

South East Local Authorities Sexual and Reproductive Health Services Cross Charging Policy - March 2019 (Updated September 2020)

1. Summary

This Policy details how the eighteen South East Local Authorities in Table 1 will manage non-contracted sexual health out of area activity (residents attending sexual health services commissioned by other Local Authorities in England) and provide clarity on the conditions and payment terms for cross charging. This approach reduces the risk of any legal challenge and applies a consistent and fair approach across the South East Region whilst not exposing any one Local Authority. It is endorsed by the South East Association of Directors of Public Health and the following Local Authorities (see Table 1):

Table 1: Upper Tier and Unitary Local Authorities in the South East

| | |
|-------------------|---|
| Bracknell Forest | Portsmouth |
| Brighton and Hove | Reading |
| Buckinghamshire | Slough |
| East Sussex | Southampton |
| Hampshire | Surrey |
| Isle of Wight | West Berkshire |
| Kent | Royal Borough of Windsor and Maidenhead |
| Medway | West Sussex |
| Oxfordshire | Wokingham |

The March 2019 policy was endorsed by the South East Association of Directors of Public Health on 12th April 2019. The September 2020 update, triggered by the introduction of routine commissioning of HIV Pre-Exposure Prophylaxis (PrEP) and in accordance with Section 9 of the Policy, was endorsed by the South East Association of Directors of Public Health in November 2020.

2. Policy Principles and changes since previous versions

Current practice in the South East is based on the Department of Health and Social Care (DHSC) 'Sexual Health Services: Key Principles for Cross Charging' (2018, updated in collaboration with the Local Government Association)¹ which sets out key principles to assist service commissioners and providers to develop fair payment systems. In 2018 PHE published a new [sexual health commissioning guidance page](#) bringing together in one place a wide range of existing resources.

In 2017, the South East Association of Directors of Public Health Network requested the Public Health England South East Regional Sexual Network set up a task and finish group to agree an approach on sexual health cross charging. This group continues to meet and monitor and review the South East Policy and reports to the DPH sponsor. There are a number of benefits to aligning a position but primarily this will help to provide clarity, equality of approach across the Region, and make better, more efficient use of limited resources.

The policy was reviewed in 2019 following publication of the updated Sexual Health Services: Key Principles for Cross Charging' guidance in 2018. Original principles of the South East Cross Charging Policy remain unchanged; however, amendments have been made to reflect both the development of digital delivery of sexual health services and increased complexity of cross-charging backing data from providers using integrated tariff bundle and to ensure reference to current guidance and reflect organisational changes.

Key changes to the policy in response to this review are shown in Table 2 below and the September 2020 update in Table 3.

Table 2: Key changes in 2019 South East Cross Charging policy compared to 2017

| | Summary of Changes | Section |
|---|---|------------|
| 1 | Department of Health changed to Department of Health and Social Care | throughout |
| 2 | Clarity around elements of contraception that will be funded as part of an integrated GUM consultation | 3.1 |
| 3 | Additional detail regarding locally agreed arrangements for funding contraception between commissioners | 3.1, 3.2 |
| 4 | Additional detail regarding locally agreed arrangements for funding online STI testing between commissioners | 3.2 |
| 5 | Addition of mode of service provision to backing data requirements where there are prior formal agreements in place to fund non face-to-face activity | 3.3 |
| 6 | Insertion of reference to NHS Data Security and Protection Toolkit | 3.4 |
| 7 | Insertion of numbered paragraphs for clarity within section 4 | 4. |
| 8 | Clarity around risks of not offering open access services | 4.2 |
| 9 | Addition of paragraph describing increasing ways in which digital technology is being used to provide sexual health services | 4.8 |

Table 3: Key changes in 2020 South East Cross Charging policy compared to 2019

| | Summary of Change | Section |
|---|--|---------|
| 1 | Additional detail regarding locally agreed arrangements for funding out of area PrEP initiation and continuation attendance. | 3.1 |

¹ [Sexual Health Services: Key Principles for Cross Charging Updated guidance for commissioners and providers of sexual and reproductive health services in England](#), DHSC, 2018.

3. Policy

3.1. Under the terms of the Policy the Local Authority **will** reimburse:

- Provider invoices for out of area Genito-Urinary Medicine (GUM) activity at the locally agreed tariff for this activity (up to the non-mandatory national Department of Health GUM tariff cost envelope² *excluding* market force factors (MFF). This should be at no more cost than the tariff paid to the Provider by their local Commissioner.
 - Provider invoices separately for out of area PrEP service activity, in addition to the associated GUM activity, at the locally agreed PrEP tariffs for this service activity up to the maximum of the national PrEP Costed Pathway reference costs³ for a PrEP initiation attendance and an average PrEP continuation attendance excluding market forces factor (MFF).
 - Provider invoices for out of area contraception activity **only** when this activity forms part of an integrated activity tariff; this includes;
 - Provision of emergency contraception (pill or IUD)
 - Pregnancy test
 - Initial starter pack of oral contraception as part of an integrated GUM consultation
- OR
- When a prior formally agreed contraception arrangement is in place between South East commissioners

3.2. Under the terms of the Policy the Local Authority **will not** reimburse:

- Provider invoices for standalone contraceptive activity, unless a prior formal agreement has been made with the relevant out of area local authority.
- Provider invoices for sexual health elements of Psychosexual Counselling, unless a prior formal agreement has been made with the relevant out of area local authority.
- Provider invoices for STI self-sampling or remote testing services unless a prior formal agreement has been made with the relevant out of area local authority.
- Express / self-serve STI testing carried out in clinic at full maximum locally agreed tariff or national non-mandatory tariff.
- Provider invoices for GUM First Appointment / GUM Follow Up Appointment where the local commissioner is charged on an integrated sexual health tariff basis or alternative basis.
- Telephone, online or virtual consultations/support unless a prior formal agreement has been made with the relevant out of area local authority.
- Stand-alone sexual health promotion services.
- MFF which are not applicable to Local Authorities.

² This will be based on the last published Department of Health non-mandatory GUM tariff in 2015/16 as £131 for first appointment and £103 for follow up.

³ This will be based on the national PrEP Costed Pathway reference costs of £83.02 for a PrEP initiation attendance and £42.58 for a PrEP continuation attendance. It excludes the PrEP medicine costs.

- HIV treatment and care activity which is the responsibility of NHS England and Improvement.
- PrEP medicine funding which is the responsibility of NHS England and Improvement

3.3. In order to validate the invoices received, Providers will be required to provide the following backing information. This data should be **non-identifiable patient information**

- Provider organisation
- Host commissioning organisation
- Patient lower super output area (LSOA) code of residence or first part plus first digit of second part of patient postcode
- Sexual health clinic name and a note if a clinic / service changes name change as part of a retendering exercise
- Attendance/intervention date
- Attendance type for example; GUM first appointment, GUM follow up or integrated tariff descriptor (Pathway Analytics or locally developed integrated tariff) *
- Where a local integrated tariff is used, Providers must supply a key
- Mode of service provision (Face to face or remote / digital testing/self-sampling service (where there are prior agreements to fund non-face to face services)
- Relevant SHAPPT codes or unique identifier where these are required by the Local Authority
- Locally agreed tariff up to national non-mandatory GUM tariff

*Integrated Sexual Health Services are strongly encouraged to use the Pathway Analytics Integrated Sexual Health Grouper or another similar technology to group and calculate their out of area activity charges for out of area local authorities.

A backing information template for Provider use is attached at **Appendix A**.

While this level of information is not patient identifiable, it is sensitive and should therefore, only be sent through an appropriately secure means of transfer for example, nhs.net to nhs.net email transfer, or another secure alternative., following IG best practice and guidance⁴.

3.4. All Local Authorities expect invoices (supported by backing data to the minimum data set above), to be submitted monthly within 30 days of attendance. Local Authorities will aim to ensure that invoices are paid within 30 days of receipt if they are undisputed.

4. Policy Context

4.1. Since 1 April 2013, Local Authorities have been mandated to ensure that comprehensive, open access, confidential sexual health services are available to all people who are present in their area (whether resident in that area or not). The requirement for Genito-Urinary Medicine (GUM) and Contraception and Sexual Health (CaSH) services to be provided on an open access basis is stipulated in the *Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch*

⁴ NHS Data Security and Protection Toolkit <https://www.dsptoolkit.nhs.uk/>

- 4.2. It is acknowledged that deterring people from attending open access sexual health services, e.g., in relation to the provision of emergency contraception to address unintended pregnancy and for those at risk of sexual exploitation presents a high level of risk to the individual. Any restriction in access to core reproductive and sexual health services carries a high reputational risk for Local Authorities.
- 4.3. With the transfer of services over to Local Authorities, the DH issued guidance on cross charging in August 2013 (updated in 2018) outlining principles for Local Authorities to make payment for residents accessing services outside the area. The guidance suggests that it is for local determination how these arrangements work and solutions that meet the needs of local areas and populations should be in place. It was developed to encourage a consistent, equitable, fair and transparent approach to cross charging and billing for out of area service users, from both a Commissioner and Provider perspective.
- 4.4. Re-charging by the provider for the costs of GUM services for testing, treatment and care for STIs, back to the area where the user is normally resident has been in place for many years and prior to the transfer of sexual health commissioning to local authorities in 2013. A mandatory NHS tariff was in place for GUM services prior to transition which became non-mandatory for local authorities. The last published NHS tariff was in 2015/16 and was set as £131 for a multi-professional first attendance and £103 for a multi-professional follow up attendance. Payment of a Market Force Factor (MFF) used in the NHS tariff, is NOT mandatory for local authorities.
- 4.5. Traditionally, cross-charging arrangements have not been in place for attendances at sexual and reproductive health services for contraception care and these costs have generally been absorbed by the host commissioner for contraception.
- 4.6. Commissioning arrangements for contraception are also more complex given user dependent methods of contraception are primarily supplied by general practice as part of General Medical Service (GMS) contracts with NHS England (in some areas this has been devolved to CCGs) and the provision of long acting methods of reversible contraception (LARC excluding injectable contraception) are primarily commissioned by Local Authorities via general practice and specialist sexual and reproductive health services. The majority of contraception care (around 80%) continues to be provided by general practice across England and they have a significant role to play in terms of reproductive health across the life course
- 4.7. A key development over the last five years is that most Local Authorities have now developed integrated sexual health services, providing GUM services and reproductive health services in one setting and in some places, one appointment
- 4.8. The use of on-line services is increasing and offers an additional service choice with the option of ordering self-testing kits and contraception through the internet. An on-line option is generally offered as an additional service for residents of the local authority commissioning the service only. This is in line with sexual health services commissioned from primary care and existing online options for chlamydia screening and HIV self-sampling which have been established for some time.

- 4.9.** Local Authorities have interpreted cross charging guidance differently and there are several approaches taken. With the increasing lack of a consistent approach across the system, there is a risk to current provision from Local Authorities not paying for legitimate sexual health activity. Therefore, South East Local Authorities have agreed to work jointly to ensure a fair and equitable approach, particularly in relation to the changes resulting from the development of a London Sexual Health Transformation programme and the implementation of integrated tariffs in an increasing number of areas.

5. Health Protection

The 2012 Health and Social Care Act defines the responsibilities of Directors of Public Health in their role. This includes delivering Local Authority functions in relation to planning for, and responding to, emergencies that present a risk to public health. Identifying those individuals who are infected with a sexually transmitted infection (STI) is an important health protection intervention.

By early identification and treatment coupled with partner notification, the spread of STIs can be limited within the population. The movement of individuals and potential for spread of infection goes beyond and is not limited by the geographical boundaries of Local Authorities. The current issues which have arisen through lack of clear guidance on out of area cross charging should not be a barrier for service users having open access to STI testing and treatment services.

6. Legal

Legal advice is that the DH 'Sexual Health Services: Key Principles for Cross Charging' document 2013, (updated 2018) is guidance and not legally binding, however it is best practice to apply the guidance. Bringing an action in contract law would be challenging for the claimant. Essentially, albeit that there is now no GUM non- mandatory national tariff, the DH has indicated what the national tariff would be if there was one. Making a policy decision that we will pay this rate (GUM non- mandatory tariff) is defensible and more likely to involve the DH in any legal challenge if there was one.

7. Risk Management

Adoption of a region-wide policy across the South East aims to mitigate risks by ensuring that neighbouring local authorities where there is natural cross-border use of services by patients implement similar approaches to cross-charging.

8. Equality and Diversity

In making this decision, all Local Authorities across the South East Region will maintain confidential, open access services and ensure that local residents can attend a sexual health service of their choice without geographical boundaries.

This is the requirement for Genito-Urinary Medicine (GUM) and Contraception and Sexual Health (CaSH) services to be provided on an open access basis as stipulated in the *Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013* ("the Regulations").

There are several benefits to aligning to this South East Regional position but primarily this will help to provide clarity, equality of approach across the Region and make most efficient use of limited resources to benefit the residents of each Local Authority.

The burden of poor sexual health is concentrated in many vulnerable and marginalised communities and improving sexual and reproductive health will address differences in sexual health outcomes and inequalities.

8 Communication and Dissemination

This Policy will be posted for circulation on the English Sexual Health and HIV Commissioners Group Forum, with a request for Commissioners to share this information with their Provider services. Information will also be sent direct to all Providers by a lead from the South East Association of Directors of Public Health Network

A copy of the Policy has been sent for information to the South East Association of Directors of Public Health who will keep the Policy under review, taking account of feedback from stakeholders and any other changes that are likely to have a significant impact on the Policy.

9. Review

This Policy will be formally reviewed by the Local Authorities named in this paper in-Spring 2021 or earlier if there are changes to guidance or legislation which would impact on its use.

10. Key References

Sexual Health Services: Key Principles for Cross Charging. Department of Health, August 2013 (updated 2018)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/226325/Sexual_Health_Key_Principles_for_cross_charging.pdf

PHE sexual health commissioning guidance page (updated March 2018)
<https://www.gov.uk/guidance/commissioning-regional-and-local-sexual-health-services>

Appendix A: South East Backing Information Template for Out of Area Sexual Health Activity Invoices



South East Out Of
Area Backing Informa

Appendix B: Extract from the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013

Sexual Health Services

(1) Subject to paragraphs (3) and (4), each local authority shall provide, or shall make arrangements to secure the provision of, sexual health services in its area

- (a) by exercising the public health functions of the Secretary of State relating to the provision of contraceptive services under paragraph 8 of Schedule 1 to the Act, to the extent that those functions consist in the provision of open access services; and
- (b) by exercising the public health functions of local authorities pursuant to section 2B of the Act in the provision of open access services—
 - (i) for preventing the spread of sexually transmitted infections; [and]
 - (ii) for treating and caring for persons with such infections; and
 - (iii) [for notifying sexual partners of persons with such infections.]

(2) In paragraph (1), references to the provision of open access services shall be construed to mean that such services must be universally available for the benefit of all persons present in the local authority's area.

(3) In exercising its functions in relation to the provision of contraceptive services under sub-paragraph (1)(a), each local authority shall ensure that all persons in its area are provided with advice on, and reasonable access to, a broad range of contraceptive substances and appliances.

(4) The duty of the local authority under sub-paragraph (1)(a) does not include a requirement to offer to any person facilities and services relating to procedures for sterilisation or vasectomy, other than the giving of preliminary advice on the availability of those procedures as an appropriate method of contraception for the person concerned.

(5) The duty of the local authority under sub-paragraph (1)(b) does not include a requirement to offer facilities and services for treating or caring for persons infected with Human Immunodeficiency Virus.

Appendix C: Glossary of Terms

| Term | Definition |
|--|---|
| Contraception or Reproductive Health Services | Services provided by specialist sexual health services and commissioned by local authorities |
| Emergency (hormonal) contraception | <p>Used to prevent pregnancy after unprotected sex or when a contraceptive method has failed - for example, a condom has split or a contraceptive pill has been missed.</p> <p>The copper intrauterine device (IUD) or coil is an effective form of emergency contraception.</p> <p>Emergency <i>hormonal</i> contraception refers to hormone-containing medication given as a pill 'morning after pill'.</p> |
| Family Planning | Term historically used to describe contraceptive services and no longer in common use. |
| General Medical Services (GMS) | Contract held with general practices via NHS England. Basic level 1 contraceptive services for example, the provision of oral contraceptives can also be provided by primary care as part of their GMS contract. |
| Genitourinary Medicine (GUM) | Medical Speciality providing specialist testing, treatment and management services for sexually transmitted infections (STIs) and HIV including for example, chlamydia, gonorrhoea, genital herpes, genital warts and syphilis. |
| GUM services | Services provided by specialist sexual health providers and commissioned by local authorities |
| GUMCAD | Data set collection system in genitourinary medicine (GUMCAD) and administered by Public Health England |
| Integrated Tariff | Tariffs for integrated contraception and STI/GUM services, based on bundles of sexual and reproductive health services and interventions commonly provided together. |
| Long Acting Reversible Contraception (LARC) | Contraceptive methods that once in place are not dependent on the user day to day and are |

| | |
|---|---|
| | <p>effective for months or years. LARC methods include intra-uterine contraception where small devices such as the IUD, IUS (sometimes commonly known as the coil) are inserted into the uterus via the cervix to prevent pregnancy and implants containing slow-release hormones that are inserted in to the female arm.</p> <p>LARC services can be commissioned by local authorities within and outside of specialist sexual and reproductive health services, often via general practice.</p> |
| Market Forces Factor | Used to adjust resource allocations in the NHS; an estimate of unavoidable cost. It includes differences between health care providers, based on their geographical location. As the Council is not an NHS organisation MFF payments do not apply. |
| Open Access | Services that are available for the benefit of all people present in the local authority's area" as stated in The Regulations |
| Pathway Analytics | Company providing software that enables providers and commissioners to create groups or bundles of sexual and reproductive health services and interventions commonly provided together (www.pathwayanalytics.com) |
| Pre-Exposure Prophylaxis (PrEP) | PrEP is a drug taken by HIV-negative people before and after sex that reduces the risk of getting HIV |
| SHAPPT Coding | Coding used to allocate interventions on the GUMCAD system for example, for screening of STIs, contraception, HIV testing offered etc. |
| Sexual and Reproductive Healthcare Dataset (SRHAD) | Dataset which replaced the former KT31 contraceptive dataset. It is collected from sexual health services by the Health and Social Care Information Centre (HSCIC). |