Public health services for 0-5 year-olds

Transfer of commissioning responsibilities to local authorities

Additional contracting guidance for NHS commissioners – TEMPLATE LETTERS
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1 Introduction

Draft letters for area teams to send to providers (joint with local authorities wherever possible), giving details of future contracting intentions

The example letters below are drafted for the most straightforward situation, where there is a simple 1-1 relationship between NHS England as the current commissioner and one local authority as future commissioner.

Local circumstances will vary widely, of course, and the letters below will need to be adapted by area teams, sometimes in discussion with local authorities, to suit the particular circumstances of each contract.

In particular, where the existing contract includes other services as well as 0-5 services, the letters below will need amending to include reference to the process of splitting out the 0-5 element into a separate contract from 1 April 2015, as set out in paragraph 3.2 above.

2 Example joint letter where novation is agreed as the preferred approach

Joint NHS England / local authority letter to be sent where

- the existing contract is an NHS Standard Contract which expires after 30 September 2015
- the contract is for 0-5 services on a stand-alone basis and does not cover other NHS-England or CCG-commissioned services
- the local authority is comfortable to state a broad intention, at this stage, to accept novation of the contract from 1 October 2015 and to commission the service from the same provider, to use the NHS Standard Contract and to commission the same services at the same price as NHS England

Dear [name]

Transfer of commissioning responsibilities for 0-5 children’s public health services

As you know, responsibility for commissioning of 0-5 children’s public health services will transfer from NHS England to local authorities on 1 October 2015. As the present and future commissioners, we are writing to update you on how we intend to manage the transition locally. Our underlying aim is to secure a smooth transition with continuity of service provision and clear, well-understood contractual arrangements.

As you will be aware, NHS England’s contract with you is a multi-year contract which does not expire until [date]. Our joint intention is that, in the period from December 2014 to February 2015, the contracting team from NHS England, working closely with
the Council, will update our existing contract with you for 2015/16, applying the National Variation to contract terms which will be published by NHS England in December 2015. At the same time, we will aim to agree a deed of novation, to be approved by all three parties, so that rights and responsibilities under the contract will transfer from NHS England to the Council with effect from 1 October 2015.

Our intention is that the contract variation will be signed, and the deed of novation approved, by the end of February 2015, thus giving you full clarity before the start of the year about funding and expected service levels for the full year.

We hope that this letter is helpful in setting out our broad intentions at this stage and gives you, and your staff, confidence that the transition of commissioning responsibilities will be managed in a way which ensures continuity of service provision. However, before making firm decisions on these issues, the Council will wish to review both the final mandate for 0-5 services to be commissioned and the final financial allocation it receives from the Department of Health. We will therefore write to you again in January with a further update.

Yours sincerely

[Name]
[Job title]
NHS England Area Team / XXX Council

3 Example NHS England letter where discussions with local authorities are not well advanced

Letter to be sent by the NHS England area team alone, where the existing contract is an NHS Standard Contract which expires after 30 September 2015, but where the local authority does not feel able to make any written commitment on its contracting intentions at this stage

Dear [name]

Transfer of commissioning responsibilities for 0-5 children’s public health services

As you know, responsibility for commissioning of 0-5 children’s public health services will transfer from NHS England to local authorities on 1 October 2015. I am writing to update you on how we intend to manage the transition locally. Our underlying aim is to secure a smooth transition with continuity of service provision and clear, well-understood contractual arrangements.

As you will be aware, NHS England’s current contract with you is a multi-year contract which does not expire until [date]. Although our statutory responsibility for commissioning 0-5 services will cease after 30 September 2015, we have decided at
this stage not to issue formal notice to terminate our contract with you. Instead, in order to help secure a stable transition period, we will seek to agree with XXX Council a deed of novation to transfer the existing contract to them from 1 October 2015. We are in discussion with XXX Council about its commissioning intentions. Pending confirmation of the mandate and its financial allocation, the Council is not yet in a position to make a firm statement about whether it will be prepared in principle to agree to novation of the existing contract.

Besides resolving the question of novation, we will also need to update our contract with you for 2015/16 in the normal way, implementing the National Variation to update the core contract terms and agreeing revised contract schedules. Ideally, we would wish to work with the Council and yourself to undertake these two processes of novation and variation at the same time, with the aim of reaching formal agreement on both by the end of February 2015. The novation itself would of course not take effect until 1 October 2015.

We hope that this letter is helpful in setting out NHS England’s intentions at this stage, and we will continue to work with XXX Council to ensure that there is a clear process to manage the transfer of commissioning responsibilities. We will write to you again in due course with a further update.

Yours sincerely

[Name]
[Job title]
NHS England Area Team (copy to XXX Council)