



Department  
of Health



Public Health  
England

# NHS public health functions arrangement

National Pandemic Flu Service - Telephony  
Management Services

<p><b>Title: NHS Public Health Functions Arrangement / National Pandemic Flu Service - Telephony Management Services</b></p>
<p><b>Author: Directorate/ Division/ Branch acronym / cost centre</b> Public &amp; International Health Directorate/Emergency Preparedness Consequence Management/EPRR CM/10200</p>
<p><b>Document Purpose: Transparency</b></p>
<p><b>Publication date:</b> September 2015</p>
<p><b>Target audience: Health care professionals, managers and policy makers with an interest in and responsibility for the National Pandemic Flu Service.</b></p>
<p><b>Contact details:</b></p> <p>Public Health England Wellington House 133-155 Waterloo Road LONDON SE1 8UG</p>

You may re-use the text of this document (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit [www.nationalarchives.gov.uk/doc/open-government-licence/](http://www.nationalarchives.gov.uk/doc/open-government-licence/)

© Crown copyright

Published to gov.uk, in PDF format only.

[www.gov.uk/dh](http://www.gov.uk/dh)

# NHS public health functions arrangement

National Pandemic Flu Service - Telephony Management Services

Prepared by Public Health England

# Contents

Contents .....	4
1. Introduction .....	5
2. Definitions.....	8
3. NPFS Telephony Management Services .....	10
4. Accountability and Partnership .....	11
5. Finance .....	13
6. Dispute Resolution .....	14
7. Termination .....	16

# 1. Introduction

- 1.1. This document sets out the arrangements under which the Secretary of State delegates to NHS England responsibility for certain elements of the Secretary of State's public health functions, which add to the functions exercised by NHS England under the National Health Service Act 2006. This arrangement is made under section 7A of the 2006 Act.
- 1.2. The functions which are delegated are related to the provision of the National Pandemic Flu Service (NPFs). The NPFs supplements the response provided by primary care if the pressures during an influenza pandemic mean that it is no longer practical for all those with symptoms to be individually assessed by a doctor or other health care professionals in order to access antiviral medicines.
- 1.3. Public Health England (PHE), an executive agency of the Department of Health (DH) is responsible for the component parts of the NPFs. This includes a telephone and online self-assessment service where individuals follow a process of answering questions which have been developed with advice from clinicians, to determine whether the person who is ill is eligible for antiviral medicine or not.
- 1.4. The functions which are delegated under this arrangement relate to the provision of a telephony routing service for the NPFs, which will direct calls from the public to the call centre providers. They do not relate to the provision of the call centres themselves.
- 1.5. NHS England has selected the Supplier to supply telephony services for a period of three and a half years (with the option to extend the term by up to two further years), with a commencement date of 8 October 2014, to provide telephony services to support (i) the NHS 111 Service, and (ii) the NPFs.
- 1.6. The terms of the Telephony Services Contract require the Supplier to initially provide telephony services to support the NHS 111 Service in England and Scotland, with scope to extend the services to cover NPFs Telephony Services throughout all or part of the United Kingdom.
- 1.7. The Telephony Services Contract is a bipartite agreement between NHS England and the Supplier, with scope for the Secretary of State to be joined as an "Indirect Customer" under the contract by way of a Change Authorisation Note to be signed by the Supplier, NHS England and the Secretary of State, whereupon NHS England will act as lead commissioner on behalf of the Secretary of State in respect of the NPFs Telephony Services.

## NHS public health functions arrangement

- 1.8. This arrangement is in addition to, and without prejudice to, the arrangement entitled “NHS public health functions agreement 2015-16”<sup>1</sup>.

### Legal Framework

- 1.9. Pursuant to this arrangement, NHS England will exercise functions of the Secretary of State under section 2A of the 2006 Act (duty to take such steps as Secretary of State considers appropriate for the purpose of protecting the public in England from disease or other dangers to health).
- 1.10. The provision of the NPFS Telephony Management Services is a step which the Secretary of State considers appropriate for the purpose of protecting the public in England from disease or other dangers to health.
- 1.11. Pursuant to this arrangement, NHS England will also exercise functions of the Secretary of State under section 247B of the 2006 Act (duty to co-operate in relation to public health functions), which is a function in connection with the Secretary of State’s section 2A function.
- 1.12. The Scottish Ministers, The Welsh Ministers and the Department of Health, Social Services and Public Safety, Northern Ireland, being the organisations with responsibility for a pandemic flu public health response in Scotland, Wales and Northern Ireland respectively, in exercising functions similar to those of the Secretary of State under section 2A of the 2006 Act, have sought cooperation from the Secretary of State, to provide them with a pandemic flu service which includes the NPFS Telephony Management Services.
- 1.13. The Secretary of State has agreed to the requests of the Scottish Ministers, the Welsh Ministers and the Department of Health, Social Services and Public Safety, Northern Ireland, to provide the NPFS Telephony Management Services to the Scottish Ministers, the Welsh Ministers and the Department of Health Social Services and Public Safety, Northern Ireland under the Secretary of State’s section 247B function, and may charge those persons for this.
- 1.14. NHS England will therefore provide the NPFS Telephony Management Services in relation to the United Kingdom as a whole, including England, Scotland, Wales and Northern Ireland, but excluding the Isle of Man and the Channel Islands.
- 1.15. PHE intends to enter into a separate Memorandum of Understanding with the Scottish Ministers, the Welsh Ministers and the Department of Health Social Services and Public

---

<sup>1</sup> Available at <https://www.gov.uk/government/publications/public-health-commissioning-in-the-nhs-2015-to-2016>

## Contents

Safety, Northern Ireland, setting out the arrangements under which PHE will act as the lead representative on behalf of those bodies in relation to the NPFS Telephony Services in those countries.

- 1.16. To the extent necessary to perform the functions described in paragraphs 1.9 and 1.10 above, NHS England will also exercise the function of the Secretary of State under section 2 of the 2006 Act (general power to do anything which is conducive or incidental to a function of the Secretary of State), which is a function in connection with the Secretary of State's section 2A function.
- 1.17. The NPFS Telephony Management Services are to be provided from the date of signature by the last party to sign the Change Authorisation Note until this arrangement ceases to have effect in accordance with paragraph 7.1 (Termination).
- 1.18. This arrangement is not intended to be a contract in law or to be enforceable by a court, and should not be regarded as giving rise to contractual rights or liabilities. The Secretary of State and NHS England will jointly aim to resolve any possible dispute that might arise in relation to this arrangement as quickly as possible using the processes described in this arrangement.

## 2. Definitions

For the purposes of this arrangement, except where the context otherwise requires, the words and phrases below have the following meanings:

“2006 Act” means the National Health Service Act 2006;

“2012 Act” means the Health and Social Care Act 2012;

“Business Day” means any day (other than a Saturday, Sunday or public holiday in the United Kingdom) on which clearing banks in the City of London are generally open for business;

“Change Authorisation Note” means a document in a form specified in the Telephony Services Contract, signed by the Parties and the Supplier, pursuant to which the Secretary of State will be joined as an Indirect Customer under the Telephony Services Contract;

“Devolved Administrations” or “DAs” means the Scottish Ministers, the Welsh Ministers and the Department of Health Social Services and Public Safety, Northern Ireland;

“DH” or “the Department” means the Department of Health;

“Indirect Customer” has the meaning given to it in the Telephony Services Contract;

“National Pandemic Flu Service” or “NPFS” means a multi-channel remote access service providing the public with information and access to antivirals in the event of an influenza pandemic;

“NHS 111 Service” means the non-emergency, 24-hour medical helpline service intended for urgent but not life-threatening health issues;

“NPFS Telephony Management Services” means the services described in paragraph 3.1;

“NPFS Telephony Management Services Costs” has the meaning given to it in paragraph 5.2;

“NPFS Telephony Services” means the telephony services specified in the Telephony Services Contract to be supplied by the Supplier to support the NPFS;

“Operational Board” means the committee set up to advise on operational issues relating to the services to be supplied by the Supplier under the Telephony Services Contract;



## Contents

“Pandemic” means the period during which the Department of Health determines that the World Health Organisation Pandemic phase is reached as notified by the Secretary of State to NHS England;

“Pandemic Influenza Preparedness Programme Board” means the governance Board in England that sets the policy and strategic direction regarding Pandemic Flu;

“Parties” means the Secretary of State for Health and NHS England;

“PHE” means Public Health England, an executive agency of the Department of Health;

“Supplier” means the supplier of telephony services under the Telephony Services Contract;

“Telephony Board” means the body established to provide strategic advice in connection with the Telephony Services Contract;

“Telephony Services Contract” means the contract between NHS England and Vodafone Limited for the provision of telephony services dated 8 October 2014.

## 3. NPFS Telephony Management Services

- 3.1. NHS England will undertake the following contract management services on behalf of the Secretary of State (the “NPFS Telephony Management Services”):
- act as the Secretary of State’s representative in dealing with the Supplier under the Telephony Services Contract in relation to issues which relate to or impact on the NPFS Telephony Services throughout all or part of the United Kingdom;
  - liaise with the Supplier to ensure effective delivery of the NPFS Telephony Service throughout all of the United Kingdom;
  - exercise any rights to step in, handover and/or terminate under the Telephony Services Contract on behalf of the Secretary of State and the DAs;
  - defend any claims from the Supplier and bring any claims against the Supplier under the Telephony Services Contract on behalf of the Secretary of State and the DAs;
  - provide any additional or ancillary contract management services pursuant to the Telephony Services Contract.

## 4. Accountability and Partnership

4.1. Critical elements of the relationship between DH and NHS England are defined in the Framework Agreement concluded between them in 2014<sup>2</sup>. The agreed set of shared principles that supports development of the relationship is:

- Working together with each other, and with the Department's other arm's length bodies, for patients, people who use services and the public, demonstrating our commitment to the values of the NHS set out in its Constitution;
- Respect for the importance of autonomy throughout the system, and the freedom of individual organisations to exercise their functions in the way they consider most appropriate;
- Recognition that the Secretary of State is ultimately accountable to Parliament and the public for the system overall. NHS England supports the Department in the discharge of its accountability duties, and the Department supports NHS England in the same way;
- Working together openly and positively. This will include working constructively and collaboratively with other organisations within and beyond the health and social care system.

### NHS England Responsibilities

4.2. In carrying out the NPFS Telephony Management Services under this arrangement, NHS England will:

- provide regular updates to the Telephony Board and to the Secretary of State in accordance with paragraphs 4.4 and 4.5 (Information);
- consult with, and have due regard to the views and advice of:
  - the Telephony Board in relation to strategic matters relating to the Telephony Services Contract, insofar as they relate to the NPFS Telephony Services; and
  - the Operational Board in relation to operational matters relating to the Telephony Services Contract, insofar as they relate to the NPFS Telephony Services;

---

<sup>2</sup> Available at <https://www.gov.uk/government/publications/framework-agreement-between-dh-and-nhs-england>

## NHS public health functions arrangement

- consult with the Telephony Board and with the Secretary of State in relation to any default notices or other claims arising under the Telephony Services Contract, insofar as they relate to the NPFS Telephony Services;
- wherever reasonably practicable, consult with the Telephony Board prior to exercising any 'step in' or contract termination rights under the Telephony Services Contract. Where such prior consultation is not reasonably practicable, for example in an emergency situation, NHS England will notify the Secretary of State of such matters prior to exercising such 'step in' or contract termination rights.

4.3. NHS England will not exercise any 'step in' or contract termination rights under the Telephony Services Contract during a Pandemic without the prior written consent of the Secretary of State.

### Information

4.4. NHS England will supply the Secretary of State with:

- a copy of the minutes of any service meetings between NHS England and the Supplier;
- a quarterly report regarding Supplier performance, which will include a summary of the Supplier's performance against the Key Performance Indicators within the Telephony Services Contract, and exception reports for specific incidences of operational under-performance;
- a monthly statement showing the apportionment of the NPFS Telephony Management Services Costs between the Parties; and
- a copy of any notice served on the Supplier regarding performance or other service or contract performance concerns, whether or not that has resulted in performance deductions.

4.5. Each Party will provide the other Party with any documents, information and correspondence relating to the Telephony Services Contract and/or any of the matters covered by this arrangement as they may reasonably request, including any such documentation, information and/or correspondence as may be necessary to enable a Party to comply with any statutory requirements, contractual obligations or with any applicable guidelines or regulations.

## 5. Finance

- 5.1. The Secretary of State agrees to reimburse NHS England for performing the NPFS Telephony Management Services pursuant to this arrangement for the duration of this arrangement, as described in paragraph 5.2 below.
- 5.2. The Secretary of State agrees to reimburse to NHS England a proportion (calculated on a basis to be agreed between the Parties) of certain costs and expenses which may be reasonably incurred by NHS England in relation to bringing or defending claims against or by the Supplier as part of the NPFS Telephony Management Services, insofar as they relate, directly or indirectly to the NPFS Telephony Services, and a proportion (calculated as aforesaid) of any other costs and expenses which may be incurred by NHS England under the Telephony Services Contract on behalf of both Parties which, for whatever reason, the Supplier does not or cannot apportion between the Parties and directly invoice to each Party itself (the “NPFS Telephony Management Services Costs”).
- 5.3. Where any NPFS Telephony Management Services Costs are invoiced by the Supplier to NHS England:
  - NHS England will supply the Secretary of State with copies of each such invoice received from the Supplier (“Supplier Invoice”) as soon as reasonably practicable following receipt of the same by NHS England.
  - NHS England will submit an invoice to the Secretary of State showing the amount of the Secretary of State’s contribution towards the NPFS Telephony Management Services Costs as soon as reasonably practicable following the receipt by NHS England of each Supplier Invoice.

## 6. Dispute Resolution

- 6.1. As indicated in paragraph 1.18, any differences should be resolved quickly and constructively. The following provisions describe procedures to be followed to resolve any dispute in relation to this arrangement.

### Stage 1 – Referral to the Telephony Board

- 6.2. If any dispute as described in paragraph 6.1 arises between the Parties, the Parties will first attempt to settle it by referring the matter to their respective appointed representatives on the Telephony Board (or to another person nominated in writing by the relevant Party), who will meet within one month of any such referral to consider the matter.
- 6.3. The appointed representatives referred to in paragraph 6.2 will seek to facilitate a mediated agreement between NHS England and the Secretary of State. For the avoidance of doubt, such appointed representatives do not have the power to arbitrate any such dispute or to impose any settlement terms on the Parties.

### Stage 2 – Initial Escalation

- 6.4. If the Parties are unable to settle the dispute within 10 Business Days of a meeting of their appointed representatives under paragraph 6.2 above, then the dispute may be referred by either Party to the Director of Digital Technology of NHS England and the PHE Deputy Director for Vaccines and Countermeasures Response, who will meet within 10 Business Days following the date of such referral.
- 6.5. The appointed representatives referred to in paragraph 6.4 will seek to facilitate a mediated agreement between the Parties. For the avoidance of doubt, such appointed representatives do not have the power to arbitrate any such dispute or to impose any settlement terms on the Parties.

### Stage 3 – Final Escalation

- 6.6. If the matter is not resolved in accordance with paragraph 6.5, the matter must be referred to the Secretary of State for final determination. The Secretary of State must, after consultation with NHS England, appoint a person independent of DH, PHE and NHS England to consider the dispute and make recommendations, within a period specified by the Secretary of State on appointment. The Secretary of State must make a final decision within 10 Business Days of receiving the recommendations. DH and NHS England agree to be bound by the decision of the Secretary of State and to implement any decision within a reasonable period.

## Contents

- 6.7. NHS England shall comply with all reasonable requests from the Secretary of State to agree a reasonable extension of any of the timescales referred to in these paragraphs 6.2 to 6.6 during a Pandemic.
- 6.8. For the avoidance of doubt, unless and until this arrangement ceases to have effect in accordance with paragraph 7.1 (Termination), the Parties shall each continue to carry out their respective responsibilities under this arrangement notwithstanding that a dispute between them remains unresolved.
- 6.9. This arrangement is without prejudice to the exercise by the Secretary of State of the Secretary of State's powers in respect of NHS England, including his powers in relation to the failure by NHS England to discharge, or to discharge properly, any of its functions (section 13Z2 of the 2006 Act).

## 7. Termination

7.1. This arrangement will cease to have effect on the earliest to occur of:

- the termination or expiry of the Telephony Services Contract;
- the Secretary of State ceasing to be joined as an Indirect Customer under the Telephony Services Contract; or
- the statutory powers of either Party being amended for any reason such that NHS England is no longer lawfully able to carry out the NPFS Telephony Management Services on behalf of the Secretary of State.