



Department
of Health

Accountable Care Organisations

Consultation on changes to regulations required to facilitate the operation of an *NHS Standard Contract (Accountable Care Models)*

September 2017

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Executive summary

This document seeks views on changes to Regulations to support the introduction of Accountable Care Organisations (ACOs) in the NHS.

The Five Year Forward View (published in October 2014) committed to the development of new models of care that dissolve the traditional boundaries between the delivery of primary care, community services, hospital services, and in some cases, social care services. These models included the multispeciality community provider (MCP) – a predominantly out of hospital based care model integrating primary medical services with other community and mental health services – and the integrated primary acute care system (PACS) – a similar model to the MCP, but also incorporating many hospital based services. NHS England (NHSE) further articulated the development of these new care models in two frameworks published in 2016. The [MCP framework](#), published in June, and the [PACS framework](#), published in October, set out in more detail how these new care models would support the improvement and integration of services. The MCP and PACS models, which have also been referred to as “Integrated Service Providers” are both types of whole population provider. Where contracted, organisations delivering both the MCP and PACS care models are forms of ACO.

There are currently 23 ‘vanguards’ across England piloting the MCP and PACS models as part of NHSE’s ‘New Care Model’ programme. In each vanguard area, communities and patients are working with health and care organisations to design new models of care locally. These vanguards will act as the blueprint for those systems looking to implement accountable care models, and there are already a number of non-vanguard sites expressing an interest in moving forward with the procurement of ACO type contracts.

In December 2016 NHSE published a draft version of the multispeciality community provider contract and a [set of supporting documents](#) for engagement. This contract was a variant of the generic NHS Standard Contract applicable for integrated service provision. While this package focussed on contracting for the MCP care model, many of the principles are transferable to the PACS care model and Accountable Care Organisations (ACOs) more broadly. On 4 August 2017 NHSE published an updated draft of the NHS Standard Contract – *NHS Standard Contract (Accountable Care Models)* (ACO Contract) and [support package](#). NHSE will continue to work with leading commissioners to develop this contract further over the next year, with a view to consulting on a final version in 2018.

The development of the ACO contract has been taken forward jointly with the Department of Health, commissioners and vanguard organisations across the country. Through this process a number of required changes to regulations have been identified. In some cases the proposals create additional flexibilities, for example for GPs who wish to enter into ACO arrangements without terminating their existing contracts. However, the vast majority of the changes proposed are minor, to ensure that current rules continue to apply to the new contract, and those organisations using it. NHS England has requested that the proposed changes are made by February 2018, to ensure they are in place to allow the first ACO contracts to be commissioned. This document sets out an overview of what is changing and why, and how the amended provisions will apply to ACOs.

ACO related changes have also been proposed to the NHS Pensions Scheme. These have already been given some consideration and further information is available on the consultation website using the following link:

<https://www.gov.uk/government/consultations/nhs-pension-scheme-proposed-changes-to-scheme-regulations>

Taking into account the responses to the earlier consultation, the Department will be consulting on final proposals for changes to the NHS Pensions Scheme this Autumn.

A number of local areas looking to establish an ACO that includes social care and/or public health services have told us that they would like to see changes to the s75 partnership agreement regulations to help them achieve their ambitions. These regulations enable NHS bodies (CCGs and NHS trusts/FTs) and local authorities to collaborate in the exercise of their functions. The Department of Health continues to keep these regulations and related legislation under review, including considering how the legislative framework might help or hinder progress towards our goal to achieve better, joined up care for people using health and care services.

As the policy has developed, the terminology used to describe these new ways of providing and commissioning services has evolved. MCPs and PACS are two of the new models of care described in the Five Year Forward View. MCPs and PACS are both types of whole population provider. Where these models are formalised through the use of a contract, organisations delivering both the MCP and PACS care models are forms of ACO. For the purposes of some of the regulations, they are defined as an 'integrated services provider', to make it clear that this includes the type of ACOs in which primary medical services are commissioned through a single contract in an integrated way with other services.

The full package of proposed changes included in this consultation can be seen in the overview below.

The Department invites views on the proposed changes.

How to Respond

The preferred method of receiving your response is via the on-line consultation questionnaire, which can be found on: <https://consultations.dh.gov.uk/new-care-models/regulations-aco-contract/>

Comments can also be submitted via email to:
NCMregschangesconsultation@dh.gsi.gov.uk

or by post:

New Care Models Team,
Department of Health,
Room 229, Richmond House,
Westminster, London,
SW1A 2NS

The consultation will close on 3 November 2017

Comments on the consultation process itself

If you have concerns or comments which you would like to make relating specifically to the consultation process itself please contact the Consultations Coordinator at:

Department of Health 2e26,
Quarry House,
Leeds LS2 7UE

e-mail consultations.co-ordinator@dh.gsi.gov.uk

Please do not send consultation responses to this address

Confidentiality of information

The Department will manage the information you provide in response to this consultation in accordance with the Department of Health's Personal Information Charter.¹

Information the Department receives, including personal information, may be published or disclosed in accordance with the access to information regimes (primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If the Department receives a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances.

An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in most circumstances this will mean that your personal data will not be disclosed to third parties.

¹ <https://www.gov.uk/government/organisations/department-of-health/about/personal-information-charter>

Overview

The table below explains the purpose and effect of each of the proposed amendments. The Department welcomes any comments or views on the proposals.

The Department proposes to lay these regulations before Parliament in the New Year with the intention that they have legal effect from February 2018, subject to Parliamentary process.

National Health Service (General Medical Services Contracts) (Amendment) Regulations 2018	Will allow holders of GMS contracts to suspend those contracts to participate in a fully integrated ACO, and provision to re-activate.
National Health Service (Personal Medical Services Agreements) (Amendment) Regulations 2018	Will allow holders of PMS agreements to suspend those contracts to participate in a fully integrated ACO, and provision to re-activate.
Primary Medical Services (Sale of Goodwill and Restrictions on Sub-contracting) Regulations 2004	Will ensure that existing restrictions on the sale of the goodwill in a medical practice also apply to providers of primary medical services under an ACO Contract and to sub-contractors providing primary medical services under an ACO contract.
Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 SI 2009/309	Will ensure complaints made to an ACO contractor or subcontractor will be handled.
NHS (Charges for Drugs and Appliances) Regulations 2015 S.I. 2015/570	Will apply the Regulations on the provision of drugs and appliances to ACO contractors and subcontractors in the same way as they currently do under existing arrangements
National Health Service (Performers Lists) (England) Regulations 2013 S.I.2013/335	Will extend the existing Performers' List provisions to providers operating under an ACO Contract.
Medical Profession (Responsible Officers) Regulations 2010 S.I. 2010/2841	Will ensure ACO contract holders are able to become a designated body, in order to appoint a RO.
The National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 S.I. 2003/2382	Will ensure that all possible ACO contractors and subcontractors would be covered.
National Health Service (Licence Exemptions, etc) Regulations 2013 S.I. 2013/2677	Ensure that joint ventures holding ACO contracts are subject to equivalent regulatory oversight for services of equivalent risk in more conventional provider models.
National Health Service (Clinical Commissioning Groups – Responsibilities and Standing Rules) Regulations 2012 S.I. 2012/2966	Will expand the scope of the definition of 'commissioning contract' to include contracts used for integrated commissioning of primary care.

Changes made as part of separate process:
NHS Pension Scheme Regulations

1. National Health Service (General Medical Services Contracts) Regulations

Overview of the regulations

The regulations set out the conditions which must be met by those holding a General Medical Services (GMS) Contract, such as those relating to premises, opening hours and termination arrangements. The regulations also set out the services to be provided to patients.

What is changing and why?

In order to allow primary medical services to be commissioned under a fully-integrated ACO model², and to encourage primary medical services contractors to participate voluntarily in an ACO model (whether as co-owners, sub-contractors or employees of the ACO), it has been agreed with the General Practitioners' Committee (GPC) of the BMA that contractors under a GMS contract will be able to suspend their existing contract and reactivate it at fixed points throughout, or on expiry of the term of, that NHS Standard Contract (Accountable Care Models) ('ACO Contract').

In order to suspend their contract, GMS contract-holding practices must give adequate notice to NHS England, confirm the agreement of the partners in the practice in line with the partnership agreement, and notify their registered patients. Patients will be given the option to transfer to the registered list of the ACO with their GP (which is the default position) or to register with another practice. During the period of suspension, the grounds for termination of the GMS contract will continue to apply.

The GMS contract may be reactivated (subject to satisfaction of certain preconditions, including that the contractor remains eligible to hold a GMS contract) at fixed points during the lifetime of the ACO Contract, following a required notice period. These fixed points will be on the second anniversary of the ACO Contract coming into place, and every two years thereafter.

On reactivation, the GMS contract will be on those terms in place at the time of reactivation. Patients registered with the GMS practice prior to suspension of the GMS contract will be given the choice whether to remain with the ACO provider or return to the list of the GMS contractor. Should patients not express a choice, the default position would be that they will move to the list of the GMS contractor if a re-activation occurs at year two but would remain with the ACO provider if re-activation occurs thereafter.

NHS England has published more [information](#) about how GP participation is expected to work.

Q1a: Do you agree that the proposed amendments to the National Health Service (General Medical Services Contracts) Regulations deliver the policy objective as set out in the consultation document?

Q1b: If 'No', why?

² There are different emerging contractual models for ACOs (including MCPs and PACS). In fully integrated ACOs, a contract is let for all health and care services in scope of the ACO including primary medical services, operating under a single whole-population budget. Other emerging contractual models include partially integrated ACOs, in which a contract is let for the vast majority of health and care services in scope of the ACO, excluding core primary medical services. The ACO contract holder would be required to put in place an integration agreement directly with the providers of primary medical services, delivered under General Medical Services, Personal Medical Services and Alternative Provider Medical Services contracts.

Q1c: Are any changes needed to ensure the proposed amendments deliver the policy objective?

Q1d: Are there any additional comments you wish to provide with regard to the proposed amendments to the regulations?

2. National Health Service (Personal Medical Services Agreements) Regulations

Overview of the regulations

The regulations set out the conditions which must be met by those holding a Personal Medical Services (PMS) Agreement, such as those relating to premises, opening hours and termination arrangements. The regulations also set out the services to be provided to patients.

What is changing and why?

In order to allow primary medical services to be commissioned under a fully-integrated ACO model, and to encourage primary medical services contractors to participate voluntarily in an ACO model (whether as co-owners, sub-contractors or employees of the ACO), it has been agreed that PMS contractors will be able to suspend their existing PMS Agreement and reactivate them at fixed points throughout or on expiry of the term of an ACO Contract).

In order to suspend their PMS Agreement, agreement-holding practices must give adequate notice to NHS England, confirm the agreement of contractors in the practice, and notify their registered patients. Patients will be given the option to transfer to the registered list of the ACO with their GP (which is the default position) or to register with another practice. During the period of suspension, the grounds for termination of the PMS Agreement will continue to apply, as will the right to a General Medical Services Contract.

Where the PMS Agreement is for a fixed duration, the end date of the PMS Agreement would not be affected by the suspension. The PMS Agreement may be reactivated (subject to satisfaction of certain preconditions, including that the PMS contractor remains eligible to enter into a PMS Agreement) at fixed points during the lifetime of the ACO Contract occurring during the term of the PMS Agreement. These reactivation points will be on the second anniversary of the ACO Contract coming into place, and, every two years thereafter.

On reactivation, the PMS Agreement will include those core terms in place at the time of reactivation. Patients registered with the PMS practice prior to suspension will be given the choice whether to remain with the ACO provider or move to the list of the PMS contractor. Should patients not express a choice, the default position would be that they will move to the list of the PMS contractor if a re-activation occurs at year 2, but would remain with the ACO provider if re-activation occurs thereafter.

NHS England has published more [information](#) about how GP participation is expected to work.

Q2a: Do you agree that the proposed amendments to the National Health Service (Personal Medical Services Contracts) Regulations deliver the policy objective as set out in the consultation document?

Q2b: If 'No', why?

Q2c: Are any changes needed to ensure the proposed amendments deliver the policy objective?

Q2d: Are there any additional comments you wish to provide with regard to the proposed amendments to the regulations?

3. Sale of Goodwill and Restrictions on Sub-contracting Regulations 2004

Overview of the regulations

The Primary Medical Services (Sale of Goodwill and Restrictions on Sub-contracting) Regulations 2004 prevent the sale of goodwill in a medical practice (they do not prevent the sale of a medical practice).

When a medical practice is sold, it must be sold for a price which represents the fair market value of its tangible assets (including premises). A premium cannot be placed on the purchase price of the business because of the goodwill that has been built up in it over the years. People providing services under primary medical services contracts cannot therefore make a profit based on the sale of the goodwill in an NHS medical practice. A similar restriction also applies to the sale of any shares in a company which is all or part of a medical practice. The value of any such shares when sold must not include any element in respect of the goodwill of the company, or part of the company, in which the share is held.

What is changing and why?

Currently, providers of primary medical services under an ACO Contract are not explicitly included on the list of those persons who may not sell the goodwill of their medical practices. The policy position is that the prohibition on the sale of goodwill currently provided for in the Sale of Goodwill regulations should apply to those providing primary medical services under the new ACO Contract in the same way as it does for those persons providing primary medical services under existing primary medical services contracts. The policy position is also that the prohibition on the sale of goodwill applies to persons providing primary medical services under sub-contracting arrangements, including any sub-contractors providing such services on behalf of an ACO.

We will, therefore, look to introduce a new set of regulations in this area which will extend the principles of sale of goodwill to providers of primary medical services under an ACO contract and, for these purposes, “medical practice” will be defined by reference to the whole or part of the contractual arrangements which relate to the provision of primary medical services under an ACO Contract.

In addition, the Directions underpinning the primary medical services elements of ACO contracts will also include a requirement that those contractual arrangements include a similar prohibition on the sale of goodwill in a medical practice.

Q3a: Do you agree that the proposed amendments to the Sale of Goodwill and Restrictions on Sub-contracting Regulations 2004 deliver the policy objective as set out in the consultation document?

Q3b: If ‘No’, why?

Q3c: Are any changes needed to ensure the proposed amendments deliver the policy objective?

Q3d: Are there any additional comments you wish to provide with regard to the proposed amendments to the regulations?

4. Local Authority Social Services and National Health Service Complaints (England) Regulations 2009

Overview of the regulations

The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 [SI 2009; No. 309] provide the legislative framework within which local authority adult social care and NHS complaints are to be handled.

The 2009 Regulations require NHS bodies and providers of services arranged by NHS bodies to make arrangements for handling and considering complaints and local authorities to make arrangements for handling and considering adult social care complaints. The 2009 Regulations prescribe some requirements for how complaints must be handled. The regulations also cover NHS bodies and local authorities that have entered into arrangements between themselves in relation to the exercise of prescribed functions of the NHS bodies, and prescribed health-related functions of the local authorities.

If a complainant is not satisfied with the outcome of a complaint handled at local level, they can take their complaint to the Health Service Ombudsman (for NHS matters) or to the Local Government Ombudsman (for adult social care matters).

What is changing and why?

The policy that NHS bodies, local authorities and providers of NHS services must handle complaints, and meet the standards set out in the 2009 Regulations while doing so, will not change. However, the current regulations do not clearly cover certain parties that could operate under ACO contracts and subcontracts. We are therefore seeking to ensure that the complaints requirements apply to ACO contractors and subcontractors, and that people accessing services from an ACO contractor or subcontractor are clear about which body a complaint should be made to.

Thus, the intention is that:

- NHS bodies exercising functions through an ACO Contract will have to handle complaints just as they have to when currently exercising functions
- Local authorities exercising functions through an ACO Contract will have to handle complaints just as they have to when currently exercising functions
- Other persons operating under an ACO Contract, or subcontract, providing NHS services, will have to handle complaints just as providers operating under existing NHS agreements
- Persons operating under an ACO Contract arranging for the provision of NHS services will also be under duties to handle complaints.
- Complaints to NHS commissioners about service provision will have to be handled by the commissioner or the provider as appropriate.

Therefore, amendments will need to be made to the regulations to ensure that services provided under ACO contracts and sub-contracts fall within the overall legislative framework for the handling of NHS and adult social care complaints.

Q4a: Do you agree that the proposed amendments to the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 deliver the policy objective as set out in the consultation document?

Q4b: If 'No', why?

Q4c: Are any changes needed to ensure the proposed amendments deliver the policy objective?

Q4d: Are there any additional comments you wish to provide with regard to the proposed amendments to the regulations?

5. National Health Service (Charges for Drugs and Appliances) Regulations 2015

Overview of the regulations

The “National Health Service (Charges for Drugs and Appliances) Regulations 2015” provide for prescription charges to be made and recovered for the supply as part of the National Health Service in England of certain drugs, appliances, wigs and fabric supports, and provides for certain exemptions from charging in prescribed circumstances.

What is changing and why?

The policy intention is that these Regulations should apply to the provision of drugs and appliances under ACO contracts in the same way as they currently do under existing arrangements. However, there are currently some gaps in the regulations, which do not cover all possible ACO contractors and subcontractors.

We will need to amend the above Regulations so that the same principles of charging will apply to all providers of care under ACO contracts.

To Note: As the policy intention is essentially to carry forward the existing arrangements into the new commissioning environment and not to introduce any new charges or exemptions into the 2000 Regulations a Keeling Schedule of the changes made by the proposed amendments has not been prepared.

Q5a: Do you agree that the proposed amendments to the NHS (Charges for Drugs and Appliances) Regulations deliver the policy objective as set out in the consultation document?

Q5b: If ‘No’, why?

Q5c: Are any changes needed to ensure the proposed amendments deliver the policy objective?

Q5d: Are there any additional comments you wish to provide with regard to the proposed amendments to the regulations?

6. NHS (Performers Lists)(England) Regulations 2013

Overview of the regulations

The relevant regulations are “NHS (Performers Lists)(England) Regulations 2013”.

The National Performer List is a list of medical practitioners who have been approved to provide primary medical services in the UK. The lists provide an extra layer of reassurance that GPs practising in the NHS are suitably qualified, have up to date training, have appropriate English language skills and have passed other relevant checks.

The regulations state that a medical practitioner may not perform any primary medical services unless that medical practitioner is included in the medical performers list.

The purpose of these regulations is to ensure the performers list system as set out in the National Health Service (Performers Lists) Regulations 2004 continues to operate in the light of changes to the NHS that arose from the Health and Social Care Act 2012.

The Health and Social Care Act 2012 abolished Primary Care Trusts (PCTs) and created the NHS Commissioning Board and Clinical Commissioning Groups (CCGs). These regulations replace the 2004 performers list system of separate PCT lists and introduced the national performers lists (medical, dental and ophthalmic), and gave the NHS Commissioning Board the power to manage admission, suspension and removal from the lists.

What is changing and why

Currently the regulations require those who wish to perform primary medical services on behalf of the NHS to be included in the national performers’ list held by NHS England - except in certain specified circumstances. The regulations require applicants to the medical performers’ list to confirm whether they provide services under a general medical services (GMS) contract or under a personal medical services (PMS) agreement.

Medical practitioners under NHS Standard Contract (Accountable Care Models) (ACO Contract) will not be providing primary medical services by way of GMS or PMS agreements.

Amendment is needed to the NHS (Performers Lists)(England) Regulations 2013 to require the list to also include confirmation that a GP provides primary medical services under an ACO Contract or an Alternative Provider Medical Services (APMS) contract.

It is not a mandatory requirement for a practitioner to hold a primary medical services contract in order to be included in the performers’ list. The amendments make clear that a practitioner should supply the required information so the practitioner’s application can be appropriately assessed.

Q6a: Do you agree that the proposed amendments to the NHS (Performers Lists)(England) Regulations deliver the policy objective as set out in the consultation document?

Q6b: If ‘No’, why?

Q6c: Are any changes needed to ensure the proposed amendments deliver the policy objective?

Q6d: Are there any additional comments you wish to provide with regard to the proposed amendments to the regulations?

7. Medical Profession (Responsible Officers) Regulations 2010

Overview of the regulations

The relevant regulations are the Medical Profession (Responsible Officers) Regulations 2010. The purpose of these regulations is to establish the role of the responsible officer, who is responsible for the evaluation of doctors' performance. Organisations designated under these regulations will have a duty to appoint a senior doctor to the role of responsible officer. The responsible officer will have duties relating to the evaluation of the fitness to practise of doctors for whom they are responsible (ensuring they are subject to revalidation, including annual medical appraisal), and in England will have additional functions relating to the monitoring of the conduct and performance of doctors.

These regulations are designed to help doctors and the organisations where they work to further improve the quality of care provided to patients. They ensure that any doctors, who are not able to meet the set standards are swiftly identified and then dealt with fairly and effectively and, where appropriate, are supported to get back on track.

What is changing and why?

We will need to amend the Medical Profession (Responsible Officers) Regulations 2010, so that doctors employed or contracted to provide medical services under an ACO Contract have a prescribed connection to a designated body, and therefore a responsible officer.

Amendments are required to the Regulation and the Schedule that define "designated bodies" under the Medical Act 1983. The amendments will ensure that ACO Contract holders and any subcontracted bodies employing doctors providing medical services, are included in the definition of a designated body, and will therefore be required to nominate or appoint a responsible officer, for the purpose of revalidation and medical appraisal of doctors in their employ.

Amendments will also be required to adjust the default position that NHS England's responsible officer is responsible for medical practitioners on its performers list, to allow for cases where it is considered appropriate for an ACO's own responsible officer to take responsibility for its medical practitioners, rather than NHS England's responsible officer.

To Note: The draft text for the proposed amendments to the Medical Profession (Responsible Officers) Regulations 2010 will be available from 21st September. If you wish us to notify you when they are made available, please email NCMregschangesconsultation@dh.gsi.gov.uk and request a notification to be sent.

Q7a: Do you agree that the proposed amendments to the Medical Profession (Responsible Officers) Regulations deliver the policy objective as set out in the consultation document?

Q7b: If 'No', why?

Q7c: Are any changes needed to ensure the proposed amendments deliver the policy objective?

Q7d: Are there any additional comments you wish to provide with regard to the proposed amendments to the regulations?

8. National Health Service (Licence Exemptions, etc) Regulations 2013

Overview of the regulations

The relevant regulations are the National Health Service (Licence Exemptions, etc) Regulations 2013. The purpose of these regulations is to establish which health care providing organisations are exempt from the requirement to hold a licence from Monitor. Exempted organisations include NHS Trusts (which are regulated by other means) and organisations with a turnover of less than £10m.

What is changing and why?

We propose that the exemption for applicable turnover will change, so that it applies to a provider's income from NHS services in the current business year, rather than the last. This will ensure that provider organisations that we know will meet the £10m threshold test will be subject to the licensing regime from the outset. At present, it is possible that a new venture would not be subject to licensing until after it had signed accounts for its first accounting period, which itself could be up to 18 months in length.

This will therefore apply if a number of providers set up a joint venture, which means that such a venture would be subject to the turnover test for licensing exemption in a timely fashion.

ACO contracts may be held by joint ventures. It is therefore important to ensure that joint ventures are subject to equivalent regulatory oversight for services of equivalent risk in more conventional models.

Q8a: Do you agree that the proposed amendments to the National Health Service (Licence Exemptions, etc) Regulations 2013 deliver the policy objective as set out in the consultation document?

Q8b: If 'No', why?

Q8c: Are any changes needed to ensure the proposed amendments deliver the policy objective?

Q8d: Are there any additional comments you wish to provide with regard to the proposed amendments to the regulations?

9. The National Health Service (Travel Expenses and Remission of Charges) Regulations 2003

Overview of the regulations

These regulations provide for payments to be made to patients who are eligible for help with NHS healthcare travel expenses (including NHS foreign travel expenses) and for remission of NHS charges. NHS travel expenses are paid in circumstances where eligible patients are referred by a provider of primary medical, dental or ophthalmic services to a hospital or to anywhere in the UK for secondary medical, dental or ophthalmic services. The regulations currently provide for payments and repayments to be made to patients by NHS trusts, foundations trusts and CCGs, and for reimbursement of payments made to patients by providers of services by the commissioning health service body.

What is changing and why?

These regulations need minor amendments to reflect the full range of possible providers of secondary care services under the ACO contracts, and to clarify the position with regard to sub-contracting. There are currently some gaps in the regulations, which do not cover all possible ACO contractors and subcontractors amendment will ensure that payments of healthcare travel expenses to patients (including NHS foreign travel expenses), and reimbursement of such payments to providers, will continue where patients are referred to providers of secondary care, or where arrangements are made for them to receive these services abroad, under ACO contracts. An amendment is also made to make it clear that the normal arrangements for paying travel expenses are not disrupted where the provider of secondary care services, whether commissioned by an ACO or otherwise, happens to be a sub-contractor.

To Note: As the policy intention is essentially to carry forward the existing arrangements into the new commissioning environment and not to introduce any new claims or exemptions into the 2003 Regulations, a Keeling Schedule of the changes made by the proposed amendments has not been prepared.

Q9a: Do you agree that the proposed amendments to The National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 deliver the policy objective as set out in the consultation document?

Q9b: If 'No', why?

Q9c: Are any changes needed to ensure the proposed amendments deliver the policy objective?

Q9d: Are there any additional comments you wish to provide with regard to the proposed amendments to the regulations?

10. The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012

Overview of the regulations

Amongst other things, the Standing Rules provide the legal basis for NHS England to publish and mandate required terms to be included in commissioning contracts and model commissioning contracts.

What is changing and why?

At the moment, a 'commissioning contract' is defined in the Standing Rules as any contract entered into by CCGs and/or NHSE for the provision of health services other than primary care services; "a contract, other than a primary care contract, entered into by [a CCG or NHSE] in the exercise of its commissioning functions."

This definition of a 'commissioning contract' does not therefore cater for contracts, such as the ACO contract, to be used to commission primary care services alongside non-primary services.

We are proposing to amend the Standing Rules to expand the scope of the definition of 'commissioning contract' to include contracts used for integrated commissioning of primary care and other healthcare services. The primary care elements of the contract would still need to comply with Part 4 of the NHS Act and any directions or regulations made under that Part that related to primary care commissioned a part of an Accountable Care Models contract.

The Standing Rules will apply to NHS England and CCGs, and not directly to individual ACO contract holders.

Q10a: Do you agree that the proposed amendments to the The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 deliver the policy objective as set out in the consultation document?

Q10b: If 'No', why?

Q10c: Are any changes needed to ensure the proposed amendments deliver the policy objective?

Q10d: Are there any additional comments you wish to provide with regard to the proposed amendments to the regulations?

11. Consultation Questions

For each proposed amendment we are asking the following questions:

- a: Do you agree that the proposed amendments to the Regulations deliver the policy objective as set out in the consultation document?
- b: If 'No', why?
- c: Are any changes needed to ensure the proposed amendments deliver the policy objective?
- d: Are there any additional comments you wish to provide with regard to the proposed amendment to the regulation?

In addition, these new models of ACO providers are designed to integrate the provision of primary care, community, hospital and other services. We need to make sure that our regulatory changes to cater for the integration of services in this way are clear. Are any changes needed to ensure our proposed definitions of 'Integrated Services Provider contract' (in the amendments to the GMS Contracts and PMS Agreements regulations) or 'ACO' (in other regulatory changes) deliver this policy objective?

Do you have any comments about the impact any of the proposals may have on people sharing relevant protected characteristics as listed in the Equality Act 2010?

Finally, we would welcome any comments on on the package as a whole and the interaction of different regulations.