To: NOMS Management Board
NOMS Deputy Directors of Custody
Prison Governors
SHA Chief Executives
SHA & PCT Directors of Finance
PCT Chief Executives
PCT Prison Leads
SHA Offender Leads
NTA Managers
DAAT Chairs
Prison Healthcare Managers
NHS Criminal Justice Regional Leads
Area Chief Probation Officers
Managing Directors, Contracted Out Prisons
Rehabilitation Services Group Managers

Gateway Reference 16136 **20 July 2011**

Commissioning prison based substance misuse services 2011/12

Background

A letter dated 31st March, DH Gateway Number 15827, from Dept of Health, Ministry of Justice, and the National Treatment Agency announced with immediate effect:

- The transfer of responsibility for funding prison substance misuse services from Ministry of Justice to Department of Health
- The recommended routing of all prison substance misuse funding (either directly or via PCTs) to local authority Drug and Alcohol Action Teams (DAATs) who will now
    - Oversee all contracts for prison substance misuse treatment services
    - bring together all substance misuse funding for prisons and community into a single fund as a "one pot for one purpose" approach
    - be able to commission integrated prison and community services that will support individuals along the full course of their recovery
- The requirement for newly commissioned and reshaped treatment and recovery systems in all prisons by April 2012

The following provides an outline overview of next steps and guiding principles for local delivery and implementation

Commissioning arrangements

Partnerships will need to ensure that joint commissioning groups have the appropriate representation to enable them to effectively commission services for offenders in both custody and the community. It is recommended that the Joint Commissioning Group comprise:

- Prison governor or member of the prison senior management team (NOMS[1])
- PCT
- DAAT lead
- Local Authority representative
- Probation (NOMS)
- Police

DAATs, including prison governors, will have to decide how their particular local commissioning arrangements will operate. It is unlikely to be sufficient to commission clinical (old IDTS funding) and other treatment services through the prison health board, as the specialist knowledge and breadth of responsibility of DAAT membership is needed to ensure integration of community and prison treatment services. At the same time of course there will be a need to ensure commissioning arrangements effectively join up with offender health commissioning of general healthcare, notably mental health services.

We recommend therefore that PCTs regard the commissioning of this funding as led by the DAATs. Correspondingly, we recommend to DAATs that they ensure PCT-prison partnerships are sighted on all commissioning decisions and that transition of commissioning arrangements are addressed as outlined in the January 2011 PCT Cluster implementation guidance.

We also recommend that contracts for prison substance misuse services are operated in the same way as DAAT community contracts, which are run on behalf of the DAAT partnership whether held by the local authority or by the PCT. PCT involvement in substance misuse services in the community will gradually be replaced by the local authority public health system, incorporating Health and Wellbeing Boards, and in prisons and other forms of prescribed detention by the establishment of the NHS Commissioning Board

The National Treatment Agency will be offering specific support to all prisons and DAATs both to manage the existing CARATs and programme contracts, and to meet the challenge of commissioning new treatment systems.

The following actions are suggested as immediate priorities:

[1] Please note, in publicly operated prisons, the prison management is part of the National Offender Management Service

1. Establish a DAAT commissioning structure that involves the prison governor/or Senior Management Team representative, and identifies, where appropriate, the lead PCT commissioner

2. Commissioners ensure that an adequate needs assessment is updated and available for each prison answering specific questions about local circumstances, treatment need, and current treatment and resources available, that will be sufficient to enable the planning and commissioning of new services

3. A timetable to be drawn up to ensure the commissioning of a new outcome-based prison drug treatment service to be in place by April 2012, taking into account the timescales requires for re-tendering a new service

4. The DAAT in the meantime actively take over current prison substance misuse contracts, whether held by the PCT or LA as per all other drug treatment contracts in the DAAT. Good practice suggests that the current NOMS contracts for CARATs and programmes should be novated, though legally this is not necessary where there is NOMS representation on the DAAT and a new service is commissioned by April 2012.

5. The DAAT to make a decision on whether to continue the current contract performance management and audit arrangements operated by NOMS, or to substitute their own

TUPE (Transfer of Undertakings [Protection of Employment] Regulations 2006)

The following section addresses TUPE issues that relate to the outcome of any procurement exercise to renew treatment and recovery systems in prisons in 2012.

In some establishments NOMS Officer Grades (Prison Officers, Senior Officers, and Principal Officers) have a dual role and deliver a unique blend of custodial services and substance misuse services . However, where the PCT wishes to commission a new provider to deliver substance misuse services all parties should ensure that NOMS Officer Grades working in substance misuse services are not within scope for transfer. These staff are primarily Prison Officer grades with a specialism. They are employed, and joined as prison officer grades, hold the powers of a constable and can be redeployed to operational duties at any time. The Governor must ensure that the prison contacts the NOMS TUPE Team for advice at the earliest possible stage and before a final decision is made to commission services from a new provider. Having taken advice from the TUPE Team, and once a final decision has been taken to commission from a new provider, establishments are advised to commence consultations with all affected staff - this will include discussions with affected Operational staff who must be redeployed to other duties within the prison before the transfer takes place.

Non-operational grades working in substance misuse services, may be regarded as in-scope for transfer.

Decisions on the transfer of part-time non-operational staff will depend on a number of factors that are usually considered on a case-by-case basis. Advice should be taken from the NOMS TUPE Team.

Proposed Timetable for commissioning adult prison substance misuse services in 2011/12

This schedule is suggested to allow sufficient time for the new services to be fully commissioned and implemented by 1ST April 2012. Time should also be allowed, following the decision to award, for a ten-day 'Alcatel' standstill period to allow for potential challenges and debriefing of unsuccessful bidders. The new provider should be allowed a minimum of three months to conclude TUPE consultations, recruitment of new staff, and security clearances for working in prison. The suggestion would be that for this to be achieved by April 2012 the market should be alerted to the opportunity in July 2011. Award should take place in December 2011. Early advertising does not prevent other work continuing in parallel while potential providers respond to the advertisement based on a high-level specification.

Timeline

Activity	Duration
Review of commissioning arrangements and completion of comprehensive needs analysis	One month
Agreement between NOMS and partnerships covering the management, payments and performance assurance arrangements for CARAT and programme contracts for 2011/12	Simultaneous to above
High level service outline agreed Advert agreed and posted giving notice of tender opportunity All current providers notified of the opportunity	One month
Agreed model and service outline for recovery oriented substance misuse service developed and agreed Letter of notice in to CARAT and programme contracts issued and TUPE arrangements for prison staff negotiated	Two months
Initial sift of tender applications	One month

Activity	Duration
Final tenders issued to shortlisted potential providers Tenders assessed and award decision made	One month
Award Announcement and Alcatel standstill period	Ten days
TUPE of staff and appointment and security clearance of new staff	Three months

The National Treatment Agency for Substance Misuse local teams will provide support for partnerships throughout all the commissioning stages. An on-line needs assessment guidance is also available.

Local circumstances, such as local commissioning regulation, or a need to synchronise with other prison or community commissioning activity, may dictate that a new service cannot be in place in some prisons by April 2012. These partnerships may chose therefore to explore the potential to extend the current provision via the novation of existing contracts. This option can also afford an opportunity to negotiate contract changes to realise a more **recovery-oriented prison based substance misuse service,** as described in the next section. PCTs may wish to consult their cluster legal advisers as part of a novation process.

What should a recovery oriented prison based substance misuse service look like?

Local partnerships will need to ensure that the services they commission are based on the NHS Operating Framework 2011/12 and the forthcoming Building Recovery in Communities (BRiC) framework. The following are suggested as key characteristics

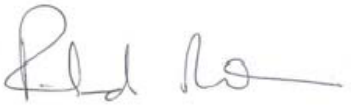
- A commitment to maximise the numbers who can successfully overcome their dependency and sustain their recovery on release
- Clear continuity of care arrangements between prisons and with key CJITs and Offender Management and Integrated Offender Management approaches
- Service based on an outcome framework
- Individual recovery care planning and key working for all in treatment
- Availability of structured psychosocial interventions
- Clear support for abstinence pathways
- Access to mutual aid services (for guidance on vetting, see appendix B)
- Services available to deal with addiction to prescribed medication
- Visibility of successfully recovering current and ex-prisoners
- Practical housing, employment and family support
- Targeted work on
    - Pathways to recovery for those newly sentenced

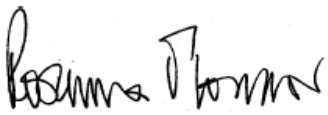
    - Review at every 13 weeks for those on substitute medication but facing a long sentence
    - Community support planning for those nearing release
- An inspirational recovery-oriented workforce
- Support for prisoners with mental health issues
- Integrated alcohol services

Outcome Framework

Partnerships may elect to generate their own outcome framework, or use a nationally available framework, such as the framework in Appendix D of the Patel Report 2010

A drug-specific outcome star is scheduled for issue later in 2011, as is a community drug recovery Payment-by-Result outcome framework.





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