Merton and Wandsworth CCGs Contracting Team and Contract Management Policy

Version 1.03

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NOTE: This is a CONTROLLED document. Any documents appearing in paper form are not controlled and should be checked against the server file version prior to use.

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Equality Analysis	**EQUALITY ANALYSIS** This Policy is applicable to the Governing Body, every member of staff within the CCGs and those who work on behalf of the CCGs. This document has been assessed for equality impact on the protected groups, as set out in the Equality Act 2010. This document demonstrates NHS Merton and Wandsworth CCG's commitment to create a positive culture of respect for all individuals, including staff, patients, their families and carers as well as community partners. The intention is, as required by the Equality Act 2010, to identify, remove or minimise discriminatory practice in the nine named protected characteristics of age, disability, sex, gender reassignment, pregnancy and maternity, race, sexual orientation, religion or belief, and marriage and civil partnership. It is also intended to use the Human Rights Act 1998 and to promote positive practice and value the diversity of all individuals and communities.
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Related Documents and Policies		
Date Published	**Title**	**Version**
	LDU Financial Policies	
11/07/18	LDU Procurement Policy	1.1

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1. Introduction

The south west London (SWL) CCGs Committees in Common approved in 2016/17, the development of a new operating model across South West London to strengthen collaborative commissioning arrangements and to consolidate leadership and accountability responsibilities.

The Alliance aimed to bring the work of the CCGs and the wider system together to address the significant challenges set out within the Sustainability and Transformation Plan (STP) for South West London. The Alliance senior management team is made up of managing directors for the three new Local Delivery Units (LDUs) – Kingston and Richmond, Merton and Wandsworth and Sutton (from 2018).

Merton CCG and Wandsworth CCG formed a Local Delivery Unit (MWLDU) on April 1st, 2017 and is committed to improving the quality of services and outcomes for patients and securing value for money, through its contractual arrangements with its providers.

MWLDU consulted with staff and their representatives regarding an introduction of a new operating model for the LDU management team and specifically a new management structure. As such, the contracting functions for Merton and Wandsworth CCGs have now banded under one team led by the Head of Contracting. The full implementation of the new operating model commenced from 1st April 2018.

The LDU aims to develop a contracting team and management policy that adopts good practice, maximises financial and operational performance whilst minimising risk.

The CCGs collectively have over 100 clinical and non-clinical contracts with providers within the NHS, private sector, voluntary and third sector, including community pharmacies and GP practices who provide practice-based services.

Increasingly, the CCGs may take on additional commissioning and contracting responsibilities where budgets have been integrated across different statutory commissioning organisations and where a CCG is the lead commissioning and/or contracting organisation on behalf of others.

2. Aim and Scope of the Policy

The contract management policy sets out principles for the LDU contracting team and for negotiating, managing and ensuring compliance with terms and conditions of the CCGs contracts. The policy provides guidance on the process for entering, documenting, reviewing and exiting contractual arrangements.

Throughout this policy, the LDU will establish principles that will underpin management of its contracts regardless of whether they are managed in house or externally.

This Contract Management Policy will focus on the LDUs approach to:

- The responsibilities of the Contracts and Commissioning Teams
- Contract development
- Contract duration
- Contract storage and database (electronic and paper)
- Contract register
- Contract management including contract review and the contract compliance audit programme
- Contract signing
- Contract exit
- Statutory requirements relating to contracts

The LDU contracting team supports the contract managing of the following services:

- Community health services
- Continuing healthcare services
- Rehabilitation services
- Community Healthcare services for children
- Community Healthcare services for people with mental health conditions
- Community Healthcare services for people with learning disabilities
- Abortion services
- Services either being managed or delivered by GP Federations
- All other non-acute healthcare services and healthcare services not managed by the acute contracting team.

The following services are managed by either by the acute contracting team or via other CCGs and fall out of the scope of the LDU's contracting team function (although these principles should be adopted where possible).

- Emergency and urgent care including ambulance services, NHS 111 and out of hours services for GP Practices that have opted out of General Medical Service (GMS) arrangements
- Maternity services
- Elective hospital care
- Older people's healthcare
- Wheelchair services

- Practice based primary care services. Local enhanced services expired on 31st March 2014 and are now being commissioned by the CCG through the NHS Standard Contract
- Acute Healthcare services for children
- Acute Healthcare services for people with mental health conditions
- Acute Healthcare services for people with learning disabilities

Non-health contracts fall outside of the scope of the contracting team and it is expected that the relevant commissioner/lead on these contracts.

This policy will be applicable for contracts initiated by South West London Health and Care Partnership (SWL HCP) as this function is hosted by Wandsworth CCG. The LDU contracting team will not support on these, however the team will record all contracts and procurement decisions on behalf of Wandsworth CCG. It is expected that the SWL HCP teams provide signed contracts (in line with Wandsworth SFIs) and details to fulfil the CCG's statutory requirements.

3. Definition

Contracts

A contract is a legal document that states and explains a formal agreement between two different people or groups.[1]

It is a legal requirement for statutory bodies to ensure contracts are in place for all healthcare or non-healthcare services commissioned. CCGs have a requirement to:

- Ensure that commissioners secure high-quality, efficient NHS health care services that meet the needs of people who use those services;
- Protect the rights of patients to choose who provides their health care in certain circumstances; and
- Prevent anti-competitive behaviour by commissioners unless this is in the interests of patients

When considering managing contracts, specific regard should be given to the following (as may be amended):

Public Contracts Regulations 2015
http://www.legislation.gov.uk/uksi/2015/102/contents/made

NHS (Procurement, Patient Choice and Competition) (No.2) Regulations 2013
http://www.legislation.gov.uk/uksi/2013/257/contents/made

Monitor's substantive guidance on the NHS (Procurement, Patient Choice and Competition) (No.2) Regulations 2013
https://www.gov.uk/government/publications/procurement-patient-choice-and-competition-regulations-guidance

Health & Social Care Act 2012
http://www.legislation.gov.uk/ukpga/2012/7/contents/enacted

Public Services (Social Value Act) 2012
http://www.legislation.gov.uk/ukpga/2012/3/enacted

Managing Conflicts of Interest: Revised Statutory Guidance for CCGs (NHS England, June 2016)
https://www.england.nhs.uk/commissioning/pc-co-comms/coi/

Transfer of Undertakings and Protection of Employment Regulations (TUPE) 2006
http://www.legislation.gov.uk/uksi/2006/246/regulation/4/made

Equality Act 2010
http://www.legislation.gov.uk/ukpga/2010/15/contents

[1] Cambridge Dictionary

Bribery Act 2010
http://www.legislation.gov.uk/ukpga/2010/23/contents

Regard will also be given to applicable guidance as may be published from time to time by: The Cabinet Office; Department of Health; NHS England; and NHS Improvement.

This policy operates alongside and should be read in accordance with the CCG's:

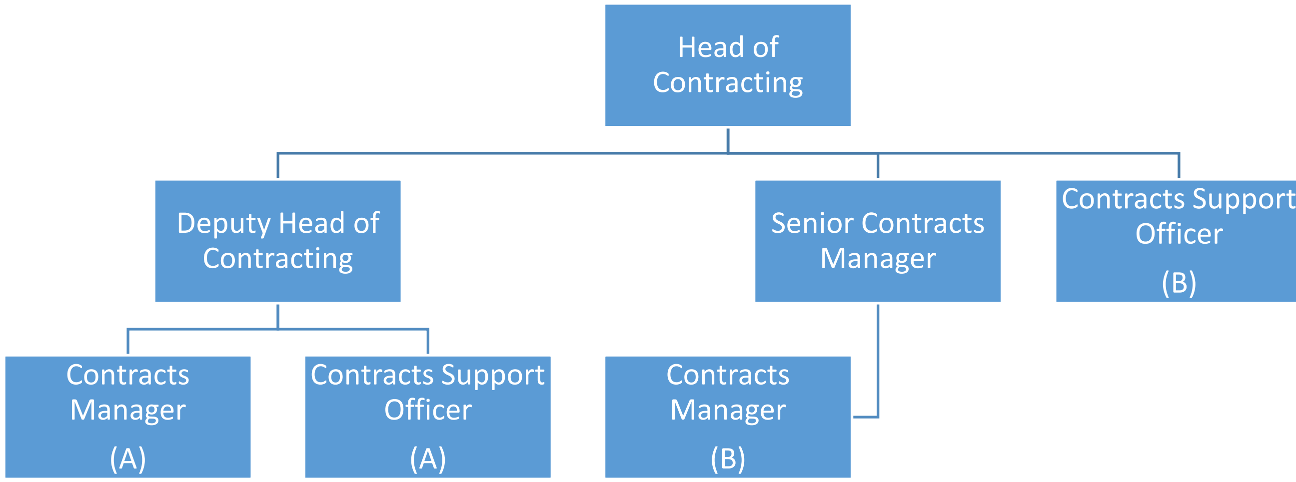
- Constitution;
- Annual Commissioning / Operating Plan;
- Financial Policies and Scheme of Reservation and Delegation;
- Policy on the Management of Conflicts of Interest;
- Communication and Engagement Strategy;
- Freedom of Information Policy.
- Procurement and Financial Management Policies.

Contracting Team

The contracts team has the responsibly of the management and support of non-acute healthcare contracts. The contracts team also has oversight of all other contracts to ensure that appropriate governance is in place and that the CCG fulfils its statutory requirements particularly around transparency.

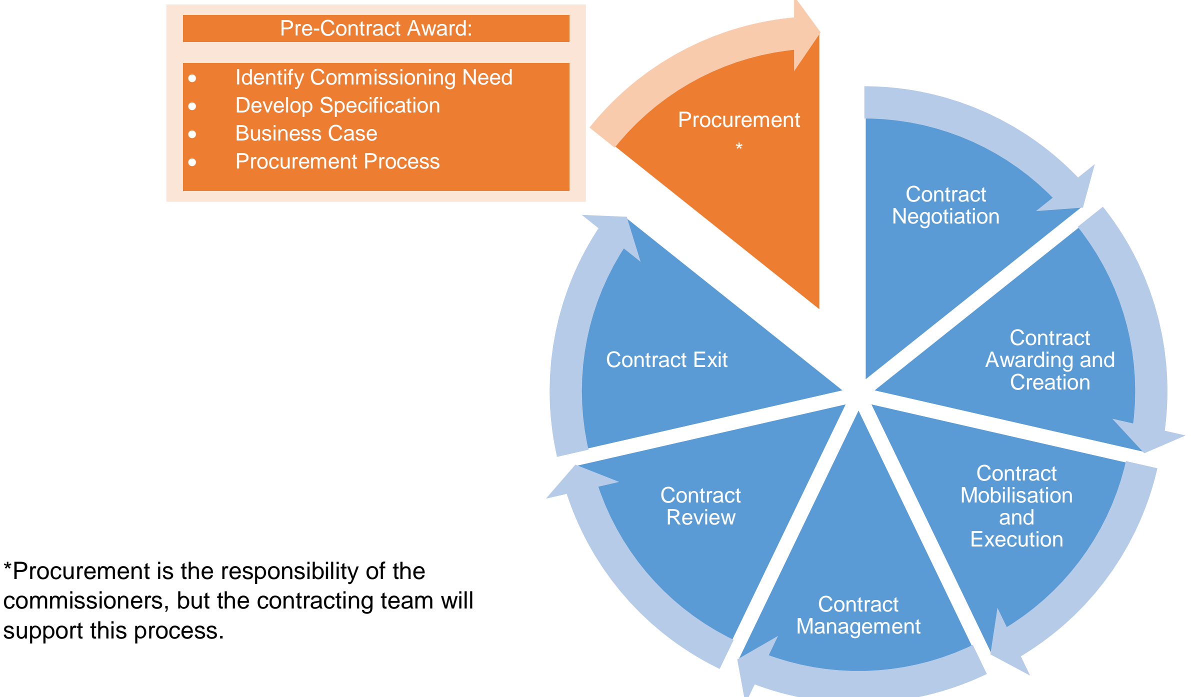
The overall responsibility of individual contracts lies with the commissioner and it is expected that they work closely with the contracting team to ensure correct processes are followed.

The contracting team structure currently comprises of:



4. Contracting Cycle

Contract life cycle management “is the process of systematically and efficiently managing contract creation, execution and analysis for maximising operational and financial performance and minimising risk”[2]



*Procurement is the responsibility of the commissioners, but the contracting team will support this process.

The NHS is facing increasing pressure to reduce costs and improve financial and operational performance. New regulatory requirements, globalisation, increases in contract volumes and complexity have resulted in an increasing recognition of the importance and benefits of effective contract management.

The growing recognition of the need to automate and improve contractual processes and satisfy increasing compliance and analytical needs has also led to an increase in the adoption of more formal and structured contract management procedures.

It is worthwhile noting that contract management is successful if:

- The arrangements for service delivery continue to be satisfactory to both parties,
- The expected business benefits and value for money are being achieved
- The supplier is co-operative and responsive
- The organisation understands its obligations under the contract
- There are no disputes
- There are no surprises
- A professional and objective debate over changes and issues arising can be had, and
- Efficiencies are being realised.

[2] The Chartered Institute of Purchasing and Supply

5. Related Merton and Wandsworth Clinical Commissioning Group Policies

Policy Name	Last Review Date	Next Review	Document/Link
LDU Procurement Policy	11/07/2018	31/03/2019	
Wandsworth CCG Prime Financial Policies	01/09/2016	31/03/2018	
Wandsworth CCG Scheme of Reservation and Delegation	16/01/2019	31/03/2020	
Wandsworth CCG Information Sharing Policy			
Wandsworth CCG Confidentiality code of Conduct			
Merton CCG Financial Policies	29/07/2015	31/03/2018	
Merton CCG Scheme of Reservation and Delegation	29/07/2015	31/03/2018	
Merton CCG Information Governance Policy	01/12/2014	31/03/2018	
Merton CCG Conflict of Interest Policy	13/02/2015	31/03/2018	

6. Roles and Responsibilities

Commissioners

Commissioners have nominated budgets which are used to procure services based on the health needs of the local population they represent. They are ultimately responsible for the contracts for these services and expected to work with the contracts team closely to ensure due process is followed, in regard to the monitoring, governance and best value for money of contracts. Commissioners have access to procurement advice and support when reviewing and consideration options for future contracts via NHS Shared Business Service (SBS) (in addition to LDU Contracting Team). Such advice can explore alternative contractual solutions, whilst recognising prevailing regularity obligations, considerations and risks. Additionally, accessing specialist Procurement advice can provide alternative commercial legal advice which may not be necessary where good Procurement advice is accessed.

Contracts Team Overview

The contracts team will be responsible for the following:

Contracts:

- Preparation of new contracts including formal, short form, annual contracts – drafting and evaluating. Commissioners are to draft service specifications and KPIs/Incentives
- Preparation of contract variations (national and local) in conjunction with commissioners
- Provide guidance on contract matters to commissioners, project managers or other operational staff in contracting practices and procedures
- Publication of the Contract Register on CCG website

Management:

- Develop and implement standard operating procedures for contract management and administration
- Administer the organisations contracts centralised storage and ensure assessable to employees to provide contract visibility and awareness
    - Centralised repository database including the managing of input and removal of information from the contract database
    - Maintain contractual records, documentation and control of all contract correspondence (contract, contract variation, service level agreements, single tender waivers)
        - Electronic version of contracts
        - Contract papers (in locked cabinets at office site)
- Contract monitoring including:
    - Performance Measurement including issuing of performance notices, activity query notices etc.
    - Support regular contract review meetings with providers to seek assurance on contract compliance. Frequency would depend on the contract value, contract

length, complexity of services and level of risk. It is expected that commissioners will mostly lead on these meetings.
    - Minute taking but depth depends on the contract value, contract length, complexity of services and level of risk

- Maintenance of contract lessons learned log.
- Co-operate with auditors and supply the required information as required.

Financial:

- Payment of incentives and penalties
- Checking, coding and payment of contractualised non-acute invoices within delegated authority

Procurement:

- High level procurement advice as the contacting team are not SMEs
- Flagging to commissioners, contracts that are due to expire in order that the LDU can prioritise resources. This will involve the use of setting up a procurement pipeline and supporting throughout the procurement process.

Support to Commissioners:

- Provide guidance on contract matters to commissioners, project managers or other operational staff in contracting practices and procedures.
- Serve as the point of contact for providers on contractual matters.

CSU Contracts

- Supporting the shift of activity out of the hospital into the community
- High level oversight ensuring contracts are signed and copies are made available to the CCGs/Commissioners.

Contracts Team and Commissioners

It is expected that contract managers will meet with the relevant commissioner on a monthly basis to go through all contracts, issues and next steps. They are to work collaboratively ensuring the individual roles and responsibilities are adhered to.

The contracts performance and monitoring group (CPMG) will provide a more formal setting for any contracts and procurement updates. The details and terms of reference for this meeting are contained within the LDU procurement policy.

Contracts Team Individual Responsibilities:

Role	Responsibilities
Head of Contracting	Responsible for the overall contracts team, managing and ensuring the quality of all the LDU contracts. Leads on high value/risk non-acute contracts on behalf of the LDU with a Merton CCG focus. Responsible for invoice management for contracts where lead on
Deputy Head of Contracting	Deputises for the Head of Contracting and leads on high value/risk non-acute contracts on behalf of the LDU with a Wandsworth CCG focus. Responsible for invoice management for contracts where lead on
Senior Contracts Manager	Management of contract portfolio covering all contracts from small provider contracts to large community contracts, including services covered by GPs, Charities, Mental Health, Private Providers, Acute and Tertiary Hospitals. Responsible for invoice management for contracts where lead on
Contracts Manager (A)	Supports the Deputy Head of Contracting focusing on the Wandsworth CAHS community and federation contracts. Responsible for invoice management for contracts where lead on
Contracts Manager (B)	Supports the Senior Contracts Manager with an own portfolio of low value/risk contracts. Responsible for invoice management for contracts where lead on
Contracts Support Officer (A)	Supports the Contracts Team and directly to the Deputy Head of Contracting. Supporting invoice management.
Contracts Support Officer (B)	Supports the Contracts Team and directly to the Head of Contracting/Senior Contracts Manager. Supporting invoice management.
Procurement Advisor	Procurement Advisor accessible via NHS SBS as a function accessible to the CCG via the CSU arrangements.

19/20 Contract Team Portfolios

19-20 Contracts team Portfolios

7. Contract Types and Format to be used

Contracts for Clinical Services

The NHS Standard Contract is mandated by NHS England (NHSE) for use by commissioners for all contracts for healthcare services other than primary care and must be used for **all** clinical services.

No other contracts or service level agreements are to be used for clinical services without approval from NHSE and the LDU's Managing Director. This includes alterations to the conditions and national requirements in the NHS Standard Contract. Each healthcare contract must include the following:

- Particulars
- Service Conditions
- General Conditions

The contracting team will advise commissioners on the appropriate contract type to use, which will be based on either:

Full Form Contract

The full version of the contract must be used for services that cover acute, cancer, A&E, minor injuries, 111 or emergency ambulance services, or any other hospital inpatient services, including for mental health and learning disabilities.

In addition, it is expected that this will be used for services with a high contract values being delivered by large provider organisations.

Short Form Contract

The shorter-form Contract can only be used for non-inpatient mental health and learning disability services, for any community services, including those provided by general practices, pharmacies, optometrists and voluntary sector bodies, for hospice care / end of life care services outside acute hospitals, for care provided in residential and nursing homes, for non-inpatient diagnostic, screening and pathology services and for patient transport services.

Restricting use of the shorter-form Contract in this way significantly reduces the number of detailed requirements which it has to include, and these providers (that is, providers of those services for which the shorter-form Contract must not be used) tend to be larger organisations.

Contracts for Non-Clinical Services

NHSE have published a template for use for contracts for non-clinical services, although not mandated by NHSE, this should be the preferred option if there is no existing contract available.

https://www.gov.uk/government/publications/nhs-standard-terms-and-conditions-of-contract-for-the-purchase-of-goods-and-supply-of-services

The contract form issued, should be in line with the LDU Procurement Policy in that NHS Terms and Conditions are to be used, or if required, the terms of a framework where a contract is being called off a framework.

A PO can be used where considered appropriate by the Budget Holder, and total value is no more than £200k. The PO must incorporate the Terms and Conditions as outlined within the NHSE templates (i.e. NHS T&Cs for the supply of goods/services).

NHS Standard Contracts Location

The NHS standard contracts and associated documents can be found on the NHS England website. The contract for the latest year along with previous year's contract templates are available to view. The technical guidance document is a useful document to support the populating of the contract

https://www.england.nhs.uk/nhs-standard-contract/

Integrated Care Contracts

Currently, NHS commissioners must use different contractual forms to commission primary medical services (for which GMS, PMS and APMS contracts are mandated through specific regulations and directions) and hospital and community health services (in respect of which NHS England's Standing Rules Regulations enable them to publish, and mandate use of, the NHS Standard Contract).

But at the heart of an integrated care model is the integration between general practice and other community services. As such NHSE is still in consultation on the most appropriate form of contract arrangement and documentation. The draft contract is available below:

https://www.england.nhs.uk/new-business-models/publications/consultation-contracting-arrangements-for-icps/

One of the priorities for the LDU is the move towards integrated care models for the delivery of community-based services. The contracting team will support this initiative ensuring the following principles are adhered to:

- It sets the terms upon which the integrated care model will be paid and how it will be held to account by the commissioner to achieve specified outcomes and standards across the defined range of services, including what happens when things go wrong or when there is a breach of the contract's terms
- In developing the contract, the aim is threefold: to increase flexibility for the provider; to focus better on outcomes; and to simplify.
- The integrated care contract will be of longer duration than those that are typically offered to NHS providers at present. Current NHSE guidance is that it could have a 10 to 15-year term, including an initial early break-point (e.g. after the first two or three years of the contract term).
- Is to provide stability and support ongoing investment in care redesign.
- In the period before the breakpoint, there would be scoping to learn and adjust through an agreed mechanism. At the time of the break-point, if the break 'right' is not exercised, then there may be the ability to vary the contract, e.g. to add a wider range of services.
- The contract will also allow for some ongoing adaptation, e.g. additional practices joining.
- An important role for commissioners will be to describe the full scope of services to be delivered by the integrated care model, and to finalise a service specification that details the design features, outputs and outcomes.

- The specification will consist of mandated national requirements, core elements of the integrated care model, and local service requirements and standards.
- The balance between ambition for improvement and deliverability will emerge through NHSE intensive design work with the six local systems.

Section 75 and 76/256 Agreements

Section 75 of the NHS Act 2006 allows NHS Bodies and Local Authorities to establish joint agreements for the provision of healthcare related services. These formalise joint and/or pooled funding arrangements predominantly relating to Better Care Funding.

NHSE have provided a template for use which covers the requirements under Section 75 and is drafted in a way which meets the requirements under the provisions of the Better Care Fund as at May 2016, it does not compromise legal advice and no warranty is given.

The LDU's preference that this template is used for any S75 agreements to ensure consistency and appropriate of use. This can be located here:

https://www.england.nhs.uk/ourwork/part-rel/transformation-fund/bcf-plan/risk-sharing/

Section 76 or Section 256 of the 2006 Act covers the provision of non-pooled funding. Where an existing S75 agreement is in place, then it is expected that this is also used to cover any requirements for non-pooled funding under S76/256 instead of setting up separate agreements. The NHSE template above provides the Host Partner to detail responsibilities for establishing the support needed to enable the effective and efficient management of the Non-Pooled Fund.

E-Contracts

The eContract hosts both the full-length and shorter-form Contracts and allows tailoring of the contract to reflect the specific services provided, so that only the relevant Service Conditions and Schedules appear.

This policy is not mandating the use of eContracts, but it is recommended that commissioners and providers utilise the eContract system. However, the contracts team will be exploring/trialling the use of eContracts for new smaller contracts from 18/19 onwards.

https://www.econtract.england.nhs.uk/Home/

Contract Reference

When creating the contract, under the heading of Contract Details, the contract reference number should be in the following format:

CCG	First Letter of Provider or H for Acute Hospitals	Sequential two-digit number/letter	Description of Provider	Description of Service (If Applicable)
Examples				
MCCG	H	19	St George's Healthcare NHS Trust	
WCCG	C	06	Central London Community Healthcare	
MCCG	M	04a*	Merton Health Ltd	Access Hubs

*Where there is more than one contract with a provider then it is expected that a sequential letter is added to the end of the number.

Under the heading of Co-ordinating Commissioner, the CCG name should be typed as: NHS Merton or Wandsworth Clinical Commissioning Group.

For AQP Frameworks it is expected that all contracts/providers will be stored under the single header for the framework.

8. Mental Health Placements

Context

Mental health placements have been managed by Merton and Wandsworth CCG contracts team by setting up provider contracts with all providers where a placement is made. These contracts have been set up with the NHS Standard Short Form contracts for non NHS Trust providers and Long Form Contracts for Trusts e.g. CNWL, SLaM and Oxley's.

In 2018 a consolidation exercise occurred to ensure that there was a joint approach to deploying a standard application format in both CCGs with a shared operating procedure for both panels. This resulted in joint contract provider placement contracts, performance and quality management being established.

As of April 2019, there are now over 43 contracts between the CCGs, requiring a more efficient process of managing these contracts using existing resource.

Mental Health Placement Contract Strategy

A robust placements strategy is essential to the delivery of the local health and social agenda in Merton and Wandsworth both now and in the future, if Merton and Wandsworth LDU is to deliver on the aspiration to provide the right care, in the right place, at the right time and with the right outcome. To that end, the contracts team will support to create an operational environment which will facilitate a unified Merton and Wandsworth LDU 'panel' process.

The initial aim is to align the Merton and Wandsworth panel processes through achieving the following objectives:

- Deploy a single tracker format in both CCGs to monitor quality of placements, review of placements and financial oversight,
- Deploy a standardised application format in both CCGs
- Develop a shared Standing Operating Procedure for both panels
- Develop a shared Standing Operating Procedure for non-contracted community and outpatient activity for 'specialist' or tertiary adult mental health expenditure

Currently applications for Merton and Wandsworth CCG are submitted to commissioners to approve by the care coordinators. With regards to the objectives above the Merton and Wandsworth contracts team have developed this process to manage new placements going forward.

Mental Health Placement Contract Responsibilities

The contracts team will provide direct support for those providers who require quarterly monitoring or more in line with the Contract Management Framework. All other smaller contracts will be supported on an exception only basis, providing advice and escalation when needed.

The contracts team will also provide administrative support in developing, updating and setting up contracts for any placement provider.

Mental Health Placement Commissioning and Panel Responsibilities

Commissioners have overall responsibility for the review and monitoring of placements and associated contracts. For smaller contracts, the contracts team would support on a 'light touch' process and the ownership of review will be with commissioners including setting up review meetings.

For any issues and/or provider is not being unresponsive, a named member of the mental health admin support will follow up on outstanding formal request after contracts had followed up initially. An agreed formal response will be decided by the commissioners, with contracts supporting with identifying contractual levers and next steps in line with the escalation process in this policy.

Placement Process for Selecting 'Approved Contracts'

The contracts team will provide the mental health commissioners on a monthly basis a schedule of mental health placements. This schedule contains details of all the mental health placement contracts with Merton and Wandsworth CCG including the level of support provided by the team. This will also include the weekly current contracted rate for new and current placements and providers with current quality and/or performance concerns. This schedule is in development and additional information such as provider sites current CQC rating are looking to be added.

As part of the placement process this is shared via the Mental Health commissioners to care coordinators and managers. This is schedule is currently being embedded into the placement application form for placements.

Mental Health commissioners are to advise on the correct process to stakeholders, ensuring that the schedule for new placement applications is used to make placement options based on the providers listed. The schedule will also be used to provide a baseline value for reference when providers submit a costed care plan for new patient placement.

The schedule as a reference tool ensures :

1) Placements are covered by existing contracts, with quarterly quality reporting.
2) Base rates (basic rates of care) are already agreed.
3) Consolidated reporting with existing patients
4) Providers have already been though the CCGs initial internal quality review process.
5) Efficiencies on commissioner and contract support resources.

Next Steps

To encourage joint approach to future placements, regular meetings are being scheduled with relevant stakeholders, to ensure this process is followed and to capture feedback on the proposed process. The aim will be to agree an overall policy on placements, which will be included into the LDU Contracting Policy for reference.

South West London CCGs are currently reviewing alternative commissioning responsibilities for mental health services. This is in line with the NHS 10-year plan requiring that commissioning is better streamlined by getting providers and commissioners working closer together. Any decisions that have a significant impact on how the LDU manages these contracts will be updated in this policy.

9. Contract Duration and Extensions

Duration

There is no nationally-mandated limit to contract duration, nor is there a central approval process for contract terms beyond a certain duration. The LDU local guidelines are as below:

- For contracts not procured, the default contract length will be based on the recommended duration set by NHSE for acute contracts.
- Any contracts for pilots, non-recurrent investments or short-term projects are to be for a maximum of 1 year.
- The same applies to any contracts awarded without a procurement (subject to tender waivers)
- Any contracts following a competitive procurement are to be based on the level of recurrent funding approved and can be up to a maximum of 5 years.
- Contracts longer than 5 years requires approval through Governing Body prior to advertisement. Prior to procurement, commissioners are to consider carefully what benefits they can expect from offering providers the increased certainty of a longer-term contract, setting this against the need to ensure that they are able to use a competitive procurement approach when this will be in patients' best interests, in line with regulations and guidance.

Commissioners should consider patient choice, competition, the likelihood of technological and other developments affecting service delivery models, all relevant commercial and market considerations, in determining the appropriate length of contract before going out to procurement.

In addition, contract length should be considered in conjunction with any right to extend the contract and/or the consequences of early termination.

Extensions

The following guidelines are below:

- Extensions are not a mandatory requirement; however, the default extension period will be 1 year for all standard contracts.
- Extensions should only be included in contracts where competitively tendered and as advised in tender documents.
- However, for a pilot or short-term project these are to be a maximum of 6 months.
- There will be no extension periods for non-recurrent investments
- The maximum extension term shall not be longer than the original duration of the contract.
- Extensions can only be used once.
- Approval must be sought before requesting an extension from a provider as per the CCG SFI policy.

It is expected that commissioners make clear the length of the contract and possible extensions (if any) at the very outset of the procurement process.

These guidelines are not mandatory and are to be exercised at the discretion of commissioners and the organisation, however any contract duration and extensions are in line with SFIs and OJEU thresholds.

10. Contract Signature

The process to award a contract is covered by the LDU procurement policy, however it will be the duty of the contracts team to ensure that due process has been followed prior to arranging a contract signature. The commissioners are responsible for ensuring contract signature has taken place and liaising with the contracting team to complete this process.

The specific SOP for contract signatures is under Standard Operating Procedures in Appendix A.

11. Contract Variations

It is expected that Commissioners will ensure that the ever-changing health needs of the population are reflected in the current contracts that they commission. The contracts team will support this with the use of contract variations with the likelihood that contracts will need to be changed a number of times throughout its lifecycle.

The same process applies to any contracts that need extending.

The signature process for variations is also covered in the SOP for contract signatures and is under Standard Operating Procedures in Appendix A.

12. Contract Storage

Electronic

Electronic copies of the CCG's contracts and associated variations will be stored in a shared network folder accessible by all members of the contracts and commissioning teams. This will be saved in the following format:

Contracts Repository > CCG > Contract Reference

i.e.

Contracts Repository\MCCG\MCCG C-06 Central London Community Healthcare

The contracts team will be exploring an online contract database system and will update this policy if and when this is to be rolled out.

Paper

Original paper copies of the CCG contracts will be stored in locked designated cabinets, located next the contracts team area on the 4th floor at 120 The Broadway. Each CCG will have its own designated cabinets.

Commissioners, CSU and other delegated external contract management support may hold copies of contracts at their office sites, however it will be the responsibility to ensure that each copy of these are saved electronically for reference and audit purposes.

The Contract Support Officers will be responsible for holding keys to the designated cabinets. Storage arrangements for designated contract cabinets will be available to commissioners.

13. Contract Management Framework

Contract review meetings are a mandatory requirement for all NHS contracts. Commissioners will be required to hold contract review meetings with the providers they commission services from, with the number and frequency determined by financial and clinical risk.

These will be supported and, in some cases, led by the contracting team who will be responsible with formal minutes or action logs which are to be maintained for all contract review meetings held with the providers. In addition, if the meetings are not held in accordance with the timescale stated within the contract, then this should be formally documented.

For each contract there needs to be clear arrangements on the contract review process and frequency (covered under Schedule 2G and/or 5 depending on what contract form is used) based on the following guidelines:

Clinical Risk	Annual Contract Value	Meetings Required	Frequency	Considerations
All	>£10,000,000	TRG CQRG CRG	Monthly	Additional operational meetings if required
All	£2,000,000 - £10,000,000	TRG CQRG CRG	Monthly	
High	£2,000,000 - £1,000,000	CQRG CRG	Monthly	
Low	£2,000,000 - £1,000,000	CQRG CRG	Quarterly (monthly if there are on-going quality or performance concerns)	CQRG and CRG can be a combined meeting
High	£1,000,000 - £200,000	CRG CQRG	Quarterly	CQRG and CRG can be a combined meeting
Low	£1,000,000 - £200,000	CRG	Quarterly	
High	<£200,000	CRG	Quarterly	
Low	<£200,000	CRG	Half Yearly	Frequency and number can be dependent on provider, issues and service offering.

TRG - Technical Review Group
CQRG - Clinical Quality Review Group
CRG - Contract Review Group
Commissioners to define clinical risk along with associated quality and clinical leads.

The contract review process should be in line with the NHS Standard Contract General Conditions (GC8 Review). Commissioners and providers should identify those areas which require review, taking into account the reporting requirements set out in the quality and information schedules.

Clinical Leads and Commissioning Managers will determine representation at contract monitoring meetings.

Review Meetings will focus on the following as necessary or appropriate:

- all service quality performance reports issued since the service commencement date or the last review meeting (as appropriate);
- performance of the parties under this contract;
- performance of the provider under the provider plans;
- Levels of activity, referrals and utilisation under this contract.

Where indicated under the framework (being low value and/or risk), it may be more appropriate to combine both the Contracts and Quality Review meetings titled as Contracts and Clinical Quality Review Group. This meeting may take place under the existing contract review meeting arrangements or under the Merton or Wandsworth Directly Commissioned Services (DCS) quality arrangements depending on CCG and Provider availability.

All formal meetings require a term of reference (ToR) which needs to be approved by both CCG and Provider in said meeting, and decision recorded in the minutes.

Either party may call an emergency review meeting at any time.

Template for the format and standard agenda of these meetings are covered under Appendix A.

14. Contract Disputes

Any disputes should follow the NHS Standard Contract General Condition guidance (GC9) which provides details on the process around contract performance notices and dispute resolution.

A Contract Performance Notice (CPN) can be issued if the provider is failing to meet either the quality, performance or expected standards of the contact.

An Information Breach Notice (IBN) can be issued if the provider is failing to provide the required information or data to support activity and KPIs.

An Activity Query Notice (AQN) can be issued if the provider is failing to deliver the activity plans set out in the contract or if there are significant shifts in activity that require further escalation and explanation.

The contracts team will support this process and ensure that the correct process is followed as per GC9.

Process:

- Initial disputes should be discussed in an open, professional and transparent manner with the provider either in contract review meetings or separately as required.
- The Commissioners should establish an action plan with the provider before considering a formal notice.
- A formal notice should only be issued as a last resort and will require approval from the Head of Contracting and the Director or associated Deputy Director for the service they represent.
- The same applies to the closure of a formal notice.
- Once a notice has been issued an escalation meeting will be arranged by the contracts team within the required 10 operational days.
- The escalation meeting must be attended by the Lead commissioner, Head of Contracting and a Director (or nominated deputy(s))
- Further discussions will take place at routine contract review meetings or further escalation meetings if required.

15. Contract Exit and Expiry

The process to terminate or expire a contract should be in line with the NHS Standard Contract General Conditions (GC17 Review).

The contracts team will hold the relevant notice periods for all contracts and will flag with the relevant commissioner prior to this date. It is expected that commissioners do a service review at least **nine** months before the end of the existing contract. Where a commissioner is evaluating options upon termination or expiry of an existing contract, the decision-making process and key factors to be considered will be broadly similar to scenarios where the commissioner is seeking to secure new service models or significant additional capacity. The main difference is that the commissioner is considering options and making decisions in relation to existing services. This may involve (but not exclusively):

- A procurement plan to assign a new provider
- A transitional or exit plan for the new provider or existing providers (if applicable).
- Whether to contract is to be extended.
- Obtaining the appropriate sign off as per the LDUs governance process, in time before the relevant notice period.

The contracts team will support with any termination or expiration letters and with any contractual disputes relating to existing issues and/or with the exit plan.

The outcome of the service review is to go to the Contract and Procurement Monitoring Group (CPMG) for further review and guidance on next steps.

16. Contract Audit Requirements

LDU Commissioners are required to incorporate contract compliance audits into the annual contracting monitoring process, in line with NHS standard contract (GC15 Governance, Transaction Records and Audit).

The Provider must comply with all reasonable written requests made by any relevant Regulatory or Supervisory Body (or its authorised representatives), the National Audit Office, the Audit Commission or its appointed auditors, or any Authorised Person for entry to the Provider's Premises and/or the Services Environment and/or the premises of any Sub-Contractor for the purposes of auditing, viewing, observing or inspecting those premises and/or the provision of the Services, and for information relating to the provision of the services.

The contracts team will work with commissioners to develop the annual contract compliance audit programmes.

17. Statutory Publications

Statutory Guidance issued by NHS England requires CCGs to ensure that there is transparency in regard to contracts awarded, including how conflicts of interest have been managed and the details of those involved in the decision making (key individuals and decision-making forums). The Guidance specifically requires CCGs to publish such details on the website of the CCG.

Contracts Register

The contracts team will ensure that the contracts database is maintained, reviewed and published on each of the CCGs website on a quarterly basis. Prior to the publication, the contracts team will send to finance and the commissioners for review.

List of Procurement Decisions

The finance team holds the procurement register and it is the responsibility of the commissioners to ensure that this is kept up to date. The contracts team will support the publication of this on a quarterly basis.

Financial sanctions

In addition, any imposed by commissioners on providers under the NHS Standard Contract for failure to achieve national standards are to be published every quarter. As this relates to acute providers only this information is provided by the CSU and the contracts team will ensure this is published every quarter.

A timeline for these are below:

Publication	Q1 Update	Q2 Update	Q3 Update	Q4 Update
Contracts Register	May	August	October	February
List of Procurement Decisions	June	September	November	March
Financial sanctions	July	October	December	April

18. Governing Principles

Proportionality: All CCG contracts will be managed in proportion to their value, clinical risk and available resources.

Propriety: All contracts will be managed in line with recognised good practice and the LDU's contract management policy.

19. Executive Management Team (EMT) Principles

Each month a report shall go to EMT detailing contracts due to expire in 12 months and in 6 months. This will provide an additional layer of oversight so that EMT are sighted on the priorities and potential need for commissioning decisions.

20. Implementation and Training Plan

Target Group	Implementation or Training objective	Training Method	Individual/Team responsible for training	Target date for commencement	Target date for completion	Resources Required	Method of Updating awareness during life of policy
Contracting Team	Input, review and confirmation of accountabilities	One to one Team Meeting	Head of Contracting	31st January 2018	31st January 2018	None	In regular meetings
Commissioning Team	Input, review and confirmation of accountabilities	Team Meeting	Head of Contracting	28th February 2018	28th February 2018	None	In regular meetings
Executive Management Team	General awareness and sign-off	Presentation	Head of Contracting	31st March 2018	31st March 2018	None	In regular meetings
Audit and Governance Committee	General awareness and sign-off	Presentation	Head of Contracting	31st March 2018	31st March 2018	None	In regular meetings
Principal Associate Corporate Affairs (NELCSU)	Development of register and subsidiary procedures	N/A	Head of Contracting	31st March 2018	31st March 2018	None	Principal Associate Corporate Affairs (NELCSU)
All staff	General awareness	Email notification and individual reading	CO and Executive Directors to notify availability. Managers to ensure all staff in their team have read and understood Policy.	31st March 2018	31st March 2018	None	In regular email updates
Contracting Team	Confirmation of specific accountabilities	Team meeting	Executive Director Lead	31st March 2018	31st March 2018	None	In regular meetings
Policy Owners	Understanding of Equality Act	Training session as part of OD plan	Transformation Director	30th April 2018	30th April 2018	None	In regular meetings
Governing Body	General awareness	Presentation	CO	30th April 2018	30th April 2018	None	In regular meetings
All staff	General awareness and policy update	Email notification and	CO and Executive Directors to notify	31st March 2019	30th June 2019	None	In regular email updates

Target Group	Implementation or Training objective	Training Method	Individual/Team responsible for training	Target date for commencement	Target date for completion	Resources Required	Method of Updating awareness during life of policy
		workshop led by head of contracting.	availability. Managers to ensure all staff in their team have read and understood Policy.				

21. Audit Plan for Policy Development Policy – Monitoring Statement

Aspect of the policy to be monitored	Monitoring Method	Individual/Team responsible for the monitoring	Frequency	Group/committee that will receive the findings/monitoring report	Actions taken by the Group/committee
Completion of reviews for all transferring policies	Review of Policy Register	Principal Associate Corporate Affairs (NELCSU)	Monthly	Audit Committee and, as necessary, Governing Body	
Completion of Equality Act training by all policy owners	Review of training records	Line managers	Quarterly	Audit Committee and, as necessary, Governing Body	
Agreement of standard policies for inclusion in procurements	Review of Governing Body minutes	CO	N/A	Audit Committee and, as necessary, Governing Body	

22. Appendix A - Standard Operating Procedures and Templates

SOP No.	SOP	Last Reviewed	Review Due	Document
1	Contract Signature Process	April 2019	March 2020	LDU Contracts SOP 1 - SOP Contract Sig
2	Invoice Management Process	April 2019	March 2020	LDU Contracts SOP 2 - Invoice Managen
3	Contract Development Process	April 2019	March 2020	LDU Contracts SOP 3 - SOP Contract De'

Templates	Last Reviewed	Review Due	Document
Contract Review Meetings Agenda Templates	April 2019	March 2020	Contract Review Meetings Agenda Te

23. Appendix B – Equality Impact Assessment