Appendix 1a

Operational planning and contracting guidance 2019/20

NHS England (NHSE) and NHS Improvement (NHSI) published the second part of the 2019/20 operational planning and contracting guidance on Thursday 10 January 2019. This overarching guidance covers the new financial framework (including the new Financial Recovery Fund), new operational planning requirements, and further detail on system planning and national tariff proposals.

The documents published include:

- NHS Operational Planning and Contracting Guidance 2019/20
- Clinical Commissioning Group (CCG) allocations 2019/20-2023/24

You can read our briefing on the preparatory planning guidance, published in December 2019, here. For any questions on this briefing or our work in this area please contact adam.wright@nhsproviders.org and david.williams@nhsproviders.org

Key points

- A new financial framework is being introduced to the provider sector, with the aim of eliminating all trust deficits by 2023/24. Central to this is a new financial recovery fund (FRF) that will be targeted at trusts that agree control totals, deliver efficiencies but still record a deficit. The new financial regime will phase out the control total and provider sustainability fund (PSF) regime, which will be brought to an end in 2020/21.
- Trusts and systems will be expected to produce recovery plans during 2019/20 and beyond. Not much detail is provided on these plans but further guidance is expected. It is likely that capital plans drawn up by sustainability and transformation partnerships (STPs) and integrated care systems (ICSs) will play an important role in these.
- NHSI and the Department of Health and Social Care (DHSC) are reviewing the cash and capital regimes for providers. More detail is expected in the comprehensive spending review, likely in autumn 2019.
- Further detail is provided on system planning. STPs and ICSs will be expected to provide an overview of how system resources will be utilised, in addition to submitting aggregated data sets based on each member's plans.
- There are a number of new commitments around mental health spending. In addition to meeting the mental health investment standard (MHIS) requirements, commissioners will be expected to increase

the share of their total mental health spend that is spent on mental health providers. NHS England will also look at mental health spend per head for each CCG.

- The guidance does not include performance recovery trajectories, but makes clear that the existing NHS Constitution standards remain in force.

The new financial settlement

The long term financial settlement aims to ensure that being in financial balance, rather than in deficit, is achievable, and the norm, within the provider sector. However the five year funding profile, first announced by the government last summer, has now changed, meaning the NHS will experience higher funding growth at the end of the five year period, and less up front. The Health Service Journal (HSJ) has reported that the cumulative impact of this will mean the NHS will receive around £2bn less during the five years.

In 2019/20 NHSI will introduce a new financial framework to help move the majority of providers back to financial balance – but the "quid pro quo is that next year no national reserves are being held to cover unauthorised deficits". This means that whether the DHSC group as a whole is in balance depends largely on whether trusts deliver against their control totals.

Financial framework

The guidance confirms a new financial framework for trusts from 2019/20 onwards. The new framework will involve:

- Transferring £1bn from the provider sustainability fund (PSF) into urgent and emergency care prices. This is intended to reduce the gap between the price paid and the cost of delivering emergency care. The blended payment system, as set out in the tariff proposals, will also form part of the reforms to urgent and emergency care payments.
- Creating the new financial recovery fund (FRF) worth £1.05bn (see detail below).
- Reducing the size of the PSF for all providers. Overall, in 2019/20 the PSF will be reduced from the current £2.45bn to £1.25bn. Of this smaller pot, mental health, community and ambulance trusts will be allocated £155m (the same amount as this year), but acute and specialist providers will be allocated £1.1bn. This means non-acute trusts have access to 12% of the total pot, compared with16% in 2017/18. Mental health, community and ambulance trusts not be able to access £1bn transferred from PSF into emergency care prices, or much of the £1bn FRF, which is solely for trusts in deficit.
- Rebasing control totals for all providers.
- Working with the DHSC to reform the capital and cash regimes for trusts.
- Setting an efficiency target of 1.1% for the provider sector, with a further 0.5% required from trusts looking to access the financial recovery fund.

Financial Recovery Fund and recovering deficits

The new FRF is aimed at addressing issues around sustainability in the provider sector and will be worth £1.05bn. This includes around £200m that has been transferred from the PSF. The FRF will be allocated on

a non-recurrent basis and will only be made available to trusts in deficit that have signed up to their control total. However, the 2019/20 control totals issued to trusts in deficit will include an additional 0.5% efficiency requirement (in addition to the 1.1% requirement for all providers).

NHSI expect that by the end of 2019/20 the number of trusts in deficit will halve, and that by 2023/24 no trust will be reporting a deficit.

Conditions for FRF in 2019/20

In order to be eligible for FRF funding in 2019/20, a trust must first be signed up to a deficit control total. During the year, the trust will be required to produce a recovery plan in order to be able to access the fund. In addition to this, all systems that include a trust in deficit will need to have a recovery plan in place as part of their five-year system level strategic plans, due in December 2019. National guidance is expected on the development of recovery plans.

Trusts in deficit and in receipt of FRF will need to achieve agreed performance improvement trajectories that deliver year-on-year improvements in financial performance to receive the FRF. If any agreed recovery trajectories are missed, the regional NHSE/I team will intervene, "with the potential to draw on the full range of statutory and regulatory powers". More detail on this new accountability regime is expected soon.

In 2019/20 all trusts will continue to receive PSF upon acceptance and delivery of control totals.

Beyond 2019/20

With the introduction of the FRF, NHSI intend to end the control total and PSF regime. In 2020/21, the remaining PSF funds will be transferred into the FRF and no trust will be allocated a control total. The FRF will only be available to trusts in deficit that agree a financial recovery plan, which will need to be approved by NHSE/I regional teams. These plans will need to set out how financial recovery will be delivered over a number of years, and payment will be made upon delivery of key milestones. NHSI has also indicated that they may require providers to deliver a minimum surplus standard in the future.

Trusts will be expected to draw on national policy initiatives to deliver these plans, including the Model Hospital, RightCare and GIRFT programmes. Any trust that over-delivers against its recovery plan will still receive its FRF funding, and will be expected to spend this on transformation and further cost reduction. NHSI expects the size of the FRF to reduce over time, with funding instead replaced by recurrent efficiency improvements delivered through multi-year recovery plans.

Other support

Trusts in surplus will be expected to support those in deficit within their STP/ICS. This may include sharing management expertise and looking to reduce service costs across system pathways.

In addition to this, NHSI will review the cash regime for providers, including the rate of interest paid on both historic debt and new loans. NHSI is also considering how to restructure historic debt on a case-by-case, but only for those trusts that have agreed a recovery plan.

National tariff payment system

The guidance restates proposals on the expected changes to the national tariff. We expect the statutory consultation on these proposals to launch on 17 January 2019:

- The price uplift will be set at 3.8%, which includes the Agenda for Change pay award funding, but excludes the transfer of £1bn PSF, a transfer from CQUIN and extra money to fund increased pensions contributions. This will be offset by a 1.1% efficiency factor and a top slice, falling most heavily on acute trusts, to pay for centralised procurement arrangements.
- Blended payments for emergency activity will cover non-elective admissions, A&E attendances and ambulatory/same day emergency care. This will comprise of a fixed element based on locally agreed planned activity levels and a variable element, set at 20% of tariff prices. A break glass clause will also be introduced.
- The marginal rate and the 30-day readmission rule will be abolished on a "financially neutral basis between providers and commissioners", however there is no detail on what this might mean for a provider that historically has lost money via the application of the marginal rate.
- The updated market forces factor (MFF) will be implemented over a period of five years (a year longer than original proposed), with changes also reflected in control totals.
- Maternity pathway tariffs will be made non-mandatory, but NHSI still expect these prices to be used for contracting in 2019/20.

System requirements

System planning

All STPs/ICSs will produce a system operating plan for 2019/20, based on "open book" working between system partners. Projections should be "realistic" – for example phasing most elective activity for the first half of the year, before the onset of winter. The first submission will be on Monday 14 January 2019.
The plans will need to have two elements:

1. An overview setting out how the system will use its resources to meet population need.
2. A "system data aggregation", comprising activity, workforce, finance and contracting data for each member of the STP/ICS.

System control totals

As previously set out, system control totals for each ICS/STP will be the sum of individual organisational control totals. The approach for ICSs goes further than STPs by linking a proportion of each organisation's provider sustainability fund or commissioner sustainability fund to achievement of the system control total.

System efficiency

The guidance acknowledges that STPs/ICSs are increasingly finding efficiency opportunities that can only be delivered through combined efforts. Systems should focus on the cost effectiveness of the whole system, "not cost shifting between organisations". However there is no target for system efficiency

comparable to the efficiency factor built into local prices, and no indication of how STPs/ICSs may be held to account for delivery on system efficiency.

Mental health

The guidance includes a commitment to increase the proportion of spend on mental health services. CCGs must continue to increase investment in mental health service, in line with the mental health investment standard (MHIS). This requires commissioners to:

- increase spend on mental health by more than their overall programme allocation growth – each CCG will be given a minimum percentage increase;
- increase the share of their total mental health expenditure "that is spent with mental health providers"; and
- increase the proportion of mental health spending on children and young people's services.

NHS England will also look at mental health spend per head, and as a percentage of CCG allocations. For each CCG, mental health spending plans will need to be signed off by their governing body and will be subject to independent auditor review to ensure the MHIS has been achieved. STP/ICS leaders, including a nominated lead mental health provider, will also review these plans.

Capital

In 2019/20, the guidance states "capital expenditure will also be subject to additional controls to ensure the NSH budget overall is balance". It is not clear what these additional controls will be. In addition to this, the guidance hints that STP/ICS capital plans may form part of system recovery plans, and restates that they will need to be "investable propositions".

While the guidance does not set out changes to the capital funding regime, it does allude to future changes. NHSE/I will be working with the DHSC to reform both the capital and cash regimes, with a new funding settlement expected with the government's spending review, due autumn 2019.

Operational performance

The guidance states that existing constitutional standards remain in force but does not, unlike in previous years, provide any performance recovery trajectories. Notable changes to provider performance requirements include but not are limited to:

- All trusts with a type 1 A&E must have a Same Day Emergency Centre (SDEC) in place by September 2019.
- The penalty for breaching the 52 week waiting list will be reintroduced, even for providers that sign up to a control total. The fines will now be split between providers and CCGs equally, with NHSE/I regional teams deciding how this money should be reinvested.
- If a patient has been waiting longer than six months for treatment the provider or responsible CCG must contact them and offer them an alternative option.

For urgent and emergency care, the expectation is that the clinical standards review will set out new clinical standards. The review will be published in spring 2019, with testing to follow and full implementation launching in October 2019.

The guidance restates existing service deliverables, including those arising from year one of the *Long term plan*.

NHS Providers' view

The new financial regime is to be welcomed – in 2019/20 providers will have access to more funding for frontline services and be required to meet a more realistic efficiency target. But with this comes the added pressure for trusts to sign up to, and meet, their control totals.

Even with this additional funding, it will be no mean feat for the number of providers in deficit to halve next year and to fall to zero by 2023/24. That is why the national reviews into the current cash and capital regimes are much needed and cannot be delayed, particularly if providers and systems are to produce credible recovery plans. We look forward to further clarification around these recovery plan requirements, as well as the new accountability regime.

The new regime is a positive step away from previous years where an aggregate deficit in the provider sector was offset by a large aggregate surplus in commissioner budgets. It effectively transfers NHS England's risk reserve to providers. This will mean, however, that national bodies will not be able to mitigate against any financial over performance from the sector at year end. We therefore anticipate NHSI to place greater emphasis and scrutiny on trusts agreeing and meeting their control totals in 2019/20, and for deficit trusts to set robust financial recovery plans in the months and years ahead.

Many providers will be alarmed by the suggestion that additional controls will be placed on capital expenditure. We have argued for some time that access to capital funding is extremely restricted for many trusts, and so it is disappointing to see it will likely become even harder for providers to fund long overdue infrastructure investment.

We recognise that new funding has primarily been aimed at eliminating provider deficits, most of which are in the acute sector. Mental health, community and ambulance providers will have limited opportunity to access the new funding allocated to the FRF or the increase to urgent and emergency care prices. But we accept that in the mental health sector, this has been partly counterbalanced with the additional expectations around mental health funding reaching the front line.

Without recovery trajectories, the requirements around performance remain ambiguous. Trusts will do everything within their powers to avoid further deterioration, and will recover if possible. We eagerly await the publication of the clinical standards review, but remain sceptical around implementing what could be quite radical changes to performance targets by the end of 2019/20.

We have concerns around the timing of this guidance. The first activity plans are due on Monday 14 January, leaving providers just under one and a half working days to interpret and act on the full guidance that has been published. Given this, the national bodies should lenient with any delays in submissions.

NHS Providers press statement

Responding to the NHS planning guidance for 2019/20, published today by NHS England and NHS Improvement, the chief executive of NHS Providers, Chris Hopson, said:

"NHS trusts have been struggling for four years with a difficult combination of rising demand, the longest and deepest financial squeeze in NHS history and growing workforce shortages. That's meant that, despite frontline staff working flat out, the NHS has fallen a long way behind. Patient access to care has suffered, trusts have been running persistent financial deficits and frontline NHS staff have had an unsustainable workload.

"The 2019/20 planning guidance, and this week's long term plan, therefore needed to show how trusts, working in their local systems, could use the first year of increased NHS investment to start to deliver the interlinked objectives of recovering performance, addressing workforce shortages and heading back to financial balance.

"The provider sector will welcome the overall new financial regime set out in the guidance – the extra investment in the sector, the increase in prices paid to trusts for the care they provide, the new provider financial recovery fund, the changes to funding emergency care and a more realistic efficiency assumption than before of 1.1%.

"Trusts will want to assess the impact of a complex set of changes on their individual position, recognising that each trust has an important contribution to make to returning the sector to financial balance. But, taken as a whole, this should enable the provider sector to start moving from deficit to surplus, an important and significant achievement.

"On workforce, trusts will also welcome the statement of intent to rapidly address current staff shortages. Whilst it's concerning that some issues, and a full plan, will need to wait for the forthcoming spending review, it's welcome that the new national workforce group plans to take quick, co-ordinated, purposeful action in areas that trusts and NHS Providers have been highlighting for some time. These include speeding up overseas recruitment, quickly maximising the clinical permissions that newer job roles can exercise and tackling long standing pension issues. The new group must fully involve frontline trust leaders and their representatives in its work.

"On recovering performance, the guidance acknowledges that current performance is short of where it should be but says that a recovery plan needs to wait for a new set of performance targets that reflect up to date clinical practice. Trusts are ready to look at modernising targets but will not want to abandon the

hard won improvements in waiting times and patient care the NHS delivered in the 2000's. Any recovery trajectory needs to be properly planned and fully funded and staffed. We will also need a full, evidence based, debate to change the current NHS constitutional standards. The six month timetable suggested in the planning guidance for achieving this seems ambitious.

"The single biggest factor affecting the NHS in 2019/20 may well be the impact of Brexit, should it proceed, particularly if there is a no deal Brexit. Trusts tell us they are completely reliant on national level contingency planning and remain concerned at the short timetable and the range and complexity of tasks that need to be managed.

"In short, the planning guidance sets out the first steps on the path back to a sustainable NHS, with the right care for patients and a reasonable workload for staff. Good work has been done to enable providers to start to recover their financial position. But there is a lot of hard work to do and independent commentators are clear that there is insufficient money to meet every aspiration".