

FIN 02

Contract Management Policy

Policy applicable to:

NHS East Surrey CCG	✓
NHS Guildford and Waverley CCG	✓
NHS North West Surrey CCG	✓
NHS Surrey Downs CCG	✓

Policy number	FIN 02
Version	1.a
Approved by	Audit Committees
Name of originator/ author	Rachael Graham
Owner (director)	Karen McDowell
Date of last approval	November 2019
Next approval due	April 2020

Version control sheet

Version	Date	Author	Status	Comments / changes since last version
Draft		Rachael Graham	Draft	
1.0	15/11/2019	Final draft	Draft	
1.1	15/11/19	Audit Committees	Final	Typo in section 15 amended.

Equality statement

The Surrey Heartlands' CCGs aim to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. We take into account the Human Rights Act 1998 and promote equal opportunities for all. This document has been assessed to ensure that no employee receives less favourable treatment on the protected characteristics of their age, disability, sex (gender), gender reassignment, sexual orientation, marriage and civil partnership, race, religion or belief, pregnancy and maternity.

Members of staff, volunteers or members of the public may request assistance with this policy if they have particular needs. If the member of staff has language difficulties and difficulty in understanding this policy, the use of an interpreter will be considered.

We embrace the four staff pledges in the NHS Constitution. This policy is consistent with these pledges.

See next page for an Equality Analysis of this policy.

Equality analysis

Equality analysis is a way of considering the effect on different groups protected from discrimination by the Equality Act, such as people of different ages. There are two reasons for this:

- to consider if there are any unintended consequences for some groups
- to consider if the policy will be fully effective for all target groups

Title of Policy: Surrey Heartlands CCGs Contract Management Policy 2019/20	Policy Ref: FIN 02
Assessment conducted by (name, role): Rachael Graham	Start date for analysis: Finish date: 31/3/2020
<p>Give a brief summary of the policy. Explain its aim.</p> <p>The contract management policy sets out principles for managing and ensuring compliance with terms and conditions of the CCGs contracts with the exclusion of Primary Care contracts which are subject to separate policies and procedures.</p> <p>The policy provides guidance on the process for entering, documenting, reviewing and exiting contractual arrangements and seeks to ensure consistency in the robust application of quality and performance oversight of contractual arrangements.</p>	
<p>Who is intended to <u>benefit from</u> this policy? Explain the aim of the policy as applied to this group.</p> <p>Use of the policy will assist the CCG to comply with its statutory requirements. Further, oversight of quality and performance management will bring about benefits for patients by virtue of the early identification of risks and issues and the proactive management/remedy of such.</p>	
<p>1. Evidence considered. <i>What data or other information have you used to evaluate if this policy is likely to have a positive or an adverse impact upon protected groups when implemented?</i></p> <p>The policy requires the receipt, collation and analysis of a range of information requirements to support quality and performance oversight of the contractual requirements of commissioned services which themselves will be/have been subject to Equalities and Health Impact Assessments to ensure that they do not have a negative impact on protected groups.</p> <p>The policy does not in itself impact protected groups and is not an allocation of resource or decision making policy.</p>	
<p>2. Consultation. <i>Give details of all consultation and engagement activities used to inform the analysis of impact.</i></p> <p>The draft policy has been reviewed by Contracts and Quality Team members.</p>	

3. Analysis of impact

In the boxes below, identify any issues in the policy where equality characteristics require consideration for either those abiding by the policy or those the policy is aimed to benefit, based upon your research.

Are there any likely impacts for this group? Will this group be impacted differently by this policy? Are these impacts negative or positive? What actions will be taken to mitigate identified impacts?

a) People from different age groups (Age)	N/A
b) People with disabilities (Disability)	N/A
c) Men and women (Gender or Sex)	N/A
d) Religious people or those with strongly held philosophical beliefs (Religion or belief)	N/A
e) People from black and minority ethnic groups (Race)	N/A
f) People who have changed gender or who are transitioning to a different gender (Gender reassignment)	N/A
g) Lesbians, gay men, bisexual people (Sexual orientation)	N/A
h) Women who are pregnant or on maternity leave (Pregnancy and maternity)	N/A
i) People who are married or in a civil partnership (Marriage and Civil Partnership)	N/A
j) Carers	N/A

If any negative or positive impacts were identified are they valid, legal and/or justifiable? Please detail.

N/A

4. Monitoring- *How will you review/monitor the impact and effectiveness of your actions?*

The policy will require review in April 2020 in line with the development of new ICS and ICP Operating Model.

5. Sign off

Lead Officer:

Date approved:

Contents

1.	Introduction and Policy Objective.....	7
2.	Legislative Framework / Core Standards.....	7
3.	Scope	8
4.	Definitions.....	8
5.	Roles and Responsibilities.....	9
5.1	The Governing Bodies and Committees	9
5.2	Directors and Managers	10
5.3	Policy Owners / Authors	10
5.4	All Staff	10
6.	Procedure	10
7.	Appendix A: Standard Contract Review Meeting Agenda Templates.....	11
8.	Appendix B: Process for Performance Issues	13
9.	Appendix C: Financial and Activity Over Performance	17
10.	Appendix D – Risk Categorisation Tool.....	18
11.	Appendix E – Procedural Document Checklist for Approval	22
12.	Appendix F – Compliance and Audit Table.....	24

1. Introduction and Policy Objective

- 1.1 The CCGs of East Surrey (ES CCG), Guildford & Waverley (GW CCG), North West Surrey (NWS CCG) and Surrey Downs (SD CCG) hereinafter referred to as “the CCGs”, are committed to improving the quality of services and outcomes for patients and securing value for money, through their contractual arrangements with providers.
- 1.2 The CCGs aim to develop a contract management policy that adopts good practice, maximises financial and operational performance and minimises risk.
- 1.3 The contract management policy sets out principles for managing and ensuring compliance with terms and conditions of the CCGs’ contracts with the exclusion of Primary Care contracts which are subject to separate policies and procedures.
- 1.4 The policy provides guidance on the process for entering, documenting, reviewing and exiting contractual arrangements.
- 1.5 This 2019/20 Contract Management Policy will focus on the CCGs’ approach to:
 - Contract duration
 - Contract storage and database (electronic and paper)
 - Contract register
 - Contract management including contract review
 - Contract signing
 - Contract exit

2. Legislative Framework / Core Standards

- 2.1 When considering managing contracts, specific regard should be given to the following (as may be amended):
 - Public Contracts Regulations 2015:
<http://www.legislation.gov.uk/ukxi/2015/102/contents/made>
 - NHS (Procurement, Patient Choice and Competition) (No.2) Regulations 2013: <http://www.legislation.gov.uk/ukxi/2013/257/contents/made>
 - Monitor’s substantive guidance on the NHS (Procurement, Patient Choice and Competition) (No.2) Regulations 2013:
<https://www.gov.uk/government/publications/procurement-patient-choice-and-competition-regulations-guidance>
 - Health & Social Care Act 2012:
<http://www.legislation.gov.uk/ukpga/2012/7/contents/enacted>

- Public Services (Social Value Act) 2012:
<http://www.legislation.gov.uk/ukpga/2012/3/enacted>
- Managing Conflicts of Interest: Revised Statutory Guidance for CCGs (NHS England, June 2016):
<https://www.england.nhs.uk/commissioning/pc-co-comms/coi/>
- Transfer of Undertakings and Protection of Employment Regulations (TUPE) 2006:
<http://www.legislation.gov.uk/uksi/2006/246/regulation/4/made>
- Equality Act 2010: <http://www.legislation.gov.uk/ukpga/2010/15/contents>
- Bribery Act 2010: <http://www.legislation.gov.uk/ukpga/2010/23/contents>

2.2 Regard will also be given to applicable guidance as may be published from time to time by: The Cabinet Office; Department of Health; NHS England; and NHS Improvement.

3. Scope

3.1 The contract management policy sets out principles for managing and ensuring compliance with terms and conditions of the CCGs' clinical contracts with the exclusion of Primary Care contracts which are subject to separate policies and procedures.

4. Definitions

Acronym	Definition
Activity and Finance Report	A report showing actual Activity and the associated costs to Commissioners, in the format agreed and specified in Schedule 6A (Reporting Requirements)
Activity Query Notice	A notice setting out in reasonable detail a query on the part of the Co-ordinating Commissioner or the Provider in relation to levels of Referrals and/or Activity
CQUIN	Commissioning for Quality and Innovation
Data Quality Improvement Plan or DQIP	An agreed plan setting out specific data and information improvements to be achieved by the Provider in accordance with the timescales set out in that plan (which may comprise or include any DQIP agreed in relation to a Previous Contract) as appended at Schedule 6B (Data Quality Improvement Plan)
Exception Report	A report issued in accordance with GC9.20 (Contract Management) notifying the relevant Party's Governing Bodies of that Party's breach of a Remedial Action Plan and failure to remedy that breach

Acronym	Definition
GMS	General Medical Services
General Condition or GC	any of the General Conditions forming part of the Contract
Indicative Activity Plan	a plan identifying the anticipated indicative Activity and specifying the threshold for each Activity (which may be zero) for one or more Contract Years, set out in Schedule 2B (Indicative Activity Plan) and reflecting, where applicable, the anticipated level of services on the basis of which the relevant Value of Planned Activity has been calculated
Particulars	The Particulars to the Contract
Quality Requirements	The Operational Standards, the National Quality Requirements, the Local Quality Requirements and the Never Events
Remedial Action Plan or RAP	A plan to rectify a breach of or performance failure under the Contract (or, where appropriate, a Previous Contract), specifying actions and improvements required, dates by which they must be achieved and consequences for failure to do so, as further described in GC9.12 (Contract Management)
Review Meeting	A meeting to be held in accordance with GC8.1 (Review) at the intervals set out in the Particulars or as otherwise requested in accordance with GC8.4 (Review)
Service Development and Improvement Plan or SDIP	An agreed plan setting out improvements to be made by the Provider to the Services and/or Services Environment (which may comprise or include any Remedial Action Plan agreed in relation to a Previous Contract), as appended at Schedule 6D (Service Development and Improvement Plan)
Variation	A variation to the provisions of the Contract agreed to be made by the Parties in accordance with GC13 (Variations) which may be a Service Variation, a National Variation, or any other variation

5. Roles and Responsibilities

5.1 The Governing Bodies and Committees

- The Governing Bodies and its sub committees are responsible for reviewing the Quality and Performance reports that arise from the

intelligence and information achieved via the required reporting gained through robust contract, quality and performance management.

- On occasion it may be necessary to escalate matters of non-compliance, risk issues or remedial proposals for approval by Governing Bodies.

5.2 Directors and Managers

- The Chief Finance Officer is accountable for the Contracts function.

5.3 Policy Owners / Authors

- The Policy Owners are the Deputy Directors of Contracts and are responsible for ensuring that the contract team members, working with their colleagues across the Quality and Performance teams, implement and deliver the policy.

5.4 All Staff

- All staff across the CCGs involved in Contracts, Quality and Performance are responsible for the delivery of their roles as defined by the policy.

6. Procedure

- 6.1 The policy acts as a procedure and should be adopted by all members of the contract team.

7. APPENDIX A: Standard Contract Review Meeting Agenda Templates

As far as possible there will be a standard agenda and standard papers as shown below:

7.1 Acute Contract Review Meeting

Item No.	Item	Presenter	Paper ref no.	Time
1	Welcome and Introductions	Chair		
2.	Declarations of Interest Pertinent to Items on this Agenda	ALL		
3.	Declaration of Conflict of Interest (Surrey Heartlands CCGs Attendees Only) <ul style="list-style-type: none"> • To Receive confirmation from all Members that their entry in the Register of Interests is up-to-date, accurate and complete. • To Receive confirmation from all Members that their entry in the Hospitality, Gifts and Sponsorship Register is up-to-date, accurate and complete. • To Receive any Declarations of Interest pertinent to items on this Agenda. 	SH CCG reps		
4.	Service Delivery Report Inc. Constitutional Standards	Provider		
5.	Service Quality Performance Summary Report	Quality Team		
6.	Activity and Finance Performance against plan (Mth x)	All		
7.	CIP/QIPP Progress report	All		
8.	Information Governance/EPRR (Quarterly)	Provider		
9.	Service Delivery Improvement Plan Report (Inc. Service Developments)	Provider		
10.	Data Quality Improvement Plan Report	Provider		
11.	Any Other Business	All		

7.2 Community Contract Review Meeting

Item No.	Item	Presenter
1	Welcome and Introductions	Chair
2.	Declaration of Conflict of Interest (Surrey Heartlands CCGs Attendees Only) <ul style="list-style-type: none"> • To Receive confirmation from all Members that their entry in the Register of Interests is up-to-date, accurate and complete. • To Receive confirmation from all Members that their entry in the Hospitality, Gifts and Sponsorship Register is up-to-date, accurate and complete. • To Receive any Declarations of Interest pertinent to items on this Agenda. 	All
3.	Review and Approval of Previous Meetings Minutes	All
4.	Matters Arising and Review of Actions from Last Meeting	Chair
5.	Formal Receipt of Latest Approved QPRM Item to follow	Chair
7.	Quality, Performance and Information Review <ol style="list-style-type: none"> 1. Escalation Items from QPRM 2. Transformation Update (STOG) 	
9.	Review of Financial Schedule (Jan 19, April 19, July 19, Oct 19)	
10.	CQUIN (Quarterly post CQUIN Panel Dates)	
11.	Any Other Business	ALL
Next meeting		

8. Appendix B: Contract Management Process for Performance Issues

8.1 Contract management process lifted from the NHS Standard Contract 2017/2019

45.6 *The stages of the contract management process are set out in the flowchart below, but we have also clarified some points below about the way in which the process is intended to work.*

Informal queries and Contract Performance Notices:

45.7 *Factual queries to aid understanding should normally be handled informally between the parties or, if necessary, more formally under SC28. By contrast, the formal Contract Management process is initiated through a Contract Performance Notice when either party has a clear understanding that the other has, or may have, breached a contractual obligation.*

Joint Investigations:

45.8 *Where a Contract Performance Notice has been discussed and is not withdrawn, the default position is that a Remedial Action Plan (RAP) is agreed (and/or, if the safety of patients, staff or the public is at risk, an Immediate Action Plan is implemented). However, where there is disagreement between the parties about whether either form of action plan is required, they must undertake a Joint Investigation (to be completed within two months).*

Exception Reports:

45.9 *GC9 makes provision for the issue of an Exception Report where a party has breached the requirements of a RAP. Exception Reports offer the opportunity for the injured party to set out formally, to the highest management tier within the other party, the contractual requirement which has been breached and the remedial action which is urgently required.*

45.10 *GC9 gives the co-ordinating commissioner the power to withhold funding following the issue of an Exception Report – see 45.12 below.*

Remedial Actions Plans and financial consequences:

45.11 *A RAP may set out both actions to be undertaken and improvements to be achieved and maintained, with the RAP setting out required timescales for each.*

45.12 *Clearly, the intention of a RAP is that it leads to remedy of the contractual obligation that has been breached. But the Contract sets out provisions which apply where this is not the outcome.*

By agreement, a RAP may include reasonable and proportionate financial consequences (on either the provider or the commissioners) which are to be applied where the actions / outcomes set out in the RAP are not undertaken / achieved as the RAP requires. Where this is the case, these financial consequences may be applied immediately the breach of the RAP is clear. No Exception Report is required in order for these financial consequences to be exercised.

Alternatively, where no immediate financial consequences are agreed as part of the RAP itself and where the provider breaches the RAP, the co-ordinating commissioner has the opportunity under GC9 to issue an Exception Report.

The co-ordinating commissioner may at this point withhold funding (“a reasonable and proportionate sum of up to 2% of the Annual Monthly Value” in respect of each action not completed or improvement not met, “subject to a maximum monthly withholding in relation to each Remedial Action Plan of 10% of the Actual Monthly Value”). Following issue of the Exception Report, the Contract then allows the provider a further 20 Operational Days to resolve the breach of the RAP, following which the co-ordinating commissioner may permanently retain, at its discretion, the sums it has previously withheld.

45.13 *The intention of these revised provisions is a) to emphasise that financial consequences should be reasonable and proportionate and b) to create a greater incentive for specific, appropriate financial consequences to be agreed between the parties as part of RAPs, rather than encouraging reliance on the broader provisions for withholding of up to 2% of Annual Monthly Value.*

GC9 and breaches of Quality Requirements:

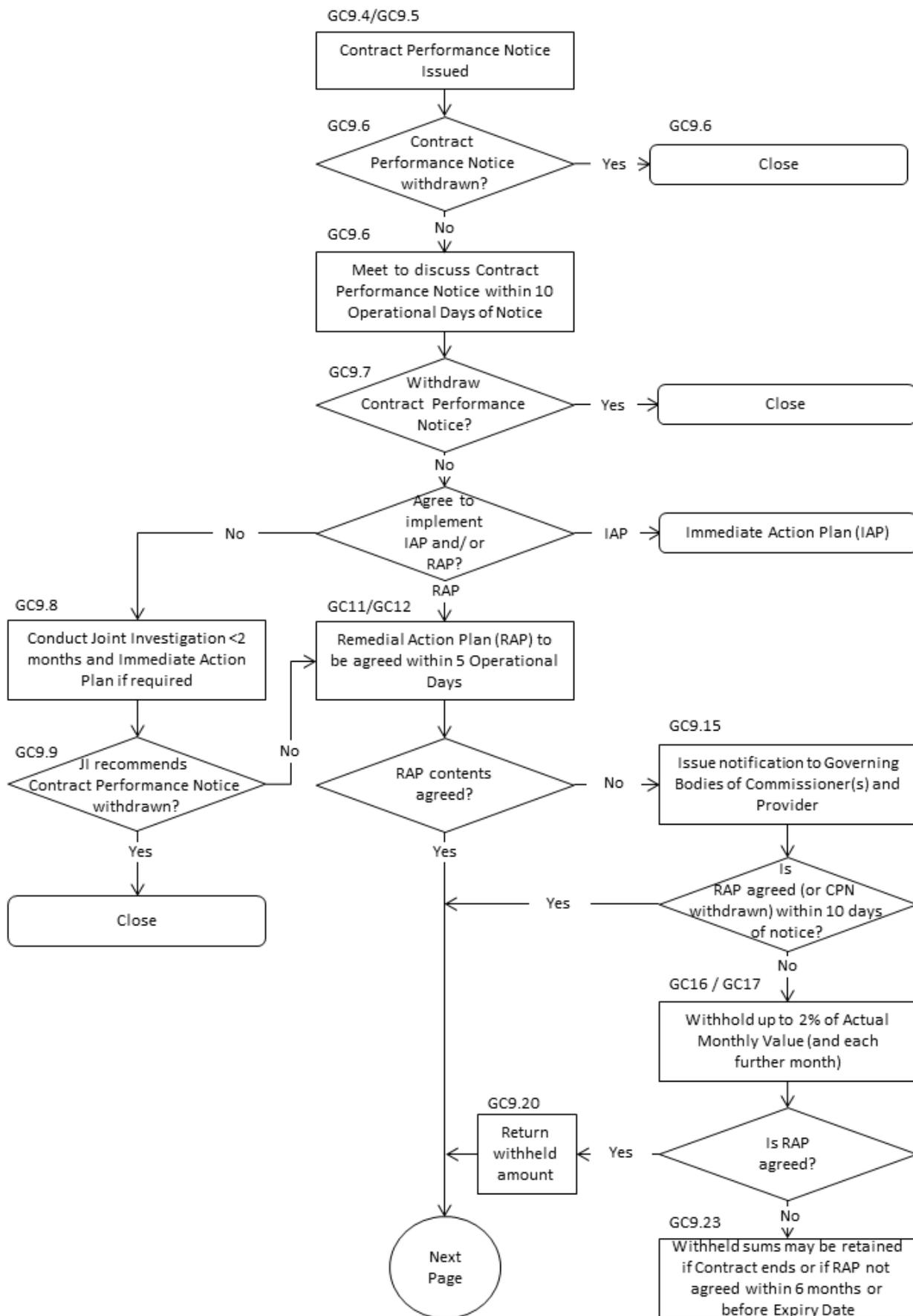
45.14 *Where the provider breaches the national quality standards set out in Schedules 4A and 4B, the commissioner must automatically apply the relevant financial sanctions; sanctions may also be agreed and applied in relation to Local Quality Requirements in Schedule 4C. There is no requirement for the commissioner to go through the process in GC9 in order to apply these sanctions (see GC9.1).*

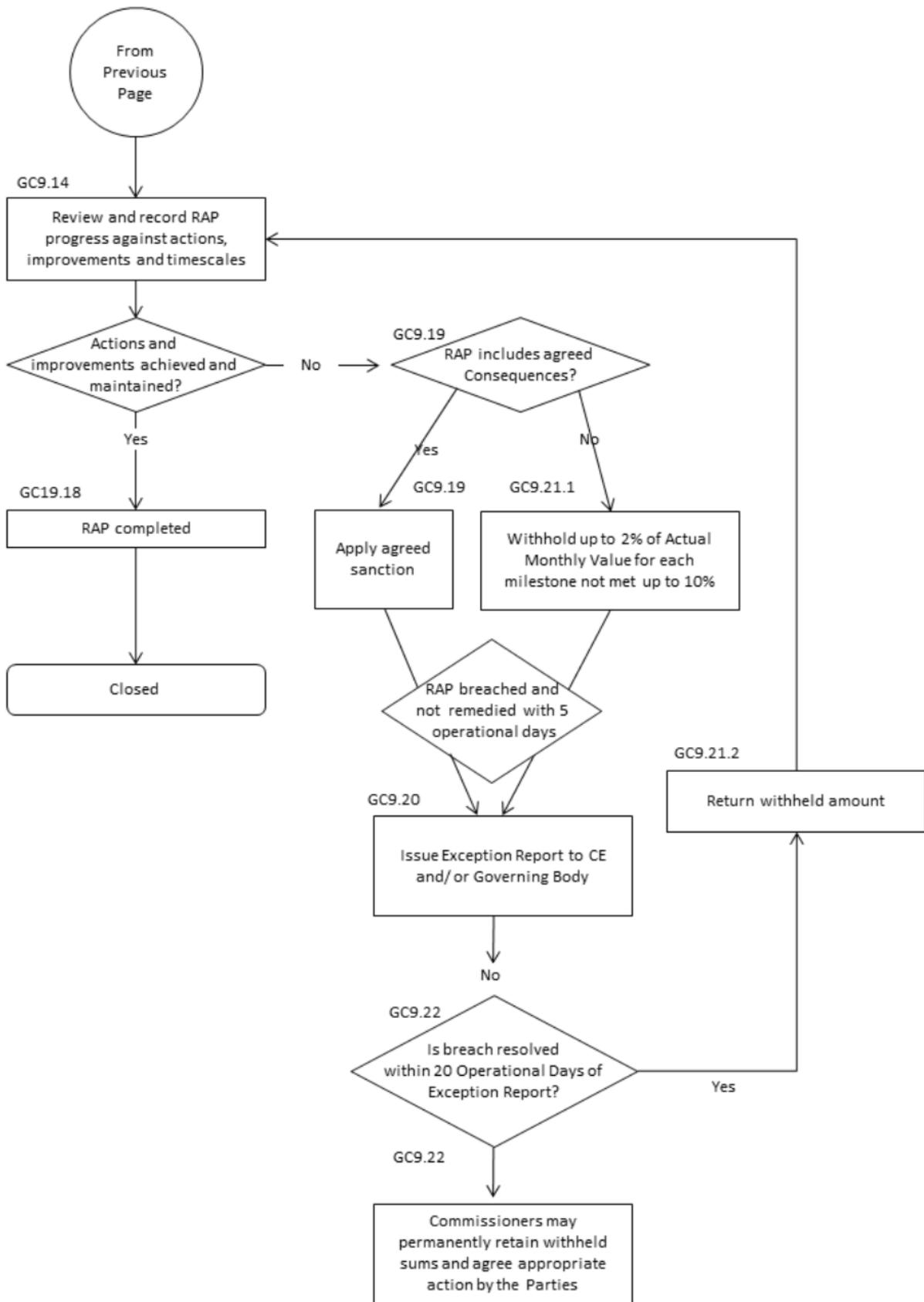
45.15 *It is also important to stress that application of the sanctions set out in Schedules 4A, B and C does not remove the commissioner’s right to use GC9 to seek remedy of breaches of Quality Requirements. It will often be appropriate for a RAP to be agreed to put right breaches of Quality Requirements, and commissioners may use the provisions of GC9 to apply further financial consequences for breach.*

Breach of new national requirements in the Contract

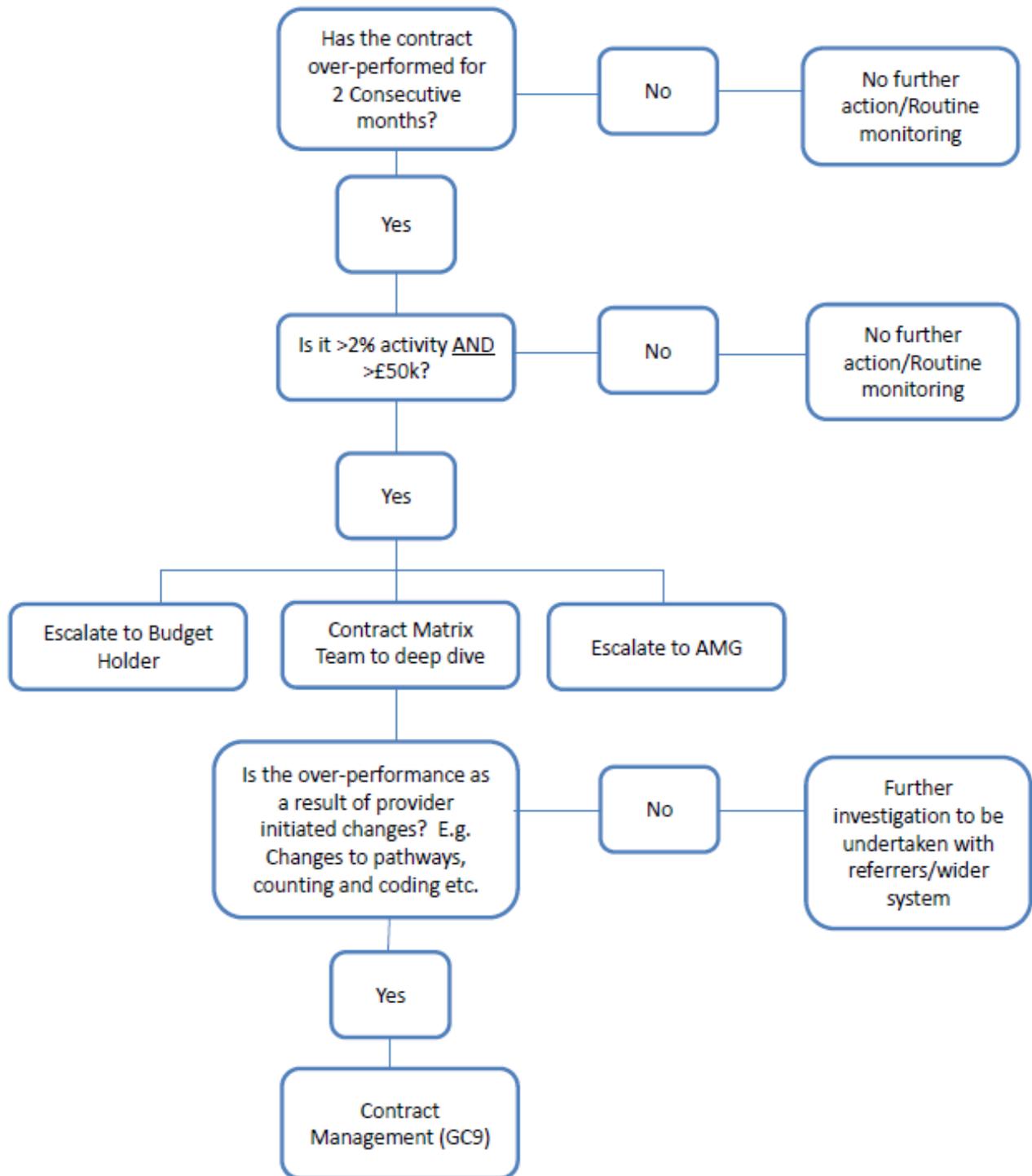
45.16 *The annual update of the NHS Standard Contract typically introduces a range of new policy requirements. Not all providers will be in a position to comply fully with all such requirements from the first day on which the new Contract takes effect. Where this is the case, commissioner and provider should discuss a prompt, but realistic, timescale for implementation, with this recorded in the local contract as a Remedial Action Plan or Service Development and Improvement Plan if required.*

GC9 (full-length Contract) – contract management





9. Appendix C: Contract Management: Financial and Activity Over Performance



10. APPENDIX D – RISK CATERGORISATION TOOL

	Value (M)	Complexity value	Engagement	Volatility		Group	Score	Score	
	5(>10)					A	11	20	
	4(5-10)	4 (VH)	4 (VH)	3 (VH)		B	8	10	
	3(0.5-5)	3(H)	3(H)	2(H)		C	4	8	
	2(0.1-0.5)	2(M)	2(M)	1(M)		D	3	4	
	1(<0.1)	1(L)	1(L)	0(L)					

Value	Complexity	Engagement	Volatility	Total	Initial Group	With Exceptions	Exception	Datix Score
Contract #1	0	0	0	0	0	None	None	16
Contract #2	3	4	3	3	13	A	None	12
Contract #3	5	1	1	3	10	B	Value 4 or above	4
Contract #4	2	1	2	3	8	C	None	14
Contract #5	4	1	3	3	11	B	Value 4 or above	8
Contract #6	4	1	1	1	7	C	Value 4 or above	12
Contract #7	2	2	1	2	7	C	None	14
Contract #8	3	3	1	3	10	B	None	16
Contract #9	1	1	1	3	6	C	None	8
Contract #10	2	1	1	3	7	C	None	10
Contract #11	3	2	1	3	9	B	None	4
Contract #12	1	3	1	3	8	C	None	14
Contract #13	2	1	1	3	7	C	None	10
Contract #14	3	1	4	1	9	B	None	16
Contract #15	1	1	1	1	4	D	None	14
Contract #16	1	4	4	4	13	A	None	14
Contract #17	4	1	4	1	10	B	Value 4 or above	16
Contract #18	1	1	1	1	4	D	None	18
Contract #19	4	1	1	1	7	C	Value 4 or above	12

Sum of Total by With Exceptions

Group	Sum of Value	Sum of Volatility	Sum of Complexity
A	11	3	6
B	8	14	8
C	4	22	12
D	3	1	1

Definitions

Value

This is the annual budget value of the contract, the currency is in Millions

Complexity value (use grid below to determine score)

4 (VH, very high) multiple services or contracts held by the provider (more than 5 services), host with multiple Commissioners, where there are contentious issues and challenges in play, Partnership

3(H) Host with single Commissioner, multiple services or contracts held by the provider (more than 5 services), where there are immerging issues that need to be addressed, Cost &Volume/Cost Per Case/PBR, lead provider

2(M) where there are complex service issues, but no challenge in play, associate to main contract, 2 to 5 services, block, single provider

1(L) where there are no complex issues, block, single provider

Engagement

4 (VH) contracts that require frequent contact in addition to the contract management review, requiring contact at Exec level and where additional reports are required to board, where there are relationship issues that require managing

3(H) contracts that require frequent contact in addition to the contract management review

2(M) where issues have necessitated an increase in contact to maintain stability

1(L) where there are no engagement issues

Volatility – Refer to Contract Risk Register

4 (VH) where there are issues that cause a high level of risk in the delivery of a service, where the impact of the risk is actual or imminent

3(H) where there are issues that cause a high level of risk in the delivery of a service, where the impact of the risk is not imminent

2(M) where there are medium risks noted

1(L) where there are no risk issues noted

Contract Management Type Group

A (VH) a dedicated contract manager & contract support officer, requires frequent involvement at exec level

B (H) contract manager & contract support officer

C (M) contract manager

D (L) contract support officer

Complexity Value Assessment

Step 1 – rate the contract against these 5 indicators

Indicator		low	med	high
1	CCG role in contract	Associate to a contract	Single commissioner of single contract	Host commissioner with CCG associates
2	Number of services within contract	1 service	2-5 services	More than 5 services
3	Pricing model	Block	Cost and volume	Cost per case/PbR and any contract incorporating CQUIN
4	Contract type	Grant	APMS and NHS standard contract	Future ICP or Other Innovative Contract Model
5	Type of provider	Single provider	Lead/Prime provider with subcontracts	Partnership model or other multi provider vehicle

Step 2 – tally up the number of 'lows' and 'highs', and use the matrix below to get the overall score:

Number of indicators rated as 'low'	5	1 - low				
	4	1 - low	2-medium			
	3	2-medium	3- high	3- high		
	2	2-medium	3- high	3- high	3- high	
	1	2-medium	3- high	4 - Very high	4 - Very high	4 - Very high
	0		3- high	4 - Very high	4 - Very high	4 - Very high
		0	1	2	3	4
Number of indicators rated as 'high'						

11. Appendix E – Procedural Document Checklist for Approval

Title of document being reviewed:		Yes/No/Unsure	Comments/ Details
A	Is there a sponsoring director?	Yes	
1.	Title		
	Is the title clear and unambiguous?	Yes	
	Is it clear whether the document is a guideline, policy, protocol or standard?	Yes	
2.	Rationale		
	Are reasons for development of the document stated?	Yes	
3.	Development Process		
	Do you feel a reasonable attempt has been made to ensure relevant expertise has been used?	Yes	
	Is there evidence of consultation with stakeholders and users?	Yes	
4.	Content		
	Is the objective of the document clear?	Yes	
	Is the target group clear and unambiguous?	Yes	
	Are the intended outcomes described?	Yes	
5.	Evidence Base		
	Is the type of evidence to support the document identified explicitly?	Yes	
	Are key references cited?	Yes	
6.	Approval		
	Does the document identify which committee/group will approve it?	Yes	
7.	Dissemination and Implementation		
	Is there an outline/plan to identify how the document will be disseminated and implemented amongst the target group? Please provide details.	Yes	The processes and requirements described within the policy will be delivered by all Contracts Team staff members. Further, the policy will be a reference source for all Quality, Business Information and Performance

Title of document being reviewed:		Yes/No/ Unsure	Comments/ Details
			Team staff members to support their roles within the MDT team approach.
8.	Process for Monitoring Compliance		
	Have specific, measurable, achievable, realistic and time-specific standards been detailed to <u>monitor compliance</u> with the document? Complete Compliance & Audit Table.	Yes	
9.	Review Date		
	Is the review date identified?	Yes	
10	Overall Responsibility for the Document		
·	Is it clear who will be responsible for implementing and reviewing the documentation i.e. who is the document owner?	Yes	Deputy Director(s) of Contracts
Director Approval			
On approval, please sign and date it and forward to the chair of the committee/group where it will receive final approval.			
Name		Date	
Signature			
Committee Approval			
On approval, Chair to sign and date.			
Name		Date	
Signature			

12. Appendix F – Compliance and Audit Table

Criteria	Measurable Target	Frequency of Reporting	Reporting to	Source of Evidence/ Reporting
Contract Management Meetings take place in line with the contractual requirements	100%	As determined by individual contract e.g. quarterly	Audit Committees	Minutes of Meetings
All commissioned services have signed contracts in place or can demonstrate robust oversight and action to achieve agreed contract status	100%	Annual review	Audit Committees	Contract Register