



NHS Standard Contract 2016/17 Service Conditions (Short Form)

Contract title/ref.

NHS Standard Contract

2016/17

Service Conditions (Shorter Form)

First published: March 2016

Updated: 13 April 2016

This updated version, published on 13 April 2016, adds, 'the general element of' to SC36.17A.

Prepared by: NHS Standard Contract Team
nhscb.contractshelp@nhs.net

Publications Gateway Reference: 04980

Document Classification: Official

<p>SC1 Compliance with the Law and the NHS Constitution</p> <p>1.1. The Provider must provide the Services in accordance with the Fundamental Standards of Care and the Service Specifications.</p>	<p>All</p>
<p>1.2 The Parties must perform their respective obligations under this Contract in accordance with:</p> <p>1.2.1. the terms of this Contract; and</p> <p>1.2.2. the Law; and</p> <p>1.2.3. Good Practice.</p> <p>The Provider must, when requested by the Co-ordinating Commissioner, provide evidence of the development and updating of its clinical process and procedures to reflect Good Practice.</p>	<p>All</p>
<p>1.3 The Parties must abide by and promote awareness of the NHS Constitution, including the rights and pledges set out in it. The Provider must ensure that all Sub-Contractors and all Staff abide by the NHS Constitution.</p>	<p>All</p>
<p>SC2 Regulatory Requirements</p> <p>2.1 The Provider must:</p> <p>2.1.1 comply, where applicable, with the registration and regulatory compliance guidance of any relevant Regulatory or Supervisory Body, and with any requirements, standards and recommendations issued from time to time by such a body;</p> <p>2.1.2 consider and respond to the recommendations arising from any audit, Serious Incident report or Patient Safety Incident report;</p> <p>2.1.3 comply with the standards and recommendations issued from time to time by any relevant professional body and agreed in writing between the Co-ordinating Commissioner and the Provider;</p> <p>2.1.4 comply, where applicable, with the recommendations contained in NICE Technology Appraisals and have regard to other Guidance issued by NICE from time to time;</p> <p>2.1.5 respond to any reports and recommendations made by Local Healthwatch.</p>	<p>All</p>
<p>SC3 Service Standards</p> <p>3.1 The Provider must</p> <p>3.1.1 not breach the thresholds in respect of the Operational Standards, National Quality Requirements and Local Quality Requirements; and</p> <p>3.1.2 ensure that Never Events do not occur.</p>	<p>All</p>
<p>3.2 A failure by the Provider to comply with SC3.1 will be excused if it is directly attributable to or caused by an act or omission of a Commissioner, but will not be excused if the failure was caused primarily by an increase in Referrals.</p>	<p>All</p>

<p>3.3 The Provider must continually review and evaluate the Services, must implement Lessons Learned from those reviews and evaluations, from feedback, complaints, Patient Safety Incidents, Never Events, and from Service User, Staff, GP and public involvement (including the outcomes of Surveys).</p>	<p>All</p>
<p>SC4 Co-operation</p> <p>4.1 The Parties must at all times act in good faith towards each other and in the performance of their respective obligations under this Contract. The Parties must co-operate and share information with each other and with other commissioners and providers of health or social care in respect of Service Users, in accordance with the Law and Good Practice, to facilitate the delivery of co-ordinated and integrated services for the benefit of Service Users.</p>	<p>All</p>
<p>SC5 Commissioner Requested Services / Essential Services</p> <p>5.1 The Provider must comply with its obligations under Monitor’s Licence (if required) in respect of any Services designated as CRS by any Commissioner from time to time in accordance with CRS Guidance.</p>	<p>All</p>
<p>5.2 The Provider must maintain its ability to provide, and must ensure that it is able to offer to the Commissioners, the Essential Services.</p>	<p>Essential Services</p>
<p>5.3 The Provider must have and at all times maintain an up-to-date Essential Services Continuity Plan. The Provider must, in consultation with the Co-ordinating Commissioner, implement the Essential Services Continuity Plan as required:</p> <p>5.3.1 if there is any interruption to or suspension of the Essential Services; or</p> <p>5.3.2 on expiry or early termination of this Contract or of any Service.</p>	<p>Essential Services</p>
<p>SC6 Choice and Referral</p> <p>6.1 The Parties must comply with Guidance issued by the Department of Health, NHS England and Monitor regarding patients’ rights to choice of provider and/or consultant.</p>	<p>All</p>
<p>6.2 The Provider must accept any Referral of a Service User made in accordance with the Referral processes or and clinical thresholds set out or referred to in this Contract and/or as otherwise agreed between the Parties.</p>	<p>All</p>
<p>6.3 The existence of this Contract does not entitle the Provider to accept referrals in respect of, provide services to, nor to be paid for providing services to, individuals whose Responsible Commissioner is not a Party to this Contract.</p>	<p>All</p>
<p>6.4 Except as permitted under the Service Specifications, the Provider must not carry out, nor refer to another provider to carry out, any treatment or care that is unrelated to a Service User’s original Referral or presentation without the agreement of the Service User’s GP.</p>	<p>All</p>
<p>SC7 Intentionally Omitted</p>	
<p>SC8 Making Every Contact Count</p> <p>8.1 The Provider must develop and maintain an organisational plan to ensure that Staff use every</p>	<p>All</p>

<p>contact that they have with Service Users and the public as an opportunity to maintain or improve health and wellbeing, in accordance with the principles and using the tools comprised in Making Every Contact Count Guidance.</p>	
<p>SC9 Intentionally Omitted</p>	
<p>SC10 Personalised Care Planning and Shared Decision-Making</p> <p>10.1 The Provider must comply with regulation 9 of the 2014 Regulations. The Provider must employ Shared Decision-Making, and Patient Decision Aids relevant to the Services and approved by the Co-ordinating Commissioner, in planning and reviewing the care or treatment which a Service User receives.</p>	<p>All</p>
<p>SC11 Transfer of and Discharge from Care</p> <p>11.1 The Provider must comply with the Transfer of and Discharge from Care Protocols and all Law and Guidance (including LD Guidance and Transfer and Discharge Guidance) relating to transfer of and discharge from care.</p>	<p>All</p>
<p>11.2 The Provider must use its best efforts to avoid circumstances and transfers and/or discharges likely to lead to emergency readmissions or recommencement of care.</p>	<p>All</p>
<p>11.3 The Provider must issue the Discharge Summary to the Service User's GP and/or Referrer and to any third party provider within the timescale, and in accordance with any other requirements, set out in the relevant Transfer of and Discharge from Care Protocol.</p>	<p>All except PT</p>
<p>SC12 Communicating With and Involving Service Users, Public and Staff</p> <p>12.1 The Provider must ensure that all communications about a Service User's care with that Service User (and, where appropriate, their Carer and/or Legal Guardian), their GP and other providers are clear and timely. The Provider must comply with the Accessible Information Standard.</p>	<p>All</p>
<p>12.2 The Provider must actively engage, liaise and communicate with Service Users (and, where appropriate, their Carers and Legal Guardians), Staff, GPs and the public in an open and clear manner in accordance with the Law and Good Practice, seeking their feedback whenever practicable.</p>	<p>All</p>
<p>12.3 The Provider must:</p> <p>12.3.1 carry out the Friends and Family Test Surveys as required in accordance with FFT Guidance, using all reasonable endeavours to maximise the number of responses from Service Users;</p> <p>12.3.2 carry out other Surveys as agreed with the Co-ordinating Commissioner from time to time; and</p> <p>12.3.3 provide a written report to the Co-ordinating Commissioner on the results of each Survey.</p>	<p>All</p>

SC13 Equity of Access, Equality and Non-Discrimination		
13.1	The Parties must not discriminate between or against Service Users, Carers or Legal Guardians on the grounds of age, disability, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, sexual orientation, gender reassignment, or any other non-medical characteristics, except as permitted by Law.	All
13.2	The Provider must provide appropriate assistance and make reasonable adjustments for Service Users, Carers and Legal Guardians who do not speak, read or write English or who have communication difficulties (including hearing, oral or learning impairments).	All
SC14 Intentionally Omitted		
SC15 Places of Safety		
15.1	The Parties must have regard to the Mental Health Crisis Care Concordat and must reach agreement on the identification of, and standards for operation of, Places of Safety in accordance with the Law, the 1983 Act Code and Royal College of Psychiatrists Standards.	MH
SC16 Complaints		
16.1	The Commissioners and the Provider must each publish, maintain and operate a complaints procedure in compliance with the Fundamental Standards and other Law and Guidance.	All
16.2	The Provider must:	All
16.2.1	provide clear information to Service Users, their Carers and representatives, and to the public, displayed prominently in the Services Environment as appropriate, on how to make a complaint or to provide other feedback and on how to contact Local Healthwatch; and	
16.2.2	ensure that this information informs Service Users, their Carers and representatives, of their legal rights under the NHS Constitution, how they can access independent support to help make a complaint, and how they can take their complaint to the Health Service Ombudsman should they remain unsatisfied with the handling of their complaint by the Provider.	
SC17 Services Environment and Equipment		
17.1	The Provider must ensure that the Services Environment and the Equipment comply with the Fundamental Standards of Care.	All
17.2	Unless stated otherwise in this Contract, the Provider must at its own cost provide all Equipment necessary to provide the Services in accordance with the Law and any necessary Consents.	All
17.3	The Provider must ensure that all Staff using Equipment, and all Service Users and Carers using Equipment independently as part of the Service User's care or treatment, have received appropriate and adequate training and have been assessed as competent in the use of that Equipment.	All
SC18 – SC20 Intentionally Omitted		

SC21 Antimicrobial Resistance and Healthcare Associated Infections		
21.1	The Provider must comply with the Code of Practice on the Prevention and Control of Infections.	All
SC22 Intentionally Omitted		
SC23 Service User Health Records		
23.1	The Provider must create and maintain Service User Health Records as appropriate for all Service Users. The Provider must retain those records for the periods of time required by Law and/or by national retention schedules published by the Department of Health or NHS England or HSCIC, and then securely destroy them.	All
23.2	At a Commissioner's request, the Provider must promptly deliver to any third party provider of healthcare or social care services nominated by that Commissioner a copy (or, at any time following the expiry or termination of this Contract, the original) of the Service User Health Record held by the Provider for any Service User for whom that Commissioner is responsible.	All
23.3	The Provider must give each Service User full and accurate information regarding their treatment and must evidence that in writing in the relevant Service User Health Record.	All
23.4	Subject to and in accordance with Law and Guidance the Provider must	All
	23.4.1 ensure that the Service User Health Record includes the Service User's verified NHS Number;	
	23.4.2 use the NHS Number as the consistent identifier in all clinical correspondence (paper or electronic) and in all information it processes in relation to the Service User; and	
	23.4.3 be able to use the NHS Number to identify all Activity relating to a Service User.	
23.5	The Commissioners must ensure that each Referrer (except a Service User presenting directly to the Provider for assessment and/or treatment) uses the NHS Number as the consistent identifier in all correspondence in relation to a Referral.	All
SC24 NHS Counter-Fraud and Security Management		
24.1	The Provider must put in place and maintain appropriate arrangements to address security management and counter-fraud issues, having regard to NHS Protect Standards.	All
24.2	The Provider (if it holds Monitor's Licence or is an NHS Trust) must take the necessary action to meet NHS Protect Standards.	All
24.3	The Provider must allow a person duly authorised to act on behalf of NHS Protect or on behalf of any Commissioner to review security management and counter-fraud arrangements put in place by the Provider. The Provider must implement any reasonable modifications to those arrangements required by that person in order to meet the appropriate standards.	All
24.4	The Provider must, on becoming aware of any suspected or actual bribery, corruption or fraud, security incident or security breach involving Staff, a Service User or public funds, promptly report the matter to the Local Counter Fraud Specialist of the relevant NHS Body and to NHS	All

Protect.	
SC25 Procedures and Protocols	
25.1 The Parties must comply with their respective obligations under any Other Local Agreements, Policies and Procedures.	All
SC26 – SC27 Intentionally Omitted	
SC28 Information Requirements	
28.1 The Provider must: <p>28.1.1 provide the information specified in and in accordance with this SC28 and Schedule 6A (Reporting Requirements);</p> <p>28.1.2 where and to the extent applicable, conform to all NHS information standards notices and information and data standards approved or published by or on behalf of SCCI, the Secretary of State, NHS England or HSCIC, as appropriate;</p> <p>28.1.3 implement any other datasets and information requirements agreed from time to time between it and the Co-ordinating Commissioner;</p> <p>28.1.4 comply with Guidance issued by NHS England and HSCIC, and with the Law, in relation to protection of patient identifiable data;</p> <p>28.1.5 subject to and in accordance with Law and Guidance and any relevant standards issued by the Secretary of State, NHS England or HSCIC, use the Service User's verified NHS Number as the consistent identifier of each record on all patient datasets; and</p> <p>comply with the Law and Guidance on the use and disclosure of personal confidential data for other than direct care purposes.</p>	All
28.2 The Co-ordinating Commissioner may request from the Provider any information in addition to that to be provided under SC28.1 which any Commissioner reasonably and lawfully requires in relation to this Contract. The Provider must supply that information in a timely manner.	All
28.3 The Co-ordinating Commissioner must act reasonably in requesting the Provider to provide any information under this Contract, having regard to the burden which that request places on the Provider, and may not require the Provider to supply any information to any Commissioner locally for which that Commissioner cannot demonstrate purpose and value in connection with the discharge of that Commissioner's statutory duties and functions.	All
28.4 The Provider and each Commissioner must ensure that any information provided to any other Party in relation to this Contract is accurate and complete.	All
28.5 The Provider must ensure that each dataset that it provides under this Contract contains the ODS code and/or other appropriate identifier for the relevant Commissioner. The Parties must have regard to Commissioner Assignment Methodology Guidance and Who Pays? Guidance when determining the correct Commissioner code in activity datasets.	All
28.6 The Parties must comply with Guidance relating to clinical coding published by the NHS Classifications Service and with the definitions of Activity maintained under the NHS Data Model and Dictionary.	All

SC29 Managing Activity and Referrals		
29.1	The Commissioners must use all reasonable endeavours to procure that that all Referrers adhere to Referral processes and clinical thresholds set out or referred to in this Contract and/or as otherwise agreed between the Parties.	All
29.2	The Provider must comply with and use all reasonable endeavours to manage Activity in accordance with Referral processes and clinical thresholds set out or referred to in this Contract and/or as otherwise agreed between the Parties.	All
29.3	Before the start of each Contract Year, the Parties may agree an Indicative Activity Plan specifying the threshold for each activity (and those agreed thresholds may be zero).	All
29.4	The Provider must submit an Activity and Finance Report to the Co-ordinating Commissioner in accordance with Schedule 6A (<i>Reporting Requirements</i>).	All
29.5	The Co-ordinating Commissioner and the Provider will monitor actual Activity reported in each Activity and Finance Report in respect of each Commissioner against the thresholds set out in any agreed Indicative Activity Plan, any previous Activity and Finance Reports and generally.	All
29.6	Each Party must notify the other(s) as soon as reasonably practicable after becoming aware of any unexpected or unusual patterns of Referrals and/or Activity specifying the nature of the unexpected pattern and their initial opinion as to its likely cause.	All
29.7	The Parties must meet to discuss any notice given under SC29.6 as soon as reasonably practicable and must seek to agree any actions required of any Party in response to the circumstances identified.	All
SC30 Emergency Preparedness, Resilience and Response		
30.1	The Provider must comply with EPRR Guidance if and when applicable. The Provider must identify and have in place an Accountable Emergency Officer.	All
30.2	The Provider must notify the Co-ordinating Commissioner as soon as reasonably practicable and in any event no later than 5 Operational Days following: 30.2.1 the activation of its Incident Response Plan and/or Business Continuity Plan; or 30.2.2 any risk or any actual disruption to CRS or Essential Services.	All
30.3	The Provider must at the request of the Co-ordinating Commissioner provide whatever support and assistance may reasonably be required by the Commissioners and/or NHS England and/or Public Health England in response to any national, regional or local public health emergency or incident.	All
SC31 Intentionally Omitted		
SC32 Safeguarding and Mental Capacity		
32.1	The Provider must ensure that Service Users are protected from abuse and improper treatment in accordance with the Law, and must take appropriate action to respond to any allegation of abuse.	All

32.2	<p>The Provider must nominate:</p> <p>32.2.1 a Safeguarding Lead and a named professional for safeguarding children, in accordance with Safeguarding Guidance;</p> <p>32.2.2 a Child Sexual Exploitation Lead; and</p> <p>32.2.3 a Mental Capacity and Deprivation of Liberty Lead,</p> <p>and must ensure that the Co-ordinating Commissioner is kept informed at all times of the identity of the persons holding those positions.</p>	All
32.3	<p>The Provider must comply with the requirements and principles in relation to the safeguarding of children and adults, including in relation to deprivation of liberty safeguards and child sexual exploitation, set out or referred to in Law and Guidance (including Safeguarding Guidance and Child Sexual Exploitation Guidance).</p>	All
32.4	<p>The Provider has adopted and must comply with the Safeguarding Policies and MCA Policies. The Provider has ensured and must at all times ensure that the Safeguarding Policies and MCA Policies reflect and comply with:</p> <p>32.4.1 Law and Guidance;</p> <p>32.4.2 the local multi-agency policies and any Commissioner safeguarding and MCA requirements.</p>	All
32.5	<p>The Provider must implement comprehensive programmes for safeguarding and MCA training for all relevant Staff and must have regard to Safeguarding Training Guidance.</p>	All
SC33 Incidents Requiring Reporting		
33.1	<p>The Provider must notify deaths, Serious Incidents and other incidents to CQC, and to any relevant Regulatory or Supervisory Body or other official body, in accordance with Good Practice, Law and Guidance.</p>	All
33.2	<p>The Provider must comply with the NHS Serious Incident Framework and the Never Events Policy Framework, and must report all Serious Incidents and Never Events in accordance with the requirements of those Frameworks.</p>	All
33.3	<p>The Parties must comply with their respective obligations in relation to deaths and other incidents in connection with the Services under Schedule 6C (<i>Incidents Requiring Reporting Procedure</i>) and under Schedule 6A (<i>Reporting Requirements</i>).</p>	All
33.4	<p>If a notification the Provider gives to any relevant Regulatory or Supervisory Body directly or indirectly concerns any Service User, the Provider must send a copy of it to the relevant Commissioner, in accordance with the timescales set out in Schedule 6C (<i>Incidents Requiring Reporting Procedure</i>) and in Schedule 6A (<i>Reporting Requirements</i>).</p>	All
33.5	<p>The Commissioners may (subject to Law) use any information provided by the Provider under this SC33, Schedule 6C (<i>Incidents Requiring Reporting Procedure</i>) and Schedule 6A (<i>Reporting Requirements</i>) in any report which they make in connection with Serious Incidents.</p>	All
SC34 Care of Dying People		
34.1	<p>The Provider must have regard to Guidance on Care of Dying People and must, where</p>	All

<p>applicable, comply with ISN 1580 (Palliative Care Co-ordination: Core Content) and the associated EPACCS IT System Requirements to ensure implementation of interoperable solutions.</p>	
<p>SC35 Duty of Candour</p> <p>35.1 The Provider must act in an open and transparent way with Relevant Persons in relation to Services provided to Service Users.</p> <p>35.2 The Provider must, where applicable, comply with its obligations under regulation 20 of the 2014 Regulations in respect of any Notifiable Safety Incident.</p>	<p>All</p> <p>All</p>
<p>SC36 Payment Terms</p>	
<p>36.1 Subject to any express provision of this Contract to the contrary, each Commissioner must pay the Provider in accordance with the National Tariff, to the extent applicable, for all Services that the Provider delivers to it in accordance with this Contract.</p>	<p>All</p>
<p>36.2 The Prices payable by the Commissioners under this Contract will be the Local Price for the relevant Contract Year, as set out in Schedule 3A (<i>Local Prices</i>).</p>	<p>All</p>
<p>Local Prices</p>	
<p>36.3 The Co-ordinating Commissioner and the Provider have agreed and set out in Schedule 3A (<i>Local Prices</i>) the mechanism by which that Local Price is to be adjusted with effect from the start of each Contract Year. The Parties must in any event have regard to the efficiency and uplift factors set out in the National Tariff where applicable.</p>	<p>All</p>
<p>36.4 Any Local Price must be determined and agreed in accordance with the rules set out in the National Tariff.</p>	<p>All</p>
<p>36.5 The Co-ordinating Commissioner and the Provider must apply annually any adjustment mechanism agreed and documented in Schedule 3A (<i>Local Prices</i>). Where no adjustment mechanism has been agreed, the Co-ordinating Commissioner and the Provider must review and agree before the start of each Contract Year the Local Price to apply to the following Contract Year, having regard to the efficiency and uplift factors set out in the National Tariff where applicable. In either case the Local Price as adjusted or agreed will apply to the following Contract Year.</p>	<p>All</p>
<p>36.6 If the Co-ordinating Commissioner and the Provider fail to review or agree any Local Price for the following Contract Year by the date 2 months before the start of that Contract Year, or there is a dispute as to the application of any agreed adjustment mechanism, either may refer the matter to Dispute Resolution for escalated negotiation and then (failing agreement) mediation.</p>	<p>All</p>
<p>36.7 If on or following completion of the mediation process the Co-ordinating Commissioner and the Provider still cannot agree any Local Price for the following Contract Year, within 10 Operational Days of completion of the mediation process either the Co-ordinating Commissioner or the Provider may terminate the affected Services by giving the other not less than 6 months' written notice.</p>	<p>All</p>
<p>36.8 If any Local Price has not been agreed or determined in accordance with SC36.5 and 36.6 before the start of a Contract Year then the Local Price will be that which applied for the previous Contract Year increased or decreased in accordance with the efficiency and uplift factors set out in the National Tariff. The application of these prices will not affect the right to</p>	<p>All</p>

	terminate this Contract as a result of non-agreement of a Local Prices under SC36.7.	
36.9	All Local Prices and any annual adjustment mechanism agreed in respect of them must be recorded in Schedule 3A (<i>Local Prices</i>). Where the Co-ordinating Commissioner and the Provider have agreed to depart from an applicable national currency that agreement must be submitted by the Co-ordinating Commissioner to Monitor in accordance with the National Tariff.	All
	Payment where the Parties have agreed an Expected Annual Contract Value	
36.10	Each Commissioner must make payments on account to the Provider in accordance with the provisions of SC36.11 or if applicable SC36.12 and 36.13.	EACV agreed
36.11	The Provider must supply to each Commissioner a monthly invoice at least 10 Operational Days before the first day of each Quarter, setting out the amount to be paid by that Commissioner for that month. The amount to be paid will be one twelfth of the individual Expected Annual Contract Value for the Commissioner. Subject to receipt of the invoice, on the first day of each month beginning on or after the Service Commencement Date each Commissioner must pay that amount to the Provider.	EACV agreed
36.12	In order to confirm the actual sums payable for Services delivered, the Provider must provide a separate reconciliation account for each Commissioner for each month showing the aggregate and a breakdown of the Prices for all Services delivered and completed in that month. Each reconciliation account must be based on the information submitted by the Provider to the Co-ordinating Commissioner under SC28 (<i>Information Requirements</i>) and must be sent by the Provider to the relevant Commissioner (or, where payments are to be aggregated, to the Co-ordinating Commissioner) within 25 Operational Days after the end of the month to which it relates.	EACV agreed
36.13	For the avoidance of doubt, there will be no reconciliation in relation to Block Arrangements.	EACV agreed
36.14	Each Commissioner must either agree the reconciliation account produced in accordance with SC36.12 or wholly or partially contest the reconciliation account in accordance with SC36.24. No Commissioner may unreasonably withhold or delay its agreement to a reconciliation account.	EACV agreed
36.15	A Commissioner's agreement of a reconciliation account (or where agreed in part in relation to that part) will trigger a reconciliation payment by the relevant Commissioner (or, where payments are to be aggregated, by the Co-ordinating Commissioner) to the Provider or by the Provider to the relevant Commissioner (or, where payments are to be aggregated, to the Co-ordinating Commissioner), as appropriate. The Provider must provide to the Commissioner (or the Co-ordinating Commissioner) an invoice or credit note (as appropriate) within 5 Operational Days of that agreement and payment must be made within 10 Operational Days following the receipt of the invoice or the issue of the credit note.	EACV agreed
	Payment where the Parties have not agreed an Expected Annual Contract Value in relation to any Services	
36.16	In respect of Services for which the Parties have not agreed an Expected Annual Contract Value, the Provider must issue an invoice within 15 Operational Days after the end of each month to each Commissioner (or, where payments are to be aggregated, to the Co-ordinating Commissioner) in respect of Services provided to that Commissioner in that month. Subject to SC36.24 the Commissioner (or, where payments are to be aggregated, the Co-ordinating	No EACV agreed

Commissioner) must settle each invoice within 10 Operational Days of receipt of the invoice.		
National Quality Requirements and Local Quality Requirements		
36.17	Subject to SC36.17A, if the Provider breaches any of the thresholds in respect of the Operational Standards, the National Quality Requirements or the Local Quality Requirements the Provider must repay to the relevant Commissioner or the relevant Commissioner must deduct from payments due to the Provider (as appropriate), the relevant sums as determined in accordance with Schedule 4A (<i>Operational Standards and National Quality Requirements</i>) and/or Schedule 4C (<i>Local Quality Requirements</i>). The sums repaid or deducted under this SC36.17 in respect of any Quarter will not in any event exceed 2.5% of the Actual Quarterly Value.	All
36.17A	If the Provider has been granted access to the general element of the Sustainability and Transformation Fund, and has, as a condition of access:	All
36.17A.1	agreed with the national teams of Monitor/NHSTDA (as appropriate) and NHS England an overall financial control total and other associated conditions; and	
36.17A.2	(where required by those bodies):	
36.17A2.1	agreed with those bodies and with the Commissioners specific performance trajectories to be achieved during the Contract Year 1 April 2016 to 31 March 2017 (as set out in an SDIP contained or referred to in Schedule 2G (<i>Other Local Agreements, Policies and Procedures</i>));and/or	
36.17A2.2	submitted to those bodies assurance statements setting out commitments on performance against specific Operational Standards and National Quality Requirements to be achieved during the Contract Year 1 April 2016 to 31 March 2017 which have been accepted by those bodies (as set out in an SDIP contained or referred to in Schedule 2G (<i>Other Local Agreements, Policies and Procedures</i>)),	
	no repayment will be required to be made, nor any deduction made, in relation to any breach of any threshold which occurs during that Contract Year in respect of any Operational Standard shown in bold italics in Schedule 4A (<i>Operational Standards and National Quality Requirements</i>).	
Never Events		
36.18	If a Never Event occurs, the relevant Commissioner may deduct from payments due to the Provider, in accordance with Never Events Policy Framework, a sum equal to the costs to that Commissioner of the procedure or episode (or, where these cannot be accurately established, £2,000) plus any additional charges incurred by that Commissioner (whether under this Contract or otherwise) for any corrective procedure or necessary care in consequence of the Never Event.	All
Statutory and Other Charges		
36.19	Where applicable, the Provider must administer all statutory benefits to which the Service User is entitled and within a maximum of 20 Operational Days following receipt of an appropriate invoice the relevant Commissioner must reimburse the Provider any statutory benefits correctly administered.	All

<p>36.20 The Provider must administer and collect all statutory charges which the Service User is liable to pay and which may lawfully be made in relation to the provision of the Services, and must account to whoever the Co-ordinating Commissioner reasonably directs in respect of those charges.</p>	All
<p>36.21 The Parties acknowledge the requirements and intent of the Overseas Visitor Charging Regulations and Overseas Visitor Charging Guidance, and accordingly:</p> <p>36.21.1 the Provider must comply with all applicable Law and Guidance (including the Overseas Visitor Charging Regulations, the Overseas Visitor Charging Guidance and the Who Pays? Guidance) in relation to the identification of and collection of charges from Chargeable Overseas Visitors, including the reporting of unpaid NHS debts in respect of Services provided to non-EEA national Chargeable Visitors to the Department of Health;</p> <p>36.21.2 if the Provider has failed to take all reasonable steps to:</p> <p style="padding-left: 40px;">36.21.2.1 identify a Chargeable Overseas Visitor; or</p> <p style="padding-left: 40px;">36.21.2.2 recover charges from the Chargeable Overseas Visitor or other person liable to pay charges in respect of that Chargeable Overseas Visitor under the Overseas Visitor Charging Regulations,</p> <p style="padding-left: 40px;">no Commissioner will be liable to make any payment to the Provider in respect of any Services delivered to that Chargeable Overseas Visitor and where such a payment has been made the Provider must refund it to the relevant Commissioner;</p> <p>36.21.3 (subject to SC36.21.2) each Commissioner must pay the Provider, in accordance with all applicable Law and Guidance (including the Overseas Visitor Charging Regulations, Overseas Visitor Charging Guidance and Who Pays? Guidance), the appropriate contribution on account for all Services delivered by the Provider in accordance with this Contract to any Chargeable Overseas Visitor in respect of whom that Commissioner is the Responsible Commissioner;</p> <p>36.21.4 the Provider must refund to the relevant Commissioner any such contribution on account if and to the extent that charges are collected from a Chargeable Overseas Visitor or other person liable to pay charges in respect of that Chargeable Overseas Visitor, in accordance with all applicable Law and Guidance (including Overseas Visitor Charging Regulations, Overseas Visitor Charging Guidance and the Who Pays? Guidance);</p> <p>36.21.5 the Provider must make full use of existing mechanisms designed to increase the rates of recovery of the cost of Services provided to overseas visitors insured by another EEA state, including the EEA reporting portal for EHIC and S2 activity; and</p> <p>36.21.6 each Commissioner must pay the Provider, in accordance with all applicable Law and Guidance (including Overseas Visitor Charging Regulations, Overseas Visitor Charging Guidance and the Who Pays? Guidance), the appropriate sum for all Services delivered by the Provider to any overseas visitor in respect of whom that Commissioner is the Responsible Commissioner and which have been reported through the EEA reporting portal.</p>	All
<p>36.22 In its performance of this Contract the Provider must not provide or offer to a Service User any clinical or medical services for which any charges would be payable by the Service User except in accordance with this Contract, the Law and/or Guidance.</p>	All

<p>VAT</p> <p>36.23 Payment is exclusive of any applicable VAT for which the Commissioners will be additionally liable to pay the Provider upon receipt of a valid tax invoice at the prevailing rate in force from time to time.</p>	<p>All</p>
<p>Contested Payments</p> <p>36.24 If a Party contests all or any part of any payment calculated in accordance with this SC36:</p> <p>36.24.1 the contesting Party must (as appropriate):</p> <p>36.24.1.1 within 5 Operational Days of the receipt of a reconciliation account in accordance with SC36.12; or</p> <p>36.24.1.2 within 5 Operational Days of the receipt by that Party of an invoice in accordance with SC36.11 or 36.16,</p> <p>notify the other Party or Parties, setting out in reasonable detail the reasons for contesting that account or invoice (as applicable), and in particular identifying which elements are contested and which are not contested; and</p> <p>36.24.2 any uncontested amount must be paid in accordance with this Contract by the Party from whom it is due; and</p> <p>36.24.3 if the matter has not been resolved within 20 Operational Days of the date of notification under SC36.24.1, the contesting Party must refer the matter to Dispute Resolution,</p> <p>and following the resolution of any Dispute referred to Dispute Resolution in accordance with this SC36.24, insofar as any amount shall be agreed or determined to be payable the Provider must immediately issue an invoice or credit note (as appropriate) for such amount. Any sum due must be paid immediately together with interest calculated in accordance with SC36.25. For the purposes of SC36.25 the date the amount was due will be the date it would have been due had the amount not been disputed.</p>	<p>All</p>
<p>Interest on Late Payments</p> <p>36.25 Subject to any express provision of this Contract to the contrary (including without limitation the Withholding and Retention of Payment Provisions), each Party will be entitled, in addition to any other right or remedy, to receive Interest on any payment not made from the day after the date on which payment was due up to and including the date of payment.</p>	<p>All</p>
<p>Set Off</p> <p>36.26 Whenever any sum is due from one Party to another as a consequence of reconciliation under this SC36 or Dispute Resolution or otherwise, the Party due to be paid that sum may deduct it from any amount that it is due to pay the other, provided that it has given 5 Operational Days' notice of its intention to do so.</p>	<p>All</p>
<p>Invoice Validation</p> <p>36.27 The Parties must comply with Law and Guidance (including Who Pays? Guidance and Invoice</p>	<p>All</p>

Validation Guidance) in respect of the use of data in the preparation and validation of invoices.		
Submission of Invoices		
36.28	The Provider must use all reasonable endeavours to submit all invoices via the e-Invoicing Platform in accordance with e-Invoicing Guidance or via an alternative PEPPOL-compliant e-invoicing system .	All
QUALITY REQUIREMENTS AND INCENTIVE SCHEMES		
SC37 Local Quality Requirements		
37.1	The Parties must comply with their duties under the Law to improve the quality of clinical and/or care services for Service Users.	All
37.2	Nothing in this Contract is intended to prevent this Contract from setting higher quality requirements than those laid down under Monitor’s Licence (if any) or required by any relevant Regulatory or Supervisory Body.	All
37.3	Before the start of each Contract Year, the Co-ordinating Commissioner and the Provider will agree the Local Quality Requirements that are to apply in respect of that Contract Year. In order to secure continual improvement in the quality of the Services, those Local Quality Requirements must not, except in exceptional circumstances, be lower or less onerous than those for the previous Contract Year.	All
SC38 Commissioning for Quality and Innovation (CQUIN)		
38.1	Where and as required by CQUIN Guidance, the Parties must implement a performance incentive scheme in accordance with CQUIN Guidance for each Contract Year or the appropriate part of it.	All
38.2	If the Provider has satisfied a CQUIN Indicator a CQUIN Payment calculated in accordance with CQUIN Guidance will be payable by the Commissioners to the Provider in accordance with CQUIN Table 1.	All
CQUIN Performance Report		
38.3	The Provider must submit to the Co-ordinating Commissioner a CQUIN Performance Report at the frequency and otherwise in accordance with the National Requirements Reported Locally. The Co-ordinating commissioner may raise with the Provider any queries it has on the content of any CQUIN Performance Report.	All
CQUIN Account		
38.4	Within 20 Operational Days following the latest of:	All
38.4.1	the end of the Contract Year; and	
38.4.2	the agreement of the final reconciliation account under SC36 (<i>Payment Terms</i>); and	
38.4.3	the agreement or resolution of all CQUIN Performance Reports in respect of that Contract Year,	

<p>the Provider must submit a CQUIN Account to the Co-ordinating Commissioner.</p>	
<p>38.5 Within 5 Operational Days of receipt of the CQUIN Account the Co-ordinating Commissioner must either agree it or wholly or partially contest it in accordance with SC38.7. The Co-ordinating Commissioner's agreement of the CQUIN Account must not be unreasonably withheld or delayed.</p>	All
<p>38.6 The Co-ordinating Commissioner's agreement of the CQUIN Account (or where agreed in part in relation to that part) will trigger a payment by each relevant Commissioner to the Provider or by the Provider to each relevant Commissioner (as appropriate). The Provider must supply to each Commissioner an invoice within 5 Operational Days of the agreement and payment must be made within 10 Operational Days following receipt of the invoice.</p>	All
<p>38.7 If the Co-ordinating Commissioner contests the CQUIN Account:</p> <p>38.7.1 the Co-ordinating Commissioner must within 5 Operational Days notify the Provider accordingly, setting out in reasonable detail the reasons for contesting the account, and in particular identifying which elements are contested and which are not contested;</p> <p>38.7.2 any uncontested amount identified in the CQUIN Account must be paid in accordance with SC38.6; and</p> <p>38.7.3 if the matter has not been resolved within 20 Operational Days following the date of notification under SC38.7.1, either the Provider or the Co-ordinating Commissioner may refer the matter to Dispute Resolution,</p> <p>and within 20 Operational Days following the resolution of any Dispute referred to Dispute Resolution, if any amount is agreed or determined to be payable the Provider must immediately issue an invoice for that amount, which will be payable immediately together with Interest calculated in accordance with SC36.25. For the purposes of SC36.25 the date the amount was due will be the date it would have been due had the amount not been disputed.</p>	All
<p>Variations to National CQUINs</p>	
<p>38.8 The Co-ordinating Commissioner and the Provider may agree to vary or disapply any National CQUIN. Any such variation or disapplication:</p> <p>38.8.1 may be agreed for one or more Contract Years or for the duration of this Contract in accordance with CQUIN Guidance;</p> <p>38.8.2 must apply in respect of all of the Commissioners,</p> <p>must be recorded in CQUIN Table 2 and submitted by the Co-ordinating Commissioner to NHS England in accordance with CQUIN Guidance.</p>	All

© Crown copyright 2016
 First published: March 2016
 Republished: 13 April 2016
 Published in electronic format only