Monitor

Making the health sector work for patients

Integrated care licence condition: guidance for providers of NHS-funded services

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About Monitor

As the sector regulator for health services in England, our job is to make the health sector work better for patients. As well as making sure that independent NHS foundation trusts are well led so that they can deliver quality care on a sustainable basis, we make sure: essential services are maintained if a provider gets into serious difficulties; the NHS payment system promotes quality and efficiency; and patients do not lose out through restrictions on their rights to make choices, through poor purchasing on their behalf, or through inappropriate anti-competitive behaviour by providers or commissioners.

Across all areas of our work Monitor has a duty to enable care to be delivered in a more integrated way, both in healthcare and between healthcare, health-related services and social care, where this is in patients' interests.

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Executive summary

People benefit from care that is person-centred and co-ordinated within healthcare settings, across mental and physical health and across health and social care. Initiatives to deliver care in a more integrated way are being taken forward at national and local levels to improve outcomes for patients and service users and make efficiency savings.

The Five Year Forward View, published in October 2014 as a vision for the future of the NHS, also highlights the importance of integrated care. It describes a number of models of care that can play a role in integrating services across different care settings, including multispecialty community providers and primary and acute care systems, which both focus on care pathways across primary, community and acute providers.

Local commissioners decide, with input from providers and other stakeholders, how to design, develop and deliver care in a more integrated way but the behaviours and actions of providers play a significant role in the success of their efforts across a local health economy.

Monitor has a duty to enable better integration of services, in healthcare and between healthcare, health-related services and social care. The integrated care licence condition is just one of the tools we use to do this. Our responsibilities relating to competition and choice and the payment system are also relevant, and we help to provide flexibility to encourage new models of care and to support local areas in their plans for integrated care.

The integrated care licence condition applies to all licensed providers of NHS-funded services in England (licensees). It requires them not to act in a way that would be detrimental to enabling integrated care. Although NHS trusts are not required to hold an NHS provider licence they are expected to meet the same obligations in relation to integrated care.

This guidance is designed to help licensees and NHS trusts understand what is expected of them in relation to the integrated care licence condition and where we may take action. It should be read alongside our 'Enforcement guidance'. We set out some high level principles to help providers deliver care that is better integrated and examples of how these principles might apply in practice. We also provide examples of actions and behaviours by providers that could reasonably be regarded as against the interests of patients and service users and may represent a breach of the integrated care licence condition.

As we build the evidence base around integrated care and gain more experience in dealing with potential breaches of the licence condition, we expect to update, supplement or replace this guidance from time to time.

We encourage providers, commissioners and other interested parties to contact us if they have any queries or concerns about the integrated care licence condition and how it is likely to apply in particular circumstances. Further details can be found at: www.gov.uk/integrated-care-ask-a-question-or-make-a-complaint

1 Introduction

1.1 Who should read this guidance?

This guidance is written mainly for licensed providers of NHS-funded services in England (licensees)[1] and NHS trusts.[2] It is designed to help them understand what is expected of them in relation to the integrated care licence condition (see Annex A) and where we may take action. Licensees are required as part of the licence condition to have regard to this guidance.[3]

It will also interest those who are working with providers to deliver care that is better integrated or want to understand more about providers' obligations under the integrated care licence condition.

This guidance reflects Monitor's views at the time of publication and may be revised to reflect changes in best practice, legislation, experience, legal judgments and research. Our website will display the latest version of the guidance.

We have tried to be clear, using straightforward language, and have avoided repeatedly quoting the NHS provider licence. This means we do not always use the exact wording of the licence. However, the licence conditions themselves ultimately override this guidance. Depending on the circumstances of the case, we may depart from this guidance if, for example, an investigation raises new issues. If this happens, we will acknowledge that we have done so and will give our reasons for doing so.

1.2 What is integrated care?

Integrated care is care that is person-centred and co-ordinated. For care to be integrated, organisations and care professionals need to bring together the different elements of care that the patient or service user needs. This includes care provided at the same time or at different stages of the care pathway, to address all the patient or service user needs and to seek to improve their outcomes and experience of care.

We endorse the narrative developed by National Voices and the underpinning 'I statements'. These set out what person-centred, co-ordinated care should mean in practice. [4] For example:

[1] Further information on which organisations are licensees is available on our website: www.gov.uk/government/publications/nhs-foundation-trust-directory

[2] Although NHS trusts are not required to hold a licence, they are required by the NHS Trust Development Authority to comply with certain licence conditions (specifically, the conditions covering general obligations, pricing, choice and competition, and integrated care). Section 5(1) and Annex A of the NHS Trust Development Authority and Monitor Partnership Agreement set out the equivalent obligations that NHS trusts must comply with. See www.ntda.nhs.uk/wp-content/uploads/2013/08/Monitor-and-TDA-Partnership-Agreement-2014-15.pdf for further details.

[3] As set out in clause 5 of IC1 of the NHS provider licence.

[4] Further information about the work undertaken by National Voices, and the full list of 'I statements', can be found here: www.nationalvoices.org.uk/coordinated-care

- ‘I only need to tell my story once.’
- ‘I can plan my care with people who work together to understand me and my carer(s), allow me control, and bring together services to achieve the outcomes important to me.’
- ‘I am supported to understand my choices and to set and achieve my goals.’
- ‘The professionals involved with my care talk to each other. We all work as a team.’
- ‘I am told about the other services that are available to someone in my circumstances, including support organisations.’
- ‘I have information, and support to use it, that helps me manage my condition(s).’

Integrated care can be delivered in many different ways. It can be delivered across healthcare organisations (primary, community, secondary care), across mental and physical health organisations, across health and social care organisations or within a single organisation. Providers can take part in commissioner-led schemes or take their own steps to improve services aimed at delivering integrated care by, for example, developing compatible IT systems or improving handover notes. They can organise themselves in a range of ways to deliver care in an integrated way, for example, through alliances, clinical networks, virtual teams, joint working arrangements or protocols, joint ventures or mergers.

It is for local commissioners to decide, with input from their providers and other stakeholders in line with relevant regulatory frameworks, how care can be delivered in a more integrated way. This includes how existing services can be better integrated, as well as designing and implementing new models of care. We recognise that there is no ‘one size fits all’ approach. Approaches will vary from area to area depending on local needs and circumstances.

As set out in the Five Year Forward View[5] the way care is delivered needs to change and providers will need to work together more closely across different settings in their local care economy to achieve this. Providers have a significant role in helping to design, trial and implement innovative models to deliver care that is better integrated.

1.3 Why is integrated care important?

Healthcare is not a simple, standardised service. People sometimes experience health and social care services that are fragmented, difficult to access and not based around their and their carers’ needs. Many people would benefit from care that is better integrated. This is especially true of people with complex health and wellbeing needs,

[5] Further details about the Five Year Forward View are at www.england.nhs.uk/wp-content/uploads/2014/10/5yfv-web.pdf

multiple conditions and lifelong needs who access different health, social, housing and other support services, often on an ongoing basis.

Reducing or removing gaps and duplications in service provision can improve not only the experience of patients and service users but also effectiveness and safety. More person-centred, better co-ordinated care can improve outcomes for patients, service users, carers and families. It also offers the potential to make financial savings through system efficiencies.

1.4 Monitor's role

We have a duty to enable better integration of services, in healthcare and between healthcare, health-related services and social care, where this is in patients' and service users' interests.[6] There is a great deal we can do to enable better integration of services and our work in this area includes:

- **providing flexibility so that new models of care can emerge:** for example, expanding the flexibility to adjust payment approaches and developing a long-term payment approach that promotes the value of co-ordinated care pathways; we also work with troubled providers and local health economies to understand how integrated care can help ensure that redesigned services meet the needs of patients
- **supporting local areas in their plans for integrated care:** this includes supporting the integrated care pioneers and the new vanguard sites that are part of the Five Year Forward View and advising commissioners on how to commission better services
- **ensuring that the sector does not stand in the way of efforts to deliver care in an integrated way –** for example, through enforcing the integrated care licence condition for providers.[7]

Further information on our other activities, including competition and choice activities, is available on our website.[8]

The integrated care licence condition

The NHS provider licence is Monitor's main tool for regulating providers of NHS services. It is designed to protect and promote the interests of patients and service users and to allow providers to operate as flexibly as possible. The licence sets out important conditions that licensees must meet. It helps Monitor ensure that the health

[6] This duty is set out in Section 62 of the Health and Social Care Act 2012.
[7] Monitor does this through the NHS (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013 for commissioners.
[8] See: www.gov.uk/government/publications/integrated-care-how-to-comply-with-monitors-requirements/complying-with-monitors-integrated-care-requirements

sector works for the benefit of patients and service users, and includes provisions relating to the delivery of care in an integrated way.[9]

The integrated care licence condition is set out in Annex A.[10] It requires licensees not to act or behave in a way that would be reasonably regarded as against the interests of people who use healthcare services by being detrimental to enabling:

- healthcare services being integrated with healthcare services provided by other providers[11]
- healthcare services being integrated with health-related services or social care services provided by other providers[12]
- co-operation with other providers of healthcare services.[13]

The licence condition applies when pursuing one or more of the following four objectives: improving the quality of any services (including the outcomes achieved from their provision); improving the efficiency of services; reducing inequalities in relation to access; or reducing inequalities in relation to outcomes.

When assessing what is reasonable, we will focus on the impact on patients and service users. We will look at whether the actions in question would result in worse outcomes (in terms of quality or access) for patients and service users.

A single complaint about the conduct of a health professional or one-off incident as a result of operational management issues is unlikely to amount to a licence breach on their own. It is more likely to be triggered by evidence of systemic issues. See Section 4 for examples of conduct that could breach the integrated care licence condition.

Whether we investigate a possible breach of the integrated care licence condition depends on the circumstances of the case, including whether the conduct is likely to be

[9] The NHS provider licence is available at www.gov.uk/government/publications/the-nhs-provider-licence

[10] All the standard licence conditions are available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/285009/Annex_NHS_provider_licence_conditions_-_20120207.pdf

[11] Healthcare services are services for all forms of healthcare provided for individuals, whether relating to physical or mental health, for the purposes of the NHS (ie not social care or private patients). See Section 64 of the Health and Social Care Act 2012.

[12] Health-related services are services that can affect a person's health but are not healthcare or social services. Examples include lip reading or sign language lessons and community support groups for loneliness. Social services may be provided by local authorities but are increasingly commissioned by local authorities from, for example, voluntary sector providers. Examples include additional support for people who need it, such as older people, people with disabilities and people with mental health problems. See Section 62 of the Health and Social Care Act 2012.

[13] Co-operating with other providers means working together and communicating constructively to deliver integrated care, while taking into account the choice and competition licence conditions and competition law more generally. For example, we expect providers not to share commercially sensitive information in advance of submitting separate bids for an upcoming tender.

against the interest of patients and service users. See Section 5 ‘How we take enforcement action’ for more information on our ‘prioritisation principles’.

Integrated care and competition

A perceived risk of breaching the rules relating to patient choice or competition is often cited as one of the barriers to delivering care in an integrated way. Our view is that the delivery of person-centred, better co-ordinated care is not at odds with competition.

This guidance focuses on the integrated care licence condition and ways in which providers may breach that licence condition. We have already published examples of characteristics of models of integrated care that are likely or unlikely to fall foul of competition rules,[14] to help providers understand how the integrated care and choice and competition conditions work together. We plan to add to those scenarios in due course.

To help providers understand their patient choice and competition obligations we have also published guidance on the competition and choice licence conditions. This includes information on how the competition licence condition applies to situations in which providers may be delivering integrated care.[15]

Our guidance on the Procurement, Patient Choice and Competition Regulations also refers to how choice and competition are relevant to the delivery of integrated care.[16]

1.5 How can Monitor help?

Please contact us if you have any queries or concerns about the integrated care licence condition and how it is likely to apply in particular circumstances. In the past, people have approached us for informal advice on, for example, how plans for integrated care may interact with the competition licence condition or our other competition and pricing powers. Anyone can come to us with a potential concern or query. If you would like to speak to us, please refer to the contact details on our website.[17]

Our website has further details about integrated care and our role. We regularly update the content and include answers to questions that we are frequently asked.[18]

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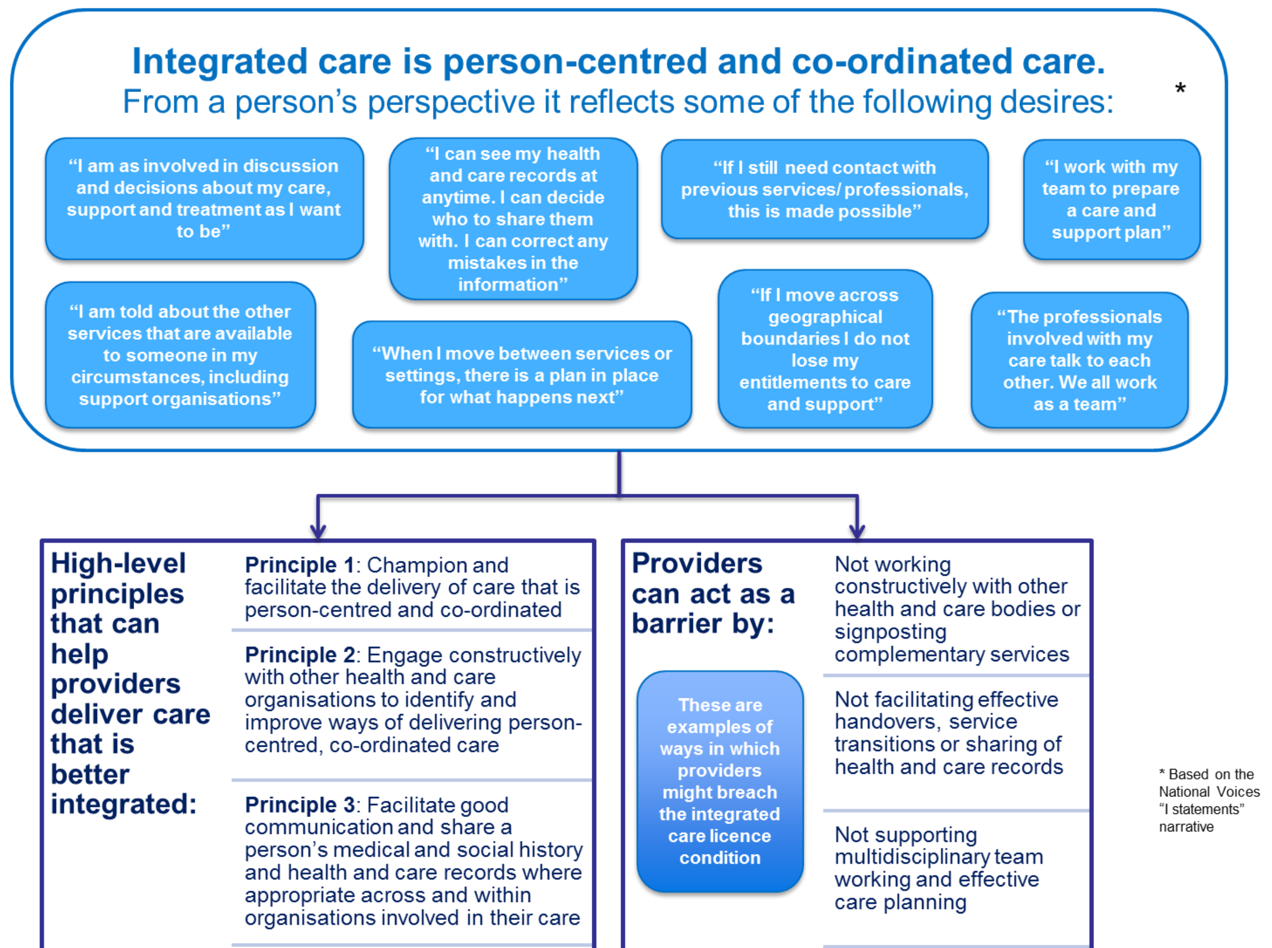
[14] www.gov.uk/government/publications/hypothetical-scenarios-choice-and-competition-conditions-of-the-nhs-provider-licence-and-competition-law/choice-and-competition-hypothetical-scenarios-for-nhs-healthcare-providers#integrated-care
[15] www.gov.uk/government/uploads/system/uploads/attachment_data/file/354079/cc__licence_conditions_guidance.pdf
[16] The NHS (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013 implement Section 75 of the Health and Social Care Act 2012. We have published guidance to help commissioners make more effective procurement decisions in line with the regulations. See here for further details: www.gov.uk/government/publications/procurement-patient-choice-and-competition-regulations-guidance
[17] www.gov.uk/integrated-care-ask-a-question-or-make-a-complaint
[18] ‘Complying with Monitor’s integrated care requirements’: www.gov.uk/government/publications/integrated-care-how-to-comply-with-monitors-requirements

2 The types of actions and behaviours covered by this guidance

This diagram provides an overview of the actions and behaviours set out in this guidance to help providers understand their obligations under the integrated care licence condition. They are based on the National Voices 'I statements', which we endorse, and that are mainly within the control of licensees.

Figure 1: An overview of the actions and behaviours set out in this guidance



3 Principles for how providers can deliver care in an integrated way

This section sets out some high level principles to help providers deliver care that is better integrated, with examples of how these might be applied in practice. Some providers have been pursuing an integrated approach for years, so we recognise that some of the actions described will be well known to the sector.

Service conditions and people's needs vary locally, so the examples will be more or less relevant to providers depending on the circumstances.

We used research and literature, including Monitor publications,[19] and listened to recent experiences and case studies, to gather information and outline three core principles around how care can be delivered in a more integrated way:

Three principles for how providers can deliver care in an integrated way

1: Champion and facilitate the delivery of care that is person-centred and co-ordinated.

2: Engage constructively with other health and care organisations to identify and improve ways of delivering person-centred, co-ordinated care.

3: Facilitate good communication and share a person's medical and social history and health and care records where appropriate[20] across and within organisations involved in their care.

Principle 1: Champion and facilitate the delivery of care that is person-centred and co-ordinated

Providers can champion and facilitate the delivery of integrated care by acknowledging the importance of person-centred and co-ordinated care and setting a tone that facilitates frontline staff to work together and with the patient or service user, their family and carers to assess, plan and deliver care in an integrated way.

Championing integrated care starts with the provider's leadership team ensuring that staff have the necessary time and tools to support the delivery of integrated care

[19] See enablers and barriers to integrated care on Monitor's website at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/285986/Enablers_and_barriers_to_integrated_care_report_June_2012.pdf

[20] Where appropriate in this context means subject to consent, confidentiality and information governance requirements such as the Data Protection Act 1998, the updated Caldicott principles and the NHS Confidentiality Code of Practice. For more information on the Caldicott principles, see footnote 23.

effectively. Changes to systems and structures alone are unlikely to be sufficient without these wider behaviours.

Examples of how providers can champion and facilitate the delivery of care in an integrated way

- Acknowledge the need for change and effectively communicate throughout the organisation what change is needed to enable integrated care and why.
- Develop strategic and operational plans for delivering care in an integrated way with frontline staff, patients and service users and then cascade the plans throughout the whole organisation.
- Develop mechanisms to gather regular feedback from patients and service users on how co-ordinated and person-centred their services are and use the feedback to improve the way care is delivered.
- Develop mechanisms to gather and share patient stories regularly to demonstrate to staff how the changes are happening in practice and their effect on patients and service users.
- Recognise the potential value of innovative skill-mix and staff roles, and changes to traditional settings in which care is delivered. This could include exploring and creating new interface roles such as general practitioners or consultants running sessions in family intervention projects.
- Facilitate more effective multidisciplinary team working within and between organisations.
- Enable frontline staff to develop care plans that are focused on people's physical, psychological and social needs, and developed with service users and their families where appropriate, to create active participation and ownership: for example, through providing high quality training on shared decision-making.
- Encourage frontline staff to inform patients and service users about complementary services that may help meet their needs, including those provided by the voluntary sector.

Principle 2: Engage constructively with other health and care organisations to identify and improve ways of delivering person-centred, co-ordinated care

To deliver services in an integrated way, providers need to engage constructively and work effectively with other health and social care organisations involved in patients' and service users' care. This could include working with commissioners, other healthcare

providers (such as acute, mental health, specialist, ambulance and community providers, GPs and pharmacists), social care providers, local authorities and charitable organisations as part of a co-ordinated attempt to plan and deliver care.

Examples of constructive engagement with other organisations

- Speak to other providers and constructively respond to approaches from them about any difficulties (such as high readmission rates or delayed discharges to other services) that could be resolved through better communication or co-ordination.
- Engage with commissioners to understand their plans for integrated care and take these plans into account when developing organisational strategy.
- Establish or take part in integrated care working groups or forums for engagement with, for example, local providers, commissioners and local authorities, to discuss ways to deliver services in a more integrated way.
- Disseminate case studies and experiences of integrated care across the sector, through tools such as seminars, webinars and websites.
- Produce a statement of shared commitments or objectives to maintain a constructive dialogue with partners.

Principle 3: Facilitate good communication and share a person's medical and social history and health and care records where appropriate[21] across and within organisations involved in their care

Effective communication within and across organisations about individual patients' and service users' care is essential to the delivery of integrated care. This includes communicating effectively whenever a patient or service user moves from one organisation or one health or care professional to another and sharing health and care records between and within organisations where appropriate. It is also important when services are reconfigured or otherwise transferred from one provider to another.

In some cases providers may find it challenging to put in place the necessary protections and processes to ensure that the information is shared appropriately. There

[21] Where appropriate in this context means subject to consent, confidentiality and information governance requirements such as the Data Protection Act 1998, the updated Caldicott principles and the NHS Confidentiality Code of Practice.

are a number of resources available to support them in resolving these challenges, including, for example, those from the Information Governance Alliance.[22]

Examples of sharing information effectively

- Work with other local providers and care co-ordinators to support or improve multidisciplinary working across organisations.
- Develop mechanisms for capturing the preferences of patients and service users for how information about them is shared, consulting where appropriate with carers and family members.
- Establish processes to ensure seamless and timely movement of patients and service users between different organisations or care settings.
- Work with other local providers to introduce for certain patients and service users a system of shared care plans that address multiple needs, are accessible by all relevant staff and include clear protocols for which service leads care delivery in different situations.
- Explore ways to make IT systems useable or compatible between providers, or other ways to share information by, for example, using applications or web-based tools in line with the Caldicott principles[23] and the National Information Board framework for using data and technology to improve patient outcomes[24] or working with the Health and Social Care Information Centre to explore systems for viewing summary care records.[25]
- Support patients and service users to access their own records in transparent and user-friendly ways.

[22] The Information Governance Alliance (http://systems.hscic.gov.uk/infogov/iga) is developing guidance to support integrated care, for example, on integrated discharge planning. For more information, please email: IGA@nhs.net

[23] Further information on these principles and the Caldicott Review can be found at: http://webarchive.nationalarchives.gov.uk/+/www.dh.gov.uk/en/publicationsandstatistics/publications/publicationspolicyandguidance/browsable/dh_5133529 and www.gov.uk/government/uploads/system/uploads/attachment_data/file/192572/2900774_InfoGovernance_accv2.pdf

[24] The National Information Board framework can be found here: www.gov.uk/government/publications/personalised-health-and-care-2020

[25] More information can be found here: http://systems.hscic.gov.uk/scr/implement

4 Ways in which providers may breach the integrated care licence condition

This section sets out examples of actions and behaviours by providers that could reasonably be regarded as against the interests of patients and service users and in breach of the integrated care licence condition. The examples focus on behaviours or actions that are within a licensee's control. They are not intended to be an exhaustive list of behaviours that could breach the licence condition and should not be used as a compliance checklist.

We will take a proportionate response to any actions or behaviours that may amount to a breach of the integrated care licence condition in accordance with our enforcement guidelines (see Section 5 'How we take enforcement action').

Many of the behaviours that enable the delivery of care in an integrated way are also fundamental to the delivery of safe and effective care. Many issues that relate to integrated care are also relevant to other aspects of the quality of service delivered by an organisation or an individual and may be more appropriately dealt with by another regulator such as the Care Quality Commission or a professional body. Where appropriate, we will work with other organisations to understand the scope of the potential breach and will refer matters to or work alongside other organisations when we believe a matter is better handled by someone else.[26]

Using the National Voices 'I statements' and considering where providers in particular play an important role, we have identified three general areas where providers' behaviour could act as a barrier to people receiving person-centred care:

- behaviours that may prevent constructive engagement with other health and care bodies or signposting complementary services to patients and service users
- behaviours that could act as a barrier to appropriately sharing a person's health and care history and effective patient handovers
- behaviours that could act as a barrier to multidisciplinary team working and care planning.

Under each area we have provided examples of behaviours that could constitute a licence breach, plus a more detailed descriptive scenario.

[26] See for example the Memorandum of Understanding between Monitor and Care Quality Commission at www.gov.uk/government/uploads/system/uploads/attachment_data/file/407699/Monitor_and_CQC_Memorandum_of_Understanding_26_February_2015.pdf

4.1 Behaviours that may prevent constructive engagement with other health and care bodies or signposting complementary services to patients and service users

To deliver services in an integrated way, providers should work with and communicate effectively with other health and social care organisations, as well as with patients, service users and their families.

Providers should also ensure that patients and service users are aware of the different services provided by other organisations that could support their health and wellbeing. For example, a community podiatrist treating someone living in poor housing conditions should engage appropriately with relevant local authority departments (such as environmental health); or clinicians working with paediatric patients and service users should engage with educational providers where relevant and appropriate. This approach helps to ensure that patients and service users have access to the full range of services they require, regardless of their initial point of contact.

Examples of behaviours preventing constructive engagement include licensees:

- failing to respond to commissioners' reasonable requests to discuss how local services can be better co-ordinated
- refusing reasonable requests to engage with another organisation (either from a commissioner or the provider) about delivering integrated care to patients and service users
- obstructing the progress of integrated care plans, including by incorrectly citing existing rules and regulations (such as procurement rules or the national tariff) [27]
- refusing to direct service users or patients to complementary services that may help meet their needs
- refusing to engage with organisations that are not NHS foundation trusts or NHS trusts about how services can be better co-ordinated.

[27] Where a provider is unsure about the correct application of the rules or regulations, we can offer informal advice.

Scenario 1: How poor engagement and communication between providers could hamper integrated care

An acute trust has worked with local community providers to develop a model of care aimed at providing people at immediate risk of hospital admission with safe and intensive care at home, to reduce avoidable admissions. The plans are likely to affect the admission rate of neighbouring acute trusts.

One neighbouring trust with significant influence has repeatedly raised concerns to commissioners and other providers about the model of care, specifically that it may delay a patient being reviewed by a specialist and cause serious patient harm. Local commissioners suspect these concerns may be unfounded but do not want the plans to progress until they are confident the proposed model of care is safe. The neighbouring trust says there is evidence that substantiates its concerns but does not provide it when asked. Its staff also repeatedly fail to attend meetings to discuss the concerns. The trust's behaviour therefore makes it hard for the community providers and acute trust to develop their plans, causing material delays to the implementation of more co-ordinated care that may ultimately benefit patients.

4.2 Behaviours that could act as a barrier to appropriately sharing a person's health and care history and effective patient handovers

Sharing a person's health and care records and history appropriately[28] is an important enabler of integrated care, particularly when a patient or service user is treated by different health and care professionals across multiple settings and providers. Effective communication between different providers involved in a patient's or service user's care is also important whenever they are transferred from the care of one provider to another (eg discharging someone from a hospital into the care of their GP or a social care provider, or when a patient or service user has requested to transfer to another provider).

Examples of these behaviours include licensees:

- withholding access to a patient's or service user's medical records from other providers involved in the delivery of their care, unless done in accordance with data protection, Caldicott principles and patient confidentiality obligations[29]
- not responding to complaints about compliance with information-sharing protocols, not monitoring compliance with protocols, not taking appropriate action if protocols are not followed

[28] Subject to consent, confidentiality and information governance requirements such as the Data Protection Act 1998, the updated Caldicott principles and the NHS Confidentiality Code of Practice.
[29] Such as the Data Protection Act 1998, the updated Caldicott principles and the NHS Confidentiality Code of Practice.

- not responding to complaints by other providers about the quality of discharge summaries or handover notes
- not giving liaison staff[30] access to the care records they need to fully assess service users and patients, when sharing protocols have been agreed
- unnecessary delays in the handover of patient or service user records or care plans when service users and patients are discharged to different providers
- failure to make adequate plans for transferring patient or service user records, or unnecessary delays implementing planned transitions, when a service or part of a pathway is reconfigured or transferred from one provider to another.

Scenario 2: How a licensee might fail to respond to complaints about compliance with information-sharing protocols

Local providers involved in delivering care and support services to people with drug and alcohol addiction have developed common assessment forms and agreed information and confidentiality policies for sharing assessments between agencies. The aim is for assessment by one provider to act as a passport into other required services and for the appropriate amount of information to be shared between agencies, depending on the patient's circumstances and in line with confidentiality requirements.

Teams at the local mental health trust, including the liaison psychiatry team and one of the drug and alcohol teams, have become aware of several cases where the local acute trust did not inform them of relevant A&E attendances and did not share the assessment form according to agreed protocols. The acute trust refuses to discuss the mental health teams' concerns with them. This makes it difficult for the teams to identify the cause of the breakdown in the agreed processes, or identify possible solutions and may result in delays to some people accessing the mental health services they require. This behaviour may also result in some people needing to undergo duplicated assessments or their teams not being informed of input from A&E which may affect their ongoing care.

[30] Liaison staff may undertake various roles related to care co-ordination: for example, organising multidisciplinary case conferences, helping people to book appointments and ensuring information about the patient or service user is provided to their GP or case manager.

4.3 Behaviours that could act as a barrier to multidisciplinary team working and care planning

Multidisciplinary teams involve a range of professionals (from the same organisation or different organisations) working together to plan and deliver care for a specific patient or population group. In many cases, they are essential to the delivery of integrated care. A licensee may have a detrimental effect on enabling integrated care by not giving staff suitable support and resources to work effectively in multidisciplinary teams across providers. Licensees should ensure that staff are aware of the emphasis on and importance of multidisciplinary team working and care planning in delivering integrated care.

Examples of these behaviours include licensees:

- refusing to allow staff to attend multidisciplinary team meetings at other provider sites
- refusing appropriate support and resources for staff working in multidisciplinary teams across different providers
- refusing to discuss with other providers the scope for developing shared care plans.

Scenario 3: How a licensee might fail to support multidisciplinary team working

A care co-ordinator responsible for frail individuals in the local area regularly invites health and care professionals involved in patients' and service users' care to attend multidisciplinary team meetings. The meetings aim to facilitate co-ordination, review patient progress, revise shared care plans and discuss any issues and concerns.

One of the local providers does not allow staff enough time to attend these meetings so the staff feel they do not have permission to attend, and the relationships between professionals from the different providers become strained. Multidisciplinary team meetings are unable to function effectively and people cannot benefit from their cases being discussed by all the relevant professionals. This means services are not provided in a joined-up way.

5 How we take enforcement action

We will enforce the integrated care licence condition consistently with how we enforce all the other licence conditions. Below we give a brief overview of our approach to identifying and investigating potential licence breaches. For further details, please refer to Monitor's 'Enforcement guidance'.[31]

If an NHS trust is potentially in breach of the integrated care licence condition, we may investigate and will inform the NHS Trust Development of our investigation. [32] If we investigated we would advise the NHS Trust Development of our findings and make recommendations. The NHS Trust Development will take account of our advice and recommendations and will notify us of any decision it takes in light of them.

Whether we investigate a possible breach of the integrated care licence condition depends on the circumstances of the case, including whether the conduct is likely to be against the interest of patients and service users. We may depart from this guidance depending on the circumstances of the case, for example if an investigation raises new issues. If this happens, we will acknowledge that we have done this and will give our reasons for doing so.

5.1 Identifying possible breaches

There are a number of ways we can become aware of a potential breach, including:

- complaints from third parties
- intelligence from another regulator or authority
- facts that emerge from our current or completed cases and reviews of enforcement investigations
- our own knowledge of the sector.

We can start investigations in reaction to complaints or on our own initiative.

Anyone can make a complaint regarding suspected breaches of the integrated care licence condition, including a provider, a commissioner, a representative body, a patient group or an individual user of healthcare services. Guidance on how to complain about a potential licence breach, including where to send a complaint and who to speak to, is available on our website.[33]

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[31] www.gov.uk/government/uploads/system/uploads/attachment_data/file/284474/ToPublishEnforcementGuidance28March13_0.pdf

[32] Section 5(1) and Annex A of the NHS Trust Development and Monitor Partnership Agreement set out the equivalent obligations that NHS trusts must comply with. See www.ntda.nhs.uk/wp-content/uploads/2013/08/Monitor-and-TDA-Partnership-Agreement-2014-15.pdf for further details.

[33] See here: www.gov.uk/government/organisations/monitor/about/complaints-procedure#complain-about-choice-or-competition

A potential breach may relate to the integrated care licence condition in isolation or form part of a wider investigation involving other parts of the provider licence, such as the choice or competition conditions.

5.2 Deciding to investigate

When we become aware of a potential breach we will consider how to proceed in accordance with our prioritisation principles to ensure that we make the best use of the resources available to us. The general procedure we follow (including our prioritisation principles) and the possible consequences of breaching the licence condition are set out in our 'Enforcement guidance'.

We make prioritisation decisions by weighing up the costs and benefits of a particular course of action. Factors we expect to consider include the likely direct and indirect benefits to service users and patients, the likelihood of success,[34] and the likely cost of resources needed to take that particular action.

We apply our prioritisation principles to decisions about whether to begin a case, and whether to continue with a case that is under way. We also apply these principles when deciding to take informal or formal enforcement action.

Each year we publish an annual plan which provides further detail about our main actions for the year ahead and where we are likely to prioritise our advice and investigations. This plan sits alongside our overall strategy, which sets out our long-term plan for achieving our mission.

5.3 Process for conducting cases

We have set out in our 'Enforcement guidance' the general procedures we follow when conducting a case that may result in us taking formal enforcement action.

The Health and Social Care Act 2012 does not specify a time period within which we must complete an investigation of a suspected licence breach. However, we will publish an indicative timetable as each case begins. This will provide the parties involved with further details on our expected process and indicative timescales. If we expect our timescales to change significantly during an investigation, we will advise the parties accordingly and explain why.

We can decide not to continue with a case at any point during an investigation without further action if, for example, we consider there is insufficient evidence of a breach or that a formal investigation should no longer be prioritised. We will publish reasons for a decision not to continue with a case on our website.

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[34] For example, whether we expect to be able to gather sufficient evidence to be satisfied that a condition has been breached.

5.4 Consequences of a licence breach

Our enforcement powers and the potential consequences of a licence breach are set out in our ‘Enforcement guidance’.

Where we find a licensee is breaching, or has breached, one or more of its licence conditions, including the integrated care licence condition, we may require them to take action. Monitor’s powers include, but are not limited to, requiring a licensee to:

- take steps to ensure that the breach in question does not continue or recur
- take action to restore the situation to what it would have been were the breach not occurring or had the breach not occurred
- pay a financial penalty.

We can revoke a provider’s licence if the licensee has failed to comply with a licence condition. We do not expect to consider revoking a licence often – to do so would prevent a provider from continuing to provide NHS healthcare services. We would only do so where it was the appropriate remedy for the breach.[35]

5.5 Informal advice

As set out earlier, we are often asked to provide informal advice to people who have queries or concerns about how the licence conditions are likely to apply in particular circumstances, including how any plans for integrated care may interact with the competition and choice licence condition or our competition and pricing powers. If you are seeking informal advice or simply wish to discuss whether to request informal advice, please refer to the contact details on our website.[36]

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[35] We explain when we might consider revoking a licence on page 34 of our enforcement guidance: www.gov.uk/government/uploads/system/uploads/attachment_data/file/284474/ToPublishEnforcementGuidance28March13_0.pdf

[36] Information on how to contact us is here: www.gov.uk/integrated-care-ask-a-question-or-make-a-complaint

Annex A NHS Provider Licence Condition IC1: Provision of integrated care

1. The Licensee shall not do anything that reasonably would be regarded as against the interests of people who use health care services by being detrimental to enabling its provision of health care services for the purposes of the NHS to be integrated with the provision of such services by others with a view to achieving one or more of the objectives referred to in paragraph 4.

2. The Licensee shall not do anything that reasonably would be regarded as against the interests of people who use health care services by being detrimental to enabling its provision of health care services for the purposes of the NHS to be integrated with the provision of health-related services or social care services by others with a view to achieving one or more of the objectives referred to in paragraph 4.

3. The Licensee shall not do anything that reasonably would be regarded as against the interests of people who use health care services by being detrimental to enabling it to co-operate with other providers of health care services for the purposes of the NHS with a view to achieving one or more of the objectives referred to in paragraph 4.

4. The objectives referred to in paragraphs 1, 2 and 3 are:

   (a) improving the quality of health care services provided for the purposes of the NHS (including the outcomes that are achieved from their provision) or the efficiency of their provision,

   (b) reducing inequalities between persons with respect to their ability to access those services, and

   (c) reducing inequalities between persons with respect to the outcomes achieved for them by the provision of those services.

5. The Licensee shall have regard to such guidance as may have been issued by Monitor from time to time concerning actions or behaviours that might reasonably be regarded as against the interests of people who use health care services for the purposes of paragraphs 1, 2 or 3 of this Condition.

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