

Integrated Care Board

Date of meeting	29 March 2023
Title of paper	Review of Primary Care Commissioning Governance and Decision-Making Arrangements
Presented by	David Levy Medical Director
Author	Debra Atkinson Company Secretary and Director of Corporate Governance
Agenda item	14
Confidential	No

Purpose of the paper
<p>This paper sets out revised primary care commissioning governance arrangements for implementation from 1 April 2023. These proposals reflect the current operating model at ICB system level and will be further reviewed as places develop and begin to discharge decision making for community-based services, and when legislation is passed for the provider selection regime to come into force.</p>
Executive summary
<p>At establishment on 1 July 2022, in accordance with the powers under section 65Z5 of the NHS Act, NHS England (NHSE) delegated the exercise of commissioning of Primary Medical Services and Pharmaceutical Services functions to Lancashire and South Cumbria Integrated Care Board (ICB).</p> <p>From 1 April 2023 NHSE will also delegate the exercise of Primary Dental and Primary Ophthalmic services functions to the ICB and the ICB will hold over 1000 core primary care contracts, resulting in a significant number of contract related decisions needing to be made.</p> <p>This paper sets out revised governance arrangements for implementation from 1 April 2023. These proposals reflect the current operating model at ICB system level and will be further reviewed as places develop and begin to discharge decision making for community-based services, and when legislation is passed for the provider selection regime to come into force.</p>
Recommendations
<p>The board is asked to:</p> <ul style="list-style-type: none"> • Note the contents of the report; • Note the proposals within the report; • Endorse the revised terms of reference for a Primary Care Commissioning Committee; • Receive a further report on any further developments or changes to the governance and commissioning of primary care services

Governance and reporting (list other forums that have discussed this paper)				
Meeting	Date			Outcomes
Executive Management Group	21 March 2023			Supported
Conflicts of interest identified				
not applicable				
Implications				
(If yes, please provide a brief risk description and reference number)	Yes	No	N/A	Comments
Quality impact assessment completed			x	
Equality impact assessment completed			x	
Data privacy impact assessment completed			x	
Financial impact assessment completed			x	
Associated risks			x	
Are associated risks detailed on the ICB Risk Register?			x	

Report authorised by:	David Levy Medical Director
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Integrated Care Board – 29 March 2023

Review of Primary Care Commissioning Governance and Decision-Making Arrangements

1. Introduction

- 1.1 At establishment on 1 July 2022, in accordance with the powers under section 65Z5 of the NHS Act, NHS England (NHSE) delegated the exercise of commissioning of Primary Medical Services and Pharmaceutical Services functions to Lancashire and South Cumbria Integrated Care Board (ICB).
- 1.2 From 1 April 2023 NHSE will also delegate the exercise of Primary Dental and Primary Ophthalmic services functions to the ICB and the ICB will hold over 1000 core primary care contracts, resulting in a significant number of contract related decisions needing to be made.
- 1.3 This paper sets out revised governance arrangements for implementation from 1 April 2023. These proposals reflect the current operating model at ICB system level and will be further reviewed as places develop and begin to discharge decision making for community-based services, and when legislation is passed for the provider selection regime to come into force.

2 Background

- 2.1 Prior to the establishment of ICBs, CCG Primary Care Commissioning Committees (PCCC) were required to be established as statutory committees for CCGs undertaking level 3 delegated commissioning responsibilities from NHS England. There were specific requirements that applied under the terms of the delegation which included model terms of reference; meetings being held in public; and the adherence of NHS England's statutory guidance on managing conflicts of interest for PCCCs. Guidance was also included in relation to membership of PCCCs. The specific arrangement under the terms of the delegation fell away when CCGs were abolished and ICBs were established.
- 2.2 At establishment on 1 July 2022, in accordance with the powers under section 65Z5 of the NHS Act, NHS England (NHSE) delegated the exercise of commissioning of Primary Medical Services and Pharmaceutical Services functions to Lancashire and South Cumbria (LSC) Integrated Care Board (ICB).
- 2.3 LSC ICB, with agreement from NHSE, established a Primary Care Commissioning Group. The group currently reports to the executive management group and to the board through a summary report of the groups business.
- 2.4 From April 2023 NHSE will also delegate the exercise of Primary Dental and Primary Ophthalmic services functions to the ICB and the ICB will hold over 1000 core primary

care contracts, resulting in a significant number of contract related decisions needing to be made.

- 2.5 As result of the legislation, national contract models and policy books the types of decisions that need to be made can be split into three types- those where the commissioner has no discretion if due process has been followed; those where the commissioner has a degree of discretion but there is a clear policy to be followed (local or national); those where the commissioner has more flexibility in its decision making.
- 2.6 To ensure robust governance arrangements for all of these functions, a review of primary care commissioning governance and decision-making arrangements and a full review of the Terms of Reference (ToR) of the Primary Care Commissioning Group (PCCG) has been undertaken. A series of proposals and recommendations have been made to ensure robust decision-making arrangements, transparency, and clear reporting arrangements of the group.
- 2.7 To support the PCCG in its role, four contractor group specific sub-groups will be established. The membership of these sub-groups will be made up of officers with a strong technical understanding of the relevant contract groups contractual requirements, alongside finance and clinical colleagues. There will also be a tailored development programme for the committee in relation to procurements and the anticipated changes when legislation is passed for the provider selection regime to come into force.
- 2.8 This paper outlines the proposals for implementation from 1 April 2023. These proposals reflect the current operating model at ICB system level and will be further reviewed as places develop and begin to discharge decision making for community-based services, and when the provider selection regime to come into force.
- 2.9 The recommendations focus on three key areas: purpose of the committee and sub-groups, transparency and membership and reporting.

3 Purpose

- 3.1 It is proposed that the Primary Care Commissioning group becomes a committee (PCCC) of the board, with its main purpose being to ensure consistent decision making across the ICB with regards to delegated primary care services and to undertake decisions in relation to discretionary functions which require decision making such as procurement decisions, awarding or terminating contracts, or dispersing a practice list (not exhaustive).
- 3.2 The committee will ensure that appropriate finance, quality, performance and patient and public involvement are considered at all levels of considerations and decision making.
- 3.3 The committee does not undertake a role in relation to transformation of services or development and oversight of the ICBs primary care strategy. Primary Care quality assurance (including serious incidents and complaints) will remain with the ICB's Quality Committee.

- 3.4 There are explicit regulations to membership of decision-making groups in relation to pharmacy, dental and ophthalmic services and the committee will ensure that any such members are excluded from such discretionary decisions, and that the quoracy of the committee allows for such arrangements.
- 3.5 A review of the current decision-making matrix, including the addition of dental and ophthalmic services has been undertaken, and proposals for which decisions can be safely and effectively delegated to the relevant sub-groups will be considered at the PCCC in April 2023. The sub-groups will oversee nationally driven or mandated processes (non-discretionary or degree of discretion) aligned to clear NHSE policy books. At this stage, a separate piece of work is taking place with regards to estates decisions.
- 3.6 The sub-groups will report into the PCCC and ToRs and membership for these sub-groups are being finalised to reflect the further delegation agreement and in line with the decision-making matrix.

4 PCCC: Transparency and Membership

- 4.1 The ICB has a statutory public involvement duty. This requires the ICB to make arrangements to involve the public when commissioning NHS services, particularly where there is (or could be) a change to the manner in which services are delivered to patients or the range of services available to them. There are various arrangements the ICB has in place for public involvement; one being the overall “*decision-making apparatus*” and where decision-making committees are held in public and membership includes independent members and patient representatives (such as Healthwatch).
- 4.2 The PCCC will review its current business and decision making matrix to determine those items which require decision making such as procurement decisions, awarding or terminating contracts, or dispersing a practice list. Any such items will be considered at meetings held in public, with the time, date, place, and agenda being published on the ICB’s Internet at least 5 days prior to the meeting.
- 4.3 Where a proposal or decision is deemed confidential or is commercially sensitivity, these items will be held in a part 2 (private) meeting. If at a later date such decisions deemed are appropriate for the public, they are reported to a later public meeting.
- 4.4 The proposed membership of the revised committee is eleven members:
- Lay Member (Chair of Committee)
 - Lay Member (Vice Chair of Committee)
 - Medical Director
 - ICB Partner Member for Primary Medical Services*
 - Director of Primary Care
 - Director of Communications and Engagement
 - Director of Quality Assurance and Safety
 - Primary Care Nurse
 - Chief Pharmacist

- Head of Primary Care
- Finance Lead for Primary Care (or nominated deputy)

In attendance

- Healthwatch Representative
- Clinical advisor for Ophthalmic Services
- Clinical advisor for Dental Services
- Associate Medical Director*

*GPs can and should be members of the PCCC so long as conflicts of interest are managed. The PCCC will be constituted to have a lay and executive majority. This ensures that the meeting will be quorate if the GP member must withdraw from the decision-making process due to conflicts of interest or where decisions are in relation to Pharmaceutical delegated functions.

4.5 Draft ToRs are attached at **Appendix A**

5 Further Review

5.1 This paper outlines the proposals for implementation from 1 April 2023. Whilst these proposals reflect the current governance arrangements at ICB system level, these arrangements will be further reviewed as places develop and begin to discharge decision making for community-based services, and also to account for changes to procurement law when legislation is passed for the provider selection regime to come into force.

5.2 A further report will be presented to board on any such changes.

6 Recommendations

6.1 The board are asked to:

- Note the contents of the report;
- Approve the proposals within the report;
- **Endorse** the revised terms of reference for a Primary Care Commissioning Committee;
- Receive a further report on any further developments or changes to the governance and commissioning of primary care services

Debra Atkinson

15 March 2023