

Integrated Care Board

Date of meeting	11 September 2024
Title of paper	Implementing Updated Integrated Care Board Constitution and Governance Guidance
Presented by	Sarah O'Brien Chief Nurse
Author	Debra Atkinson Company Secretary / Director of Corporate Governance
Agenda item	12
Confidential	No

Executive summary

NHS England have published updated Integrated Care Board constitution and governance guidance. The revised guidance and annexed model constitution was published on 26 July 2024, and builds on the guidance and model constitution issued by NHS England in May 2022.

This paper provides a summary of the updates and amendments required to the ICB's constitution and key areas to note in relation to the updated governance guidance.

In addition, guidance on Executive Lead Roles in ICBs has also been updated and incorporated as an Appendix to the revised guidance.

Proposed amendments to the constitution will not be implemented until an application to NHS England for variation has been approved.

Recommendations

The board is asked to:

- **Note** the amendments required to the ICB's constitution and how these have been implemented.
- **Note** the key updates within the revised governance guidance.
- **Support** the review of the ICB's Conflicts of Interest Policy.
- **Approve** the amendments to the ICB's constitution, prior to an application being submitted to NHS England to vary the constitution.

Which Strategic Objective/s does the report relate to:

		Tick
SO1	Improve quality, including safety, clinical outcomes, and patient experience	X
SO2	To equalise opportunities and clinical outcomes across the area	X
SO3	Make working in Lancashire and South Cumbria an attractive and desirable option for existing and potential employees	X
SO4	Meet financial targets and deliver improved productivity	X

SO5	Meet national and locally determined performance standards and targets				
SO6	To develop and implement ambitious, deliverable strategies				X
Implications					
		Yes	No	N/A	Comments
Associated risks				X	
Are associated risks detailed on the ICB Risk Register?				X	
Financial Implications				X	
Where paper has been discussed (list other committees/forums that have discussed this paper)					
Meeting		Date		Outcomes	
Executive Management Team		3 September 2024		Approved	
Conflicts of interest associated with this report					
not applicable					
Impact assessments					
		Yes	No	N/A	Comments
Quality impact assessment completed		X			Completed as part of submission process to NHS England
Equality impact assessment completed		X			Completed as part of submission process to NHS England
Data privacy impact assessment completed				X	

Report authorised by:	Sarah O'Brien, Chief Nursing Officer
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Integrated Care Board – 11 September 2024

Implementing Updated Integrated Care Board Constitution and Governance Guidance

1. Introduction

- 1.1 NHS England have published updated [Guidance on Integrated Care Board Constitutions and Governance](#). The revised guidance and annexed model constitution was published on 26 July 2024, and builds on the guidance and model constitution issued by NHS England in May 2022.
- 1.2 In addition, guidance on Executive Lead Roles in ICBs has also been updated, and [Appendix A](#) of the constitution and governance guidance replaces the related standalone guidance published in May 2023.
- 1.3 The model constitution includes elements that are mandated (legal or policy requirements) and elements that may be modified locally. NHS Lancashire and South Cumbria Integrated Care Board (the ICB) fully adopted the model constitution at establishment and any variations since have been approved in line with NHS England guidance on varying constitutions.
- 1.4 The updated guidance requires that where an ICB has not already made the additional amendments to their constitutions they are asked to do so at their next opportunity.
- 1.5 This paper provides a summary of the updates and amendments required to the ICB's constitution; review of the ICB's Conflict of Interest Policy; and key areas to note in relation to the updated governance guidance. and how the ICB has reflected these in its constitution and policies.

2 Amendments to Constitutions

- 2.1 Amendments are required to constitutions at the earliest opportunity for the following specific reasons, each of which includes a short summary of the any amendments to the ICBs constitution:

- 2.1.1 Ensuring one of the non-executive board members is identified as the deputy chair (cannot be the audit committee chair):

The ICB already has Deputy Chair arrangements, and this is included within its constitution. Sections 2.2.3 f) and 3.11.3 f) have also been amended to reflect updated guidance.

- 2.1.2 Ensuring one of the non-executive board members is identified as the senior independent member: to bring clarity in particular to which non-executive member should support the NHSE Regional Director on the appraisal and Fit and Proper Person (FPP) compliance of the Chair:

The ICB already has a named Senior Independent Member, and this is included within its constitution. Sections 2.2.3 f) and 3.11.3 e) have also been amended to reflect updated guidance.

- 2.1.3 Expressing the Chair's period of office as a maximum, rather than a fixed term:

Section 3.3.4 has been amended to remove any reference to years of office, and that this is a maximum.

- 2.1.4 Confirming that a proposal for the Chair or a non-executive to serve on the board for longer than six years will be subject to rigorous review, and they will not serve as a board member for longer than nine years in total: to ensure objectivity is maintained:

Section 3.3.5 has been added to reflect these requirements.

- 2.2 In addition to the specific requirements above, there are a number of minor amendments to reflect:

- references to procurement rules to take account of the introduction of the Provider Selection Regime;
- Updated definitions and removing clauses related to ICB establishment;
- updating cross-references to legislation;
- Fit and Proper Persons Policy;

3 Amendments in relation to Managing Conflicts of Interests

- 3.1 Section 6 of the constitution sets out the arrangements the ICB has made to manage any actual or potential conflicts of interests. Conflicts of Interest: Principle 3 has been amended to include:

The personal and professional interests, ***including any directorships***, of all ICB board members, ICB committee members and ICB staff who are involved in decision-taking need to be declared, recorded and managed appropriately.

- 3.2 The updated governance guidance recommends that ICB's review their Conflicts of Interest Policy, taking into account learning from early reviews, guidance on the Provider Selection Regime and guidance on joint working and delegation arrangements.

- 3.3 A draft "Contracting and Procurement" policy is currently being developed and will incorporate other considerations highlighted within the guidance in relation

to the PSR, and will set out the arrangements including internal governance mechanisms to deal with representations made against provider selection decisions.

3.4 This policy and a revised Managing Conflicts of Interest Policy (incorporating Gifts and Hospitality) will be presented to the Board at its meeting on 13 November 2024.

3.5 A copy of the amended constitution can be viewed at:

[V3.1 DRAFT Unpublished August 2024 LSC ICB Constitution.pdf](#)

4 Governance Guidance

4.1 In addition to the required amendments to constitutions other sections of the guidance have been updated to include the following. These additional sections are not indented to be incorporated into constitutions, but to support ICBs in being either compliant or aware.

4.2 Executive lead roles on Integrated Care Boards

4.3 An updated 'Executive Lead Roles on Integrated Care Boards' has been incorporated as an appendix to replace the standalone guidance published in May 2023. This guidance gives board level executive leadership on care for specific population groups as follows:

- Children and young people (0-25)
- Children and young people with SEND
- Safeguarding (all age, including looked after children **and care leavers**)
- Learning Disability and autism (all age)
- Down syndrome (all age)

4.4 The addition of 'care leavers' to safeguarding responsibilities is as a result of evidence that care leavers have poorer health outcomes than the NHS. These responsibilities have been appointed to the Chief Nurse and were reported against as such in the ICB annual report 2023/24.

4.5 Skills, knowledge and experience of the board

4.6 The updated guidance includes a dedicated section regarding assessing the skills, knowledge and experience of the board. This provides a framework for the Board to consider a review of its effectiveness.

4.7 Delegation and Joint Working Arrangements

4.8 The updated guidance also includes an update regarding the flexibility allowed by the legislation to allow for delegation and joint working and the additional detail in the guidance should be referenced when the ICB is considering entering such arrangements.

4.9 Also referenced is that ICBs must ensure their SoRD addresses functions formally delegated to them by NHSE (e.g. primary care commissioning).

4.10 The current SoRD captures those delegations to the ICB including primary care commissioning and specialised commissioning.

4.11 Equality, Diversity, and Inclusion

4.12 The updated guidance references that a document is due to be published shortly by NHS England on the Public Sector Equality Duty (PSED) and the Specific Equality Duties (SED). This reference document will provide guidance on how to comply with the health inequalities duties, the PSED and the SEDs.

4.13 Health Inequalities

4.14 The updated guidance includes additional detail regarding the annual assessment of performance to specify that this will include but not be limited to:

- The duty to reduce inequalities of access and outcomes
- The duty to improve the quality of services
- The duty to have regard to the wider effect of decisions (the Triple Aim)
- The duty to consult patients and the public about decisions that affect them.

4.15 NHS England may publish further statutory guidance on delegation and joint working.

5 **Recommendations:**

5.1 The board is asked to:

- **Note** the amendments required to the ICB constitutions and how these have been implemented locally.
- **Note** the key updates within the revised governance guidance.
- **Support** the review of the ICB's Conflicts of Interest Policy.

- **Approve** the amendments to the ICB's constitution, prior to an application being submitted to NHS England to vary the constitution.
- **Note** that proposed amendments to the constitution will not be implemented until an application to NHS England for variation has been approved.

Debra Atkinson

23 August 2024