

Proposed next steps towards primary care co-commissioning: an overview

NHS England

November 2014

Background and context

- In May 2014, Simon Stevens invited CCGs to come forward to take on an increased role in the commissioning of primary care services. The intention was to empower and enable CCGs to improve primary care services locally.
- There has been enormous enthusiasm and energy from CCGs across the country to adopt a greater role in primary care co-commissioning. We want to harness this energy along with the frustrations CCGs have expressed in the current primary care commissioning arrangements, to more effectively shape local services.
- A joint CCG and NHS England group—the primary care co-commissioning programme oversight group—has been set up to work in partnership to design and agree with CCG leaders the practical next steps towards co-commissioning. This group is co-chaired by Dr Amanda Doyle (Chief Clinical Officer, NHS Blackpool CCG) and Ian Dodge (National Director: Commissioning Strategy, NHS England). Membership of this group is set out in annex A.



Aims of co-commissioning

- The overall aim of primary care co-commissioning is to harness the energy of CCGs to create a joined up, clinically-led commissioning system which delivers seamless, integrated out-of-hospital services based around the needs of local populations.
- From CCGs' early expressions of interest, we have gleaned some of the possible benefits of co-commissioning:
 - Improved provision of out-of hospital services for the benefit of patients and local populations;
 - A more integrated healthcare system that is affordable, high quality and which better meets local needs;
 - More optimal decisions to be made about how primary care resources are deployed;
 - Greater consistency between outcome measures and incentives used in primary care services and wider out-of-hospital services; and
 - A more collaborative approach to designing local solutions for workforce, premises and IM&T challenges.
- Co-commissioning is the beginning of a longer journey towards place-based commissioning.



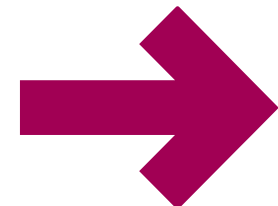
CCG expressions of interest

- There has been a tremendous response from CCGs to the invitation for expressions of interest in primary care co-commissioning. Seeing the range of expressions of interest submitted has allowed us to further understand the level of aspiration and ambition across the country. However, we have also learned that not all CCGs agree with how their expressions of interest were categorised during the initial analysis. Therefore we are proposing that all CCGs get a fresh opportunity to decide upon their preferred approach to primary care commissioning.
- Furthermore, many CCGs have requested more information on the choices open to them, including greater clarity on the different co-commissioning models, their scope and parameters.
- On that basis, the joint CCG and NHS England primary care co-commissioning programme oversight group is developing a *Next steps towards primary care co-commissioning* document. The *Next steps* document aims to provide the clarity and transparency around co-commissioning options that CCGs have called for and will be published in November 2014.



Next steps towards primary care co-commissioning document

- The aim of the *Next Steps* document is to:
 - Provide practical solutions to the key issues and challenges of co-commissioning;
 - Set out a legally robust model for joint governance arrangements;
 - Set out a co-designed, standardised, solid model for delegated arrangements;
 - Set out a proposal for the handling of conflicts of interest (to be consulted upon and published as statutory guidance in December 2014);
 - Confirm financial arrangements including running costs;
 - Clarify how CCGs can access administrative resources associated with joint and delegated arrangements;
 - Clarify the timeline and approvals process for implementing co-commissioning arrangements; and
 - Give CCGs an opportunity to choose afresh what co-commissioning model they wish to assume through a simple application proforma.

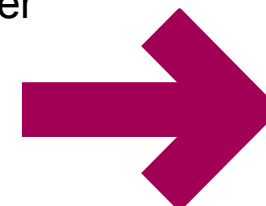


Scope of co-commissioning

- Through the analysis of expressions of interest, it has become apparent that there are three models of primary care commissioning CCGs would like to take forward:



- In 2015/16 co-commissioning will encompass general practice services only as the commissioning of dental, community pharmacy and eye health services is more complex than general practice and has a different legal framework. However, we recognise the ambition in some CCGs to take on a greater level of responsibility in these areas and we will be looking into this for 2016/17 with full and proper engagement of the relevant professional groups.



Model 1: Greater involvement

- CCGs collaborate closely with their area teams around primary care commissioning decisions, particularly with regard to CCGs' duty to improve the quality of primary care.
- No new governance arrangements would be required for this model and the approach to closer working could be agreed between the CCG and its area team at any time.
- There is no formal approvals process for any CCG who wishes to have greater involvement in primary care decision making. Many CCGs are already working closely with their area teams to influence and shape primary care decision making.
- CCGs will not have any responsibility for financial decision making under this model but can expect area teams to share with them the most up-to-date primary care commissioning plans.



Model 2: Joint commissioning

- This form of co-commissioning gives CCGs the opportunity to assume joint commissioning responsibilities with their area team either through a joint committee or “committee in common”.
- In this model, NHS England and individual CCGs would remain accountable for meeting their own statutory duties for instance in relation to quality, financial resources and public participation.
- CCGs and NHS England must ensure that any governance arrangement they put in place does not compromise their ability to fulfil their duties, and ensures they are able to meaningfully engage patients and the public in decision making.
- Joint commissioning proposals will be agreed by regional offices, if they are assured that arrangements comply with the governance framework, for instance through the creation of a joint committee or “committee in common”. The governance framework has been developed in collaboration with CCGs and key stakeholders and includes model terms of reference and scheme of delegation. Where a joint commissioning arrangement involves a pooled fund, the arrangement would also need to comply with financial instructions.



Model 3: Delegated arrangements

- Delegated commissioning offers an opportunity for CCGs to assume full responsibility for commissioning primary care services. However, for legal reasons, the liability for primary care commissioning remains with NHS England. Therefore NHS England will require robust assurance that its statutory duties are being discharged effectively.
- In discussions with CCGs it has been agreed that a standardised model of delegation would make most sense for practical reasons. The following primary care functions will be offered through delegated arrangements:
 - Contractual arrangements;
 - Enhanced services (“Local Enhanced Services” and “Directed Enhanced Services”);
 - Quality Outcomes Framework (QOF); and
 - Complaints.
- During the approvals process regional offices will review how CCGs propose to handle and mitigate conflicts of interest. The proposed new NHS England Commissioning Committee will provide final sign off for delegated proposals.
- Once delegated arrangements have been established, their overall effectiveness will be monitored as part of the CCG assurance process.



Sign-off and approvals

- The approvals process for co-commissioning arrangements will be as simple and straightforward as possible. The process will be governed by the following principles:
 - it will be conducted openly and transparently and contain no surprises;
 - it will minimise the administrative demands placed on CCGs and area teams;
 - on-going assurance of co-commissioning arrangements will form part of the CCG assurance process.
- Unless a CCG has serious governance issues or is in a state akin to “special measures,” NHS England will support CCGs to move towards implementing co-commissioning arrangements.



Conflicts of interest

- CCGs are already handling conflicts of interests as part of their day to day work. This includes:
 - having robust arrangements for declaring interests;
 - maintaining a register of interests;
 - excluding individuals from decision-making where a conflict arises; and
 - engaging with a range of potential providers on service design.
- However, co-commissioning of primary care significantly increases the frequency and range of potential COIs because of the scale of services and size of the budget, especially in delegated arrangements, and a tough national framework with clear minimum expectations is therefore essential.
- NHS England is working with NHS Clinical Commissioners, RCGP and GPC to develop models of management of COI that can be adapted for local use and which reflect the additional responsibilities arising from co-commissioning. These will be published in December 2014.
- We will also consult with HealthWatch, Monitor and the National Audit Office on a suggested approach and issue statutory guidance in accordance with section 14Z8 of the NHS Act 2006 (as amended by the Health and Social Care Act 2012).



Key issues within existing guidance

NHS England guidance and code of conduct:

- Being proactive, anticipating likely situations and making appropriate arrangements to manage them, including in appointments to governing bodies and committees.
- Being balanced and proportionate. Rules should be clear and robust but not overtly prescriptive or restrictive
- Regularly updated register of interest
- Openness, transparency, clear processes and record keeping
- Consideration of whether to exclude individual from meeting due to a COI, or to allow them to participate in discussion but not decision-making, should be made on an issue by issue basis.
- CCGs should have arrangements in place for where more than 50% of their governing body or a committee are prevented from taking a decision due to COI.
- Template to address key issues when CCGs are commissioning services for which GPs may be potential providers.



Current position - key issues within existing guidance

BMA guidance

- Doctors in commissioning roles should be open about any financial interests they have in organisations they are commissioning services from and follow guidance about how to manage these interests.
- To manage COIs, a CCG could establish an external scrutiny committee or seek advice from the Health and Wellbeing Board.

GPC guidance

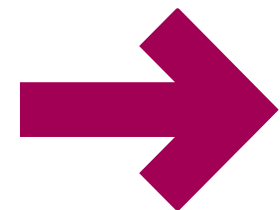
- Doctors in commissioning roles should declare all interests, even if unsure whether they represent a COI, be familiar with guidance and seek advice as necessary.

RCGP/NHS Confederation guidance

- Sets out practical scenarios for management of COI issues.

Monitor guidance

- Guidance on the Procurement, Patient Choice and Competition Regulations (see 'legal position' slide).



Legal position

There is a legal requirement for CCGs to have arrangements in place for managing conflicts of interest. Section 14O NHS Act 2006 (as amended) sets out minimum requirements including:

NHS England must:

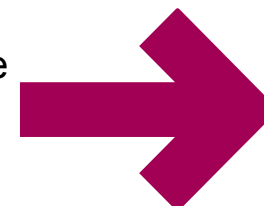
- Publish guidance to CCGs on the discharge of their duties.

CCGs must:

- Maintain appropriate registers of interests;
- Publish or make arrangements for the public to access those registers;
- Make arrangements requiring the prompt declaration of interests by the persons specified (members and employees) and ensure that these interests are entered into the relevant register;
- Make arrangements for managing conflicts of interest and potential conflicts of interest (e.g. developing appropriate policies and procedures); and
- Have regard to guidance published by NHS England in relation to conflicts of interest.

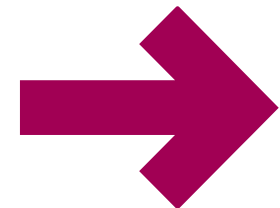
NHS (Procurement, Patient Choice and Competition) (No.2) Regulations 2013

- A relevant body (includes a CCG) must not award a contract for NHS health care services where conflicts, or potential conflicts of interest affect, or appear to affect, the integrity of the award.



Potential ways forward (1)

- **It has been proposed that statutory guidance should be issued.** (CCGs required under 14Z8 of NHS Act 2006 to have regard to statutory guidance. The effect is that CCGs are expected to comply with the guidance unless they have a strong reason for not doing so.)
- Important that approaches to manage co-commissioning COIs build on existing guidance. Where appropriate, the above should incorporate elements of the existing guidance and place them on a statutory guidance basis.
- As Monitor's guidance is also statutory, particular need to ensure that guidance clearly inter-relates with this.
- Should take into account approaches proposed by NHS CC/RCGP/GPC
- A key aim should be to seek to continue to facilitate clinically-led decision-making as far as possible within the important constraint of the effective management of COIs.



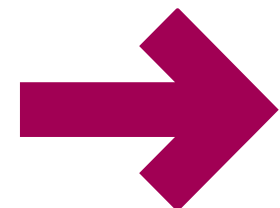
Potential ways forward (2)

- Investment decisions could be made by a committee to the CCG governing body made up of lay- and executive members only, to be chaired by a lay member
- Consideration being given to the mandatory inclusion of non-voting HealthWatch and Health and Wellbeing Board representatives.
- Greater specific requirements in the duty for CCGs to keep a public register of every decision made where a COI has been in play, to include clarity on the nature of the conflict and details of the conflicted parties and the register to form an obligatory part of the annual accounts to be signed off by external auditors.
- Stronger transparency and audit requirements. It is recognised that this may increase the running costs of CCGs: this would need to be taken into account by CCGs opting for full delegation.
- Governance training for all CCG lay members to be offered by NHS England



Potential ways forward (3)

- The existing expectations on placing details of procurement decisions on the CCG's website could be strengthened, including in terms of speed of publication.
- Where a senior member of CCG staff has a possible COI, the CCG should consider alternative arrangements for who makes senior management decisions on the issue in the question.
- CCGs should review their whistleblowing procedures to ensure that they are fit for purpose for co-commissioning



Implementation timetable

Co-commissioning form	Nov 2014	Dec 2014	Jan 2015	Feb 2015	Mar 2015	Apr 2015
Greater involvement	Take forward arrangements locally					
Joint commissioning	CCGs work with their membership and area team to consider and agree the preferred co-commissioning arrangement for 2015/16.		<p>30 Jan: CCGs are invited to submit proposals to england.co-commissioning@nhs.net</p> <p><i>Please note that constitution amendments which relate solely to joint commissioning arrangements will also be accepted at this point.</i></p>	NHS England works with CCGs to review and approve their submissions.	Local Implementation by CCGs with their area team	1 April: Arrangements implemented and go-live
Delegated commissioning			<p>6 Jan: CCGs are invited to submit proposals to england.co-commissioning@nhs.net</p> <p>During January, NHS England will work with CCGs to ensure that proposals are ready for sign off.</p> <p><i>Please note that constitution amendments which relate solely to delegated commissioning arrangements will also be accepted at this point.</i></p>	<p>Mid Feb: Proposals are signed off by an NHS England Committee (likely to be the proposed new Commissioning Committee)</p>	Local Implementation by CCGs and their area team	

Implementation roadshows

- Four roadshows will be held across the country with the aim of offering practical and useful support to CCGs and NHS England teams, as well as other wider stakeholders, in further developing and implementing their co-commissioning proposals. Dates are:
 - 19 November-Leeds
 - 20 November-Birmingham
 - 25 November-Bristol
 - 2 December-London
- The roadshows are an opportunity for CCGs and NHS England teams to:
 - understand the policy context and future vision for primary care co-commissioning, including how this fits with the Five Year Forward View;
 - receive legal and technical advice to take forward their proposals;
 - raise questions about co-commissioning with the policy team, legal team, finance team and NHS England central support team;
 - collaborate to further develop their co-commissioning proposals; and to
 - share ideas and learning in a peer environment.



Arrangements for 2015/16

- It is possible that over time CCGs may wish to change the form of co-commissioning they have adopted. All CCGs will be able to do so throughout 2015/16 and beyond, for example:
 - CCGs who have no co-commissioning arrangements in place, could opt to assume a form of co-commissioning (*greater involvement, joint or delegated arrangements*); or
 - CCGs who have either greater involvement or joint commissioning arrangements in place, could request to progress to a joint or delegated co-commissioning arrangement, respectively.
- It is important that any CCG requests to change their co-commissioning model are in line with “business as usual.” CCGs are advised to discuss their plans with their relevant NHS England team and new proposals are expected to be discussed and planned as part of the CCG assurance framework.
- Proposals for taking up delegated commissioning arrangements in 2016/17 need to be submitted to NHS England by 1 June 2015 for implementation on 1 April 2016. This is because delegated budgets will form part of CCG allocations from 2016/17 and the timescale for approval has to fit with the allocations process.



On-going assurance

- The on-going assurance of primary care co-commissioning arrangements will be managed as part of the wider CCG assurance process.
- NHS England intends to work with CCGs to co-develop a revised approach to the current CCG assurance framework. The new assurance framework will be published in 2015.
- Three key principles of the new assurance process are:
 - It will be simplified to reduce unnecessary bureaucracy for both CCGs and NHS England;
 - It will be based on a supportive conversation and the process will reflect the flexibility of NHS England to intervene differently in different circumstances;
 - There will be clear interventions for failing CCGs.
- In particular for co-commissioning the new assurance process will:
 - test that core governance arrangements are working successfully, with specific attention to the effective local management of conflicts of interest;
 - be specific about the achievement of local outcomes, with a particular focus on service delivery across the local health economy; and it will
 - be co-designed and developed in strong partnership with CCGs and other key stakeholders prior to publication.



Any questions?

- Queries can also be emailed to england.co-commissioning@nhs.net

Annex A: Primary care co-commissioning programme oversight group membership

Membership of the primary care co-commissioning programme oversight group		
Co-chairs	Dr Amanda Doyle	Chief Clinical Officer, NHS Blackpool CCG
	Ian Dodge	National Director: Commissioning Strategy, NHS England
CCG members	Dr Mary Backhouse	Chief Clinical Officer, NHS North Somerset CCG
	Dr Tim Cotton	Clinical Director, NHS West Hampshire CCG
	Dr Sam Everington	Chair, NHS Tower Hamlets CCG
	Dr Graham Jackson	Clinical Leader and Chair of the Governing Body, NHS Aylesbury Vale CCG
	Alan Kennedy	Lay Chair, NHS Crawley CCG
	Dr Andrew Withers	Clinical Chair; NHS Bradford Districts CCG
NHS England regional and area team members	Richard Barker	North Regional Director
	Dr Raj Patel	Medical Director, Greater Manchester Area Team
	Paul Roche	Programme Director for Primary Care Transformation for London, NHS England
	Wendy Saviour	Director, Birmingham, Solihull and the Black Country Area Team
	Matthew Tait	Area Director, Thames Valley Area Team, NHS England
NHS England national support centre	Dame Barbara Hakin	National Director: Commissioning Operations
	Rosamond Roughton	Director of Commissioning Policy and Primary Care
	Ivan Ellul	Director of Partnerships
	Dr Julia Simon	Primary Care Co-commissioning Programme Director
	Keziah Halliday	Head of Planning and Assurance
	Sam Higginson	Director of Strategic Finance
	Dr Robert Varnam	Head of Practice Development
LGA	Ged Curran	Chief Executive, Merton Council
	Merran McCrae	Chief Executive, Calderdale Council

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