

## FUNCTIONS OF PRIMARY CARE TRUSTS

### September 2010

---

This document is the product of a joint workshop held by the NHS Confederation's PCT Network and the Department of Health to identify and categorise the functions currently performed by primary care trusts.

#### 1. Overall duties

##### Statutory duties of PCTs:

- Duty to have regard to the NHS Constitution section 2(1) of the Health Act 2009.
- It is in the exercise of these functions that PCTs are responsible for the provision of hospital, community health and certain public health services to their local population and the basis for their commissioning role. The functions under sections 2 to 4 and Schedule 1 to the NHS Act 2006 ("the Act") are stated as duties or powers to provide; but the duties is to provide services "to such extent as [the PCT] considers necessary to meet all reasonable requirements".
- *Waiting Times* - There are duties imposed on PCTs under the Primary Care Trusts and Strategic Health Authorities (Waiting Times) Directions 2010 to make arrangements to meet 18 week operational standards and subject to exceptions, where that target will not be met to offer an alternative provider.
- Duty to act compatibly with the rights under the European Convention on Human Rights (section 6 of the Human Rights Act 1998).
- Duties not to discriminate in the provision of services or otherwise in the exercise of the PCT's functions :
  - sections 19B and 20 of the Race Relations Act 1976 (race)
  - sections 46 and 52 of the Equality Act 2006 (religion)
  - sections 21A and 29 of the Sex Discrimination Act 1975 (sex)
  - sections 19 and 21B of the Disability Discrimination Act 1995 (disability)
  - regulations 4 and 8 of the Equality Act (Sexual Orientation) Regulations 2007 (sexual orientation).
- Duties to have due regard to the need to eliminate unlawful discrimination and promote equality of opportunity:
  - race (section 71 of the Race Relations Act 1976)
  - sex (section 76A of the Sex Discrimination Act 1975)
  - disability (section 49A of the Disability Discrimination Act 1995).
- Duties to publish race, sex and disability equality schemes (Race Relations Act (Statutory Duties) Order 2001, Sex Discrimination Act 1975 (Public Authorities) (Statutory Duties) Order 2006 and Disability Discrimination Public Authorities) (Statutory Duties) Regulations 2005).

##### Statutory powers of PCTs:

- In addition, the Secretary of State has delegated to PCTs his power under section 12 of the Act to arrange for other persons or bodies to provide services. This enables PCTs to enter commissioning arrangements for secondary care and community services with NHS trusts, FTs and independent providers.

## 2. Strategic Leadership and Planning

Key role description: Responsibility for ensuring that services for their population are commissioned in a way which delivers improved health, better clinical outcomes, excellent patient experience and productivity, and reduces health inequalities.

### Statutory duties of PCTs:

- PCTs must determine local health needs and determine what services are to be provided to meet those, having regard to the resources available to them.
- *Quality and Standards-* Duty to make arrangements to secure continuous improvement in the quality of care by or for the PCT, having regard to standards published by the Secretary of State ("the duty of quality") section 23 of the Act.
- Duty to make arrangements with a view to securing that it receives appropriate advice from persons with professional expertise relating to health (section 23 of the NHS Act 2006)
- Duty to prepare health improvement plans (section 24 of the 2006 Act)

### Statutory powers of PCTs:

- [none]

### Functions:

- Locally leading the NHS – setting priorities, system management, managing and being accountable for the reputation of the NHS locally.
- Develop Strategic commissioning plans which should reflect individual strategies and NSFs including for Carers, Dementia, Cancer services, CHD, Mental Health, Diabetes, Renal Services, Long Term conditions, Young People, Maternity Services, and the National Cancer Plan, and Valuing People. The commissioning plan should also describe how the PCT will meet operating framework targets such as eliminating mixed sex wards and separating PCT provision from commissioning.
- Ensure strong commissioning through Practice Based Commissioning.
- Develop QIPP plans with detailed milestones demonstrating the PCT will meet SHA requirements of quality improvement, and productivity.
- Undertake strategic planning and service redesign at a health economy level to include undertaking demand modelling, forecasting and capacity planning.
- Develop disinvestment as well as investment plans based on agreed criteria including quality, local needs, cost evidence of effectiveness.
- Facilitate links with clinicians (acute, primary care and mental health) to redesign services across whole patient pathways, including specialised services.
- Work in partnership with Local Authorities (LAs) to undertake regular needs assessments. Using the identified current health needs, and identifying future trends, ensure that all commissioned services meet the needs of the population, especially those whose needs are the greatest.
- Taking account of available resources, provide or secure healthcare services, ensuring high quality care, improvement in health outcomes, and value for money across all settings and for all patients.
- Working with Local Authorities, determine local health improvement targets e.g. in relation to stop smoking, obesity, teenage pregnancy and health promotion, substance misuse, and exercise. Lead and also coordinate health improvement activities to address these.
- Develop collaborative commissioning arrangements through Specialised Commissioning Groups, (SCGs), with

other PCTs, and other commissioners such as prison services, schools etc.

- Ensure an “appropriate” degree of stability across the LHE.
- Horizon scanning – in relation to policy development across all sectors
- Local delivery of national public health policies
- Deliver on 2010 Carbon Reduction Strategy.
- Local implementation of national operating framework/vital signs
- Joint strategic needs assessment

### 3. Partnership, engagement & advocacy

Key role description: Ensuring continuous and meaningful engagement with the public and patients to shape services and improve health. Work collaboratively with a range of partners to commission services which will improve health, and reduce health inequalities.

Statutory duties of PCTs:

- Duty to co-operate with other NHS bodies (section 72 of the 2006 Act)
- Duty to co-operate with local authorities (section 82 of the 2006 Act)
- SofS may issue guidance to NHS bodies and LAs in respect of prescribed arrangements; and has powers to direct LAs and NHS bodies (not FTs) to enter partnership arrangements where a body is failing to exercise its functions adequately (section 78)
- Duties under the Local Government and Public Involvement in Health Act 2007 (local area agreements and joint strategic needs assessments)–
  - duty to co-operate with local authority in determining local improvement targets, additional targets, or changes to or removal of existing targets, in local area agreements (sections 106(3) and 111(5));
  - duty to have regard to local improvement targets in their local area agreement (section 108); and
  - duty to prepare joint strategic needs assessments for health & social care, with local authorities and other PCTs (section 116).
- Duty to consider requests from local authorities for assistance in the planning of services for carers etc (section 3 of the Carers (Equal Opportunities) Act 2004).
- Various Secretary of State functions relating to local authorities are delegated to PCTs by direction.
- Duty to make arrangements with a view to securing that health service users are involved in the planning of the provision of services for which the PCT is responsible, the development and consideration of proposals for changes in the way those services are provided, and decisions to be made by that body affecting the operation of those services (section 242 of the 2006 Act).
- Duty to consult local authority overview and scrutiny committee(s) on proposals for substantial developments or variations in the local health service (regulations made under section 244 of the 2006 Act<sup>1</sup>).
- Child Poverty Act 2010 - s20 (PCT partnership duty in respect of child poverty).
- Duty to act under guidance issued by the Secretary of State pursuant to section 2 of the Autism Act 2009, under section 3 of that Act (applies to a local authority or an NHS body).

<sup>1</sup> See regulation 4 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 (S.I. 2002/3048).

- NHS Act 2006 Section 24A (inserted under section 234 (2) of the Local Government and Public Involvement in Health Act 2007 c.27); PCT must prepare and publish a report on consultations carried out before making commissioning decisions and on the influence that the results of the consultation have on its commissioning decisions.
- Civil Contingencies Act 2004 – duty to assess, plan and advise in relation to emergencies and the risk of emergencies.

Statutory powers of PCTs:

- Power to enter partnership arrangements (pooled budgets etc) with local authorities (regulations under section 75).
- Power to delegate functions to another PCT (by agreement) and to exercise functions jointly with other PCTs, SHAs, SpHAs and NHS trusts bodies (regulations under section 19 of the Act<sup>2</sup>)
- Director of Public Health local authority proper officers (National Assistance Act 1947)

Functions:

- Undertake formal consultation before making significant commissioning decisions
- Consult formally and informally with Overview and Scrutiny Committees (OSCs) on proposals for service development or variation.
- Working with a range of partners, e.g. social care, education and the voluntary sector, develop and deliver the Local Area Agreement.
- Actively participate in the Local Strategic Partnership, working with a range of partners, (education, commerce, LAs , police etc) to consider the wider determinants of health and the impact the PCT can make in improving health and reducing health inequalities.
- Ensure there are effective systems in place for effective adult protection – including policies, procedures and relationships with key partners. This has particular relevance to e.g victims of domestic violence, users of mental health services, and clients with a Learning Disability.
- Working with LAs, jointly commission (plan, agree, monitor and evaluate) services e.g. through joint commissioning arrangements, section 75 agreements and shared posts.
- Ensure effective winter planning.
- Undertake emergency planning duties including assessment, planning and advising in relation to emergencies or risks of emergencies.
- Respond to emergencies – e.g. swine flu – procuring equipment, changing working arrangements, communications
- Effectively participate in local resilience forums.
- Working with partners to develop and implement strategies to reduce crime and disorder, and reduce misuse of drugs, alcohol and other substances.
- Participate in Children’s Trusts to ensure the health and wellbeing of children including undertaking responsibilities for Safeguarding (membership of the Local Safeguarding Board, ensuring roles of Designated Dr and Nurse are fulfilled)
- Provide effective support for carers.

---

<sup>2</sup> See regulation 10 of the Functions Regulations

- Effectively involve patients, the public, their carers, and other stakeholders in the planning and delivery of services.
- Undertake Equality impact assessments.
- Engage with Local Involvement Networks (LINks)
- Respond effectively to patients through the PCT patient advisory and liaison service (PALS)
- Act as a natural point of contact for local MPs and other community leaders – dealing with all written correspondence and ensuring regular and effective relationship management.
- Protect the reputation of the NHS
- Manage internal and external communication strategies – including effective media handling.
- Proactively influence the behaviours of patients and the public eg using social marketing to support stop smoking campaigns.

#### 4. Providing or securing services

Key role description: Ensure there is a full range of providers which provide choice, and which secure the desired outcomes, quality and value for money

Statutory duties of PCTs:

- Duty to provide or secure the provision of primary medical services in its area (section 83 of the Act); the duty is to provide or secure.
- Duty to provide or secure the provision of primary dental services in its area (section 99 of the Act).
- Duty to provide or secure the provision of certain ophthalmic services, including sight-testing, in its area (section 115 of the Act).
- Duty to make arrangements for the provision of pharmaceutical services in their area – i.e. the provision of drugs, medicines and certain appliances prescribed by GPs or dentists, and such additional pharmaceutical services as directed by Secretary of State (sections 126 and 127 and 129 of the Act).
- Duty to administer the arrangements for primary care services (i.e. the services referred to above), and perform such other management and other functions as may be prescribed (section 22 of the Act).
- PCT duty under Directions to make arrangements to ensure vaccination is offered in accordance with JCVI recommendations.
- Affects who has to decide if it is safe to discharge patient and notify LA of likely need for community care services. If health service hospital, done by the hospital. If independent, done by the contracting NHS body. (Community Care (Delayed Discharges etc.) Act 2003 (c.5))
- Duty to follow EU procurement law

Statutory powers of PCTs:

- Power to make pilot schemes for the provision of local pharmaceutical services (section 134 of the Act).
- PCTs have a power to provide services under primary medical services & primary dental services agreements

(section 21(1) of the 2006 Act).

- Power to make payments to local authorities and voluntary organisations towards expenditure on community services (sections 256 and 257).
- Power to give grants to voluntary organisations (section 64 of the Health Services and Public Health Act 1968 – Secretary of State functions delegated to PCTs by direction – see Annex A).

Functions:

- PCTs currently contract Home Oxygen services. Current contracts expiring around 2012/13 but Capital & Revenues Investment branch are in the process of procuring 5-year contracts starting in 2011 with lead PCT as a party. This function requires significant contract management capability and need to recover costs from other commissioners.
- Negotiate contracts with full range of providers (acute, primary, community, mental health, third sector independent sector etc) to include:
  - Financial envelope
  - Capacity plans
  - Incentives e.g. CQIN
  - Clinical and quality outcomes

(N.B. Contracts with foundation trusts are legally binding)

- Ensure application of mandatory NICE guidance across providers.
- Determination for treatment abroad.
- Develop “section 75 “arrangements to manage jointly commissioned services – most commonly in mental health, learning disability and children’s services. Such arrangements have clear governance and specific accountability arrangements for LAs and NHS organisations.
- Ensure pathway coordination across commissioners and providers for “high end” secondary care services. This is usually managed through the networks for stroke, CHD, cancer etc.
- Develop a procurement strategy and ensure compliance with PRCC. This includes development of service specifications, tendering, Board sign off of award of contract, and managing the transition between providers.
- Manage the local provider market to ensure there is an appropriate range and choice of providers.
- Manage vaccination and screening programmes (implemented through primary care providers) – notifying call and recall to practices, maintaining databases for breast and cervical screening – see appendix 1 for more detail.
- Managing individual funding requests – e.g. to meet complex health care needs, working with education, social services, prison services etc when appropriate.
- Assessing/appraising evidence to underpin commissioning
- Issuing commissioning intentions

## **5. Monitoring and Evaluating.**

Key role description: Ensure contract compliance and continuous improvement in quality, health outcomes, and value for money.

Statutory duties of PCTs:

- Duty to maintain and publish Performers Lists (NHS Act 2006 and subsequent regulations):

- S91 Primary Medical services
- S106 Primary Dental services
- S123 Primary Optical services
- S129 Pharmaceutical services (inc. appliance contractor)
- Duty to make payments to suspended performers (SofS Determination 2004), aligns with Performers list above)

Statutory powers of PCTs:

- [none]

Functions:

- Continuously monitor performance of contracts (and grants) with all providers (NHS, L A, independent or third sector. Specifically, regularly review:
  - Financial performance
  - Activity levels
  - Quality standards and outcomes including patient experience
  - Clinical standards.
- Provide pre intervention support to providers where there is a concern over performance.
- Put in place:
  - Contract variations if required
  - Exception reports
  - Actions to address under performance including agreement and implementation and of recovery plans.
- *"Relationship management"* with range of providers (informal and formal).
- Comment on and agree quality accounts
- Undertake surveys, analyse and use the data to improve services e.g patient choice surveys.
- Working with clinicians, patients and others, continually review effectiveness and improve pathways.
- Continually review PCTs performance and outcomes against similar populations.
- Measure and understand the efficiency and effectiveness of PCT spend in all commissioned services, benchmarking against identified best practice.
- Undertake payment and invoice reconciliation.
- Financial audit (internal and external)

**6. Accountability and Assurance**

Key role description: Accountable for ensuring and demonstrating high quality services, and ensuring the most effective and efficient use of resources.

Statutory duties of PCTs:

- Duty to publish an annual document setting out information in relation to the quality of the services they provide or commission (other than in relation to primary care services and community health services) section 8 of the Health Act 2009.

- A PCT has various financial duties under the NHS Act 2006 including:
    - to secure that its expenditure in any financial year does not exceed its allotment from Secretary of State for that year (section 229)
    - to secure that its use of resources in any financial year do not exceed the amount specified by the Secretary of State (section 230)
    - to keep proper accounts and related records (Schedule 15, paragraph 2)
    - to prepare annual accounts and send copy of accounts to SHA and Secretary of State (Schedule 15, paragraphs 3 and 4).
  - Duties to prepare an annual report, send it to SHA & Secretary of State and to publicise the report and annual accounts (NHS Act 2006, Schedule 3, paragraphs 20 and 21).
  - Power to provide hospital services for private patients or provide other services, or carry out other activities, for the purpose of making additional income available ("income generation") (section 21(5)).
  - Power to raise money (by appeals, competitions etc) (section 222 of the 2006 Act).
  - Data Protection Act 1998 –
    - duty to process personal data in accordance with the Act
    - duty to grant individuals access to personal data relating to them (sections 7 to 15 of the Act)
    - duties to register with Information Commissioner (sections 17 to 21).
  - Freedom of Information Act 2000 –
    - duty to comply with requests for information in accordance with the Act (sections 1 to 16);
    - duty adopt and maintain a publication scheme and publish information in accordance with that scheme (section 19).
  - Duties in relation to the supervision and management of controlled drugs (regulations under sections 17 and 18).
  - Duty to provide periodical reports on matters relating to HIV and AIDS (section 1 of the Aids (Control) Act 1987).
  - PCTs currently hold some contracts for Wave 1, Phase 2 ISTCs and now successors to Wave 1 contracts.
  - For some contracts for Wave 1, Phase 2 ISTCs, PCTs have provided indemnities to the ISTC contractor to cover their clinical negligence. Effectively, if a claim is made, the indemnity means it is made against the PCT rather than the ISTC and the PCT is covered through the clinical negligence scheme for trusts (CNST).
  - Mental Capacity Act 2005; A PCT has a duty to act as a Supervisory Body in relation to Deprivation of Liberty Safeguards.
  - Duty to appoint Responsible Officer (RO Regulations 2010 under Health and Social Care Act 2008) – duties of responsible officers in PCTs relate to all doctors on Performers List and some locum doctors.
  - Duty to make a pharmaceutical needs assessments for its area (section 128A of the Act)
- FT Board membership – NHS Act 2006, Schedule 7, Para 9(3); "at least one member of the board must be appointed by a Primary Care Trust for which the corporation provides goods and services" **[DN – unsure if this is a duty to FTs or for PCTs. Awaiting Legal Comments and Policy Steer from FT team.]**
- Apply Equality Act 2010 (from 1 October 2010)

Statutory powers of PCTs:

- Power to enter agreements for the provision of overseas development
- Education and Skills Act 2008 - s16 (PCT power to supply information to local education authorities)

Functions:

- Function/role of Local Security Management Specialists working in PCTs

- Publish an annual public health report.
- Management of communicable diseases – including providing reports matters relating to HIV and AIDs.
- Manage decision-making process for use of high cost drugs and new interventions
- Medicines management – provision of prescribing advice to all primary care contractors, supervising and managing controlled drugs.
  - Communicating and managing drugs and medical devices alerts.
  - Provide prescribing advice to care homes.
  - Manage prescribing incentive schemes for practices.
  - Accountable officer across the system (including independent sector)
  - Maintaining drugs – eg. cold chain vaccines
- Manage all elements of Data Protection.
- Assurance and risk management – review all risks and issues eg internal risks, SUIs, provider risks, risks associated with partners such as Safeguarding Boards.
- Ensure effective information governance.
- Comply with all requests under FOI –and publish information in accordance with the publication scheme.
- Manage requests for access to medical records.
- Manage all complaints (including complaints made directly to PCT).
- Respond appropriately to all SUIs , independent enquiries and incidents, child death reviews.
- Undertake serious case reviews.
- Prepare and publish annual report and annual accounts.
- Manage litigation issues and Clinical Negligence Scheme for Trusts (CNST).
- Manage charitable funds.
- Ensure links with CQC and meet requirements and requests.
- Provide management account support to commissioners, PbC clusters etc.
- Ensure effective financial governance including adhering to Standing Orders, Standing Financial Instructions etc.
- Financial services – cash management.
- Meet Infection control responsibilities.(inc. Auditing and monitoring implementation of recovery plans)
- NHS Library services.
- Ensure effective business continuity planning and testing.
- Clinical governance responsibilities
- Communications planning/local voice of NHS
- Research governance

## 7. Workforce

Key role description: Ensuring the organisation develops the capacity and capability to commission outcomes that deliver high quality care and give value for money.

Statutory duties of PCTs:

- Duty not to discriminate in relation to staff and recruitment:
  - section 4 of the Race Relations Act 1976 (race)
  - section 6 of the Sex Discrimination Act 1975 (sex)
  - section 4 of the Disability Discrimination Act 1995 (disability)
  - regulation 6 of the Equality Act (Sexual Orientation) Regulations 2003 (sexual orientation)
  - regulation 7 of the Employment Equality (Age) Regulations 2006 (age)
- Health & safety
  - duty to ensure, so far as reasonable practicable, the health, safety and welfare of employees at work (section 2 of the Health and Safety at Work etc Act 1974)
  - duty to ensure, so far as reasonable practicable, that persons who may be affected by the PCT's undertaking are not exposed to risks to their health and safety (section 3 of the 1974 Act)
  - duty to ensure that PCT premises are safe for visitors etc (section 4 of the 1974 Act)
  - function of making arrangements for a medical practitioner to provide medical records of persons under 18 to employment medical advisers (section 60 of the 1974 Act)
- Health Act 2006 –
  - duties to prevent smoking and to display no-smoking signs in PCT premises (sections 6 and 8)

Statutory powers of PCTs:

- Schedule 3 to the NHS Act 2006 confers various miscellaneous powers including–
  - employ staff (paragraph 7);
  - pay remuneration and allowances to chairman and other board members of the PCT (paragraph 11);
  - do anything which appears to the PCT to be necessary or expedient for the purposes of or in connection with its functions, including acquiring and disposing of property, entering contracts and accepting gifts of property (paragraph 15);
  - enter externally financed development agreements (PFI etc) (paragraph 17);
  - conduct, commission or assist the conduct of research (paragraph 18);
  - make staff available for training purposes (paragraph 19);
  - to purchase land compulsorily where approved by Secretary of State (paragraph 22).

Functions:

- Commissioning of education programmes – clinical and non clinical.
- Providing training and development opportunities for all staff.
- Ensuring effective clinical leadership .
- Ensure organisational development which in turn ensures development of people, capacity and capability of the organisation to meet the QIPP challenges.
- Development of Board and PEC.
- Workforce planning
- payroll
- Develop recruitment and retention strategies for staff

- Ensure workforce policies are developed to demonstrate the PCT is a good employer, and reflects best practice in relation to equality and diversity (including occupational health, personal development, protecting and improving staff wellbeing).
- Undertake formal trade union processes in relation to recognition and consultation.
- Undertake annual staff surveys
- Meet all statutory health and safety duties
- Develop and implement a single diversity scheme.
- Undertake CRB checks

## 8. Estates and IT

Key role description: Ensure the PCTs estate & I.T are effective and enable the delivery of high quality and cost effective care.

### Statutory duties of PCTs:

- Duties in relation to Estates:
  - Reimbursing GPs for the costs of operating their premises (unless, of course, major changes are made to the arrangements for funding primary care);
  - Planning and funding of NHS-owned primary and community facilities;
  - Contracting through frameworks, in particular LIFT and Procure 21 for the delivery of facilities.

### Statutory powers of PCTs:

- Power to provide premises for the use of persons providing primary care services (section 21(3) of the Act).
- Power to form, or participate in the formation of, companies for the purposes of improving primary care facilities or services (in LIFT areas) (section 223 of the 2006 Act – Secretary of State power delegated to PCTs by directions – see Annex A)
- Licensing Act 2003 - s16 (PCT power to apply for premises license).

### Functions:

- Ownership and maintenance of PCT asset.
- Support local implementation of national transformational projects such as Connecting for Health ensuring that there is an integrated approach to service development and informatics planning.
- Ensure primary care premises are developed and maintained in such a way as to support provision of high quality primary care.
- Assure quality of premises, issuing improvement notices or closure orders where problems are identified
- Strategic planning of wider estates policy
- Enter into externally financed development agreements such as PFI and LIFT.
- Holding contracts with LIFT/PFI and paying rent
- Management of all IT .

- Providing IT support to GPs and other primary care contractors.
- Ownership of IT equipment in practices.
- Knowledge management including data systems

## 9. Service specific responsibilities

Most PCT functions apply to all services, services settings and care groups. There are some specific services issues and duties listed below.

### Mental Health

#### Statutory duties of PCTs:

- *After-care services for mental health patients* - Duty on PCTs and local authorities to provide after-care services for patients after detention under the Mental Health Act (section 117 of the Mental Health Act 1983).
- *Direct Payments* - There is provision in sections 12A to 13 of the 2006 Act for the Secretary of State to make direct payments to patients in lieu of providing healthcare. Section 12A(4) provides for PCTs to make direct payments to secure after-care services under section 117 of the Mental Health Act 1983, if regulations so provide
- Mental Health Act 1983, s23/s24 – power to discharge NHS patients from detention (etc) in independent hospitals. Associated power to authorise certain persons to visit and interview such patients.
- Mental Health Act 1983, s39 – duty to provide court on request with information about availability etc of hospital places
- Mental Health Act 1983, s130A – duty to make arrangements for independent mental health advocates (IMHAs) to be available to qualifying patients. (Power conferred on SofS, but is delegated to PCTs via the Functions Regulations).
- Mental Health Act 1983, s140 – duty to notify local social services authorities of availability of suitable hospital places for emergency admissions and for under 18s.
- NHS Act 2006, s236. Duty to make payments to doctors for medical examinations in connection with Part 2 of the Mental Health Act.
- Mental Capacity Act 2005; A PCT has a duty (by virtue of regulations) under ss 37 & 38 MCA to consult an IMCA
- Coroners and Justice Act 2009 - ss19 & 20 (PCT duty to appoint medical examiners)

#### Statutory powers of PCTs:

- Mental Health Act 1983, s122 – power to make pocket money patients to certain psychiatric in-patients. (Power conferred on SofS, but is delegated – by implication – via the Functions Regulations).

#### Functions:

- provide courts with information about availability of hospital places.
- Ensure independent mental health advocates are available to patients where appropriate.
- Working with Local Authorities, provide aftercare for patients who have been detained under the mental health act.

## **Children & Young People**

### Statutory duties of PCTs:

- Duty to co-operate with local authorities and other to improve well-being of children (section 10 of the Children Act 2004);
- Duty to make arrangements to ensure that PCT functions are discharged having regard to the need to safeguard and promote the welfare of children (section 11 of the Children Act 2004);
- Duty to work with local authority in connection with the authority's arrangements for improving well-being etc of young children (section 4 of the Childcare Act 2006).

### Statutory powers of PCTs:

- Learning and Skills Act 2000 - s120 (PCT power to supply information about young people to SofS etc)

### Functions:

- Commissioning services for looked after children.
- *Managing transition* :between adult and older peoples services, and between children's and adult services. Specifically patients and users face issues in transition in Mental health, learning disability and services provided for children with complex health care needs.
- *Commissioning for vulnerable groups* : ensure services are commissioned specifically, for seldom heard and vulnerable groups such as travellers, asylum seekers.

## **Offender Health**

### Statutory duties of PCTs:

- Duty to co-operate with the prison service with a view to improving the way in which functions are exercised in relation to the health of prisoners (section 249 of the NHS Act 2006)
- Duty to formulate and implement, with local authorities etc, strategies for the reduction of crime and disorder, and for combatting the misuse of drugs, alcohol and other substances (section 6 of the Crime and Disorder Act 1998);
- Duty to co-operate with local authorities in relation to youth justice services, youth offending teams etc (sections 38 and 39 of the Crime and Disorder Act 1998);
- Duty to co-operate with police, probation and prison services in relation to arrangements for assessing risks of violent or sexual offenders (section 325 of the Criminal Justice Act 2003).

### Statutory powers of PCTs:

- [none]

### Functions:

- work with prison services to improve the health of prisoners.
- working with police, probation and prison services to asses risks of violent or sexual offenders.
- Cooperate with youth justice services and youth offending teams to ensure effective health care services are available.
- Appoint medical examiners.

## **Continuing Health Care**

### Statutory duties of PCTs:

- There is a single set of eligibility criteria for NHS CHC used across England. The criteria are set out in Directions and are supported by guidance in the revised National Framework for NHS Continuing Healthcare introduced in 2007 and revised in 2009.

### Functions:

- Undertake assessment processes and review panels jointly with Local Authorities using the nationally agreed criteria.

## **Maternity**

### Statutory duties of PCTs:

- Duty to establish Maternity Services Liaison Committees (MSLCs) comprising both users and providers of maternity services

### Functions:

- Establishment of maternity services liaison committees

## **Primary Care**

A dedicated list of commissioning functions relating to primary care can be found in appendix 1. This is currently being reviewed and will be updated shortly.

- Patient registration
- Screening (Cervical and Breast and pilot chlamydia)
- FHS Finance
- Provision of financial information
- Pay contractor
- Ophthalmic care contracts
- Pharmaceutical contracts
- Contract management for all primary care contracts
- Support to primary care providers
- Regulatory Support
- Information services and systems notification of births, vaccination and immunisation activities)
- Performance & Contracting (FHSA)
- Budget management
- Procurement
- Contract negotiation