

Increasing Capacity Framework

Guidance and FAQs

3 March 2021

NHS England and NHS Improvement



Summary: Increasing Capacity Framework



- There have been national arrangements/contracts in place between NHS England (“NHSE”) and Independent Sector (“IS”) hospital providers since March 2020. **The national Q4 contracts with 14 IS providers will expire on 31 March 2021 and will not be extended or renewed.**
- **Most contracts with IS providers which have been suspended since March 2020 will now have expired.** Contracts which have not expired may resume, but those which have expired cannot be revived: new contracts are required.
- It is vital that systems **make arrangements before the end of Q4** to secure services from IS providers via the Increasing Capacity Framework (“the Framework”) to meet local demand for elective care and to address waiting lists. There is no need to wait for national 21/22 arrangements to be finalised.
- The **Increasing Capacity Framework has been set up by NHSE to provide Commissioners and Trusts with a quick and easy route to contract and sub-contract for acute elective services** on standard terms and conditions with IS providers appointed to the Framework.
- The Framework **adheres to procurement law** and has been designed to **reduce the burden of individual end-to-end procurement processes** and negotiations.
- The Framework should be used to place all contracts and sub-contracts for in-scope services, whether or not they are to replicate pre-March 2020 arrangements.
- There are **80+ providers** currently signed up to the Framework. Details of the IS Providers and the services that they offer can be found in the [Framework Provider Database](#). It is important to **understand what services are being offered** by each Framework provider before developing local indicative activity plans.
- **Additional information and resources** including a Framework Buyer’s Guide are available on the [Increasing Capacity Framework Portal](#).

Guidance for Purchasers

Increasing Capacity Framework

Guidance for purchasers to encourage best use of the Increasing Capacity Framework (1)



The following guidelines have been designed to **support purchasers to make best use of the Framework and to ensure a smooth transition into April and beyond**. Please note that these guidelines do not prevent systems from entering into more complex contractual arrangements that are compatible with the terms applicable to the Framework.

1 Determine what your local system needs	<ul style="list-style-type: none">• Who are your longest waiters, and what are they waiting for?• Where are the most acute shortages of capacity?• Which services could be provided most efficiently in which setting? Should Framework providers focus on P3/P4?• What should Trusts be most focused on? P1/P2?• Where could Framework providers provide a short, medium or long term solution?
2 Focus on the Framework providers best able to meet system needs with immediate effect	<ul style="list-style-type: none">• Review the Framework Provider Database to understand what services are being offered by each Framework provider and from which of their locations before having local discussions and starting to develop local indicative activity plans• Who has capacity, where and for which specialties?• Consider Framework providers who have provided services for NHS patients in your area in the past <u>and</u> those who haven't
3 Act and buy collaboratively	<ul style="list-style-type: none">• Act as a system: engage and make decisions collaboratively• Don't let individual organisations' or clinicians' preferences stand in the way of what is best for patients and your system collectively• Contracts can be placed by any NHS purchaser (NHS Trusts, CCGs or NHSE) so make best use of the collective contracting resource that is available for the system as a whole• Ensure CCGs (and NHSE with CCGs, where appropriate) award NHS Standard Contracts on a collaborative basis• Ensure Trusts award sub-contracts on a collaborative basis (note the new template sub-contract that has been made available for this purpose)• Ensure requirements, specifications, policies etc are consistent system-wide: this improves efficiency and generates certainty

Guidance for purchasers to encourage best use of the Increasing Capacity Framework (2)



<p>4</p> <p>Make use of Direct Awards</p>	<ul style="list-style-type: none"> • The Framework allows a contract or sub-contract to be awarded within the first 6 months following a provider’s appointment to the Framework without the need for any mini-competition • The Framework Provider Database indicates when each provider was appointed to the Framework. All Framework providers are within the 6 month window until at least 26 May 2021. • Direct Awards are a very efficient contracting mechanism so purchasers are encouraged to make full use of this opportunity • Note that contracts and sub-contracts awarded on this basis can be for a maximum of 6 months duration (no extensions). This buys valuable time to put longer term arrangements in place via a mini-competition. • Direct award contracts and/or sub-contracts can be issued to more than one Framework provider for the same service(s), or for any combination of services. • Contracts/sub-contracts may be awarded to all Framework providers able to satisfy your system’s requirements and as may be required to meet local demand for services.
<p>5</p> <p>Use of mini-competitions</p>	<ul style="list-style-type: none"> • Mini-competitions must be run where the circumstances for a direct award do not apply. • Contracts/sub-contracts may be awarded to all Framework providers able to satisfy your system’s requirements and as may be required to meet local demand for services.
<p>6</p> <p>Use NHS Standard Contracts and sub-contracts to meet your system needs</p>	<ul style="list-style-type: none"> • A system will need a (preferably multi-CCG) NHS Standard Contract to be in place with a Framework provider to allow for direct referrals (whether by eRS or otherwise) to that provider • A system will need one or more sub-contracts (preferably a multi-Trust sub-contract) to be in place with a Framework provider to allow transfer of patient lists from Trusts to that provider • It may be appropriate to put <u>both</u> in place with some Framework providers • See item 13 re 21/22 version of the NHS Standard Contract and sub-contract

Guidance for purchasers to encourage best use of the Increasing Capacity Framework (3)



<p>7</p> <p>Prepare Indicative Activity Plans (IAPs)</p>	<ul style="list-style-type: none"> • Constructive engagement with Framework providers requires systems to have a clear idea of their “ask” • Robust Indicative Activity Plans (IAPs), with whole-system buy-in, should form the basis of that engagement
<p>8</p> <p>Look to transfer patient lists wherever possible</p>	<ul style="list-style-type: none"> • See item 6 re use of sub-contracts to allow transfer of patient lists from Trusts to that provider • Transferring a list of patients requiring the same or similar procedures to a Framework provider allows that provider to operate at peak efficiency, getting the most patients treated in each session • Please note that patient consent is required for transfer
<p>9</p> <p>Ensure NHS Standard Contracts are placed with providers holding eRS backlog lists</p>	<ul style="list-style-type: none"> • Some Framework providers already have NHS patients on their lists, referred via eRS. They need NHS Standard Contracts to be in place with at least one CCG, covering the relevant services and facilities to establish the basis on which they can treat them (whether under that specific contract or under Choice/NCA rules), and be paid for doing so • Ensure those contracts specify clearly <u>which services</u> they cover, <u>from which facilities</u> they are to be provided • eRS must be operational in every system
<p>10</p> <p>Use established arrangements wherever suitable</p>	<ul style="list-style-type: none"> • Make use of established arrangements with IS providers that have worked well in the past, such as service specifications, established policies etc • 19/20 outturn activity may be an appropriate benchmark for capability and capacity and therefore IAPs/EACVs

11 Focus on services with national prices

- Where the National Tariff sets a national price or a non-mandatory price for a service, that is the maximum price a Framework provider must charge, under either a contract or a sub-contract (subject to addition of the local market forces factor (MFF) and the application of any percentage discount to the price indicated in the [Framework Provider Database](#) for that Framework provider, where appropriate). Mini competitions on price below the national price or a non mandatory price are permitted.
- There are no exceptions, uplifts or negotiations to increase these prices.
- Framework providers may have additionally offered volume discounts which are included in the Framework Provider Database
- The National Tariff sets prices for most electives (to be renamed “unit prices” for 21/22)

12 Save more complex payment arrangements for later, if necessary

- More complex payment arrangements may take time. There is no need to let these discussions prevent you from issuing contracts and sub-contracts for services which have a set price (see item 11)
- Where the National Tariff does not set a price, a price will need to be agreed with a Framework provider in accordance with the National Tariff local pricing rules
- Where the National Tariff does set a price, but you want to agree an unbundled price (for example, because a Trust is offering to provide one or more clinicians to help deliver the service), you will need to agree the unbundled price with the Framework provider

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There is no need to wait for national 21/22 arrangements to be finalised

- The 21/22 versions of the NHS Standard Contract and Sub-contracts are expected to be published by mid-March. There is no need to wait for these to be available. You can issue contracts/sub-contracts with the current versions and update them later by variation.
- The 21/22 National Tariff will not be published until after the start of Q1 (following consultation). Prices set by the 20/21 National Tariff continue to apply until the 21/22 National Tariff is published. New prices will be automatically applied in relation to services delivered after the date of publication of the 21/22 National Tariff.
- Allocations for 21/22 will include funding for independent sector provision for purchase of services through the Framework. More information can be found in the [Framework Buyer's Guide](#).

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It is also important to understand what the Increasing Capacity Framework doesn't cover

- The Framework is for the purchase of elective services to be delivered by Framework providers at their own sites and locations
- The Framework does not cover:
 - purchase of in-sourced services
 - staff supply
 - equipment leasing
 - premises leasing
 - emergency acute activity
 - maternity services
 - mental health services
 - community work services
 - surge capacity provision
- If the Framework is used to buy services outside the scope of the Framework, you will be risking a formal procurement challenge

Frequently Asked Questions

Increasing Capacity Framework

Frequently asked questions about the Framework (1)



Question	Answer
<p>What is the scope of the Framework?</p>	<ul style="list-style-type: none"> The Framework will enable NHS Trusts and Foundation Trusts, CCGs and NHSE, as a commissioner of specialised services, to purchase elective acute services from a range of service providers at prices equivalent to or lower than those ordinarily paid to NHS Trusts and Foundation Trusts Detailed information about the scope of the Increasing Capacity Framework is available on the Framework Portal
<p>Is the Framework mandatory?</p>	<ul style="list-style-type: none"> Use of the Framework is strongly recommended as a quick and simple way to access IS capacity that adheres to procurement law
<p>Who is eligible to apply to the Framework?</p>	<ul style="list-style-type: none"> Any providers offering services that are covered within the scope of the Framework were eligible to apply
<p>Eligibility, scope and duration</p> <p>How do providers sign up to the Framework?</p>	<ul style="list-style-type: none"> The deadline for providers to be on the Framework has now passed and NHSE is currently unable to re-open it NHSE is intending to refresh the Framework on a 9-12 month cycle - this will be published in the public sector tender portal Contracts Finder
<p>Which providers are on the Framework?</p>	<ul style="list-style-type: none"> There are 80+ providers signed up to the Framework Details of the Framework providers and the services that they offer can be found in the Framework Provider Database
<p>What is the duration of a Framework Agreement?</p>	<ul style="list-style-type: none"> The Term of each Framework Agreement is two years from the date that the Framework Agreement was signed by the Framework provider. There is an option for NHSE to extend one or more times to a maximum of 4 years from the date of that Framework Agreement.
<p>How do I find out more about the Framework?</p>	<ul style="list-style-type: none"> Detailed information is available on the NHS England Increasing Capacity Framework Portal If you have any questions that are not answered through this online portal or in this document, please email us at increasingcapacityframework@nhs.net

Question	Answer
<p>What does the Framework allow?</p>	<ul style="list-style-type: none"> The Increasing Capacity Framework allows: <ul style="list-style-type: none"> Commissioner(s) e.g. CCG(s) or NHSE to put in place a contract with a Framework provider; or NHS Trust(s) or NHS Foundation Trust(s) to put in place sub-contract(s) with a Framework provider. Purchasers are able to award a contract or sub-contract to a Framework Provider by a direct award (in certain circumstances – see below) or by undertaking a mini competition
<p>Can direct awards be made? What is the maximum duration of a direct award contract/sub-contract?</p>	<ul style="list-style-type: none"> The Framework allows a contract or sub-contract to be awarded within the first 6 months following a provider's appointment to the Framework without the need for any mini-competition The Framework Provider Database indicates when each provider was appointed to the Framework. All Framework providers are within the 6 month window until at least 26 May 2021. The duration of any such NHS Standard Contracts or Sub-Contracts must not exceed 6 months (no extensions)
<p>When should mini-competitions be run?</p>	<ul style="list-style-type: none"> Mini-competitions must be run where the circumstances for a direct award do not apply. Throughout the entire term of the Framework, purchasers will have the option to undertake a mini competition for an NHS Standard Contract or Sub-Contract (as appropriate) for Nationally Priced Services or Locally Priced Services.
<p>Can the Framework be used for insourcing?</p>	<ul style="list-style-type: none"> No, the Framework cannot be used for insourcing
<p>Should the Framework be used to provide for referrals via eRS?</p>	<ul style="list-style-type: none"> CCGs should use the Framework to place NHS Standard Contracts to facilitate treatment of patients referred via eRS (their own and those of other CCGs - see item 9 in 'Guidance for Purchasers') Each contract should specify clearly which services it covers, from which facilities they are to be provided eRS must be operational in every system

Question	Answer
<p>What funding is available for 21/22?</p>	<ul style="list-style-type: none"> • Allocations for 21/22 will include funding for independent sector provision for purchase of services through the Framework. • It is up to local systems to decide how to allocate this funding to utilise additional capacity and activity within the IS to maintain the elective and cancer pathways. Spend should be managed holistically.
<p>How have the Framework prices been agreed?</p>	<ul style="list-style-type: none"> • The Framework provides the prices and any discounts offered by a Framework Provider in respect of Services for which the National Tariff specifies a national price and/or a best practice tariff and other non-mandatory published rate. The Framework does not provide for purchase of services at prices above the national price or other prices stated in the current National Tariff.
<p>21/22 funding and Framework pricing</p> <p>What is the 21/22 National Tariff?</p>	<ul style="list-style-type: none"> • The 21/22 National Tariff won't be published until after the start of Q1. • Prices set by the 20/21 National Tariff continue to apply until the 21/22 National Tariff is published. This will be automatically applied in relation to services delivered after the date of publication of the 21/22 National Tariff.
<p>What happens for services with no national price?</p>	<ul style="list-style-type: none"> • Where no national prices or other published prices are set out in the National Tariff, it is down to local price negotiation. • Central NHSE/I sign off is not required for local price negotiations. • Purchasers are asked to benchmark local prices to the most recent local prices, which in many instances are 2019/20 rates (with inflation to bring it to a current price base). • Where there are not appropriate existing comparable rates, purchasers are asked to benchmark prices on a sensible basis, e.g. with reference to rates outside of their local system, or by derivation from block payments divided by aggregate levels of activity.

	Question	Answer
Payments to Framework providers	Is there a mechanism in place to prevent cash flow issues for Framework providers?	<ul style="list-style-type: none"> NHSE has confirmed that where parties to contracts awarded via the Framework have agreed an Expected Annual Contract Value (EACV) based on an Indicative Activity Plan, the Commissioner may make payments on account as per SC36.24 – 36.34 of the NHS Standard Contract. This is not a permission to set up a block payment, since there will need to be a true up on actual activity-price cost outturn
Reporting requirements for Framework providers	What are the reporting requirements for Framework providers?	<ul style="list-style-type: none"> Providers should submit data weekly and monthly for inpatient and outpatient activity for all NHS funded activity Further details of data reporting requirements can be found in the Buyer's Guide.
	Why are these reporting requirements important?	<ul style="list-style-type: none"> The data allows provider organisations to submit a complete account of the activity they have undertaken under the Framework. Reporting is mandatory for Framework providers and is a condition of payment.
Operational considerations	Will Lateral Flow Testing Kits be provided to Framework providers?	<ul style="list-style-type: none"> Lateral Flow Testing Kits will be provided to Framework providers. Framework providers will be contacted via IHPN in early March for the next delivery which is expected to be at the end of March.