

## Integrated Care Board

<b>Date of meeting</b>	10 April 2024
<b>Title of paper</b>	Specialised Commissioning Delegation and Operating Arrangements from 01 April 2024
<b>Presented by</b>	Craig Harris, Chief Operating Officer
<b>Author</b>	Lisa Roberts, Senior Programme Manager Debra Atkinson Company Secretary
<b>Agenda item</b>	Item 6b
<b>Confidential</b>	No

### Executive summary

This paper provides the Board with the background and scope of delegations from NHS England to Lancashire and South Cumbria Integrated Care Board (LSC ICB) for the commissioning of a number of suitable specialised services as of 1 April 2024.

Detail is then provided on the work undertaken over the past 12 months, to ensure a 'safe' transfer of these services, including the completion of a Pre-Delegation Assessment Framework and Safe Delegation checklist, in addition to the development of a Target Operating Model for the North West, Commissioning Team Agreement and Collaboration Agreement.

Internal governance mechanisms for these delegated services, via the Specialised Commissioning Oversight Group, is detailed in section 6.

Chair's Action has been taken in relation to the North West Specialised Services Joint Committee Terms of Reference, as detailed in section 7 and the Delegation Agreement between NHS England and Lancashire and South Cumbria ICB, at section 8. Both documents are also appended in full to this report.

### Recommendations

Lancashire and South Cumbria ICB Board members are requested to:

- Note the update
- Receive the North West Specialised Services Joint Committee Terms of Reference
- Receive the Delegation Agreement between NHS England and LSC Integrated Care Board
- Approve the internal governance arrangements for LSC ICB single commissioned services
- Approve the amendment to the ICB's Overarching Scheme of Delegation to include the Joint Decision-Making Arrangements under the NW Joint Committee

Which Strategic Objective/s does the report relate to:		Tick
SO1	Improve quality, including safety, clinical outcomes, and patient experience	✓
SO2	To equalise opportunities and clinical outcomes across the area	
SO3	Make working in Lancashire and South Cumbria an attractive and desirable option for existing and potential employees	
SO4	Meet financial targets and deliver improved productivity	
SO5	Meet national and locally determined performance standards and targets	
SO6	To develop and implement ambitious, deliverable strategies	✓

### Implications

	Yes	No	N/A	Comments
Associated risks		x		<i>Highlight any risks and where they are included in the report</i>
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	2 April 2024	Supported

### Conflicts of interest associated with this report

not applicable

### Impact assessments

	Yes	No	N/A	Comments
Quality impact assessment completed			x	
Equality impact assessment completed			x	
Data privacy impact assessment completed			x	

<b>Report authorised by:</b>	Professor Craig Harris Chief Operating Officer
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# Integrated Care Board

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## Specialised Commissioning Delegation and Operating Arrangements from 1 April 2024

### 1. Introduction

- 1.1 The North West is one of three regions in England where the NHS England Board has approved plans to delegate the commissioning of a number of specialised services, to Integrated Care Boards (ICBs) from 1 April 2024.
- 1.2 This paper provides Board members with the background and scope of the delegations before detailing the preparations for the transfer of specialised services commissioning, including the associated documents developed to facilitate the 'safe' transfer of specialised services commissioning.
- 1.3 The report also updates the Board on changes to governance and financial arrangements for Lancashire and South Cumbria Integrated Care Board (LSC ICB) required to enact these new commissioning responsibilities.
- 1.4 In particular, the Board's consideration and approval is sought in relation to the ICB's internal governance arrangements for single-ICB level services.

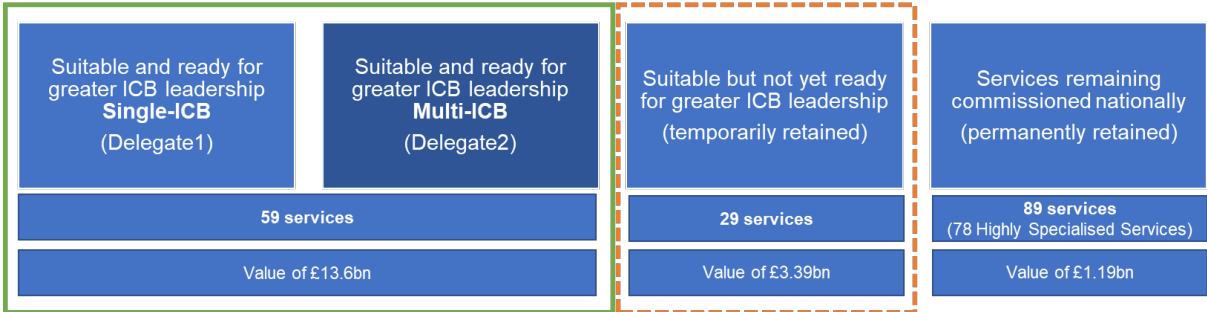
### 2. Background

- 2.1 In February 2023, the NHS England (NHSE) Board approved plans to jointly commission 59 specialised services with Integrated Care Boards during the 2023-2024 period.
- 2.2 In March 2023, LSC ICB Board members received and approved a report setting out the proposed joint working model with NHSE. This included a Joint Working Agreement and the establishment of statutory Joint Committee between NHS England and the three ICBs in the North West for the 59 specialised services.
- 2.3 LSC ICB submitted the national Specialised Services Pre-Delegation Assessment Framework (PDAF) in September 2023, alongside Greater Manchester and Cheshire and Merseyside ICBs. The PDAF was reviewed by the NHSE National Assurance Panel prior to the NHSE Board in December 2023, who approved plans to fully delegate commissioning of appropriate specialised services to ICBs in the East of England, the Midlands, and the North West regions of England from 1 April 2024. The North West region was deemed suitable for Category 1 delegation *"ready for full delegated commissioning responsibility from April 2024, with no conditions."*
- 2.4 As only three of the seven regions in England have been deemed suitable and ready for delegations, the 2024/25 operating year will be classed as a 'foundation' year. This has enabled the three regions receiving delegations from

1 April 2024 to take a somewhat pragmatic approach to the finalisation of some supporting documents which will continue into Quarter 1 of 2024/25 where delegations are not contingent on these being agreed in advance of delegations.

**3. Scope**

3.1 Work has been undertaken in the North West (NW) to support delegation of a ‘segmentation of services’ that are listed as being ‘ready and suitable for ICS delegation’. The segmentation of services is described below and is also detailed within Schedule 8 of the Delegation Agreement between NHSE and LSC ICB. Further details regarding this agreement are provided in section 8.



3.2 Due to the large size of ICBs in the NW, a higher volume of ‘in-scope’ specialised services will be planned at a single-ICB level (Delegate 1). This represents approximately 50% of the ‘in-scope’ services and approximately two thirds of the delegated specialised commissioning budget in the North West, (excluding high-cost drugs and device spend). These will be managed within the three ICB Board substructures with recommendations for any decision going to, and being taken, by individual ICBs.

3.3 In order to exercise the delegated functions in the most efficient and effective manner, some services suitable for greater ICB leadership, will need to be planned and commissioned jointly at a multi-ICB level (Delegate 2). These will be considered by the North West Specialised Services Committee (NWSSC).

3.4 For 2024/25, the current North West Specialised Commissioning Team, from here on referred to as the North West Hub, will continue to be hosted by NHSE, with responsibility for budgets and commissioning responsibilities delegated to ICBs. From April 2025, LSC ICB will host the North West Hub on behalf of the North West region.

**4. Preparations for the delegation of specialised services**

4.1 A LSC ICB Specialised Commissioning Working Group was established in June 2023, reporting into the Executive Management Team (EMT) to oversee progress towards the ‘safe’ transfer of specialised services commissioning. The working group used a national Safe Delegation Checklist (SDC) template as a support tool to address the key actions needed to prepare for and set the conditions for the transfer of specialised services commissioning.

- 4.2 The SDC is a live, working document that will continue to be updated and modified in line with our local operational requirements throughout 2024/25 in relation to Quality, Service Planning, and the transfer of the North West Hub hosting arrangements from NHSE to LSC ICB from 1 April 2025.

## **5. Collaboration Agreement**

- 5.1 A Collaboration Agreement is in development to support Lancashire and South Cumbria, Cheshire and Merseyside, and Greater Manchester ICBs to collaboratively commission specialised services on the most appropriate footprint, for both delegated and NHS England retained services. Only those services being delegated are in-scope for this agreement, which will have NHSE and each individual ICB as its signatories. This is expected to be completed by June 2024, as delegation is not contingent on this being agreed by 1 April 2024. Endorsement of the agreement will then be sought on behalf of the ICB through the EMT.

## **6. Commissioning Team Agreement**

- 6.1 A Commissioning Team Agreement (CTA), effectively a memorandum of understanding, between NHSE and the three NW ICBs has also been developed which was considered and agreed by the North West Specialised Services Joint Committee at their meeting on 7 March 2024, prior to being approved by the LSC ICB's EMT on 26 March 2024.
- 6.2 The CTA describes the administrative and management responsibilities in relation to the provision of delegated specialised services, that will be undertaken by the North West Hub, on behalf of the three ICBs for the 2024/25 financial year. The three North West ICBs and NHSE are the signatories to this agreement.
- 6.3 The CTA is supported by the Target Operating Model (TOM) which describes the desired operating model for the North West Hub as one team that supports the commissioning of all delegated specialised services in each region. The TOM states that the North West Hub will provide equitable support to three North West ICB's for delegated services; and to the NHSE Regional Team for retained services.

## **7. Target Operating Model**

- 7.1 The Target Operating Model (TOM) has been developed using national guidance and through collaborative working between NHSE and North West ICB colleagues and is designed to be an iterative document which will be reviewed throughout 2024/25 and adapted to ensure it remains fit for purpose. This will include the development of more formal governance arrangements in readiness for 1 April 2025 when LSC ICB will become the host organisation for the North West Hub. The TOM will also be updated to reflect any changes to the landscape

within the North West, including but not limited to any further decisions made regarding delegated functions.

## **8. 2024/25 Finance and Business Plan**

8.1 The 2024/25 Finance and Business Plan has been presented to the LSC ICB's Finance and Performance Committee on 25 March 2024 for approval. This plan outlines the following:

- The key financial assumptions
- The financial allocation for delegated specialised services
- The financial condition linked to delegation
- The approach to financial planning for 2024/25
- Pre committed investments
- An assessment of financial risks and proposed mitigations

8.2 Lancashire and South Cumbria (LSC) ICB will include the increase in payments related to the delegated services in cash forecasts for 2024/25. From a contractual perspective these services will be contracted via the NHSE specialist commissioning contracts for 2024/25 and LSC ICB will be an associate to the contract.

8.3 In the absence of agreements and signed contracts for 2024/25 between commissioners and providers, approval will be sought to make interim payments on account to NHS providers to maintain cash flow until final agreement between parties.

8.4 LSC ICB have been sighted and supported the principles proposed by specialist commissioners on the approach for planning for 2024/25 with providers along with the other NW ICB's, including the risks and how this compares with the approach to planning for core ICB commissioned contracts. In Q1 of 2024/25 there will be further work to progress financial monitoring and reporting to enable LSC ICB to understand their financial position and any associated risks in a timely manner.

8.5 Schedule 9 of the delegation agreement includes a condition on the North West ICBs which ringfences delegated specialised services budgets to only be spent by ICBs on the delegated services.

## **9. Lancashire and South Cumbria ICB Internal Governance Arrangements**

9.1 A Specialised Commissioning Oversight Group (SCOG) has been established for the 2024/25 foundation year, to oversee the commissioning and delivery of the 59 single-ICB Specialised services that have been delegated from NHSE to LSC ICB from 1 April 2024.

9.2 The group will bring together the leadership of LSC ICB with the North West hub and subject matter experts with a commitment to ensure that we commission

effective, high-quality care in relation to delegated specialised commissioning functions within the resources available.

- 9.3 The SCOG will not be a formal decision-making group, it will be an oversight group, reporting directly into EMT for progress and assurance against its responsibilities, via the Chair of the SCOG, Craig Harris. It will link into the relevant ICB Committees where required, in areas such as quality and performance, in addition to other relevant forums and groups such as the Commissioning Resource Group.
- 9.4 EMT will make any financial decisions in line with the Operational Scheme of Delegation (OSD) and determine any decisions that need consideration by the ICB Board in line with the OSD. A schematic of these arrangements has been provided at **Appendix A**. The SCOG held its inaugural meeting on 22 March 2024 where it agreed Terms of Reference, membership and scope in readiness for 1 April 2024 delegations.

## **10. The North West Specialised Services Joint Committee Terms of Reference**

- 10.1 The North West Specialised Service Joint Committee Terms of Reference (TOR) have been updated to reflect the strategic decision-making, leadership and oversight functions it will undertake from 1 April 2024, in relation to the commissioning of specified Delegated Services for 2024/25 as set out in Schedule 2 of the Delegation Agreement, any for any associated Delegated Functions as set out in Schedule 3, and such ICB functions as agreed by the Partners. There are no plans to extend the scope and authority of this Committee beyond this during 2024/25.
- 10.2 The TOR are based on the nationally provided template, mirrors the existing North West Joint Committee Terms of Reference, and the legal mechanisms (S65Z5 and S65Z) for establishing the Joint Committee from 1 April 2024 are the same as how the current Joint Committee was formed. The aforementioned legal mechanisms also allow the pooling of budgets, however this is not intended or proposed for 2024/25.
- 10.3 The significant legal difference to note is that the new Joint Committee will reduce from having four partner organisations (which included NHSE prior to 1 April 2024), to three, which will be the three North West ICBs. NHSE are not entering into the joint committee agreement and as such will be regular attendees/participants to the Committee from 1 April 2024. The other key changes to the TOR are as follows:

### **Membership**

- From 1 April 2024, the Joint Committee has six individuals who are classed as members on the Committee and that each ICB will identify two members (with one collective vote per ICB)
- The two members drawn from each ICB will be 1 Executive Officer and 1 Non-Executive Member, which is different from the previous Joint Committee arrangements where non-Executives were in attendance and classed as a regular participant.

- It is important to note that whilst the membership is drawn from the three ICBs, all members are acting for and making binding decisions on behalf of all three ICBs. It should also be noted that each of the six members have equal authority and say on the delegated functions and budget (of the services in scope of this committee) of each ICB.

### ***Chairing Arrangements***

- The Chair and Deputy Chair must be drawn from the membership of the Committee. This allows some flexibility; however, the Joint Committee is recommending that from 1 April 2024 non-Executives take up the Chair and Deputy Chair roles.
- It is recommended that a non-Executive undertakes the role of Chair for a 1-year rolling period, with the Cheshire and Merseyside ICB Non-Executive Member as the Chair for 2024-2025, with the two other Non-Executive Members being the deputy chairs.

### ***Quoracy***

- Each ICB must have at least one of its identified members in attendance for the meeting to be quorate, with the only exemption outlined within paras 5.18, 5.19, & 5.20.
- The ToR also stipulates that for quoracy reasons that the Chair or Deputy Chair needs to be present along with at least one non-Executive and one Executive member present.

### ***Decision Making***

- Decisions should be reached by consensus of the members in attendance, however where this is not possible the Committee Chair, in agreement with all members present, may defer the matter for further consideration at a future meeting of the Committee or require the decision to be put to a vote in accordance.
- The ToR outlines the provisions for voting, with one vote per ICB regardless of whether they one or two members present at the meeting.

### ***Meeting arrangements***

- It is proposed that meetings will not ordinarily be held in public, however it has the ability to meet in public and should do so when items could be considered of significant public interest – i.e., major service change/formal consultations.

10.4 The full TOR are provided at **Appendix B** of this report for the Board's information. These were reviewed and considered by the joint committee at their meeting on 7 March 2024 and have been approved by the other two NW ICBs at their board meetings in March 2024. The earlier report under Item 6a outlines the Chair's action in relation to LSC ICB approving the TOR.

## **11. Delegation Agreement between NHSE and Lancashire and South Cumbria ICB**

11.1 A Delegation Agreement has been developed to legally underpin the delegations from NHSE to ICBs from 1 April 2024. The Delegation Agreement at **Appendix**



C of this report, replaces the previously agreed Joint Working Agreement agreed as part of the 2023/24 transitional arrangements.

11.2 The Delegation Agreement enacts the delegation and transfers statutory commissioning responsibility for delegated specialised services from NHSE to each individual ICB. Developmental and support arrangements will be used to ensure the transition from joint working to delegation arrangements is tailored to ICB readiness. The Delegation Agreement requires the ICBs to form an appropriate multi-ICB arrangement and supports the relevant regional hub arrangements.

11.3 The agreement comes in two parts. Firstly, a series of generic terms and conditions provided upfront, and secondly, a series of further schedules that set out more detailed obligations and provisions relating to the functions being either delegated to ICBs or retained by NHSE. Variations may apply afterwards due to further delegation of retained functions, and any developmental and support arrangements applied to an ICB will also be removed or added via this process. The scope of the agreement relates to those specialised services that are delegated only, with NHSE and each individual ICB as its signatories.

11.4 The Delegation Agreement, jointly developed by NHSE and the three North West ICBs, was considered and agreed by the North West Specialised Services Joint Committee at their meeting on 7 March 2024. The earlier report under Item 6a outlines the Chair’s action in relation to LSC ICB signing the Delegation Agreement under Chair’s Action on 28 March 2024.

## 12. Review of Overarching Scheme of Reservation and Delegation

12.1 The ICB’s Overarching Scheme of Reservation has been reviewed and updated under section 4.9 ‘Decisions and functions delegated to be exercised jointly’ to include the North West Specialised Services Joint Committee. The following is proposed to be included:

Committee/entity that will exercise the function/decision	Decisions and functions delegated to the committee/entity	Legal power	Governing arrangements
The North West Specialised Services Joint Committee	<ul style="list-style-type: none"> <li>• make joint decisions in relation to the planning and commissioning of the relevant Delegated Services, and any associated commissioning or statutory functions</li> <li>• monitor and delivery of population-based specialised service financial allocation and financial plans for services commissioned by the Partners, including agreeing the annual contribution made by each North West ICB</li> <li>• agree commissioning intentions for any Pooled Funds or Non-Pooled Funds where these are in use</li> <li>• identify and set strategic priorities and ensure ongoing assessment and review of Delegated Services within the remit of the</li> </ul>	Section 65Z5 of the National Health Service Act 2006 as amended	Delegation Agreement between NHS England and NHS Lancashire and South Cumbria ICB in relation to Specialised Commissioning Functions

	<p>Joint Committee, including tackling unequal outcomes and access</p> <ul style="list-style-type: none"> <li>• risk and issue management and escalation, and developing the approach to intervention with providers on any contractual issues</li> <li>• oversee the North West ICB Collaboration Arrangement</li> <li>• oversee the development, implementation and review of the North West Specialised Services Target Operating Model</li> </ul>		
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### 13. Conclusion

- 13.1 The 2024/25 operating year for delegated specialised services will be classed as a foundation year. Further work will be undertaken during Quarter 1 of 2024-25 to further develop the North West Target Operating Model and Collaboration Agreement, taking due consideration of the key activities outlined in the Safe Delegation Checklist.
- 13.2 To ensure the safe delegation of the 59 specialised commissioning services, all of the appropriate arrangements have been put into place, supported by the Delegation Agreement and the North West Specialised Services Joint Committee and its related terms of reference.
- 13.3 Arrangements will continue to be reviewed regularly, through the LSC ICB Specialised Commissioning Oversight Group to ensure they are effective and fit for purpose, with a further update to the LSC ICB Board planned for Autumn 2024.

### 14. Recommendations

- 14.1 Lancashire and South Cumbria ICB Board members are requested to:
- Note the update
  - Receive the North West Specialised Services Joint Committee Terms of Reference
  - Receive the Delegation Agreement between NHS England and LSC Integrated Care Board
  - Approve the internal governance arrangements for LSC ICB single commissioned services
  - Approve the amendment to the ICB's Overarching Scheme of Delegation to include the Joint Decision-Making Arrangements under the NW Joint Committee

**Debra Atkinson**

**Lisa Roberts**

**26 March 2024**