

Guidance on Clinical Contracts Transition

Stage 3 – Shift

Transition of clinical contracts – core principles

The core principles that underpin the contract transition process are:

- Appropriate arrangements to be in place between PCT and CCG / NHSCB commissioners to ensure continuity of clinical care for patients and service users during the transition
- Consistent and objective approach
- Openness and transparency
- Management action in the stabilisation phase should be proportionate to the risks identified
- The responsibility of the PCT as current contracting authority is to prepare their contracts for the smooth transfer to the future contracting authority on 1 April 2013
- Full engagement by the future contracting authorities during the 2013/14 contracting round is essential to ensure the smooth transfer of contracting arrangements

Stabilisation follow up activities and outputs

Stabilisation – follow up activities

There are a number of on-going activities from the stabilisation phase. These are:

- **Data Capture Tool** – it is important that any changes to contracts continue to be updated on the Data Capture Tool
- **Contracts Transition Engagement Plan** - the actions identified in the Engagement Plan should be completed to ensure all providers are aware of and understand the contract transition process. SHA Clusters may wish to use the plan as an assurance tool
- Completion of any outstanding actions identified in the **Stabilisation Action Plan**. This should include the process of recording implied contracts to ensure there is sufficient clarity on the service being provided to meet the requirements of the Transfer Schemes
- **Tacit Knowledge** – maintain knowledge information management through continuing to record issues relating to specific contracts on the Tacit Knowledge Tool
- **Archive** of expired contracts – ensure that the archive process for expired contracts is up to date and clearly set out in a Standard Operating Procedure in line with the governance requirements of the PCT. This process will need to be shared with the receiving organisation.

Stabilisation (PCTs) - outputs from the Stabilisation phase



- From October 2012 PCTs should be able to identify a list of contracts/ agreements (Primary Care, Specialised Services, Other contracts) that have an expiry date beyond 31 March 2013.
- The list of contracts will set out for each contract the statutory name of the provider, including address (and if applicable the Companies House Registration number) and VAT details plus the type of service(s) commissioned and an indication of the receiving organisation by name (CCG(s), Local Authority/Local Authorities and the NHSCB)
- PCTs should also be able to provide a list of all contracts that will have expired as at 31 March 2013 which have liabilities* that extend beyond the termination/expiry date. This list, for each expired contract, should identify the full details of the provider and the type of services commissioned and the single receiving organisation which will take responsibility for the expired contract and those other receiving organisations that may have an interest (financial and/ or performance) in the expired contract.

* Additional guidance on liabilities is being developed by the DH

Stabilisation for nationally commissioned services

- outputs from the Stabilisation phase



This guidance relates ONLY to NHS London in its role as host for nationally commissioned specialised services

- From October 2012 NHS London should be able to provide a list of contracts/agreements commissioned by the National Specialised Commissioning Team that have an expiry date beyond 31 March 2013.
- The list will set out the statutory name of the provider, including address and if applicable the Companies House Registration number and VAT details plus the type of service(s) commissioned and an indication of the receiving organisation (CCG(s), Local Authority (ies) and the NHSCB)
- NHS London should also be able to provide a list of contracts commissioned by the National Specialised Commissioning Team that will have expired as at 31 March 2013 and which have liabilities that extend beyond the termination/expiry date. The list should identify, for each of these expired contracts, the full details of the provider and the type of services commissioned and the single receiving organisation which will take responsibility for the expired contract plus any other receiving organisations that may have an interest (financial and/ or performance) in the expired contract

Shift

Purpose of Shift Phase

The purpose of the Shift phase is to ensure:

- Safe and effective legal transfer of clinical contracts from the sending organisation to the new commissioning organisations
- Continuity of patient services
- Provision of information required for completion of the Transfer Schemes
- Transfer of contract documentation between 'senders' and 'receivers' and any 'soft' information including from Tacit Knowledge tool
- Certainty and continuity for providers and receiving commissioners

Time line for Shift

Date	Completion of task
30 September 2012	End of Stabilisation phase
1 October 2012	Commencement of Shift phase
15 November 2012	First set of returns for instructions for Transfer Schemes
13 December 2012	Second set of returns for instructions for Transfer Schemes
17 January 2013	Third and final set of data returns for instructions for Transfer Schemes – at this point the instructions will be frozen <i>A change of control process will be put in place after this date – details to follow</i>
28 February 2013	Transfer Schemes available for Senders
14 March 2013	FINAL DATE for submission of Transfer Scheme information from PCTs
28 March 2013	All Transfer Schemes have been signed off by Sender and Receiver Boards by this date
1 April 2013	Transfer Scheme comes into effect, all assets and liabilities from PCTs, SHA, and other organisations transferred to the new commissioning organisations

How contracts will be legally transferred

- There will be a single Transfer Scheme per Sending organisation
- Clinical contracts will be transferred to the Receiving organisation through the Transfer Scheme
- A Transfer Scheme is an instrument in writing made by the Secretary of State under Sections 300 to 302 of the Health and Social Care Act 2012.
- A Transfer Scheme will deal with the transfers of staff, property and liabilities between sending and receiving organisations as set out in Schedules 22 and 23 to the 2012 Act
- The Transfer Scheme will include the list of clinical contracts and will identify the 'sending' organisation and 'receiving' organisation as well as details of the Provider and nature of the service
- All contracts listed in the Transfer Scheme will transfer to the new commissioner(s) on 1st April 2013

What information will be needed?

- Transfer Schemes **should** include:
 - All contracts signed by the PCT that expire after 31st March 2013
 - All contracts that do not have an expiry date
 - All contracts that expire on or before 31st March 2013 where there are liabilities (set out in DH guidance) that extend beyond expiry/termination
- Transfer Schemes **should not** include
 - Contracts with a commencement date of 1st April 2013 that have been signed by one of the new commissioning organisations
- The term 'contract' includes all contracts, service level agreements, grants and other arrangements to provide services (whether in writing or not) and individual patient placement agreements.

Transfer Schemes

-what information will be needed?

Party	Information
Sending PCT/SHA Commissioner (NHS London only for national specialised services)	<ul style="list-style-type: none"> • Full legal name from Establishment Order • Registered address • Names, roles and addresses of PCT authorised officer • VAT number • ODS code
Provider Information	<ul style="list-style-type: none"> • Full legal name from Establishment Order or as listed in Companies House • Registered address • Names, roles and addresses of authorised officers • VAT number • ODS code
Services	<ul style="list-style-type: none"> • Identification of the services commissioned from the provider. • The services will need to be identified against each receiving commissioner which may have an interest in the service
Receiving Commissioner	<ul style="list-style-type: none"> • Full legal name from Establishment Order • Registered address • Names, roles and addresses of authorised officers • VAT number • ODS code

Transfer Schemes

-what information will be needed?



Suggested template (for MS Excel format)

Sending organisation (PCT, SHA) address and details*		
Provider contract	Nature of the Services <i>(high level descriptor or specific service where appropriate)</i>	Receiving Commissioner(s) (CCG(s), LA(s), NHSCB)
City Hospital FT , address and details*	<i>Acute , A&E</i>	-Near City CCG, address and details* -City CCG, address and details*
	<i>GU Medicine</i>	-City LA, address and details* -County LA, address and details*
	<i>SCG service name</i>	-NHSCB, address and details*
New County Hospital Ltd , address and details*	<i>Acute Elective</i>	-Nearby CCG, address and details*

*full legal name and registered office address, authorised officer name, VAT number , ODS

Issues in Shift - Engagement



- As part of the engagement plans developed under the stabilisation phase, PCTs will have identified a range of issues to be worked through with their providers.
- Engagement with receiving organisations is a key part of the smooth transition of contracts and to ensure continuity of services. PCTs will be working with receiving organisations to identify
 - Those contracts with an expiry date of beyond 31 March 2013 to ensure understanding of the range and scope of contracts being transferred
 - Information that the new commissioners will need to have to allow them to plan for commissioning the range of services where the current contracts expire on 31 March 2013

Issues in Shift - Specialised Commissioning



- **It is essential that SCGs and PCTs work together to ensure that accurate information is included in the Transfer Scheme documentation**
- **Contracts where the SCG is the only commissioner**
 - the SCG to ensure that information is supplied to the host PCT for their data capture tool with the PCT to liaise to ensure the correct information is included in the Transfer Schemes
- **SCG is associate to PCT contract:**
 - SCGs and PCTs will need to liaise to ensure the correct information is included in the Transfer Schemes

Issues in Shift - Specialised Commissioning



- **PCT commissioned services which are part of specialised commissioning dataset:**
 - PCT includes information on PCT data capture tool. PCT liaises with SCGs to ensure the correct information is included in the Transfer Schemes
- **SCG commissioned services that are not part of the Specialised Commissioning Data set will transfer to relevant CCG(s)**
 - For Services currently included in an SCG contract: the SCG provides information to host PCT for data capture tool and liaises with PCT to ensure correct information is included on the Transfer Scheme
 - Services included in a PCT contract with SCG as associate: PCT includes information in data capture tool and liaises with SCG to ensure information for Transfer Scheme is correct
- Nationally commissioned services will transfer to the relevant receiving body – the NHS CB - in line with the agreed specialised commissioning data set

Issues in Shift - Primary Care contracts

- For Out of Hours contracts for primary care services which also contain emergency dental services, the contracts will transfer to the CCGs with all dental services elements transferring to the NHSCB. PCTs will need to identify the specific elements of the Out of Hours contracts against the relevant receiving organisation.
- Medical Out of Hours contracts for where the primary care providers have 'opted-out' will transfer to CCGs. PCTs will record these Out of Hours contracts against the relevant receiving CCG commissioners(s).
- Medical service Out of Hours contracts where the provider has 'opted-in' will transfer to the NHSCB. PCTs will record these Out of Hours contracts against the NHSCB as the receiving organisation

Issues in Shift

- Primary Care Enhanced Services



- **Enhanced services**
 - Each PCT should identify all Enhanced Services contracts held
 - Each Enhanced Service agreement must be included in the transfer scheme where the expiry of the Enhanced Service contract extends beyond 31 March 2013
 - The PCTs should follow the guidance set out by the NHS CB in their July 2012 guidance
<http://www.commissioningboard.nhs.uk/files/2012/03/fact-enhanced-serv.pdf>
 - Enhanced Services agreements that expire on 31 March 2013 and where there are liabilities that survive expiry/termination will need to be identified and included in the Transfer Scheme documentation.

Issues in Shift - Other Contracts

- **Prison and offender health**
 - Prison and offender health services will be commissioned by the NHSCB. PCTs should identify all contracts for prison and offender health services on the Transfer Scheme documentation with the receiver as the NHSCB
- **Military and Veterans health**
 - Military and Veterans health services contracts will be commissioned by the NHSCB. PCTs should identify all contract(s), or those services within a larger contract, for military and veterans health services, on the Transfer Scheme documentation with the receiver as the NHSCB
- **Vaccination and Immunisation**
 - Vaccination and immunisation services contracts will be commissioned by the NHSCB. PCTs should identify all vaccination and immunisation elements of existing contracts, or services within a larger contract, on the Transfer documentation with the receiver as the NHSCB

Issues in Shift - Other Contracts

- **S75 Partnership Agreements**
 - Where S75 agreements with the PCT and a Local Authority have an expiry date beyond 01 April 2013, the PCT should identify the individual CCG(s) that will become the future commissioning partner with the Local Authority on the Transfer Scheme documentation
 - Where S75 agreements with the PCT and a Local Authority are due to expire on 31 March 2013 and where there are liabilities which extend beyond expiry/termination, then the PCT will need to identify the appropriate receiving CCG on the Transfer Scheme documentation.
 - For new partnership arrangements identified to commence on 1 April the Local Authority will enter into a S75 agreement with the relevant CCG.

Issues in Shift - Other Contracts

- **ISTC contracts**
 - The NHSCB will be the responsible organisation for the ISTC contracts. PCTs will need to record the receiving organisation as the NHSCB on their Transfer Scheme documentation.

Issues in Shift - Other Contracts



- **Grants**
 - Where a grant agreement with a provider does not expire on 31 March 2013 the relevant CCG should be identified on the Transfer Scheme documentation
- **Spot Purchases**
 - Spot purchase agreements are, by their very nature, ad hoc episodic agreements usually relating to a single patient. Where a service commissioned on a spot purchase basis will not be complete by 31 March 2013, the PCT should record the arrangement on the Transfer Scheme documentation against the receiving CCG or the NHSCB
- **Implied contracts**
 - Where a PCT has an arrangement with a clinical service provider and a contract or formal documentation has not been completed and the service which is being provided will extend beyond 31 March 2013, the PCT will need to record this arrangement with the provider and identify the receiving CCG(s) or the NHSCB on the Transfer Scheme documentation. However these should be few in number as Stabilisation activities will have been completed

Issues in Shift

- Splitting contracts general issues



- **Splitting contracts**
 - The identification of Receiving organisations for Transfer Scheme documentation is a local decision by PCTs
 - PCTs may wish to identify the proportion of a contract or service that is likely to be attributable to a Receiving organisation.
 - The Transfer Scheme documentation will identify the Receiving bodies and will not include proportions of activity or previous financial activity associated with the contract
 - Financial allocations for 2013/14 do not form part of the Transfer Schemes and are determined and notified separately to the new commissioning bodies
 - Where a contract is split amongst a number of new commissioners PCTs may add a cover front sheet to the contract, indicating the split of the service/contract among new commissioners (a example template is attached)

Issues in Shift

- Splitting contracts general issues

Example of a layout for the 'cover sheet' schedule that can be attached to the provider contract for information only – this document would NOT form part of the Transfer Scheme documentation

Sending organisation (PCT, SHA) address and details		
Provider contract details address and details		
		[Proportion of service]
<i>Any Town CCG</i>	<i>Acute services</i>	
<i>New Town CCG</i>	<i>Acute services Community service</i>	
<i>Three town CCG</i>	<i>Community home care service</i>	
<i>County Local Authority</i>	<i>Named public health service</i>	
<i>NHSCB</i>	<i>Specialised service name</i>	

PHYSICAL TRANSFER OF CONTRACTS: ILLUSTRATIVE SCENARIOS

A bilateral PCT contract split between a number of new commissioners

- The transfer scheme template will indicate the new commissioning organisations who will be responsible for the commissioned services.
- PCT to complete a cover sheet schedule to the contract that will identify the new commissioners against their services.
- The contract and the summary sheet will be electronically sent to the new commissioners
- The original copy of the contract and the summary cover sheet schedule will be sent to the commissioner that either has the majority interest in the contract or the commissioner covering the provider's geographical location.
- The PCT should send a copy of the cover sheet schedule to the provider for the provider's records.

A bilateral PCT contract transferred to a co-terminous single new commissioner

- The transfer scheme template will indicate the new commissioning organisations who will be responsible for the commissioned service(s).
- PCT to complete a cover sheet to the contract that will identify the new commissioner against their services.
- The contract and the summary sheet will be electronically sent to the new commissioner.
- The original copy of the contract and the summary cover sheet schedule will be sent to the commissioner.
- The PCT should send a copy of the cover sheet schedule to the provider for the provider's records.

A multilateral PCT contract split between a number of new commissioners

- The transfer scheme template will indicate the new commissioning organisations who will have an interest in the commissioned services.
- PCT to complete a cover sheet schedule to the contract that will identify the breakdown of the multilateral contract against each PCT and the new commissioners against the individual PCTs services.
- The contract and the cover sheet schedule will be electronically sent to the new commissioners
- The original copy of the contract and the cover sheet schedule will be sent to the commissioner that either has the majority interest in the contract or the commissioner covering the provider's geographical location.
- The PCT should send a copy of the cover sheet schedule to the provider for the provider's records.

A multilateral PCT contract with an SCG as associate split between a number of new commissioners



- The transfer scheme template will indicate the new commissioning organisations who will have an interest in the commissioned services.
- PCT to complete a cover sheet to the contract that will identify the breakdown of the multilateral contract against each PCT /SCG and the new commissioners (CCG/NHSCB) against the individual PCT/SCGs services.
- The contract and the summary sheet will be electronically sent to the new commissioners
- The original (hard) copy of the contract and the summary coversheet will be sent to the commissioner that either has the majority interest in the contract or the commissioner covering the provider's geographical location.
- The PCT should send a copy of the cover sheet to the provider for the provider's records.

Steps within Shift - Summary action

- On-going communication with providers
- On-going communication with new commissioning bodies (NHSCB, CCGs and Local Authorities)
- Completion of all Stabilisation activities
- Submission of Transfer Scheme Documentation in line with DH 'Handover and Closedown guidance.
- Data Capture Tool, Tacit Knowledge Tool and all records relating to clinical contracts kept up to date
- Development of a cover sheet document for each contract identifying the services against each receiving commissioner
- Transfer of the original executed copy of the contract to the nominated receiver for safekeeping
- Identification of all archive records to ensure that the archive for all contract related documentation is available in line with the governance requirements of the PCT. This process will need to be shared with the receiving organisation

Additional Guidance

Transfer Schemes - supporting guidance

- Stocktake (Gateway 16818)
http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/Dearcolleagueletters/DH_131035
- Stabilisation (Gateway 17648)
http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/Dearcolleagueletters/DH_134304
- National Transition Guidance
NHSCB guidance
<http://www.commissioningboard.nhs.uk/files/2012/07/fs-ccg-respon.pdf>
<http://www.commissioningboard.nhs.uk/files/2012/03/fact-enhanced-serv.pdf>
- NHS Transition – Transfer Documentation Guidance: identifying legal title in assets and liabilities and completing transfer documentation
<http://www.dh.gov.uk/health/2012/10/handover-guidance-transition/>