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NHS England

Elective Recovery Fund technical guidance

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Contents

Introduction

1. This guidance relates to elective activity and the operation of the Elective Recovery Fund (ERF) and payment for 2023/24.

2. It should be read in conjunction with the:

   - 2023/25 NHS Payment Scheme (NHSPS) consultation
   - Revenue finance and contracting guidance for 2023/24.

3. The 2023/24 priorities and operational planning guidance reconfirms the goals for elective recovery set out in the Delivery plan for tackling the COVID-19 backlog of elective care. These include delivery by 2024/25 of around 30% more elective activity than before the pandemic.

4. Elective recovery funding has been made available to each integrated care board (ICB) to support the delivery of this ambition (see Revenue finance and contracting guidance for 2023/24). At the national level, elective recovery funding will be allocated to deliver 107% of 2019/20 levels of value-weighted elective activity.[1] NHS England will set the target elective activity that each ICB is expected to deliver within the totality of funding made available. An allocation for NHS England directly commissioned services will also be made separately.

5. This guidance sets out further detail on the 107% value-based target and how funding and payment will operate in relation to it. A worked example illustrates how the process will work in practice.

6. If you have any questions about this guidance, please contact pricing@england.nhs.uk.

[1] Elective activity valued using 2023/24 NHSPS unit prices and adjustments (MFF).

2023/24 Elective activity targets

7. NHS England will set commissioners individual targets for the value-weighted elective activity they are expected to deliver during 2023/24. We will do so by uplifting the activity delivered in H1 2022/23 for the expected growth in activity to be delivered through to March 2024.

8. At the national level, 98% of 2019/20 value-weighted elective activity was delivered in H1 2022/23[2]. Performance is expected to improve by an average of 0.75 percentage points per month until March 2024, meaning that the overall 2023/24 position is expected to be 107% of 2019/20 levels.

9. Similar calculations have been made at the commissioner level, with some differential asks in the improvement required in 2023/24. This means commissioners delivering the lowest value-weighted elective activity in 2022/23 will need to improve by more than the national average. The ICB targets for 2023/24 range from 103% to 114%. On average, the NHS England directly commissioned target is 109%[3].

10. Appendix A sets out the individual commissioner 2023/24 targets.

Commissioner elective recovery funding

11. **For 2023/24, funding to commissioners for elective recovery will operate on a different basis to 2022/23.**

12. At the national level, funding[4] has been allocated to commissioners to deliver 107% of 2019/20 levels of value-weighted elective activity across the following settings:

    - elective ordinary and day cases
    - outpatient procedures with a published tariff price
    - first outpatient attendances.[5]

[2] Calculated from October 2022 SUS freeze data
[3] This excludes all secondary dental activity
[4] Through core allocations and ERF allocations.
[5] Part of the 107% target will allow for diverted pathways as a result of specialist advice services.

13. The ERF element of commissioner allocations has been distributed on a fair share basis.

14. Funding allocations will also be used to deliver wider elective pathway activity, which does not form part of the 107% target. This includes outpatient follow-ups, diagnostics, chemotherapy, radiotherapy and critical care related to elective procedures. Funding will also be used to continue to fund and expand specialist advice services.

15. The total funding allocations are designed to fully fund the 107% elective activity target in providers, as well as the wider elective care pathway costs required to deliver the 107% target.

16. Where commissioners exceed their activity target, additional funding at 100% of NHSPS unit prices (plus market forces factor, MFF) will be made available to them to fund additional elective activity in their providers – this will cover both activity within the scope of the 107% target and any wider elective care pathway costs.

17. Commissioners will only receive additional funding if they are above their target overall – therefore, if their contracts with NHS providers are below target but activity provided by the independent sector is ahead of plan, this will need to be funded from the existing allocation until the commissioner position overall is above target.

18. NHS England will withhold a percentage of the ERF allocation from commissioners and release this according to performance against the activity target during the year. Providers and commissioners should agree activity targets for contracts on the basis of having all ERF funding available. We will issue further detail in due course.

19. Commissioners must agree contracts with their providers in the usual way, using the NHS Standard Contract. The proposed rules around payment to providers for elective activity in 2023/24 are set out in the 2023/25 NHSPS consultation and summarised below.

Provider payment rules

20. For almost all NHS provider/commissioner relationships,[6] payment for activity in 2023/24 will be on the basis of aligned payment and incentive (API) fixed and variable elements:

    - The **fixed element** will cover funding for the expected level of activity for all service **outside** the scope of the variable element.
    - The **variable element** will fund all elective ordinary and day cases, outpatient procedures and outpatient first attendances, chemotherapy, and unbundled diagnostic imaging and nuclear medicine activity.

21. This will apply at the **individual commissioner to provider level within the contract**, meaning each commissioner will agree a different level of fixed payment and a different elective activity target with each of its NHS providers.

22. The 2023/24 fixed payment should be determined in the following way:

    i. Start with the 2022/23 contract level adjusted for the baseline reset exercise.

    ii. Add in growth, inflation, agreed elective recovery funding and other technical adjustments (see Appendix B).

    iii. Deduct the value-weighted elective activity target for 2023/24.

    iv. Deduct the 2023/24 planned value of chemotherapy and unbundled diagnostic imaging and nuclear medicine activity.

23. NHS providers will be guaranteed this 2023/24 fixed payment for the contract, irrespective of the level and mix of activity delivered.

24. NHS providers will then earn 100% of NHSPS unit prices, adjusted for MFF values, for all elective activity delivered within scope of the variable payment. This is uncapped, and will include activity within scope of the activity target and the wider elective pathway activity that is payable on an activity basis (as described in paragraph 22(iv) above). Other wider pathway costs (such as outpatient follow-up activity) are part of the fixed payment and not subject to change.

[6] Low value activity (LVA) relationships are excluded from these arrangements. Further guidance on LVA is given in the 2023/25 NHS Payment Scheme consultation notice – NHS provider payment mechanisms.

25. The NHSPS consultation sets the default payment for advice and guidance services to be agreed as part of the fixed payment, but we would encourage providers and commissioners to agree a payment by activity model for the level of advice and guidance delivered where this would help increase the availability and use of the service.

26. Non-NHS providers will continue to be paid purely on an activity basis for all activity commissioned directly from an ICB or NHS England.

Operational

27. Recognising that there may be some differences in activity between 2022/23 and 2023/24, NHS England will accept data adjustments for the purpose of calculating commissioner activity baselines for 2022/23 in the following scenarios:

    - Counting and coding changes – eg the treatment of same day emergency care (SDEC) activity, where the recording of activity shifts from an outpatient setting to an A&E setting.
    - Significant provider capacity issues – eg ongoing RAAC and fire safety issues.
    - Data quality issues where activity has not flowed through SUS – ie technical submission issues.

28. These changes will need to be attributed to a provider, and accurately reflected in activity levels agreed as part of the fixed payment. These should be submitted to and agreed by the relevant NHS England region, before being incorporated into planning returns. Where systems believe there are further reasons why the ERF activity target and ERF funding are not valid, these should be discussed with the relevant NHS England region. Final agreement of adjustments will be made by the NHS England Chief Financial Officer.

29. NHS England will publish a breakdown of H1 2022/23 individual provider to individual commissioner SUS activity performance, uplifted using the method used to set commissioner targets for 2023/24. This is intended to help providers and commissioners agree their activity baseline and targets. These values will form the default target values for all inter-system relationships. Where a different activity target for inter-system relationships cannot be agreed, the default target should

apply and the provider should receive a proportional[7] share of the commissioner ERF funding.

30. A commissioner and its individual providers may agree different elective activity targets from those inferred by the H1 2022/23 position. However, all agreements must result in a neutral position at the commissioner level, such that the overall commissioner activity target is maintained. NHS England will monitor and require additional assurance where there are large variations in the targets assigned to individual providers relative to the 2022/23 position.

31. As part of their discussions, providers and commissioners need to take account of any non-recurrent effects (including items like double running costs) in the 2022/23 position, and of any agreed service changes for 2023/24. Within a system, these should be discussed alongside what an appropriate activity target may be in view of the provider's individual circumstances.

32. Once agreed, the fixed payment and expected level of variable payment that would be payable as a result of the target elective activity being achieved should be documented in local contracts.[8] The transacting of the variable payment should be managed locally, in accordance with the terms of the NHS Standard Contract. NHS England will publish the relevant month's SUS freeze data to aid any local discussions and transactions.

33. NHS England will monitor, on a monthly basis, the overall cumulative position of the commissioner. Where performance exceeds the commissioner's target, additional funding will be made available to pay for the additional activity delivered. Similarly, NHS England will release any funding that is being held back nationally as and when this is required.

[7] The share of the overall ERF baseline attributable to that provider.
[8] To arrive at the expected annual contract value (EACV) for inclusion in their local contract, a commissioner and provider will need to add together the fixed payment and the value of their agreed target level of elective activity (plus, if desired, any other elements such as an estimate for excluded items such as high-cost drugs and devices). Provisional monthly payments will then be made in advance to the provider on the basis of this EACV.

Worked example

34. In this example, a provider's contract with a commissioner had a fixed payment worth £250m in 2022/23. It delivered 97% (£97m) of value-weighted elective activity in 2022/23 compared to its 2019/20 baseline.

35. After applying adjustments[9] to the 2022/23 fixed payment, the overall amount of funding increases by £15m, to £256m. The provider has agreed an elective activity target with that commissioner of 107%, which is valued at £107m using 2023/24 NHSPS unit prices. The providers is also expecting to deliver £5m of unbundled diagnostic imaging and nuclear medicine activity in 2023/24.

36. This means that the overall fixed payment for 2023/24 will be set at £153m.

37. If the provider delivers its target of 107% of 2019/20 levels of elective activity and its expected unbundled activity, it will earn £112m in activity payments, meaning a total reimbursement of £265m (the £153m fixed payment plus £112m earned in variable payment).

		Total (£m)
A	Value of 2022/23 fixed payment	250
B	2023/24 growth + ERF money	265
C	Elective target for 2023/24 @ 107% of 2019/20	107
D	Deductions for chemo, unbundled	5
E	Value of 2023/24 fixed payment (B – C – D)	153

38. If the provider delivers 110% of 2019/20 levels of elective activity, in excess of their target, and delivers their expected unbundled activity, they will earn £115m in variable payments, meaning their total reimbursement is £268m.

39. If the provider does not reach the target activity, and only delivers the same in 2023/24 as it did in 2022/23 (£97m), then it would earn £153m fixed payment + £5m unbundled + £97m variable payment, totalling £255m.

[9] In line with the process set out in Appendix B.

Appendix A: 2023/24 Commissioner activity targets

Integrated care board	Value weighted elective activity target (as a % of 2019/20) – *excludes secondary dental*
Bath and North East Somerset, Swindon and Wiltshire ICB	106%
Bedfordshire, Luton and Milton Keynes ICB	109%
Birmingham and Solihull ICB	103%
Black Country ICB	108%
Bristol, North Somerset and South Gloucestershire ICB	103%
Buckinghamshire, Oxfordshire and Berkshire West ICB	**
Cambridgeshire and Peterborough ICB	109%
Cheshire and Merseyside ICB	106%
Cornwall and the Isles of Scilly ICB	103%
Coventry and Warwickshire ICB	109%
Derby and Derbyshire ICB	103%
Devon ICB	103%
Dorset ICB	109%
Frimley ICB	**
Gloucestershire ICB	109%
Greater Manchester ICB	103%
Hampshire and Isle of Wight ICB	103%
Herefordshire and Worcestershire ICB	108%
Hertfordshire and West Essex ICB	104%
Humber and North Yorkshire ICB	109%

Integrated care board	Value weighted elective activity target (as a % of 2019/20) – *excludes secondary dental*
Kent and Medway ICB	109%
Lancashire and South Cumbria ICB	109%
Leicester, Leicestershire and Rutland ICB	106%
Lincolnshire ICB	106%
Mid and South Essex ICB	108%
Norfolk and Waveney ICB	105%
North Central London ICB	113%
North East and North Cumbria ICB	109%
North East London ICB	109%
North West London ICB	109%
Northamptonshire ICB	109%
Nottingham and Nottinghamshire ICB	105%
Shropshire, Telford and Wrekin ICB	103%
Somerset ICB	109%
South East London ICB	110%
South West London ICB	109%
South Yorkshire ICB	103%
Staffordshire and Stoke-on-Trent ICB	103%
Suffolk and North East Essex ICB	114%
Surrey Heartlands ICB	**
Sussex ICB	109%
West Yorkshire ICB	108%

** Owing to data quality issues in SUS, 3 ICBs will have the activity target set via a separate process.

Appendix B: Setting the 2023/24 API fixed payment

Commissioners and trusts are advised to consider the following guidelines in establishing their 2023/24 fixed payment values for all NHS England arrangements and all ICB relationships with trusts above the low value activity (LVA) threshold.

This table is taken from NHS provider payment mechanisms, which is a supporting document to the 2023/25 NHS Payment Scheme consultation.

Item	Guidance
Opening baseline	The opening baseline contract value should be rolled forward from 2022/23 (excluding all high cost excluded drugs and devices and SDF), adjusting for any 2023/24 non-recurrent items and full-year effects (eg the employer national insurance contribution rate change). This should include the relevant 2022/23 ERF funding.
Baseline reset	The final baseline contract amendments agreed through the baseline re-set exercise must be applied against the opening baseline such that the funding flows back through the API fixed payment to the trust as intended and in line with the allocation adjustments processed. To assist with this, 2023/24 contract schedules in the planning templates will be pre-populated with the final adjustments. These should not result in any change in activity or performance expectations.
Service changes from 1 April 2023	The cost of service changes from the point of setting the opening baseline should be reflected in amendments to the API fixed payment. The value of such changes should be locally agreed based on a reasonable phasing of expenditure changes.
Additional allocation funding	**COVID:** Funding has changed from a hosted provider basis to a population basis. All commissioners will need to reflect this in their API fixed payments with all trusts, not just those within their system.

Item	Guidance
	To minimise negotiations and expedite the flow of funding to trusts: • ICB inter-system and NHS England contract arrangements (excluding ambulance trusts) should be uplifted by 0.6% to reflect that COVID-19 funding is now included in allocations on a population basis. • Ambulance trust contract arrangements should be uplifted by 1.2% to reflect historical COVID-19 funding distribution and that COVID-19 funding is now included in allocations on a population basis. • For intra-system contract arrangements, systems should work collaboratively to understand local service and cost requirements and flow funding appropriately. **Support to underlying capacity recovery:** Commissioner allocations include funding to support the existing acute and ambulance capacity as recovery from COVID-19 continues. All commissioners will need to reflect this in their API fixed payments value with all trusts providing acute and ambulance services, not just those within their system. To minimise negotiations and expedite the flow of funding to trusts: • ICB inter-system and NHS England contract arrangements should be uplifted by 0.9%. • For intra-system contract arrangements, systems should work collaboratively to understand local service and cost requirements and flow funding appropriately.
Growth: activity	Commissioner allocations include growth funding for 2023/24. Agreed levels of growth (including ERF growth) should be applied against relevant intra-system, inter-system and NHS England API arrangements. API payment arrangements should also consider charge exempt overseas visitor activity, as well as an agreed risk-share for non-payment of chargeable overseas visitor activity. From 2023/24 the nationally mandated episodic charging risk-share terms for chargeable overseas visitors will end. In its place, trusts and commissioners must agree annual funding for their shared risk of

Item	Guidance
	non-payment as part of setting their API values in contracts. As an example, the future value could consider the historical rate of non-recovery of patient charges and an agreed rate of income recovery improvement. The API fixed payment change should consider the element of the agreed future funding, which is already embeddedin the opening baseline.
Growth: inflation net of general efficiency	By default, commissioners and trusts should uplift the fixed payment by the 'cost uplift factor', 'efficiency factor' and CNST as set out in the NHS Payment System, unless an alternative locally agreed view of inflationary pressures and efficiency requirements has been established.
Additional efficiency (convergence adjustment)	In addition to the general efficiency factor applied through the NHS Payment Scheme of 1.1%, additional efficiency ('convergence') has been applied to allocations to bring the quantum back towards affordable recurrent levels. This additional efficiency requirement may be applied as a generic additional efficiency or may be targeted to specific trust API values based on specific efficiency opportunities.
Service Development Fund (SDF)	The API fixed payment should include the agreed level of SDF 2023/24 funding. This should be identified as the full value in the contracts planning tab.
High cost drugs	The API fixed payment should include a 2023/24 expected value for those excluded drugs that form part of fixed payment arrangements. The API fixed payment will not include funding for: • any excluded devices • certain categories of drug, eg CDF, Hep C, innovative medicines fund and treatment costs such as CAR-T.
Elective recovery adjustment	The API fixed payment value should be reduced to reflect the 2023/24 elective recovery scheme by removing the value weighted 2023/24 target of (in-scope) elective activity.

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