

Contracts, service agreements and specifications

1. Introduction: contracts, service agreements and specifications

Section 3 of the *Resource pack for commissioners* covers developing service agreements (or contracts) and service specifications. It consists of 8 briefings, including sample service specifications:

- 3.1 Introduction (this briefing)
- 3.2 Service specification tier 2 services: advice and information services
- 3.3 Service specification tier 2 services: needle exchange and harm reduction facilities
- 3.4 Service specification tier 3 services: care planned counselling
- 3.5 Service specification tier 3 services: structured day programmes
- 3.6 Service specification tier 4 services: community prescribing
- 3.7 Service specification tier 4 services: in-patient substance misuse treatment
- 3.8 Service specification tier 4 services: residential rehabilitation services.

The service specifications will be sent out from October to Christmas 2003. The order in which they will be issued may not reflect the list above, as consultation may identify the need to prioritise particular modalities.

2. Aims

The aims of this section are to:

- **Provide guidance** on the development of service (level) agreements and most particularly service specifications, by providing 'samples' for adaptation at local levels, where needed.
- **Identify minimum requirements** that must be included in all service specifications in all DATs.

3. Definitions

3.1 Contracts and service (level) agreements

Service agreements, also known as service level agreements or contracts, must be regarded as the process through which commissioning objectives are achieved. Their function is to regulate the exchange of a specified level of funding in return for a specific intervention/service.

Service agreements must show how resources can best be used to deliver improvements in all aspects of performance, including the setting of targets. They form the basis for on-going dialogue between providers and commissioners and are intended to ensure that interventions are developing as planned and that problems are addressed early.

Service agreements should detail what is required rather than how it should be delivered. They should be comprehensive enough to meet the needs of the commissioning organisations, but flexible enough to allow for innovative interventions from providers and potential providers. Service agreements are

expected to set specific, measurable and achievable objectives that will form the basis of agreeing necessary action and for monitoring progress. They must be under-pinned by agreed arrangements for monitoring and review. They should set what information is needed, in what format and how often.

Service (level) agreements, or contracts, are generally divided into two or three components, which include:

- the conditions or contractual framework
- the service specification(s)
- the schedule (or service level). This is sometimes integrated in the above two sections.

This briefing will not provide detailed information on the development of the service agreement in its entirety. In particular, the legal conditions or contractual framework must be developed with the relevant departments of commissioning organisations. The conditions of a service agreement will differ depending on the commissioning organisation and guidance is available from the relevant departments of NHS primary care trusts, local authorities, the police and probation services.

A list of the contents of the conditions or contractual framework is available in Appendix 1.

3.2 Service specifications

Service specifications are part of the wider contract of service agreement. They are developed and agreed in order to clarify and give further detail on expectations of the level and quality of services and to provide a framework within which the monitoring of actual services can take place.

Service specifications should set objectives, with similar attributes to those of service agreements. The more clearly and precisely the commissioner formulates what they are seeking from the provider, the more likely the specification will be relevant to the objectives of the commissioners.

The sample service specifications provided in these briefings are based on *Models of care*, which sets the national framework that is expected to be available in every part of England.

Service specifications will be published for the range of tiers 1 to 4 services outlined in *Models of care*. In addition to identifying modality-specific requirements, the service specifications will also address issues of diversity and anti-discriminatory practice, workforce and so forth.

4. How to use the guidance on the development of service specifications

4.1 Guidance-only format of service specifications

The sample service specifications are for guidance only. In particular, it is not necessary to follow the exact format of the samples. We are aware that other formats exist, with different sections and headings, and are equally valid.

Where DATs and joint commissioning groups have already developed good service specifications, local documents need not be changed to follow the sample format. Others, with poor or no service specifications, should adapt the samples to meet local needs.

4.2 Mandatory content of service specifications

The sample service specifications identify the minimum service that is required, as identified by *Models of care*. In other words, the samples outline what is expected to be found at all local levels. The samples will clearly differentiate between what should be determined by local decisions and what is a national requirement.

4.3 Adaptation to local need

The sample service specifications should not be used as rigid blueprints, or as a recipe book. On the contrary, the samples have been developed for adaptation at local levels and this is necessary if they are to meet local needs and priorities. DATs and commissioners must ensure that the local specifications reflect a local needs assessment and the local DAT strategy.

Moreover, the samples should not stifle innovation and the local development of new initiatives. It is encouraged that additional elements are added to the specifications and that additional service specifications are developed to reflect local need and response.

4.4 Quality commissioning practice

The development of quality service specification at local level is dependent on a wider effective commissioning practice. Standards for the commissioning of substance misuse services will be published by the NTA in 2003. Until then, it is recommended that commissioners refer to the Substance Misuse Advisory Service (SMAS) (1999) *Commissioning standards: drug and alcohol treatment and care*, London: Health Advisory Service (HAS).

It is recommended good practice that service specification be developed in discussion with service providers and in consultation with service users and carers.

5. Background information

5.1 Conditions or contractual framework

Below is a list of the sections that may be included in the section outlining the 'conditions' or 'contractual framework' of a service agreement.

1. Date of agreement
2. Parties
3. Authorised representatives
4. Object of agreement
5. Period of agreement
6. Status of service provider
7. Status of agreement
8. The service provider's obligations (the service provider agrees to provide the services specified in part B of this agreement, Service specification.)
9. Financial arrangements
10. Financial inspection
11. Constitution and management
12. Information
13. Confidentiality
14. Quality assurance
15. Representations and complaints
16. Equal opportunities
17. Health and safety
18. Use of other organisations
19. Insurance and indemnity
20. Monitoring
21. Termination
22. Consequences of termination
23. Dispute resolutions
24. Notices
25. Force majeure
26. Sub-contracting and assignment
27. Non-performance
28. Review
29. Variation
30. Waiver and cumulative rights

5.2 Statutory and other regulations: policies and procedures

The policies and procedures required from a provider agency are also identified, in either the conditions or the service specification sections of the service agreement. As these are mostly common to all provider services, this guidance on the development of substance misuse treatment service specifications will not repeat them in each briefing.

They must, nonetheless, be explicitly written down in each of the service level agreement or contract developed for each of the provider agencies. These include (list is not exclusive):

- Misuse of Drugs Act 1971
- Medicines Act 1968
- Environmental Health and Hygiene
- Control of Substances Hazardous to Health
- Equal Opportunities
- Race Relations (Amendment) Act (2000)
- Health and Safety at Work Act
- Data Protection Act 1998
- The Client Access to Personal Files Act 1987
- Employment Law and Relevant EU Legislation
- AIDS (Control) Act 1987
- Public Health Act
- NHS and Community Care Act 1990
- Mental Health Act 1983
- Disabled Person Act 1986
- Carers (Recognition and Services) Act 1995
- Children Act 1989
- Human Rights Act
- Relevant European Community Legislation.

The service agreement should also state that the provider is required to have in place effective policies and procedures which promote the well being and safety of service users and staff. These should include but are not restricted to:

- Complaints procedure, (for service users)
- Complaints/grievance procedure, (for paid staff and volunteers)
- Reporting and monitoring of accidents to staff, volunteers and service users
- Equal opportunity in service provision, recruitment and employment
- Child protection
- Occupational health
- Policies relating to confidentiality of information
- HIV/AIDS policies including employment
- Accidents and incidents in the workplace
- Management of violence
- Fire
- Codes of conduct and rights of service users
- Equal opportunities in staff recruitment and service provision
- Training and staff development

Service policies and procedures must have clearly stated objectives, stipulate who is responsible for the implementation of the policy/procedure and make arrangements for monitoring, review and development.

Where legislation or policy relates to a particular service and not to others, for example the Care Standards Act for Residential Rehabilitation Programmes, this will be explicitly identified in the sample service specification.