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Securing meaningful choice for patients:
CCG planning and improvement guide

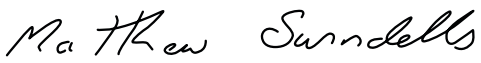
August 2016

NHS England
NHS Improvement

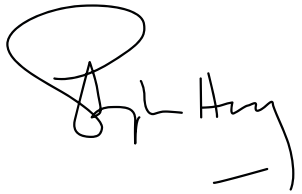
Foreword

- Choice is a key component of the NHS Five Year Forward View and is central to the future of the NHS. Clinical Commissioning Groups (CCGs) have a duty* to enable patients to make choices, and to promote their involvement in decisions in respect of their care or treatment.
- Survey evidence shows that progress towards achieving meaningful choice has stalled. A radical upgrade of choice is now needed across the whole of the NHS in England, and in particular, concerted action is required to improve patient choice in elective services to help deliver the Referral-To-Treatment (RTT) waiting times standard.
- Improvements are needed not only for currently commissioned services but also in the planning and development of new services. This includes embedding patient choice within new care models, and in Sustainability and Transformation Plans (STPs).
- Driving up the utilisation of the NHS e-Referral Service (e-RS) - as a key enabler for both choice and more efficient referrals - is an NHS priority. CCGs are expected to help deliver the Quality Premium measure of 80% utilisation by March 2017. This will be replaced by a Commissioning for Quality and Innovation (CQUIN) for 2017/18, to help achieve 100% utilisation. For 2018, consideration will be given to making electronic referrals a condition of national tariff. The system therefore has a limited window, but clear financial incentives, to embed e-RS within the next 18 months.
- Improving the information available for patients, ensuring that they are consistently offered choice, and raising their awareness - particularly of their legal rights - are also high priority.
- This guide is designed to help CCGs deliver their statutory duties by highlighting the actions they now need to take to make choice work well for the populations they serve. NHS England and NHS Improvement will provide practical support to help CCGs implement this guide and address any areas of difficulty. CCGs' progress will be monitored, including through STPs and the CCG Improvement and Assessment Framework.

* NHS Act 2006, sections 14U and 14V.



Matthew Swindells
National Director for Operations and Information, NHS England



Stephen Hay
Executive Director of Regulation/Deputy Chief Executive, NHS Improvement

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Executive summary

- Choice is a key component of the NHS Five Year Forward View and is one of the NHS England Mandate commitments. CCGs have a duty to enable patients to make choices, and to promote the involvement of patients in decisions about their care and treatment.
- CCGs are encouraged to focus specifically on:
  - Choice of provider and team for first outpatient appointments
  - Choice of a suitable alternative provider if patients are not able to access certain services within the Constitutional waiting time standards
- The guide sets out a number of enablers for patient choice, and actions that can be taken to deliver each of these. CCGs should self-assess against these actions to determine areas for improvement. The enablers are as follows:
  1. Patients are aware of their choices, including their legal rights, and actively seek and take up the choices available to them;
  2. GPs/referrers are aware of, and want to support patients in exercising, the choices available to them;
  3. Patients and GPs/referrers have the relevant information to help patients make choices about their care and treatment;
  4. Commissioners and providers build choice into their commissioning plans, contracting arrangements and provision;
  5. Choice is embedded in referral models, protocols and clinical pathways;
  6. Assurance and enforcement.
- Based on the answers to the self assessment, CCGs are encouraged to develop an improvement plan to maximise opportunities for choice locally when securing sustainable services. CCGs are also asked to share areas of best practice locally, for promotion on a larger scale.

Introduction

Commissioners have the opportunity to make meaningful choice a reality for patients in 2016/17 and need to ensure that it is included in their STPs and the implementation of new care models.

Commissioners need to know how well choice is working in their localities, in order to help them decide where to focus their improvement efforts.

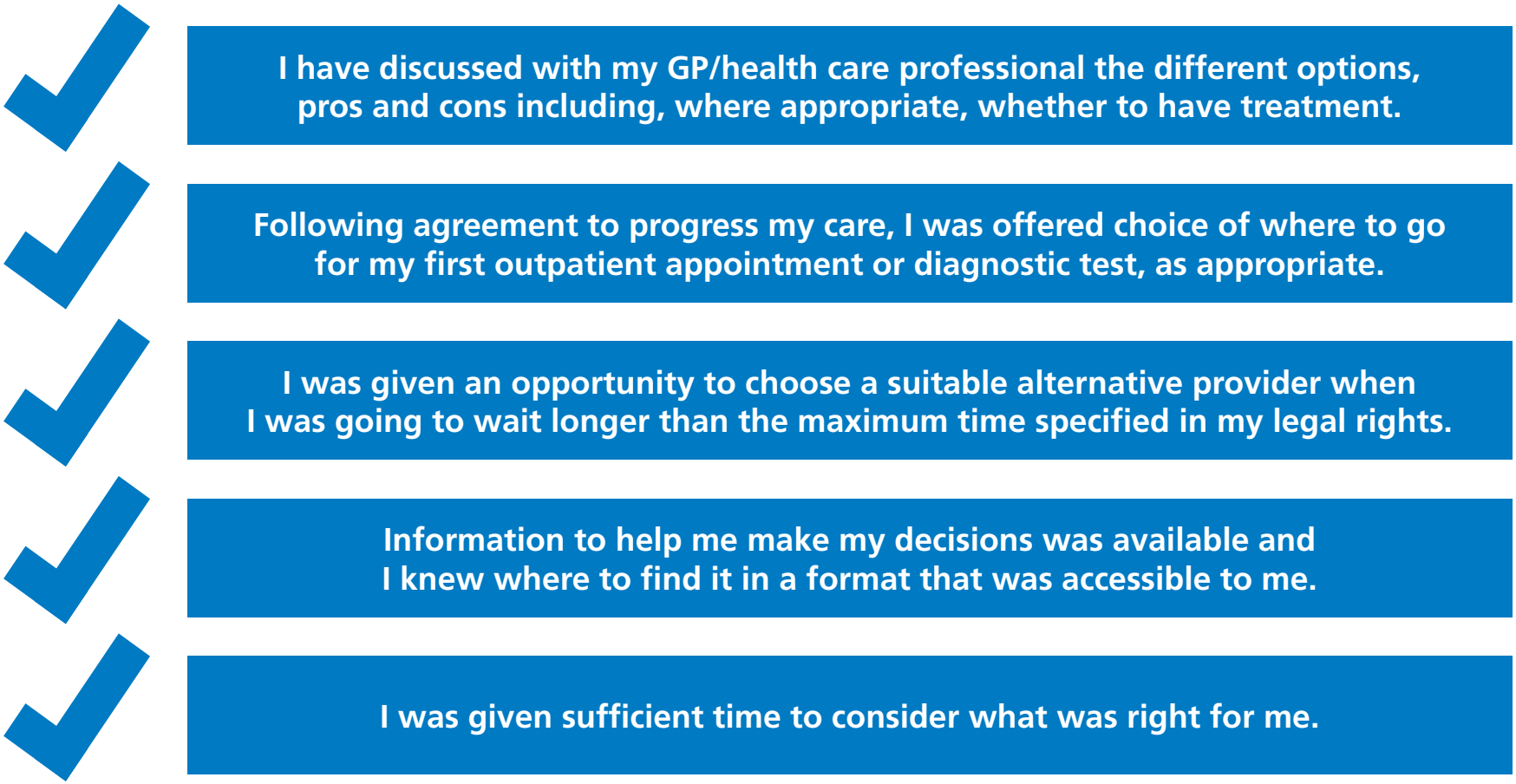
This guide sets out more detail on the fundamental enablers for effective patient choice and the key actions needed to strengthen or put them in place.

This guide is a 'live' document that will be reviewed and updated over time to reflect best practices, incorporate case studies, and take account of any other relevant developments.

If you have any comments on or queries about this guide please email england.choice@nhs.net.

Meaningful choice

Patients using health services commissioned by CCGs should as a minimum be able to say:



NHS commitments to choice

The importance of patient choice in the NHS has been reinforced by three recent publications:

Five Year Forward View

- "We will make good on the NHS' longstanding promise to **give patients choice over where and how they receive care**".

NHS England Mandate 2016-17

- "**Significantly improve patient choice**" by 2020.
- "We want people to be empowered to shape and manage their own health and care and **make meaningful choices**".
- "We expect NHS England to support the NHS to maintain and, where possible, improve access to **timely**, quality services".

NHS Planning Guidance 2016/17 - 2020/21

- Local health economies are required to produce a five-year **Sustainability and Transformation Plan** (STP) and a one-year **Operational Plan** for 2016/17.
- The STP should hold underneath it **a number of different specific delivery plans**, and include **plans for a 'radical upgrade' in patient choice and control**.

Choice priorities

This guide is designed to help CCGs embed choice across the full range of services that they commission:

- in physical and mental health elective services*, including specialist tests*;
- in maternity services; and
- in community services, including end of life services.

In implementing the guide, CCGs should place particular emphasis on strengthening awareness, offer, operation and take up of:

choice of provider and team for first outpatient appointment (routine elective services in physical and mental health)*.

and

choice of a suitable alternative provider if it is not possible for a patient to access certain services within maximum waiting times*.

The right to have a personal health budget (PHB)* is covered by other guidance issued by NHS England. The expectation that CCGs lead a major expansion of personal health budgets is set out in the 2016/17 NHS Planning Guidance.

Note: The choices available to patients in the NHS are detailed in the Choice Framework.

* Choices underpinned by legal rights laid down in the NHS Responsibilities and Standing Rules Regulations 2012 (as amended).

There are a number of minimum standards on choice that CCGs and providers must meet:

Minimum Standard	Source
Minimum Standard 1: publicising and promoting patients' legal rights to choice Legal requirement	**The NHS Commissioning Board and CCGs (Responsibilities and Standing Rules) Regulations 2012 (as amended):** • Regulation 42 (1) [Commissioners] must make arrangements to ensure that the availability of choice [in elective care services] is publicised and promoted. • Regulation 42 (2) (b) [Commissioners] must publicise details, and promote awareness, of where that information may be found.
Minimum Standard 2: making service information available through NHS e-Referral Service and NHS Choices Contractual requirement	**NHS Standard Contract Service Conditions 2016/17:** • Service Condition 6.2 [Providers] must describe and publish all primary care referred services in the NHS e-Referral Service (e-RS) through a Directory of Service, offering choice of any clinically appropriate team led by a named consultant or healthcare professional, as applicable. • Service Condition 6.3 [Providers] must make the specified information available to prospective service users through the NHS Choices website, and must in particular use the NHS Choices website to promote awareness of the services among the communities they serve, ensuring the information provided is accurate, up-to-date, and complies with the provider profile policy set out at www.nhs.uk.
Minimum Standard 3: reviewing referral, activity and choice trends Contractual requirement	**NHS Standard Contract Service Conditions 2016/17:** • Service Conditions 29.14 and 29.14.1: [At activity management meetings] commissioners and providers must: consider patterns of referrals, of activity and of the exercise by service users of their legal rights to choice.

There are a number of minimum standards on choice that CCGs and providers must meet:

Minimum Standard	Source
Minimum Standard 4: considering broadening the choice offer where patients will benefit Legal requirement	**The NHS (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013:** • Regulation 3 (4) In acting with a view to improving quality and efficiency in the provision of the services, [commissioners] must consider appropriate means of making such improvements, including through - (a) services being provided in a more integrated way (b) enabling providers to compete to provide the services, and (c) allowing patients a choice of provider of the services.
Minimum Standard 5: ensuring that, for any services where patients have legal rights to choice, any provider of these services that meets the relevant criteria is made available for patients to choose from Legal requirement	**The NHS (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013:** • Regulations 7 (2)(a) and (3) When determining which providers qualify to be included on a list from which a patient is offered a choice of provider in respect of first outpatient appointment with a consultant or a member of a consultant's team, a [commissioner] may not refuse to include a provider on a list where that provider meets the criteria established by the commissioner.
Minimum Standard 6: ensuring that patients are offered a choice of provider and team for a first appointment upon referral to an elective service Legal requirement	**The NHS Commissioning Board and CCG (Responsibilities and Standing Rules) Regulations 2012 (as amended):** • Regulation 39 Commissioners must make arrangements to ensure that a patient requiring an elective referral for a first outpatient appointment with a consultant or a member of a consultant's team for a physical health condition, or a consultant, a member of a consultant's team or health care professional for a mental health condition, is offered a choice of any clinically appropriate provider and team engaged by that provider.

There are a number of minimum standards on choice that CCGs and providers must meet:

Minimum Standard	Source
Minimum Standard 7: using NHS e-Referral Service Contractual requirement and associated Quality Premium measure	**NHS Standard Contract Service Conditions 2016/17:** • Service Condition 6.2.4 Commissioners must use all reasonable endeavours to ensure that all referrals by GPs and other primary care referrers are made through the NHS e-Referral Service. **GMS Contract 2016/17:** • We have agreed to aim for at least 80% of elective referrals to be made electronically by 31 March 2017. **Quality Premium Guidance for 2016/17:** • Increase in the proportion of GP referrals made by the NHS e-Referral Service: to meet a level of 80% by March 2017 with a year on year increase in the percentage.
Minimum Standard 8: acceptance of all clinically appropriate referrals Contractual requirement	**NHS Standard Contract Service Conditions 2016/17:** • Service Conditions 6.6 and 6.6.1 Providers must accept any referral of a service user made in accordance with the referral processes and clinical thresholds set out or referred to in the contract and/or as otherwise agreed between the parties and/or as specified in any Prior Approval Scheme, and in any event where necessary for a service user to exercise their legal right to choice as set out in the NHS Choice Framework.

There are a number of minimum standards on choice that CCGs and providers must meet:

Minimum Standard	Source
Minimum Standard 9: where notified that a patient will not be treated within maximum waiting times, commissioners must ensure that the patient is offered an appointment with a suitable alternative provider(s) Legal and contractual requirement	**The NHS Commissioning Board and CCGs (Responsibilities and Standing Rules) Regulations 2012 (as amended):** • Regulations 47, 48 and 53: If a patient or a person lawfully acting on their behalf notifies the provider or the CCG that the patient has not commenced or will not commence appropriate treatment within maximum waiting times, commissioners must take all reasonable steps to ensure that the patient is offered an appointment with a suitable alternative provider to commence treatment earlier than if the patient continued to wait for treatment at the original provider. If there is more than one suitable provider, the patient must be offered the opportunity to choose from these. **NHS Standard Contract Service Conditions 2016/17:** • Service Condition 6.4 Providers must ensure that the confirmation to the patient of their first outpatient appointment for consultant-led services to which the 18 Weeks Referral-to-Treatment Standard applies includes information as to the patient's rights to access the relevant services within maximum waiting times.

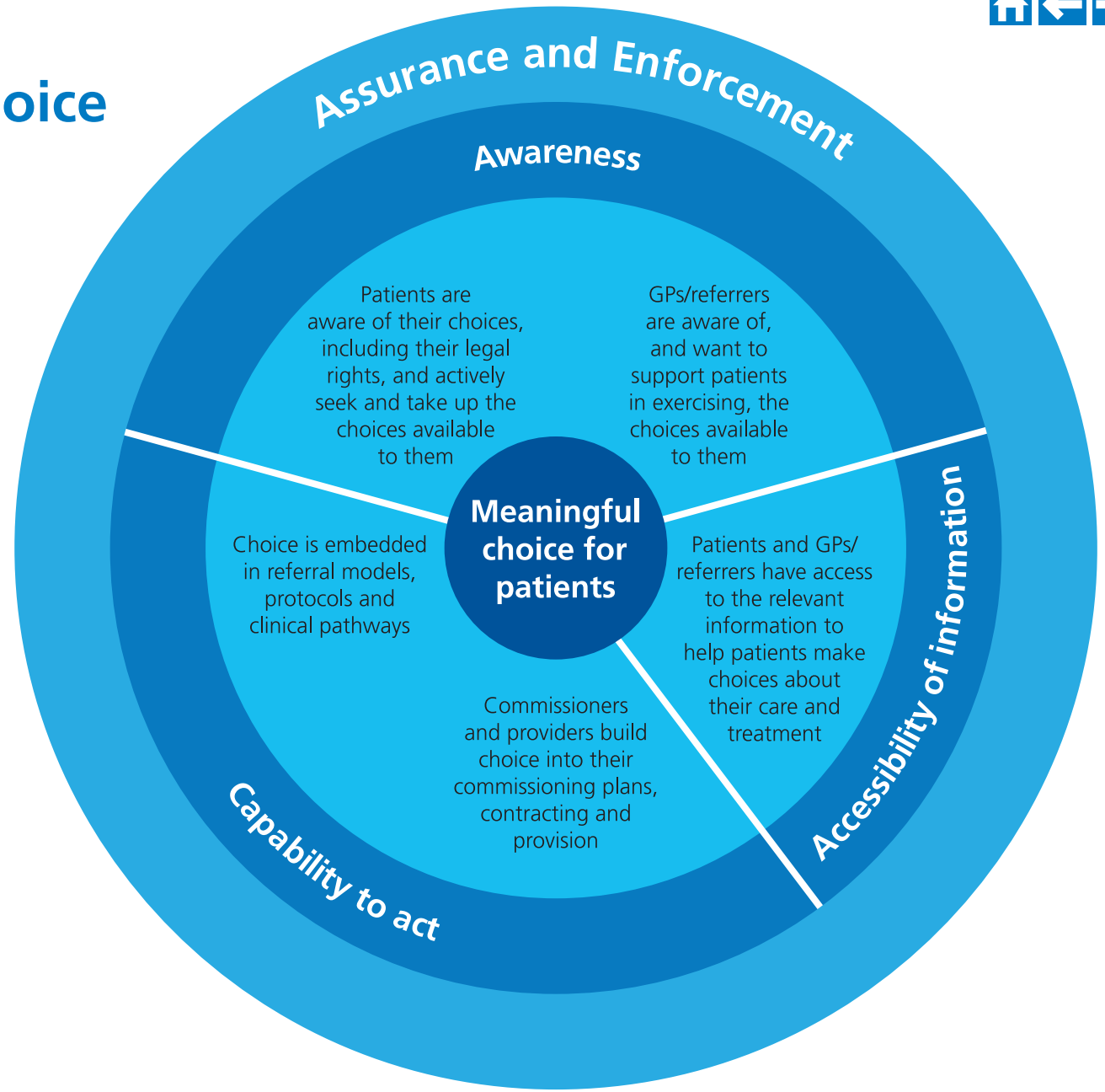
Making choice meaningful

- **To make choice work well for patients, CCGs need to go beyond these minimum standards.**
- **CCGs should use this guide to assess how well choice is currently working locally and identify where there is scope for improvement.**
- By exercising meaningful choices, patients can:
  - Select treatment and services that better meet their needs and preferences
  - Have an improved experience of care
  - Have an effective voice in service design
  - Help to incentivise providers to improve service quality and responsiveness to patient needs and preferences.

Enablers of choice

This model starts from the patient's perspective and illustrates what needs to be in place in order to give them meaningful choice.

If any of these enablers are not in place or are weak, the opportunity for all patients to exercise meaningful choice will be significantly reduced.



Applying the enablers model

NHS England and NHS Improvement have identified a set of detailed actions for CCGs to take within each enabler to make choice work well for patients across the services that CCGs commission.

Assessing the extent to which each of the enablers is present locally will help CCGs know whether the right conditions exist to ensure meaningful choice is available to patients.

The following slides provide a framework against which to develop a baseline self-assessment, and to identify, understand and target any areas for improvement as part of the development of Sustainability and Transformation Plans.

NHS England and NHS Improvement are offering practical support to CCGs in implementing this guide and in developing action plans to close any identified gaps or areas for improvement.

How well are we doing?

Enabler	Actions	R	A	G
1. Patients are aware of their choices, including their legal rights, and actively seek and take up the choices available to them	**1.1** We have a patient choice policy statement, which sets out clear information for patients on: • our choice ambitions as a CCG • the scope and parameters of choice in our locality, and how patients can use choice • contact details and references for further information and support.			
	1.2 We use a comprehensive range of media such as posters in GP surgeries and social media to engage with patients, patient groups and the public to increase awareness and take up of the choices available, including where there are legal rights to choice. **Minimum Standard 1: Information on patients' legal rights to choice is publicised and promoted.**			
2. GPs/referrers are aware of, and want to support patients in exercising, the choices available to them	**2.1** We ensure that GPs/referrers are aware of their obligations to: • inform patients of the services in which they have choice • make those choices available to patients • support patients to engage actively with the principles of shared decision making and to make meaningful choices about their treatment and care.			
	2.2 We ask GPs/referrers about the barriers to providing meaningful choice to patients and work with them to overcome these, including where necessary improving processes and pathways.			
	2.3 We regularly update our GPs/referrers about which providers we have contracted with and what services they offer.			

How well are we doing?

Enabler	Actions	R	A	G
3. Patients and GPs/referrers have the relevant information to help patients make choices about their care and treatment	**3.1** We ensure that information we publish is easy to find so that GPs/referrers and patients can compare relevant details about the provision available, including about: • the 3 dimensions of quality - safety, effectiveness and patient experience • waiting times and referral to treatment performance • other factors important to patients.			
	3.2 We make this information available in plain English, easy read, in ways which meet the needs of people that can't speak English and other formats in line with the Accessible Information Standard.			
	3.3 We ensure that GPs/referrers have clear information about which referrals require prior CCG approval.			
	3.4 We have a process to check that providers are regularly updating the NHS e-Referral Service Directory of Service (DOS) and NHS Choices as per their contractual requirements. **Minimum Standard 2: NHS e-Referral Service DOS and NHS Choices website contain accurate and up-to-date information about our providers' services, and comply with the provider profile policy set out at www.nhs.uk.**			

How well are we doing?

Enabler	Actions	R	A	G
4. Commissioners and providers build choice into their commissioning plans, contracting arrangements and provision	**4.1** We have reviewed the extent of choice across our healthcare economy, including community services, and have articulated our choice aspirations for the next three years in our commissioning plans.			
	4.2 We investigate any significant changes or anomalies in referral patterns. **Minimum Standard 3: There is engagement with providers where referral, activity and choice trends are discussed and actions agreed/monitored.**			
	4.3 As part of our commissioning cycle we analyse referral patterns to identify any trends that might be suggestive of wider quality, accessibility or choice issues.			
	4.4 We regularly engage with incumbent and prospective providers: • to understand what services they can provide • to share information about what is important to patients • to build choice into our contracting approach. **Minimum Standard 4: There are regular reviews to understand how choice is benefitting patients and to consider extending choice beyond the established legal rights, where patients would benefit.** **Minimum Standard 5: We ensure that, for any services where patients have legal rights to choice, any provider of these services that meets the relevant criteria is made available for patients to choose from.**			

How well are we doing?

Enabler	Actions	R	A	G
5. Choice is embedded in referral models, protocols and clinical pathways	**5.1** We provide GPs/referrers with appropriate guidance and information detailing what, when and how choice should be offered, to ensure that impartial information and advice are provided in response to patients' needs and preferences. **Minimum Standard 6: We ensure that patients are offered a choice of provider and team for a first appointment upon referral to an elective service.**			
	5.2 GPs/referrers use e-RS as the default option for all referrals and highlight any problems they encounter with using e-RS. **Minimum Standard 7: We will secure a minimum of 80% e-RS usage by March 2017.**			
	5.3 We have agreements with our providers to honour principles of choice through the pathway, including: • providers making their appointments available on e-RS • providers reducing the number of appointments they cancel • providers accepting all clinically appropriate referrals • providers, both independent and NHS, delivering the full range of services for which they are contracted, so that patients can choose • procedures for providers to highlight any issues. **Minimum Standard 8: All of our contracted providers accept all of their clinically appropriate referrals.**			

How well are we doing?

Enabler	Actions	R	A	G
5. Choice is embedded in referral models, protocols and clinical pathways	**5.4** We have systems in place that are effective in ensuring that, if any patient is going to wait longer than the maximum time specified in their legal rights, they are offered a suitable alternative provider or providers, where available, who are able to see and treat them more quickly than the original provider. **Minimum Standard 9: Where notified that a patient will not be treated within maximum waiting times, commissioners must ensure that the patient is offered an appointment with a suitable alternative provider(s).**			
	5.5 We have systems in place to safeguard and promote the legal rights to choice in mental health services, which support the two national waiting time targets: • more than 50% of people experiencing a first episode of psychosis are treated with a NICE approved care package within two weeks of referral • 75% of adults with common mental health conditions referred to the Improved Access to Psychological Therapies programme will be treated within 6 weeks of referral, and 95% will be treated within 18 weeks of referral.			
	5.6 We have systems in place to notify our GPs/referrers what capacity is available at local providers, so that this can be shared with patients as part of their decision making process, at first referral and where providers are at risk of breaching maximum waiting times.			

How well are we doing?

Enabler	Actions	R	A	G
6. Assurance and enforcement	**6.1** Oversight of the operation of choice in our locality is led by a named member of our CCG's Governing Body.			
	6.2 We regularly test whether local referral systems actually offer choices to patients.			
	6.3 We use our regular contract management meetings, including the terms of our contracts with providers, to address any concerns about how well choice is working.			
	6.4 We measure awareness of choice amongst patients, patient groups and the wider public and track this over time.			
	6.5 We review NHS Improvement investigation reports relating to choice and consider their relevance to the operation of choice in our locality.			

Self-assessment scoring key

	Where there is a minimum standard	Where there are other actions to take
Red	• Not achieving minimum standard* and no robust plans to deliver in 2016/17. • Evidence of practice that is contrary to legal and/or contractual obligations on choice, for example, not securing 80% e-RS utilisation.	• Little evidence of achievement. • No joined up approach or plans to deliver any level of change.
Amber	• Partial compliance, with evidence of progression towards minimum standard. • Clear achievable plans in place to deliver standard in 2016/17.	• Isolated examples of good practice. • Practice occurs, but there is a lack of documented evidence. • Part of action is met, but further work is required to meet full underlying principle e.g. information is published but not in accessible formats. • Actions are underway (or planned) for improvement in 2016/17.
Green	• Meet minimum standard.	• Consistent evidence of achievement across policy, practice and feedback. This should be of a level that you would be confident to submit to NHS Improvement as evidence in any investigation, and to NHS England as an example of best practice.

* Please note, no matter how robust a service or process is, if there is evidence of practice contrary to patients' legal rights, this indicator should be scored as Red and corrective action initiated.

Five key questions for reflection

Having worked through the self-assessment framework, you should be well placed to reflect on the following key questions:

1. **Do we know whether all of our patients are being offered meaningful choice? If not, what can be done to improve our knowledge?**
2. **Are we doing enough to build choice into our commissioning plans and the services we commission?**
3. **Are we adequately promoting choice to our patients?**
4. **Are our clinical pathways, GP/referrer processes and protocols good at offering and facilitating choice including through the use of the NHS e-Referral Service?**
5. **How can we make the most of the opportunities provided by STPs and new care models to make meaningful choice a reality for all of our patients?**

Improvement plan

- The results of the self-assessment should enable CCGs to identify key areas that need to be strengthened, with CCGs deciding their local priorities within the context of STPs.
- Commissioners will need to be able to demonstrate what they are doing to secure meaningful choice for their patients. This could result in a choice plan, developed as one of the delivery plans underpinning the STPs, or be a key component within an STP.
- In its review of STPs, NHS England will look for evidence that CCGs have used this guide to baseline how well choice is working and identify what needs to be improved.
- NHS England and NHS Improvement will offer CCGs practical support to help them:
  - Implement the assessment framework set out in this guide
  - Identify and agree priority areas for improvement
  - Develop robust action plans to remedy or improve how choice works in the services covered by this guide.

Best practice

- In addition to areas requiring improvement, we also expect CCGs through the adoption of this guide to identify areas of strength.
- NHS England and NHS Improvement are committed to identifying, collating and promoting these for national adaptation and adoption.
- We therefore want to hear about areas of the framework that CCGs have RAG rated 'green' or for which they have put in place robust improvement actions.
- We aim to build on this first version of the guide, incorporating best practice materials as well as case study exemplars of improvement in future releases.

Key sources of reference

There is a range of resources to help commissioners think about patient choice and how well it is working for patients:

Department of Health

- NHS Responsibilities and Standing Rules (as amended by the 2013 Regulations and 2014 Regulations)
- NHS Constitution
- Choice Framework
- Procurement, Patient Choice and Competition Regulations

NHS Improvement

- Procurement, choice and competition guidance
- Provider licence
- NHS Improvement Formal Investigations

NHS England resources:

- Choice in Mental Health Care
- NHS Standard Contract
- Who Pays?
- NHS payment system
- GMS Contract 2016/17
- Quality Premium guidance 2016/17

NHS Choices:

- Patient Choice

NHS Digital:

- NHS e-Referral Service

If you have any queries or wish to let us know about an example of good practice please email england.choice@nhs.net.

This information can be made available in alternative formats, such as easy read or large print, and may be available in alternative languages, upon request. Please contact 0300 311 22 33 or email england.contactus@nhs.net.