unnecessary delays in the handover of patient or service user records or care plans when service users and patients are discharged to different providers
- failure to make adequate plans for transferring patient or service user records, or unnecessary delays implementing planned transitions when a service or part of a pathway is reconfigured or transferred from one provider to another.

Example scenario 2: How a licensee might fail to respond to complaints about compliance with information-sharing protocols

Local providers involved in delivering care and support services to people with drug and alcohol addiction have developed common assessment forms and agreed information and confidentiality policies for sharing assessments between agencies. The aim is for assessment by one provider to act as a passport into other required services and for the appropriate amount of information to be shared between agencies, depending on the patient's circumstances and in line with confidentiality requirements.

The local drug and alcohol team have become aware of several cases where the local hospital trust did not inform them of relevant A&E attendances and did not share the assessment form according to agreed protocols. The trust refuses to discuss with the team the cause of the breakdown in the agreed processes, or to identify possible solutions.

3.3 Behaviours that could act as a barrier to multidisciplinary team working and care planning

Multidisciplinary teams involve a range of professionals (from the same organisation or different organisations) working together to deliver care for a specific patient or population group. In many cases, they are essential to the delivery of integrated care. A licensee may have a detrimental effect on enabling integrated care by not giving staff suitable support and resources to work effectively in multidisciplinary

²⁷ Liaison staff may undertake various roles related to care co-ordination: for example, organising multidisciplinary case conferences, helping people to book appointments and ensuring information about the patient or service user is provided to their GP or case manager.

teams across providers. Licensees should ensure that staff are aware of the emphasis on and importance of multidisciplinary team working and care planning in delivering integrated care.

Examples of these behaviours include licensees:

- refusing to allow staff to attend multidisciplinary team meetings at other provider sites
- refusing appropriate support and resources for staff who are working in multidisciplinary teams across different providers
- refusing to discuss with other providers the scope for developing shared care plans.

Example scenario 3: How a licensee might fail to support multidisciplinary team working

A care co-ordinator responsible for frail individuals in the local area regularly invites health and care professionals involved in patients' care to attend multidisciplinary team meetings. The meetings aim to facilitate co-ordination, review patient progress, revise shared care plans and discuss any issues and concerns. One of the local licensees does not allow staff sufficient time to attend these meetings. Staff feel they don't have permission to attend, and the relationships between professionals from the different providers become strained. Multidisciplinary team meetings are unable to function effectively and people cannot benefit from their cases being discussed by all the relevant professionals, which causes further fragmentation.

4. How we take enforcement action

We will enforce the integrated care licence condition consistently with how we enforce all the other licence conditions. Below we give a brief overview of our approach to identifying and investigating potential licence breaches. For further details, please refer to Monitor's [Enforcement Guidance](#).

We will look at potential breaches on a case-by-case basis and may depart from this guidance in certain circumstances. When this happens we will set out our reasons for doing so.

4.1 Identifying possible breaches

We expect to be made aware of potential breaches of the integrated care licence condition in one of several ways, including:

- complaints from third parties
- intelligence from another regulator or authority
- facts that emerge from our current or completed cases and reviews
- our own knowledge of the sector.

Accordingly, we may start investigations in reaction to complaints or on our own initiative.

Anyone can make a complaint regarding suspected breaches of the integrated care licence condition, including, for example, a provider, a commissioner, a representative body, a patient group or an individual user of healthcare services. Guidance on how to make a complaint about a potential licence breach, including where to send a complaint and who to speak to, is available on our website.²⁸

4.2 Deciding to investigate

When we become aware of a potential breach, we will consider how to proceed in accordance with our prioritisation principles. The general procedure that we follow when conducting a case (including our prioritisation principles) and the possible consequences of breaching the licence condition are set out set out in Monitor's [Enforcement Guidance](#).

We make prioritisation decisions by weighing up the costs and benefits of a particular course of action. Factors we expect to consider include the likely direct and

²⁸ See here: <https://www.gov.uk/government/organisations/monitor/about/complaints-procedure#complain-about-choice-or-competition>

indirect benefits to service users and patients, the likelihood of success,²⁹ and the likely cost of resources needed to take that particular action.

We apply our prioritisation principles to decisions about whether to begin a case, and whether to continue with a case that is under way. We will also apply these principles when deciding to take informal or formal enforcement action. We apply the framework to ensure we make best use of resources available to us.

Each year we publish an annual plan. This provides further detail about Monitor's main actions for the year ahead and where we are likely to prioritise our advice and investigations. The plan sits alongside our overall strategy, which sets out our long-term plan for achieving our mission.

4.3 Process for conducting cases

We have set out in our [Enforcement Guidance](#) the general procedures that we follow when conducting a case that may result in us taking formal enforcement action.

The Health and Social Care Act 2012 does not specify a time period within which we must complete an investigation of a suspected licence breach. However, we will publish an indicative timetable as each case begins. This will provide the parties involved with further details on our expected process and indicative timescales. If we expect our timescales to change significantly during an investigation from those set out as a case begins, we will advise the parties accordingly and explain why.

We can decide not to continue with a case at any point during an investigation without further action if, for example, we consider that there is insufficient evidence of a breach or that a formal investigation should no longer be prioritised. We will publish reasons for a decision not to continue with a case on our website.

4.4 Consequences of a licence breach

Our enforcement powers and the potential consequences of a licence breach are set out in Monitor's [Enforcement Guidance](#).

Where we find a licensee is breaching, or has breached, one or more of its licence conditions, including the integrated care licence condition, we may impose certain requirements including requiring a licensee to:

- take steps to ensure that the breach in question does not continue or recur
- take action to restore the situation to what it would have been were the breach not occurring or had not occurred
- pay a financial penalty.

²⁹ For example, whether we expect to be able to gather sufficient evidence to be satisfied that a condition has been breached.

We can revoke a provider's licence if the licensee has failed to comply with a licence condition. We do not expect to consider revoking a licence often – to do so would prevent a provider from continuing to provide NHS healthcare services (where it is obliged to hold a licence).³⁰

4.5 Informal advice

As set out earlier, we are often asked to provide informal advice to people who have queries or concerns about how the licence conditions are likely to apply in particular circumstances, including how any plans for integrated care may interact with the competition and choice licence condition or our competition and pricing powers. If you are seeking informal advice or simply wish to discuss whether to request informal advice, please refer to the contact details on our website.³¹

³⁰ We explain when we might consider revoking a licence on page 34 of our [Enforcement Guidance](#).

³¹ Information on how to contact us can be found here:
<https://www.gov.uk/government/organisations/monitor/about/complaints-procedure#complain-about-choice-or-competition>

Annex: Condition IC1: Provision of integrated care

1. The Licensee shall not do anything that reasonably would be regarded as against the interests of people who use health care services by being detrimental to enabling its provision of health care services for the purposes of the NHS to be integrated with the provision of such services by others with a view to achieving one or more of the objectives referred to in paragraph 4.
2. The Licensee shall not do anything that reasonably would be regarded as against the interests of people who use health care services by being detrimental to enabling its provision of health care services for the purposes of the NHS to be integrated with the provision of health-related services or social care services by others with a view to achieving one or more of the objectives referred to in paragraph 4.
3. The Licensee shall not do anything that reasonably would be regarded as against the interests of people who use health care services by being detrimental to enabling it to co-operate with other providers of health care services for the purposes of the NHS with a view to achieving one or more of the objectives referred to in paragraph 4.
4. The objectives referred to in paragraphs 1, 2 and 3 are:
 - (a) improving the quality of health care services provided for the purposes of the NHS (including the outcomes that are achieved from their provision) or the efficiency of their provision,
 - (b) reducing inequalities between persons with respect to their ability to access those services, and
 - (c) reducing inequalities between persons with respect to the outcomes achieved for them by the provision of those services.
5. The Licensee shall have regard to such guidance as may have been issued by Monitor from time to time concerning actions or behaviours that might reasonably be regarded as against the interests of people who use health care services for the purposes of paragraphs 1, 2 or 3 of this Condition.



Making the health sector
work for patients

Contact us

Monitor, Wellington House,
133-155 Waterloo Road,
London, SE1 8UG

Telephone: 020 3747 0000
Email: enquiries@monitor.gov.uk
Website: www.gov.uk/monitor

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