Royal College of Nursing response to NHS England consultation on proposed changes to the NHS Standard Contract for 2020/21

With a membership of around 435,000 registered nurses, midwives, health visitors, nursing students, health care assistants and nurse cadets, the Royal College of Nursing (RCN) is the voice of nursing across the UK and the largest professional union of nursing staff in the world. RCN members work in a variety of hospital and community settings in the NHS and the independent sector. The RCN promotes patient and nursing interests on a wide range of issues by working closely with the Government, the UK parliaments and other national and European political institutions, trade unions, professional bodies and voluntary organisations.

1. Overview

The NHS Standard Contract is used by all commissioners in England as the contract for NHS-funded healthcare services. Each year, NHS England reviews the terms of the contract and makes proposed changes.

We have considered our response to these changes in two parts. Firstly, our broad view of the contract and its ability to deliver safe and effective care. Secondly, our views on the proposed changes.

It is important to recognise the context in which this contract is being delivered in. Providers of publicly funded health and care services in England will be well aware of the nursing workforce crisis and the impact which this has upon their ability to deliver safe and effective care. In response to this crisis, we are calling on the Government to take immediate action on three priority areas:

- Legislation to provide clarity on roles, responsibilities and accountabilities for workforce planning and supply
- A fully funded and costed national health and care workforce strategy
- Investment in the higher education supply route including tuition fee support and maintenance support reflective of student need.

Alongside Government action, we are clear that the NHS Standard Contract is a clear lever that should be used to improve working conditions and embed staffing for safe and effective care. By ‘staffing for safe and effective care’ we mean the right numbers of health and care professionals, with the right skills, in the right place at the right time.

2. Recommendations

Recommendation: The NHS Standard Contract should require all providers to collect and report real-time staffing levels and skill mix within services, both actual and planned. Alongside this there should be an appropriate metric for describing the level of patient need, demand or activity at all times. This information will allow

for robust national monitoring of the impact of staffing upon patient care, safety and outcomes. This will also reveal how evidence and professional judgement are being taken into account in terms of workforce planning. Data from the independent sector should not be excluded from national reporting, as without it a full picture of the workforce cannot be determined.

Recommendation: Whenever an incident or near miss occurs, all providers (regardless of sector) should be required to report on the staffing levels and skill mix, even if staffing is not immediately identified as a contributing factor to the incident. They should be required to demonstrate how staff concerns are logged and responded to and acted upon.

3. Additional requirements for the Standard Contract

a. Staffing for safe and effective care

While we broadly support these proposals for changes to the NHS Standard Contract, **we urge NHS England to consider wider changes which would increase transparency and accountability and embed staffing for safe and effective care.**

Across the health and care system and at the various levels, there is currently a lack of explicit clarity on roles, responsibilities and accountabilities related to the workforce. This has resulted in fragmented and incomplete approaches to workforce planning, and this is often missing from wider strategies. Without clarity, health and care services cannot be delivered safely or effectively, which ultimately patients pay the price for. Although there is a need to embed culture change towards meaningful, credible and data-driven workforce planning within the system, there is a critical and urgent need to clarify roles and responsibilities and accountability.

While the requirement for clear workforce planning is needed in legislation, the NHS Standard Contract is an important lever for improving the requirements for providers to report on key indicators of patient safety, outcomes and staffing levels. This would support workforce decisions to become integrated into wider service and finance planning, and would aid transparency on these decisions.

All decisions regarding staffing for safe and effective care, from national bodies through to local organisations, should be based on assessment of patient and population need, an up to date evidence base, workforce planning tools and the professional judgement of senior nurses. Health and care services should be promoted as a safety critical industry, and the adequate provision of staffing recognised as a critical requirement for the delivery of safe and effective models of care.

The NHS Standard Contract can enable this on the frontline. This would require additional terms within the contract which require services to demonstrate how they have assessed population needs and reconciled

workforce, skill mix and staffing levels accordingly. Leading on from this, services should be required to report on staffing levels alongside data about patient safety, experience and outcomes. Currently, workforce data is reported monthly and this is not sufficient to enable robust scrutiny. This prevents the full extent of the impact of nursing shortages upon patient indicators to be understood, or acted on. **We expect the NHS Standard Contract to be amended so that this information should be available as live reporting, so that issues can be identified.** Monthly workforce data does not give any indication about staffing levels on any particular shift.

Currently, data which is collected by non-NHS providers is not published nationally. Without data covering the entire nursing workforce in publicly funded health services, it becomes difficult to scrutinise whether the supply flows of new (and returning) nurses is adequate to meet the health and care needs of the population. **We expect that all providers who hold a contract with the NHS (regardless of sector) should be included in national workforce reporting, and the NHS Standard Contract should enable this.**

The NHS Standard Contract should also give direction to the way in which decisions about staffing levels are made. This allows everyone – including the public - to have assurance that there are the right number of registered nurses and nursing support staff with the right knowledge, skills and experience are in the right place at the right time.

Any decision about nurse staffing must be informed by: legislation, Nursing and Midwifery Council requirements, national, regional and local policy, research evidence, professional guidance, patient numbers, complexity and acuity, the care environment and professional judgement. Financial resources and expenditure must be in place to fully fund and support the delivery of workforce plans and nurse staffing for safe and effective care.

Without these additional requirements, it is likely that the nursing workforce crisis – and indeed across a range of professional groups - will continue to develop without clear action to enable sufficient workforce and without recourse to hold Government and the range of national, regional and local bodies to account for the supply, recruitment, retention and remuneration required to deliver safe and effective care. Without intervention, existing workforce gaps will continue to negatively impact upon patient safety, care and outcomes. **We expect the NHS Standard Contract to hold providers to a higher standard of reporting and oversight that currently exists, given how significant the impact of poor staffing is upon the delivery of safe and effective care.**

b. <u>Work related stress in the nursing workforce</u>

In the context of large-scale shortages in all parts of the nursing workforce, nurses are reporting work related stress. This can lead to increased absences from work, further exacerbating the workforce crisis. The Health and Safety Executive found the prevalence rate of self-reported work-related stress, depression or anxiety in nursing and midwifery staff is 2760 per 100,000 compared with 1320 per 100,000

across all occupations[1]. The fact that nursing staff are twice as likely as average workers to experience work related stress should be a cause for concern amongst decision makers. The report identified workload pressures as the leading cause of work related stress, anxiety and depression (across all sectors). (HSE 2018 - work related stress, depression and anxiety statistics in Great Britain 2018)

Up to 6,000 people in Britain end their own lives each year according to ONS and figures show there is a greater risk of suicide among female nurses than in other occupations. The risk of suicide among female health professionals, nurses especially, was 24% higher than the national average (ONS 2017 Suicide by Occupation[2]).

The NHS Standard Contract should support employers to meet their legal duties. We expect that the contract includes a requirement for providers to put in place preventative and mitigating measures to reduce stress at work, alongside support and early interventions for those experiencing problems. Managers and staff throughout the health and care systems should be equipped to recognise the signs of stress and support their colleagues. This will support the retention of the nursing workforce by keeping them well and at work. Work with health and care providers also have an important role to play in transforming workplace culture, tackling work-related violence, bullying, stress related ill health and discrimination and third-party harassment in the workplace.

c. Access to continuing professional development

With the current shortage of nurses and other clinical professionals across all areas of health and care services, access to continued professional development (CPD) is a real issue. Nursing staff report that they are unable to access training and that there are not enough staff to cover them to attend. This coupled with stretched budgets and increasing patient demand, mean that professional development falls off the workplace agenda. Providers may find themselves in situations where they are unable to find cover for nursing staff to allow them to attend training courses. Over time, the impact of this is that clinicians do not get access to information about the most up-to-date patient and client care. CPD is also a key factor in retention, and therefore in providing staffing for safe and effective care.

The NHS Standard Contract should require employers to provide continuing professional development for nursing and care staff. Alongside this, they should provide advanced professional development for nursing and care staff and demonstrate improvements and development of professional nursing practice.

---

[1] Health and Safety Executive Annual Statistics, *Work related stress depression or anxiety statistics in Great Britain*, 2018

[2] Office for National Statistics (2017) *Suicide by occupation*. Available at https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/articles/suicidebyoccupation/england2011to2015/pdf

To support CPD being embedded into the Standard Contract, we have included here our five principles which guide how CPD and lifelong learning should be made secure[3]. CPD and lifelong learning should:

Principle 1:
be each person's responsibility and be made possible and supported by your employer;

Principle 2:
benefit service users.

Principle 3:
improve the quality of service delivery.

Principle 4:
be balanced and relevant to each person's area of practice or employment.

Principle 5:
be recorded and show the effect on each person's area of practice.

[3] Royal College Of Nursing, principles for CPD: https://www.rcn.org.uk/news-and-events/news/rcn-launches-principles-for-continuing-professional-development

Royal College of Nursing

Responses to proposed changes

Changes affecting specific clinical services

	Topic	Proposed Change	Support proposal?			Comments
			Yes	No	NA	
1	Maternity services SC3 Definitions	Providers of maternity services must ensure that 51% of women receive continuity of carer during their care by March 2021.	X (with caveats)			We support the ambitions of the Maternity Transformation Programme to increase the proportion of women receiving continuity of care. We request information about the impact assessment which has been undertaken regarding the additional workforce requirements to deliver this objective. The delivery of this is dependent on there being sufficient numbers of staff to deliver safe and effective care.
3	Procurement of emergency ambulance vehicles SC39	Providers of emergency ambulance services must source any new vehicles under nationally-specified supply contracts for the base vehicle and the conversion.	X			This would reduce unwanted variation.
4	Guidance on inter-facility transfers Definitions	All providers must comply with the national framework for arranging emergency inter-hospital ambulance transfers.	X			This would enable a shared understanding between clinicians and the ambulance service.

5	Early Intervention in Psychosis standards Schedule 4B	Providers of mental health services must ensure that 60% of patients experiencing a first episode of psychosis wait less than two weeks to start treatment.***	X (with caveats)			We support raising this standard for patients given that the proportion of patients receiving Early Intervention in Psychosis services within 2 weeks is currently consistently above the 50% threshold. **We request information about the impact assessment which has been undertaken regarding the additional workforce requirements to deliver this objective.** The delivery of this is dependent on there being sufficient numbers of staff to deliver safe and effective care.
6	72-hour post-discharge follow-up in mental health services Schedule 4A	Providers of CCG-commissioned mental health services must ensure that 80% of patients discharged from inpatient care are followed up within 72 hours. ***	X (with caveats)			We support the principle of this proposed change and believe that this could also be beneficial to individuals with mental health needs who are discharged from prison settings. It is important that this follow up is carried out by a qualified mental health professional who is able to deliver effective community transition support, forge links into local services incorporating family work and patient engagement. **We request information about the impact assessment which has**

						been undertaken regarding the additional workforce requirements to deliver this objective. The delivery of this is dependent on there being sufficient numbers of staff to deliver safe and effective care.

Integrated system working and Primary Care Networks (PCNs)

These proposed changes are aimed at promoting effective system-wide collaboration between commissioners and providers within a local health community.

Topic	Proposed Change	Support proposal?			Comments
		Yes	No	More info needed	
Supporting implementation of system-level plans SC4 Schedule 8	Where applicable, CCGs and providers within an ICS/STP must contribute towards the implementation of local system-level plans.	X (with caveats)			Workforce issues should be integrated into service and finance planning. Recognised trade unions and local staff sides should be consulted on system changes and their potential implications for working patterns. We also call for decision-makers at every level within the health and care system having clear roles and responsibilities for workforce planning and supply.

Alignment of community mental health services with PCNs SC4	Providers of community mental health services for adults and older adults must ensure that they put in place arrangements with all PCNs within their footprints, by March 2021, to organise and begin delivering services in an integrated manner.	X (with caveats)			Delivery against this requirement will depend upon access to CPD and training on mental health awareness and prescribing. This should be reflected in the NHS Standard Contract (see section 3C) There is a need to ensure that continuity of employment and accrued employment terms and conditions, as well as qualification for statutory employment rights, including redundancy entitlement are protected in any changes.
Supplying or recommending medication for ongoing use in primary care SC11	Providers of acute, mental health and cancer services must have regard to guidance published by NHS England for GPs on conditions for which over-the-counter items should not routinely be prescribed and items which should not be routinely prescribed when supplying or recommending medication to patients or the patient's GP.			X	Clinicians working in these settings should be supported to identify where adjustments or exceptions are to be made. For example, considering the method of delivering a medication for people with cognitive impairments, or considering those who are on very low incomes. **Further information and guidance for staff members should be provided.**

Changes relating to patient safety

These proposed changes are aimed at improving patient safety, partly in response to the new NHS Patient Safety Strategy launched in July 2019.

Topic	Proposed Change	Support proposal?			Comments
		Yes	No	More info needed	
Common sources of harm to patients in hospital / Safety Thermometer SC3, SC22 Schedule 6A	We propose to remove the Safety Thermometer requirements from the Contract and to introduce a higher-level obligation on acute providers to ensure standards of care for venous thromboembolism, catheter-acquired urinary tract infections, falls and pressure ulcers.			X	We seek further clarity on the proposed obligations, and details of the impact assessment which has been undertaken regarding removing the Safety Thermometer requirements. It is important that both safeguarding activity and the new Liberty protection safeguards are acknowledged and resourced within the contract.
Patient Safety Incident Response Framework SC33	We propose to signpost the change to the forthcoming single Patient Safety Incident Response Framework. ***	X			We are supportive of the introduction of a single framework, and believe this would create a consistent approach to patient safety. This would aid transparency.

National Patient Safety Alerts SC33	All providers must ensure that they can receive and respond appropriately to National Patient Safety Alerts. ***	X		X	We are supportive of this approach and believe it would facilitate accountability and transparency. **We would like further information about what mechanism is in place for taking action against those who are not able to provide assurance or demonstrate implementation.**
Patient Safety Specialists SC33	All providers must designate an existing staff member as their Patient Safety Specialist.			X	**Further information is required. We are concerned that there could be negative implications of designating responsibility to one member of staff, as opposed to embedding responsibility across a range of staff roles.** This work should compliment the work of safety reps, and wider health and safety initiatives for staff.

Other broader policy initiatives

These proposed changes are aimed at promoting other more general improvements in how care and treatment are delivered for patients.

Topic	Proposed Change	Support proposal?			Comments
		Yes	No	More info needed	

EU Exit	We propose to include a new requirement for providers to comply with applicable EU Exit Guidance.			X	The link to the EU Brexit Guidance contained within the consultation document and the draft contract is broken. We have found what we assume is the correct document titled 'how healthcare providers can prepare for Brexit'. If commissioners / providers mandated to abide by guidance, we need clarity on what the guidance is and what they are expected to do, which there currently is not. When reviewing the guidance we found, the expectations seem reasonable and common sense; we expect that commissioners would already be undertaking these assurance activities. However, it seems unnecessary / overly burdensome to make the guidance mandatory when providers should be able to use their professional judgement to accurately assess the needs of their locality. However, as the document currently stands, there is no accompanying text outlining the rationale for including this guidance, nor what would happen if commissioners did not abide. This should be included so that providers are clear about their responsibilities and expectations. Without this it is difficult for

					us to comment on its inclusion in a fully informed and constructive way. Pay and terms and conditions of the workforce, including respect for statutory employment rights must be protected, maintained and improved post Brexit.
Care and Treatment Reviews SC6	Providers of mental health services and of mental health secure services must ensure that CTRs are completed within the applicable timescales. Where this is not done, through any error or omission of the provider, a financial sanction will apply.	X			**We request information about the impact assessment which has been undertaken regarding the additional workforce requirements to deliver this objective**. The delivery of this is dependent on there being sufficient numbers of staff to deliver safe and effective care.

Choice of clinician SC7	A provider may withhold treatment where a patient displays behaviour which constitutes discrimination or harassment (within the meaning of the Equality Act 2010).	X (with caveats)			With appropriate safeguards in place we would support this approach which is already exists in some organisations policy to tackling violence & aggression. With the removal of third party liability for harassment by patients/clients, our members report (via Congress debate) that employers are not taking third party harassment seriously. Employers have a legal duty to protect the health, safety and wellbeing of staff and should a) assess and managing the risk of third party harassment and b) introduce appropriate sanctions such as yellow card/red card warning systems or behavioural contracts Any approach must include awareness raising amongst staff on unacceptable behaviour, reporting mechanisms and actions that managers should take.

Screening and onward referral to smoking cessation and alcohol advisory services SC8	Providers must screen inpatients for alcohol and tobacco use, and offer brief advice, interventions and/or onward referral as appropriate.	X (with caveats)			We know that these interventions work in terms of changing culture within organisations. The screening and questions, brief interventions to be part of all contacts wherever possible. They need to be set up alongside practical tools (e.g. RSPH impact tools) to support implementation and help organisations to measure. They also require staff to have the skills to education and awareness raising Inclusion in the patient records of questions asked and advice given to make it easy to remember and monitor. Include with this what local support availability there is so practitioners have wider support, the reality is clinicians don't ask if they fear there is nothing for them to refer onto. This needs to link to the local authority public health teams to support but also monitor data and use risk stratification to look at local needs. At a sector level STPs and ICS to include as part of their overall prevention strategy. **We request information about the impact assessment which has been undertaken regarding the additional workforce requirements to deliver this objective.** The delivery of this is dependent on there being sufficient

					numbers of staff to deliver safe and effective care.
Prescribing SC11	Providers of acute, mental health and cancer services must have regard to national guidance on over-the-counter medicines and items that should not be routinely prescribed.	X (with caveats)			Please see response to SC4.

Smoke-free premises SC17 Definitions	NHS Trusts and FTs must use reasonable endeavours to ensure that their premises are smoke-free.	X (with caveats)			This element of the contract should ensure that screening policies are incorporated into the overarching provider strategy. It also has to be linked to strategies to support smokers, access to nicotine replacement etc. Staff also need to be supported to quit and organisations should be implementing the NICE guidelines on smoking cessation in the workplace which recommend that initiatives can be cost effective if they allow staff to attend in working hours. Care must be taken around implementation in some settings as this could be linked to an increase in violence and aggression. Our members have raised concerns about their vulnerability when they have been asked to implement policies and challenge smokers on hospital grounds. Good practice guidance should be developed in co-production with patients and the public. **We request information about the impact assessment which has been undertaken regarding the additional workforce requirements to deliver this**

					objective. The delivery of this is dependent on there being sufficient numbers of staff to deliver safe and effective care.
NHS Premises Assurance Model SC17	NHS Trusts and FTs must complete the safety and patient experience domains of the NHS Premises Assurance Model, and report the findings to their Governing Bodies.	X (with caveats)			It is noted that a safe working environment is important for staff. This assurance model should link into existing legal requirements under health and safety legislation, including fire safety risk assessments, general risk assessments.
NHS Food Standards SC19 Definitions	Each provider must ensure that, from retail outlets and vending machines, catering provision and facilities as appropriate, patients, staff and visitors are offered ready access 24 hours a day to healthy eating and drinking options and that products provided and/or offered for sale meet the requirements set out in NHS Food Standards, including in respect of labelling and portion size.	X			The nursing community should be directly consulted on these changes. Evidence suggests that shift workers have poorer health outcomes. There needs to be availability of health options throughout the day.

Changes relating to workforce issues

These proposed changes relate to staff working in the NHS.

Topic	Proposed Change	Support proposal?			Comments
		Yes	No	More info needed	

Influenza vaccinations SC21	Providers must use all reasonable endeavours to ensure that all staff are vaccinated against influenza.	X (with caveats)		X	We support the principle of this proposal. This would put the onus on providers to make the vaccine easily accessible and embed it as a normal part of practice. We suggest this includes any students or volunteers working on the front line are also vaccinated. This would support minimising risk of transmission but also support normalising vaccination as part of front line work. We have some concern that this would lead to providers mandating vaccine for new or existing staff. This is not an appropriate response. We would expect organisations to follow the NICE guidance which does not advocate mandation, but rather recommends: *A full participation vaccination strategy, with nationally agreed opt out criteria (A full participation strategy is one in which a range of approaches are used to maximise uptake and in which the expectation is that all front-line staff should be vaccinated. The full participation approach includes agreed mechanisms enabling staff to opt out if they wish.)*

NHS People Plan GC5	NHS Trusts and NHS Foundation Trusts must develop a plan to implement in full the NHS People Offer (that is, the core standards in relation to work environment and experience of work for staff working in NHS services) to be published in conjunction with the final NHS People Plan.			X	This must include specific standards on the prevention and management of violence and aggression against staff; and measures to tackle bullying and harassment. **We request further information on how implementation of standards will be monitored (historically violence/security standards were audited by NHS Protect).** Providers must provide assurances that they have staff dedicated to tackling violence (such as local security management specialists and that there is a Director responsible for violence reduction). Data on physical violence should also be returned and collated nationally.

Redundancy and re-hiring GC5	We propose to extend the existing redundancy and re-hiring provisions in the Contract to VSMs who have been made redundant and have subsequently been re-hired by commissioners. We also propose to expand the coverage of the repayment provision to apply to any VSM who is made redundant, then re-hired by a management consultancy and provides services back to the NHS. We are also proposing to expand the definition of NHS Employer, to include NHS Improvement.		X	X	We are concerned that this proposal is disproportionately harsh to VSMs in restricting their employment choices. It is important that as part of policies to retain the workforce that the proposal does not deter individuals who have been made redundant from returning to work in the NHS and wider health services, including for VSM to return to lower graded jobs which enable staff to achieve a better work life balance at the end of their career.
Declarations of interest GC27	Providers must publish the names and positions of any decision-making staff who have neither completed a declaration of interest nor submitted a nil return on their websites each year. *** Please indicate here if your organisation supports this inclusion in the Contract, and submit any comments on this proposal and on any other ways in which arrangements for managing declarations of interest can appropriately be strengthened, in accordance with s3.4 below.			X	We request further information on the practical implementation of this to assess where there is any risk generated from the infringement on privacy suggested here and whether its compatible with GDPR. It is particularly important that employers do not gather or publish personal data related to TU membership or any other personal sensitive data

Changes to bring about a greener NHS

These significant proposed changes are to the requirements of the Contract relating to environmental issues.

Topic	Proposed Change	Support proposal?			Comments
		Yes	No	More info needed	
Environmental issues SC18	Providers must put in place and implement a Green Plan, which sets out the provider's detailed approach to reducing air pollution, cutting carbon emissions, mitigating risks associated with climate change, reducing the use of single-use plastic, reducing levels of waste and water usage, and making provision for the return of walking aids for re-use or recycling.	X (with caveats)			The working conditions of staff must be protected in any measure proposed Climate control in ageing buildings is inadequate, with nursing staff reporting that some areas having temperatures above 28 degrees in the summer. Providers may bring in temporary air conditioning units which then add to the urban heat effect. Measures must include prioritising the implementation of sustainable means to reduce the temperatures in ageing buildings. National policies must support the needs of existing services and must facilitate sustainable frontline practice. **NHS England must offer support and funding as necessary to enable the system to deliver this.**

Changes relating to technology, booking systems and data

These proposed changes relate to the use of technology, booking systems and data in the NHS.

Topic	Proposed Change	Support proposal?			Comments
		Yes	No	More info needed	
Booking of appointments from 111 services into Urgent Treatment Centres SC6	Providers of Urgent Treatment Centres must, when replacing or updating IT systems and software, they enable direct booking of UTC appointments by providers of NHS 111 and UEC Clinical Assessment Services.	X			We support this proposal and believe that it would facilitate a smoother patient experience. Frontline staff are likely to need support with embedding updated IT infrastructure into their working practices and as such should be given protected training time. **NHS England must offer support and funding as necessary to enable the system to deliver this.**
Daily submission of Emergency Care Data Sets (ECDS) Schedule 6A	Providers of A&E and Urgent Treatment Centre services are already required to submit ECDS daily. NHS Digital will shortly issue guidance to support the relevant Information Standard, clarifying that ECDS data must be submitted each day for the previous day. We propose to include a specific requirement in the Contract to support this.	X (with caveats)			We believe this measure is beneficial for analysis, audits and observing trends in presentations to emergency departments. However, we feel that this would bring additional requirements onto administrative staff and therefore more capacity is likely needed. **We request information about the impact assessment which has been undertaken regarding the additional workforce requirements to deliver this objective.**

About the Royal College of Nursing

The RCN is the voice of nursing across the UK and the largest professional union of nursing staff in the world.

For further information, please contact:
Charli Hadden, Policy Adviser (charli.hadden@rcn.org.uk, 020 7647 3933).

Policy and Public Affairs (UK and International)
Royal College of Nursing
January 2020