

Formation of NuCo Limited

Frequently Asked Questions

Q1. Why are the LPCs proposing the formation of a Provider Organisation?

The change in the commissioning environment following the reorganization of health and social care in 2013 has resulted in a change in the way in which former ‘enhanced services’ are now commissioned. Commissioners, including Public Health and Clinical Commissioning Groups, are now commissioning services through a tendering process and generally prefer to award to a single provider organization that is able to ensure delivery to agreed criteria and which can be held to account.

Increasingly we are seeing the use of electronic tendering platforms and other mechanisms which community pharmacy has had little experience of. This is particularly true for the smaller pharmacy businesses who may not have the resource or the capability to participate in the tendering process and yet may be ideal providers of a service.

An LPC is an unincorporated association and is not a legal entity in its own right. An LPC cannot operate a business. Any member of an LPC purporting to enter into a contract on its behalf would be taking on a personal liability for the contract. In order to overcome this issue and address the preference of commissioners to contract with a single entity, PSNC has recommended that LPCs support the establishment of provider companies for the benefit of their pharmacy contractors.

The aim of the three LPCs is to support their respective contractors to be able to compete for the opportunity to provide services without having to go through the tendering process individually. The Provider Company would itself tender for services and then sub-contract to Members of the Association (and others where appropriate) to deliver.

As the contract-holder, the Provider Company would be accountable to the Commissioner and would provide support (such as training) to the sub-contractor to assist it in the delivery of the service to the required specification. It would also be required to performance manage the sub-contracted providers.

Commissioners could of course contract with any organisation that in turn is able to sub-contract to pharmacies. This could be either a lead-pharmacy contractor body or a non-pharmacy provider. However, the LPCs believe that it would be better if community pharmacies had the ability to compete on a level playing field with other potential providers.

Q2. Are other LPCs proposing the formation of Provider Companies?

Yes. Many other LPCs have proposed the formation of provider companies in order to respond to the changes in the commissioning landscape taking place in their own localities. The formation of Federations by groups of local GPs and the more recent development of Vanguards, has increased the competition amongst potential provider organisations that, if not responded to, could disadvantage community pharmacy businesses.

PSNC has recommended that all LPCs establish provider companies to support the interests of pharmacy contractors. PSNC and the NPA have recently established Community Provider Support Services Ltd (CPSS) which is a new national company set up with the aim of assisting locally established provider companies to identify and respond to suitable tender opportunities. It is not a substitute for local provider companies established by LPCs but is complementary to them.

Q3. Why are our LPCs working together?

By working together our LPCs believe that they will have greater ability to respond to opportunities across the region. It is also more cost efficient to form one single Provider Company to represent contractors across each LPC footprint and at regional level. We expect to develop and share expertise to the benefit of all contractors while controlling costs and reducing the potential duplication of work.

By operating over a larger geographical area we also anticipate that this will increase exposure to opportunity that will help the Provider Company to more rapidly develop its capability to secure business for its members. It also sets us up for future regional commissioning.

Q4. Are LPCs able to form a Provider Company?

All three LPC Constitutions allow them to establish a company to support the interests of pharmacy contractors. The relevant clauses are:

3.3.4. The Committee may establish or assist in the establishment of a body corporate formed for the sole purpose of supporting the interests of pharmacy contractors, provided that the memorandum and articles of the body corporate are agreed at a general meeting of the Committee by a two thirds majority of the total votes cast (including postal votes).

3.3.5. The Committee's assistance of such a body corporate as mentioned in 3.3.4 above shall be withdrawn if requested by a majority of the pharmacy contractors voting (including by postal vote) at a general meeting.

The individual LPCs have each previously put to their Contractors the proposal to proceed with the formation of a provider company (*Phase one*). In every case this was positively endorsed and no objections were received.

The Committees themselves then considered all possible models of company formation and independently reached the same conclusion. The preferred model was identified as that which is now being put to all contractors (*Phase two*).

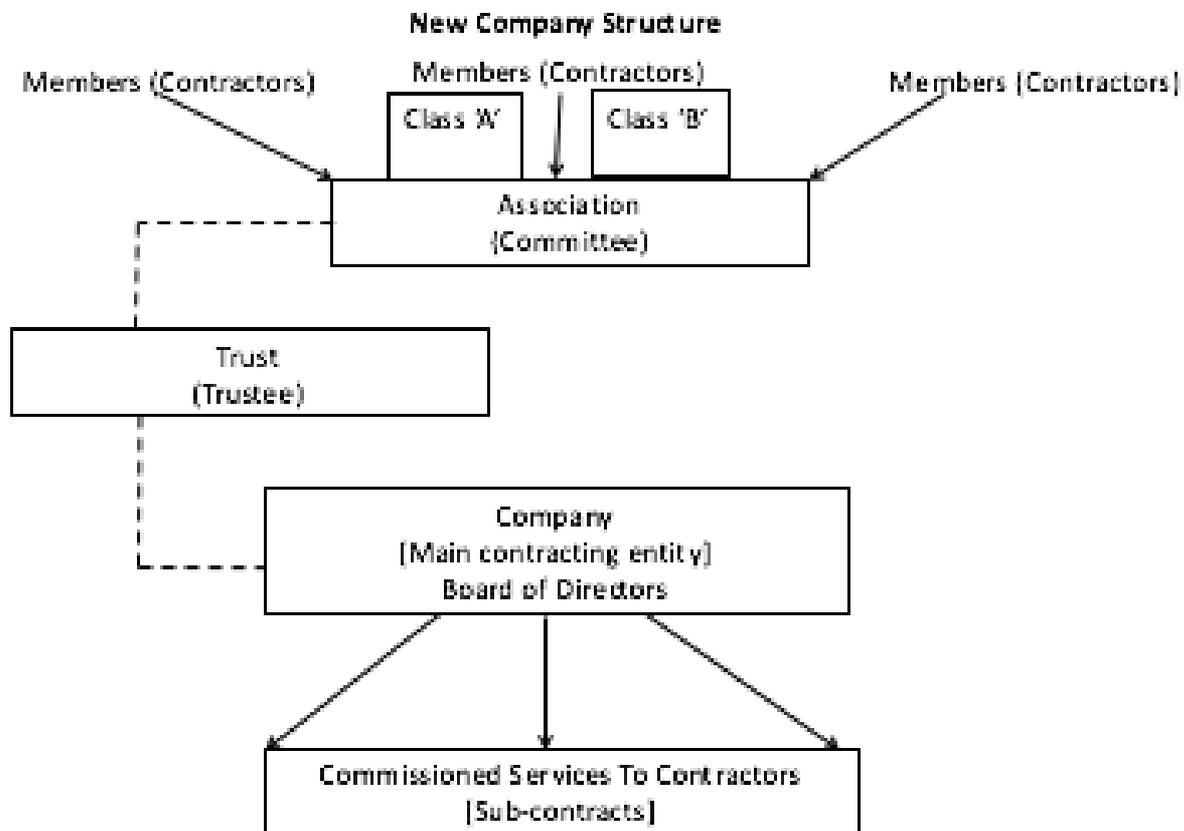
The Committees have now considered in detail what the provider company form and structure should look like and have concluded that the model now presented to Contractors is the best possible model to achieve the aims identified.

We are now at *Phase three* of the process. For the LPCs to proceed with forming the Provider Company in accordance with this recommendation, two thirds of voting contractors are required to show their support at a General Meeting (see LPC Constitution).

Q5. How will NuCo Limited be structured?

The provider company will be a private limited company that operates on a proper commercial basis. It is designed to compete with other potential providers and be 'fleet of foot'.

The management of the company is designed to overcome potential conflicts of interest but at the same time have proper representation from community pharmacy. This is achieved by the make-up of the Board which would have a mix of pharmacy and non-pharmacy members. In addition, there would be a Charter setting out guidelines for the Board to act fairly.



To simplify the ownership of the company all the shares in the company would be held by a Trustee who holds them for the benefit of the members of the Association.

The Association is made up of its members and run by its Committee. The Rules of the Association are designed to be democratic so that all members can have a voice. The Committee's role is to implement the wishes of the members and communicate those to the Board of the Provider Company.

There are two classes of membership of the Association.

1. 'A' Members
2. 'B' Members

The 'A' Members are entitled to have an interest in the shares in the Provider Company and the 'B' Members are not. The decision whether to be an 'A' Member or a 'B' Member is taken by that member and can be reversed at any time by notice on the Association by that member. The reason for the two classes is to enable any member that is prohibited by its governance from holding an interest in shares to still be a member of the Association.

Q6. Who controls the Provider Company?

The Board of Directors of the Company manage the day-to-day operation of the Provider Company.

We envisage that there will be five Directors appointed to the Board (three of whom are Members of the Association and two who might not be potential sub-contractors, to avoid conflicts of interest). One of the Directors must be a member of the Association Committee. It is envisaged that the Board will appoint the necessary staff resource to carry out the instructions of the Board.

The Board will be appointed by the Committee on behalf of the Association.

As all the shares in the Company are held on trust for the 'A' Members of the Association, any one or more of the Directors can be removed from their post by the Trustee following a decision of the Committee on behalf of those members.

Q7. What is the purpose of the Company?

The Company will act as a provider of healthcare services to Commissioners. It will do this primarily by sub-contracting with local pharmacies and may also work in collaboration with other service providers (private or NHS or Local Authority) as required. Services may therefore not be confined to just pharmaceutical and the Company may concern itself with other healthcare related service opportunities in the future.

It is expected that the LPC would continue to develop service proposals with commissioners and to highlight service opportunities to the contractors. The role of the LPC is therefore not envisaged to change following the creation of the Company and the LPCs will continue to support and represent their contractors with the same vigour as they always have.

Q8. What are the benefits of being a member?

Members of the Association fall into one of two classifications ('A' or 'B' as previously defined). Members will have the ability to shape and influence the operation of the Company through the Association. Members will have greater opportunity to be considered as a provider of services (sub-contractor) and given priority over non-members when awarding contracts.

Members will also have access to training and support (and if chargeable this would be at a preferential rate) and have a true voice which shapes both the Association and, in-turn, the provider company. All Dividends, Interest, Bonus, Distributions and all other payments paid to the Committee in respect of any share or shares in any company (including The Company) held on trust for the 'A' members shall be applied by the Committee as it thinks fit for the benefit of the 'A' members.

Q9. What are the fees involved?

NuCo Limited, like any new company, needs to raise start-up capital and working capital. The funds are required to pay legal fees, salary costs, costs associated with tendering etc. Without this capital the company would be unable to trade.

We envisage that there will be two fees payable by contractors wishing to join;

1. A one-off Joining Fee
2. An Annual Membership Fee

1. Joining Fee

The Joining Fee is payable by each Contractor and is to be used to help establish the Provider Company and fund the costs of operation during its early years. The initial Joining Fee proposed is £350.

2. Annual Membership Fee

For each member there would be an Annual Fee of £75 Per Pharmacy in order to continue to support the Provider Company operation. Any profit accrued from business won would of course also go toward supporting the Company.

Example:

A. Independent Pharmacy (with single premises)

Joining Fee £350

Membership Fee £75

Total Year 1 £425

Total Year 2 £75 (assumes no break in membership)

B. Multiple Pharmacy (with ten premises)

Joining Fee £350

Membership Fee £ 750

Total Year 1 £1100

Total Year 2 £750 (assumes no break in membership)

Once established it would be for the Association to determine ongoing fees. Those who choose to join later may face an increased joining fee and /or annual membership fee. It is not for the LPCs to determine what level these would be set at.

In addition to any fees for membership that may be chargeable, and in order to assist in the establishment of a viable Provider Company, the LPCs may wish to loan monies to the company so that it is able to function effectively during the early years. Each LPC would, of course, require that any such financial arrangement be undertaken on a formal legal basis and subject to the normal democratic and governance processes applicable within each LPC.

Q10. What happens if I don't join?

Pharmacy contractors are not obliged to become members and support from contractors to ratify the formation of NuCo Limited in no way implies that you will become a member. Even if you choose not to become a member we hope you will see the benefit of the LPCs enabling the formation of a provider company for those who do wish to subscribe and that you will therefore support this proposal.

However, non-members would still have the opportunity to join at a later date (at whatever fee is relevant at that point in time) and may still be invited to act in the capacity of a sub-contracted provider. It is possible that non-members may receive a lower fee than a member for a service provided. This would be for the Provider Company to determine when awarding the contract.

Q11. Is membership restricted to pharmacy contractors covered by the three LPCs?

No. We would expect members to be pharmacy contractors within the area covered by the three LPCs, however, the Committee of the Association can extend membership to any pharmacy contractor from outside the area as well as to non-pharmacy organisations.

As an alternative, if operating as a prime provider beyond the localities covered by the three LPCs, NuCo Limited could operate in joint venture with another provider company or they could choose to allow pharmacy contractors in another locality to become subscribed members.

Q12. Who will benefit from the company profits?

NuCo Limited is designed to be a commercially viable entity which delivers benefit for the members of the Association. It will budget for an annual surplus sufficient only to ensure it has adequate working capital to operate and meet forecast expenses. Any surpluses in excess of such requirements will be utilised for the benefit of the members.

Q13. How do we get further information?

Each LPC will be holding an Extraordinary General Meeting in November to which all contractors within the LPC footprint will be invited. LPC Committee members and a lawyer who has been advising the Committee will be in attendance.

Queries may also be addressed in advance to the Chief Officer at the LPC

Q14. How do we register to attend the meeting?

Please register by contacting Jo Addison, Office Manager at the LPC at jo.addison@hampshirelpc.org.uk or calling on 01252 413778

Q15. How do we vote?

If you are unable to attend and vote in person at the Extraordinary General Meeting, we would still encourage you to vote on the proposals

An email / postal voting form is attached which you can complete and either post to Jo Addison at the LPC Office (please mark your envelope EGM Voting Form) **or** fax to 08716 613991 (Please write clearly as spoilt or unreadable voting forms cannot be counted)

Completed voting forms must be received by noon on 16th November 2016