POLICY ON MANAGING HEALTHCARE CONTRACTS WITH INDEPENDENT SECTOR PROVIDERS

Contracting Framework, Annual Review Process and Contract Monitoring Arrangements

1. Background

1.1. NHS Lanarkshire holds a number of contracts with independent service providers for the provision of patient care across a number of clinical services. They range from:

- Short term contracts for the provision of patient specific services
- Block contracts for surgical services e.g. joint replacement
- Long term contracts for the provision of nursing home type services which themselves range from the provision of accommodation only through to the direct provision of clinical services – mainly nursing staff

The current NHS Lanarkshire register of contracts is shown in Appendix A.

1.2. To demonstrate governance arrangements are in place, including reporting to the NHS Board on compliance with standards, consistent arrangements are required:

- For the awarding of contracts
- To manage the contracts at operational level
- To provide robust monitoring information
- To ensure there is a clear process of contract review before any significant contract changes either extending, reducing or termination are made

2. Organisational Arrangements

2.1. Each contract should be managed by a designated general manager within one of the operating divisions (CHP North, CHP South and the Acute Division). That manager will be responsible for ensuring the contract provider delivers the required volume and quality of healthcare within the agreed budget.

2.2. To oversee the management of all contracts with independent healthcare providers a Contract Review Group (CRG) will be established and will be chaired by a member of the Corporate Management Team. It will normally meet twice each year in February and September to coincide with the Board’s cycle of budget and objective setting and mid-year review of performance.

2.3. The CRG will review the portfolio as a whole rather than the detail of individual contracts and will take action where there are considered to be reputational, clinical or financial risks to the Board. It will also be

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1 These may include charitable, social enterprise and for-profit organisations.
responsible for the review and development of the Board’s contracting processes:

- Arrangements for the award of new contracts and for annual review of contracts
- Monitoring and assessment of value for money including efficiency, effectiveness, quality and affordability
- Interface with the Care Commission

2.4. It will report as part of the Board’s performance review and other governance arrangements:

- Through the Director of Strategic Implementation Planning and Performance to the CMT and thence the Board
- Through the Director for Nursing, Midwifery and AHPs to the clinical governance committee

3. Contracting Framework

To safeguard the interests of the Board in discharging its responsibilities for safe and effective patient care and the stewardship of public funds the formal process adopted will include the following phases:

3.1. Service Specification

This will be developed by the relevant CHP/Operating Division incorporating relevant output and outcome measures as available. The principle adopted is to move away from input measures and defined staffing attendance levels and focus upon service requirements.

3.2. Tender Process

The tender process will be in accordance with the Board’s Standing Financial Instructions (SFI’s) which take account of EU and UK legislation and the requirements of the Scottish Government. The relevant extract from the SFI’s is reproduced at Appendix B. The General Manager – Procurement, will be formally responsible for this process. This includes assessment of suppliers for suitability to provide services to the Board and covers matters such as financial viability, capability and capacity.

3.3. Tender Evaluation

Tender evaluation will be undertaken in a consistent manner and will ensure that an impartial assessment of tender returns is carried out. This will cover such items as service levels provided, facilities, recurring costs and length of contract.

3.4. Contract Award

The contract award is a formal process which confirms the detail of the formal arrangements entered into and ratifies the contract evaluation process. This is formalised by the exchange of signed contracts.
3.5. Contract Documentation

All formal contracting arrangements will be based upon contractual documentation developed by the Scottish Health Service Central Legal Office, CLO, and no contracts will be awarded outwith this process.

3.5.1. Long Term Contracts

A standard CLO contract is available for long term contracts and this can be amended to suit the individual circumstances of each contract, subject to CLO approval, and this will be negotiated locally.

3.5.2. Short term/Spot Contracts

These contracts are generally negotiated centrally and appropriate documentation and terms of engagement will be provided for each when the contract terms are issued. Where no formal arrangement is put in place centrally CMT approval will be required before any contract can be awarded.

3.5.3. Exemptions to this process are:

- Emergency referrals to a particular provider (if the patient’s needs are urgent and cannot currently be met by NHS Lanarkshire)
- Where the costs of the contract are expected to be less than the costs of the formal process described above

All contracts will require the approval of the Executive Director with responsibility for the provision of services to the particular patient group.

4. Contract Monitoring and Management

Managing contract performance is necessary to ensure good service provision and that public funds are being used appropriately. For each contract there will be a named General Manager identified on the register of contracts. They will be responsible for the performance of the contract and will:

- Monitor the service against the specification – the volume, timeliness, and effectiveness (including safety and quality) of the service
- Intervene as required to protect the interests of the Board in its responsibilities for patient care and financial stewardship
- Carry responsibility for ensuring that the contract’s financial performance is within the agreed budget

5. Assurance Measures on the Safety and Quality of Services

5.1. Assurance Measures Outwith the Contracting Regime

5.1.1 There are three parts to the assurance measures outwith the contracting regime:
those which would apply to any establishment (NHS or independent sector) where out-patient or residential care is provided
those which would apply to the regulation of clinics, hospital and nursing homes by the Care Commission
Those which would be additional in any contract agreed between NHS Lanarkshire and a third party healthcare provider.

5.1.2 Assurance Mechanisms Applicable to any Establishment:

• The approval regime to ensure the building is safe and fit for purpose exercised through the local councils by way of warrants for changes to the fabric of the building
• The approval regime by way of certification for fire safety by the relevant fire and rescue service
• The approval regime by way of certification for food handling through their environmental health department of local councils
• The inspection regime by the Health and Safety Executive when they have cause to believe harm may befall staff or patients

5.1.3 Assurance Mechanisms Exercised through Regulation by the Care Commission:

• The approval of premises and facilities suitable for the purpose intended, such as surgical operations through to care of older people
• The approval of the processes of care such as the care and treatment regimes
• The suitability of the person(s) to be registered either as owners, managers or matrons and other staff
• An inspection regime using their published standards, either planned and thematic affecting all establishments or certain sectors or geographies or reactive in responding to concerns from a variety of sources.

5.1.4 Assurance Mechanisms exercised through other Bodies:

• The professional regulatory bodies such as the Nursing and Midwifery Council or General Medical Council who regulate the professional practice of those Registered staff employed by the contractor or, in the case of GPs, sub contracted to them
• The Mental Welfare Commission with specific responsibilities for the safety and welfare of mentally ill patients (including the elderly mentally ill)
• The Local Health Council and the Ombudsman who exist to assist people who wish to express concerns or complaints or investigate actual complaints
6. Principles

6.1. The assurance mechanisms above are extensive and can be regarded as providing a foundation level of assurance. The Board will not seek to duplicate this effort and will:

6.1.1 Assume that the contractor is meeting these requirements unless there is evidence to the contrary
6.1.2 Seek from the Care Commission before a contract is entered into, and annually thereafter, confirmation that they are satisfied with the contractors compliance with their requirements

6.2 Before entering into a contract and enshrined within the clauses the Board will operate a 2nd level of assurance through:

6.2.1 Requiring contractors to comply with all relevant statutory provisions for the safety and wellbeing of patients, visitors and staff (whether they be employed by the contractor or employed by NHS Lanarkshire when visiting the contractors establishment)
6.2.2 Requiring contractors to notify the Board of any warnings, improvement notices, lapses in compliance or investigations by regulators
6.2.3 Requiring contractors to have a system for the assessment and management of risk and the improvement of service quality which will be open to inspection by the manager of the contract

6.3 Before or after the contract has commenced a 3rd level of assurance should be effected by:

6.3.1 Requiring the contractor to provide assurance that they are complying with specific standards where it is thought the safety or welfare of patients may be at specific risk such as HAI or anaesthetics
6.3.2 Ensuring where there is a visiting clinician (a doctor or nurse) he or she is required to inform the contract manager at least once every 6 months that they are content with the safety and quality of care provided by the contractor and that any specific quality mechanisms required above are being met

7. Policy Implementation Arrangements

The Policy will be implemented from April 1st 2009 after ratification by the Board. It will be distributed to:

- All contract managers
- Executive Directors

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2 Mental Welfare Commission, Care Commission, Professional Registration bodies and so on
3 This could be a consultant member of the medical staff who continues to have clinical responsibility for patients in the contractors establishment, an Associate Medical or Nursing Director, or a Nurse from the Nursing Home liaison service
• Relevant staff responsible for contract procurement
• Clinical staff with responsibilities for patients who receive contracted care including care home liaison staff
• Those who have liaison responsibilities with the Care Commission

8. Policy Monitoring Arrangements

The policy will be monitored annually by the CRG taking into account the experience of those involved in the contract process particularly the contract managers as to whether it is fit for purpose.

9. Policy Review Arrangements

The Policy will be reviewed in April 2012 through a process yet to be determined.

Margaret MacCallum
Associate Director of Bankaide
17 February 2009
## EXTANT CONTRACT REGISTER

<table>
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<tr>
<th>Provider</th>
<th>Specialties</th>
<th>Type of Facility/Service Provided</th>
<th>Duration of Agreement</th>
<th>Independent Nursing Staff/ NHS Nursing Staff</th>
<th>NHS Consultant led Care</th>
<th>Contact Manager</th>
<th>Cost 2006/07 £000</th>
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<tr>
<td>The Glasgow Nuffield Orthopaedics</td>
<td>Independent Hospital</td>
<td>Call Contract months Off (12)</td>
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<td>No</td>
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<td>Call Contract months Off (12)</td>
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<td>Head of Planning Acute</td>
<td>1,900</td>
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<td>Four Seasons Health Care Ltd Carrickstone House &amp; Day Hospital Cumbernauld</td>
<td>Inpatient – continuing care old age medicine and intermediate care</td>
<td>Independent Care Home</td>
<td>The initial contract period of 1997 – 2007 has been extended until March 2012</td>
<td>Independent Nursing Staff/</td>
<td>Yes</td>
<td>General Manager Medicine Directorate</td>
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<td>NHS consultant led Care</td>
<td>Contact Manager</td>
<td>Cost 2006/07 £000</td>
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<td>Inpatient – continuing care old age psychiatry</td>
<td>Independent Care Home</td>
<td>The contract period is from 1992 – 2007. Further extension to the contract will be dependent on the outcome of a review of Mental Health services due to report August ’06</td>
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<td>NHS consultant led Care</td>
<td>Contact Manager</td>
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<td>The Golden Jubilee Hospital</td>
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<td>Independent hospital</td>
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<td>Independent Care Centre</td>
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<td>Independent Care Centre</td>
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<td>Duration of Agreement</td>
<td>Independent Nursing Staff/ NHS Nursing Staff</td>
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<td>Grosvenor Nuffield Hospital, Chester</td>
<td>Orthopaedics – knee replacement</td>
<td>Independent hospital</td>
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<td>Independent hospital</td>
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<td>BMI Ross Hall Hospital</td>
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<td>Leonard Cheshire Homes – North West Warrington</td>
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<td>Independent Care Home</td>
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<td>Duration of Agreement</td>
<td>Independent Nursing Staff/NHS Nursing Staff</td>
<td>NHS consultant led Care</td>
<td>Contact Manager</td>
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<td>Independent Clinic</td>
<td>Spot purchase</td>
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<td>Quarriers, Bridge of Weir</td>
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<td>The Priory Hospital, Glasgow</td>
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<td>The Retreat, York</td>
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Appendix B

COMMISSIONING/PROVIDING HEALTHCARE SERVICES: EXTRACT FROM
NHS LANARKSHIRE’S STANDING FINANCIAL INSTRUCTIONS

3.1 The Chief Executive, in conjunction with the Director of Finance, shall be
responsible for ensuring that all services required or provided are covered by
a series of service agreements or, if not, that adequate funds are retained or
requested to pay for services obtained outside service agreements, all within
the context of the approved Local Delivery Plan and Financial Plan. They
shall be responsible for ensuring that the total service framework is affordable
within the overall Revenue and Capital Resource Limits set by the Scottish
Executive Health Department.

3.2 The Chief Executive as Accountable Officer is responsible for ensuring that
agreements put in place have due regard to the quality and cost-effectiveness
of services provided. Before making any agreement with non-NHS providers
NHSL should explore fully the scope to make maximum cost-effective use of
NHS facilities. The Chief Executive, Director of Finance or Divisional Chief
Executives will authorise all agreed service agreements for health care
purchases.

3.3 The Chief Executive shall be responsible for establishing robust financial
arrangements, in accordance with guidance from the Scottish Executive
Health Department, for the treatment of Lanarkshire residents by other NHS
systems, or by the private sector.

3.4 The Chief Executive will need to ensure that regular reports are provided to
the Board detailing actual and forecast expenditure and activity for each SLA.

3.5 The Director of Finance shall be responsible for agreeing to the financial
details contained in those service agreements agreed by the Board.

3.6 The Director of Finance shall be responsible for maintaining a system of
financial monitoring to ensure effective accounting for the rendering and
payment of service agreements invoices in accordance with the terms of
service agreements, or otherwise in accordance with national guidance. This
should provide a suitable audit trail for all payments made under the
agreements.

3.7 The Director of Finance must account for Out of Area Treatments/Non
Contract Activity financial adjustments in accordance with national guidelines.

3.8 The Director of Public Health, in their capacity as Caldicott Guardian, shall be
responsible for ensuring that all systems operate in a way to maintain
confidentiality of patient information as set out in the Data Protection Act 1998
under Caldicott guidance.

June 2008
## Policy for Dealing with Concerns Raised About The Standard of Care in Care Homes

Prepared by: M MacCallum  
Reviewed by: The Care Home Liaison Nurses  
Endorsed by: Contract Monitoring Group / NHS Lanarkshire Board  
Date Endorsed: 19th February 2009  
Implementation Expected by: Already in the system  
Responsible Executive Director: Executive Director Nursing, Midwifery & AHPs  
Responsible Person delegated by Exec Director: Associate Director Workforce Planning  
Monitoring / audit Date: Annually/December 2009  
Responsible Person: M MacCallum  
Receiving Group / Committee for Audit Report: Contract Monitoring Group
Background

The ‘Memorandum Of Understanding’ is a framework of co-operation and collaboration agreed between the Care Commission and NHS Lanarkshire. The Executive Director for AHPs, Nursing and Midwifery is the designated Board officer responsible for informing the Care Commission, on NHS Lanarkshire’s behalf, of any concerns raised.

Introduction

To ensure the accuracy of the information and effective partnership working with the Care Homes and the Care Commission, the following procedure has been developed for all staff to follow if they wish to raise a concern in relation to standards of care in the Care Homes.

Procedure

The following flowchart provides the details of the procedure for dealing with both general and more significant concerns.

N.B. Please note that as well as the Care Home Liaison Nurses who deal with frail elderly residents from a perspective of general nursing, there are also Care Home Liaison Nurses who deal specifically with residents experiencing mental health issues. Each locality has a designated mental health Liaison Nurse for Care Homes.

Contact Telephone Number for the Acute and Primary Care: 01698 245059

Contact Telephone Number for Old Age Psychiatry –

<p>| | |</p>
<table>
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<th></th>
</tr>
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<tbody>
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<td>East Kilbride</td>
<td>01355 576529</td>
</tr>
<tr>
<td>Hamilton</td>
<td>01698 723220</td>
</tr>
<tr>
<td>Coatbridge</td>
<td>01236 707775</td>
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<td>Motherwell</td>
<td>01698 269649</td>
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<td>Bellshill</td>
<td>01698 403760</td>
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<td>Clydesdale</td>
<td>01555 772271</td>
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<td>Wishaw</td>
<td>01698 354030</td>
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<td>Cumbernauld</td>
<td>01236 731881</td>
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Does the issue relate to general care (e.g. peg feeding, falls) or psychiatry (e.g. mood, restraint)?

Contact the appropriate Liaison Nurse

Is the concern general or significant?

**General Concerns**
Any concerns need to be discussed in the first instance with the Liaison Nurse.

The Liaison Nurse will then contact the Matron or Manager of the Care Home to discuss the concerns raised.

If the matter requires further investigation, the General / Service Manager in Primary Care and Senior Nurse/ADN in Acute will set up a meeting as a matter of urgency with the Care Home, Liaison Nurse and other relevant parties. The Genera/Service Manager in Primary Care and Senior Nurse/ADN in Acute will notify the Executive Director for AHPs, Nursing and Midwifery, of the concerns raised and of the meeting arranged.

**Significant Concerns**
Any concerns need to be discussed in the first instance with the Liaison Nurse and also with your line manager, who in turn will notify their General/Service Manager in Primary Care and Senior Nurse/ADN in Acute.

Depending on the outcome of this meeting, one or more of the following actions need to be taken –

1. No further action.
2. Further clarification / investigation of the information and data, responsible person(s) to be identified at the meeting and a comprehensive remit with timescales developed to carry out this piece of work.
3. The Care Home Liaison Nurse to facilitate the provision of support and training by NHS Lanarkshire staff as appropriate.
4. The Executive Director for AHPs, Nursing and Midwifery to be notified of the concerns for referral to the Care Commission, and who will then notify the Care Commission of this action.