National Partnership Agreement

between the Department of Health and the Home Office for the accountability and commissioning of health services for prisoners in public sector prisons in England

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Description	The National Partnership Agreement is an over-arching agreement between the Secretary of State for Health and the Home Secretary for and on behalf of Her Majesty's Prison Service. It is intended to underpin and complement the local partnership arrangements between NHS Primary Care Trusts and public sector prisons within the Prison Service. this is an updated version of the National Partnership Agreement issued in 2003.		
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Contents

National Partnership Agreement between the Department of Health and the Home Office for the accountability and commissioning of health services for prisoners in public sector prisons in England

Introduction

1. The National Partnership Agreement (NPA) is an over-arching agreement between the Secretary of State for Health and the Home Secretary for and on behalf of Her Majesty's Prison Service (HMPS). It is intended to underpin and complement the local partnership arrangements between NHS Primary Care Trusts (PCTs) and public sector prisons within the Prison Service (HMPS).

2. In September 2002, Ministers announced the decision to transfer the budgetary responsibility for prison health from HM Prison Service, an executive agency of the Home Office, to the Department of Health. From April 2003, the Secretary of State for Health assumed responsibility from the Home Secretary for securing a full range of health services for prisoners under Section 3 of the NHS Act 1977.

3. The Secretary of State for Health delegated responsibility for commissioning health services to NHS Primary Care Trusts on a rolling programme starting from April 2004 with full devolution of commissioning responsibility to PCTs by April 2006.

4. This document is intended to cover accountability and commissioning for health services for prisoners from April 2006, when transfer of commissioning responsibility for services from HMPS to NHS Primary Care Trusts will be complete. It is intended that this document will be regularly reviewed and revised as appropriate.

5. This document is restricted to the specific partnership between the Home Office and the Department of Health, which oversees health services in prisons. It will need to be viewed within the wider context of other strategic partnerships between the Home Office and the Department of Health which cover health, and health and criminal justice.

1. SCOPE OF AGREEMENT

Parties to the Agreement

1.1 Parties to this Agreement are:

(a) Secretary of State for Health
(b) Home Secretary for and on behalf of HMPS

1.2 The Agreement is not intended to be legally binding and no legal obligations shall arise from the provisions of the Agreement. The purpose of this agreement is to set out the intentions of the parties for the commissioning of the service and accountabilities.

1.3 The Agreement covers health services for prisoners in public sector prisons in England. The Welsh Assembly Government will have a separate agreement to cover health services in public sector prisons in Wales.

Commissioning of Health Services for Prisoners

1.4 PCTs should commission health services of the same range and quality as the general public receives in the community.

For the purposes of this agreement, the scope of commissioned services includes:

(a) HMPS employed staff (including administrative staff dedicated to healthcare (services) and associated costs such as training, uniforms, advertising, recruitment costs, and Travel and Subsistence;

(b) Agency and locum staff;

(c) Healthcare contracts/agreements/arrangements for clinical services;

(d) Medical supplies, dental and optical contributions; and

(e) Clinical management of substance misuse, including detoxification activity (excluding CARATS activity)

Minor Capital

1.5 Minor capital responsibility for existing healthcare divides into two distinct areas. Fixed equipment, for example dental chairs, mounted cabinets etc, remain the responsibility of HMPS. Non-fixed equipment is now the responsibility of PCTs in terms of maintenance, replacement and purchase of new items. For any new facility it is the responsibility of HMPS/NOMS to commission all items and then for the PCT to maintain those items not fixed. This would only occur with minor capital when a new facility is small ie. a new wing treatment area.

Major Capital Development

1.6 Major capital development is the responsibility of HMPS/NOMS.

2. PRINCIPLES, AIMS AND OBJECTIVES

Principles

2.1 The National Partnership Agreement is underpinned by the following principles:

- Accountability for the commissioning of health services for prisoners to be held by the National Health Service, as for all other citizens
- Equity of access to health services for prisoners in keeping with services provided to the local community
- Shared responsibility between the NHS and HM Prison Service for the development of health services to prisoners on the basis of assessed need.
- Best use of available resources
- Continuous service improvement

Aims of the Partnership

2.2 The principal aim of the partnership is to provide prisoners with access to the same quality and range of healthcare services as the general public receives from the NHS.

2.3 Other aims of the partnership are:

- Ensure that prison health issues are appropriately reflected in the development and implementation of wider government policies, including those for the HMPS, NHS, NOMS, and the wider criminal justice system
- Support the development of partnership at all levels between HMPS and the NHS, enabling this development through transparency of all relevant financial, performance and strategic planning information and documentation between the parties.
- As lead collaborative centre for the World Health Organisation 'Health Improving Prisons' promote the development of best practice.

Objectives of the partnership

2.4 The key objectives of the partnership are to:

- Develop and maintain policies in keeping with good practice relating to healthcare in prisons and the well being of prisoners, that offer best value for money and are in line with National Health and Social Care policy

- Facilitate the generation of momentum between HM Prison Service and the NHS for change and continuous improvement in health services for prisoners

- Raise awareness and inform Ministers at the Home Office and the Department of Health, NOMS on all aspects of prisoners' health and health services.

- Contribute to the achievement of core objectives for the partners. For example the achievement of DH Public Health and HO Aim 4: To reduce reoffending.

3. ROLES AND RESPONSIBILITIES

3.1 This section sets out the respective roles and responsibilities of the three levels of partnership:

- Home Office/Department of Health
- Prison Service Area Office/Strategic Health Authority
- Prison/PCT

Home Office/Department of Health

3.2 The responsibilities described in the NPA will not conflict with the accountability either government department owes to its Ministers for the delivery of Government policy nor with either of the respective organisations' statutory obligations.

3.3 Accounting Officer responsibilities

The HMPS and DH Accounting Officers' basic responsibilities are set out in their letters of appointment and Accounting Officers' Memoranda. However, in relation to the operation of the NPA, the following areas warrant specific mention:

3.4 Securing resources

The DH Accounting Officer as part of his commissioning role, is responsible for securing sufficient resources to deliver the aims and objectives of this agreement.

3.5 Value for money

Both parties are required to obtain value for money. DH should ensure that services provided by HMPS represent good value for money against its budget, aims and objectives. HMPS should ensure that charges made to DH allow for the recovery of actual costs of the healthcare service delivered, in accordance with Treasury guidance, and that funds received from DH, are used to best effect, and propriety and regularity of expenditure is observed.

3.6 Investment Decisions

The HMPS Accounting Officer must have authority over decisions to invest/disinvest in the prison estate. All investment decisions relating to the healthcare facilities, including those for infrastructure improvements or refurbishments and major maintenance projects, should be supported by business cases, which reflect the agreement of NHS/DH to the proposal and an acceptance that the expenditure consequences are appropriate. The requirement to seek Treasury approval will continue to follow the terms of the Agency's Framework Document

3.7 Control of Expenditure

Both organisations must have arrangements in place to ensure that expenditure is contained within the agreed provision. DH is responsible for ensuring its allocation is not exceeded and HMPS is responsible for ensuring that the cost of contracted healthcare services delivered by HMPS does not exceed the agreed income provision. Allocations must be agreed between both parties in advance of the start of the financial year. HMPS must inform DH as soon as it appears likely that the agreed services cannot be delivered for the agreed amount. DH will then consider what action is required.

3.8 In order to support the NPA, both Accounting Officers will ensure that the relevant financial data information is made available and, if appropriate, allow access for internal and external auditors to validate data.

3.9 The Departmental Accounting Officer (DAO), the permanent head of the Home Office, is responsible for overall financial control and management across the Home Office and its Agencies.

3.10 The Chief Executive of NOMS and Chief Executive of DH as Treasury appointed Additional Accounting Officers (AAO) are responsible for the overall financial control and management across HO and DH respectively. The AAO will have access to all financial information relation to the partnership, and DH and HMPS Accounting Officers will ensure that the DAO is kept informed of any issues relation to the financial integrity of the commissioning arrangements, e.g. issues of financial propriety or affecting compliance with the resource limit.

3.11 Disputes over financial issues should be resolved using the “Resolution of Disputes” procedures However, given the DAO’s overriding responsibility for financial control and management, unresolved disputes on financial issues should be put to the DAO for advice and/or arbitration before submission to the Secretary of State.

3.12 Change of Function

If a service in a prison is withdrawn or significantly changes, e.g. when a prison is re-roled, consideration will be given in the first instance to redistribution locally. If that is not to happen, it will come back to the centre and be re-allocated. In both situations, reallocation will be subject to a business case which takes account of local needs with an appropriate exit strategy for providers as necessary.

3.13 Litigation

Healthcare related litigation arising from incidents alleged to have taken place before 1 April 2003 will be the responsibility of the Home Office. Healthcare related litigation concerning incidents alleged to have taken place on or after 1 April 2003 will be the financial responsibility of DH/PCTs.

3.14 Escorts and bedwatches

When the decision was taken to transfer the budget for commissioning the healthcare of prisoners to the Department of Health, funding for escorts and

bedwatches was not included. Prison Health and HMPS are carrying out a comprehensive study, to identify costings, clinical reasons for care being offered outside the prison and how better value for money could be achieved through service improvement. The data collection began on 18 April 2005 and will run for a period of twelve months. It includes both the public and contracted out prisons in England and Wales. The final report will be published in the summer of 2006 and will provide information in taking the decision as to where the budget sits.

Area Office/Strategic Health Authority

3.15 Performance Management
Strategic Health Authorities, through their performance management of PCTs have a responsibility for prison health services. Area Offices have a direct performance management role in relation to prisons.

3.16 Strategic Overview
SHAs/Area Offices maintain a strategic overview of service development in the context of the wider health economy and prison service area, including on a national basis, for example the High Secure estate.

3.17 Dispute resolution
Where issues cannot be resolved by the Partnership board they should be referred to the SHA/Area Office.

PCT/Prisons

3.18 The PCT is responsible for:

- Commissioning health services for prisoners;
- Securing resources for the effective delivery of the aims and objectives of the Partnership Agreement;
- Monitoring the performance against the standards set out in the Service Level Agreement (where appropriate)
- Acquisition and maintenance of non-fixed, freestanding items e.g. furniture and specialist medical equipment.

3.19 HMPS is responsible for:

- Overall duty of care to the prisoners
- Supporting the effective delivery of health services for prisoners, regardless of the provider
- Managing the healthcare facilities in order to deliver the agreed services set out in the SLA (where appropriate);
- Acquisition of new items fixed to the building e.g. dental chairs.

3.20 Healthcare Complaints

Where health services are commissioned or provided by the NHS, the NHS (Complaints) Regulations 2004, SI 1768 must be met. How the NHS complaints procedure is implemented at the first stage of the process will be determined by arrangements for commissioning and provision at each individual prison.

3.21 Where a PCT makes arrangements for the provision of health services with the prison or an independent provider, it must ensure that the provider has in place arrangements for the handling and consideration of complaints about any matter connected with its provision of services as if the Regulations applied to it particularly with regard to co-operating with any PCT or Healthcare Commission lead investigation of a complaint. Any SLA or contract between the PCT and the provider must stipulate this requirement.

3.22 NHS complaints unresolved at the first stage will follow the same procedure, and prisoners may access the Healthcare Commission and the Health Service Ombudsman.

3.23 Complaints about prison services (non-healthcare) will continue to be handled via the HMPS request and complaints procedures.

3.24 Clinical Information Technology

The only clinical information systems available in a small number of prisons are stand alone systems provided by the local PCT. NHS Connecting for Health have the budget for clinical information systems in prison healthcare centres, and agreed in November 2005 to include it in their overall programme of work. The Business Case has been completed and signed of by the Project Board, the preferred choice is for a single system throughout the Estate. Prison Health and HMPS are working with NHS CfH to agree the way forward to procure and implement a primary care system in the prisons in England.

3.25 Death in Custody Investigations

The Prison and Probation Ombudsman will be responsible for investigating clinical issues relevant to a death in custody where the healthcare services were commissioned by HMPS (until March 2006) by a contractually managed prison or by the Immigration and Nationality Directorate. The Ombudsman will obtain clinical advice as necessary, and will make efforts to involve the local Primary Care Trust in the investigation. Where the healthcare services were commissioned by the NHS, the NHS will have the lead responsibility for investigating clinical issues under their existing procedures. The Ombudsman will ensure as far as possible that the Ombudsman's investigation dovetails with that of the NHS.

3.26 CARATS and internal escorts

These will continue to be funded and provided by HMPS. Healthcare services in privately contracted prisons will be funded directly by NOMS with the exception of secondary care treatments and mental health in-reach services which are funded by DH directly to the PCT.

3.27 Juveniles

Nothing in this agreement shall affect the arrangements for the running of the juvenile estate funded by the Youth Justice Board (YJB) under a separate Service Level Agreement with HMPS. The YJB will be consulted on changes and developments, and are expected to work in partnership with PCTs in planning and delivering services.

3.28 Constant Watches

The resourcing of constant watches, initiated as a result of a clinical need following a clinical assessment, is and will remain the responsibility of the PCT. Provision for this was included in the baseline funding transfer and indirectly in subsequent growth allocations received by PCTs. This applies in respect of clients placed on constant watch, in any setting within the prison ie. healthcare centre or on normal location, provided clinical need has been established.

4. PERFORMANCE MANAGEMENT OF PRISON HEALTH SERVICES

Prison Service Performance Standards

4.1 Prison Service Performance Standard 22 "Health Services for Prisoners" will no longer apply to public sector prisons and is cancelled from 31st March 2006. Public prisons will therefore no longer be audited against this standard by Standards Audit Unit or need to self-audit.

4.2 A new Prison Service Performance Standard is currently in the process of being developed. This new standard will focus on HMPS' responsibility for the health and health services provided in the prison, and the prison's contribution to the effective delivery of healthcare. It will not contain standards for which the PCT has responsibility. This will be audited by Standards Audit Unit and will contribute to a prison's overall audit performance scores.

Prison Service Performance Standards, Instructions and Orders

4.3 Due to the requirements of the custodial setting in which NHS services are being delivered, there are aspects of existing Prison Service Instructions and Orders and Performance Standards that PCTs are expected to comply with. All relevant instructions and orders developed in the future will be subject to full consultation firstly with DH, including DH Gateway, and then with PCTs.

NHS Standards

4.4 As the "Health Services for Prisoners" standard is cancelled, the quality of health services will be monitored through the normal NHS performance management processes, incorporating Standards for Better Health. From April 2006, in relation to prison health services, a PCT will be assessed on its commissioning by the Healthcare Commission. The assessment of the actual services themselves will be undertaken by HM Inspectorate of Prisons via a memorandum of understanding (MOU). The MOU sets out the working relationship between HCC and HMIP. It details how HMIP will continue to inspect and report on the health outcomes for prisoners within the prison while the Healthcare Commission will assess the arrangements for, and effectiveness of, the PCT's commissioning arrangements generally.

4.5 Prison/PCT partnerships will be expected to target investment and improvement on priorities identified in local Health Needs Assessments and local planning processes.

Performance Monitoring

4.6 Prison Health is developing a new set of performance indicators which will also incorporate data collection on aspects of prison health performance which will eventually replace the current star ratings system. Collection for the star ratings system will continue in the short-term.

5. FINANCE ARRANGEMENTS

Invoicing Arrangements

5.1 Where a PCT commissions healthcare services back from a prison, the Local Partnership Board must agree on the mechanism for the prison to recover healthcare expenditure it incurs or will incur on behalf of the PCT with due regard to managing risks sensibly. The prison may (i) invoice the actual healthcare expenditure incurred on a regular (monthly/quarterly) basis; or (ii) agree to invoice a fixed regular (monthly/quarterly) amount based on an agreed annual amount with the PCT.

Overspends

5.2 Where a public sector prison has entered into an SLA with a PCT to provide prisoner healthcare service, the prison will need to keep within the agreed allocation. It will not be able to enter into an overspend without agreement with the PCT, unless it is prepared to bear the projected cost itself. HMPS has directed that there is no facility for healthcare costs to be offset from the core prison operating budget. Thus actual expenditure must not exceed the yearly payment [from the PCT] unless, exceptionally, this had been authorised by the local Partnership Board. The Partnership Board must also be clear about the source and availability of additional funding before authorising any expenditure above the committed level.

6. RELATIONS WITH STAKEHOLDERS

HM Chief Inspector of Prisons

6.1 HMIP is an independent inspectorate, which reports on conditions for and treatment of those in prison, young offender institutions and immigration removal centres.

HM Chief Inspector of Prisons is appointed by the Home Secretary, from outside the Prison Service, for a term of five years. The Chief Inspector reports directly to the Home Secretary on the treatment and conditions for prisoners in England and Wales and other matters as directed by the Home Secretary.

Independent Monitoring Boards.

6.2 Inside every prison and immigration removal centre there is an Independent Monitoring Board (IMB). IMB members are independent and unpaid, appointed by Home Office Ministers to monitor the day-to-day life in their local prison or removal centre and ensure that proper standards of care and decency are maintained.

The role and accountability of Boards in prisons will be unchanged.

Healthcare Commission

6.3 The Healthcare Commission is an independent body, set up to promote and drive improvement in the quality of healthcare and public health.

Their main duties in England are to:

- assess the management, provision and quality of NHS healthcare and public health services
- carrying out independent, authoritative and patient-centred assessments of the performance of each local NHS organisation, through the annual health check.
- regulate the independent healthcare sector through registration, annual inspection, monitoring complaints and enforcement
- publish information about the state of healthcare
- consider complaints about NHS organisations that the organisations themselves have not resolved
- promote the coordination of reviews and assessments carried out by ourselves and others
- carry out investigations of serious failures in the provision of healthcare.

Prison and Probation Ombudsman

6.4 The Prisons and Probation Ombudsman is appointed by the Home Secretary and investigates complaints from prisoners and those subject to probation supervision, or those upon whom reports have been written. The Ombudsman is completely independent of both HMPS and the National Probation Service (NPS).

6.5 The Ombudsman is also responsible for investigating all deaths of prisoners and residents of probation hostels and immigration detention accommodation.

Media relations

6.6 Responsibility for communications with the media should follow the statutory responsibilities of both parties, informed, where relevant, by the separation of roles set out in the Partnership Agreement. Wherever possible, announcements and communications, in which the other party to the Agreement has an interest, should be the subject of consultation in advance of issue.

7. RISK MANAGEMENT AND DISPUTE RESOLUTION

7.1 A register will be maintained by Prison Health of the jointly agreed areas of potential risk to the successful completion of the transfer of responsibility. Prison Health will regularly review these areas and will have responsibility for ensuring action is taken to manage or mitigate risk.

7.2 Any disputes between the parties to this agreement will be referred in the first instance to Prison Health for resolution. If Prison Health is unable to resolve the matter satisfactorily, it will be referred in the first instance to the Director General of HMPS and the Group Head at the Department of Health with responsibility for Prison Health. If the dispute still cannot be settled, then the matter may be submitted to appropriate Ministers for final determination.