

**REPORT TO MERTON CLINICAL COMMISSIONING GROUP  
GOVERNING BODY**

**Date of Meeting:** 24<sup>th</sup> September 2015

**Agenda No:** 6.1

**Attachment:** 05

<p><b>Title of Document:</b> Delegated Commissioning Updated following latest NHS England Guidance</p>	<p><b>Purpose of Report:</b> For consideration and decision</p>
<p><b>Report Author:</b> SWLCC Programme Team</p>	<p><b>Lead Director:</b> Adam Doyle – Chief Officer</p>
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<p><b>Executive Summary:</b></p> <p>In the July 2015 round of SWL CCG Governing Bodies, CCGs started to have exploratory discussions about a move to delegated commissioning as a key enabler to support transformation of primary care and out of hospital services across SWL.</p> <p>SWL CCGs are continuing to have discussions on this matter, with a view to confirming decisions in September 2015 - confirmation of these decisions would be on the basis of the satisfactory outcome of a due diligence exercise around financial, legal, governance and regulatory matters relating to delegation.</p> <p>The deadline for delegation applications is Friday 6th November 2015 (this has changed from the previously stated 2nd October).</p> <p>This paper provides further information on the process of moving towards a delegated commissioning application, further to SWL CCG discussions and the latest guidance published by NHS England on 11th August 2015, and it also provides a reminder on the functions to be delegated and associated opportunities and risks.</p> <p>Merton CCG is asked to consider and decide whether to proceed with delegated commissioning from the 1<sup>st</sup> April 2016, subject to the satisfactory outcome of a due diligence exercise.</p>	
<p><b>Key sections for particular note (paragraph/page), areas of concern etc:</b></p> <p>Due diligence and resources slide 3 Submission proforma for delegated commissioning arrangements slides 5 and 6 Timeline for delegation discussions and submission slides 8 and 9</p>	
<p><b>Recommendation(s):</b></p> <p>The Governing Body is asked to:</p> <ul style="list-style-type: none"> <li>• Consider and decide whether to proceed with a submission to NHS England on 6<sup>th</sup> November 2015 to move to delegated commissioning, as of the 1<sup>st</sup> April 2016, subject to the outcome of the due diligence exercise.</li> <li>• If a decision to proceed to delegation is made, make local arrangements for CCGs to submit their application for delegated commissioning to NHS England London Region in time for the 6<sup>th</sup> November 2015.</li> <li>• Inform SWL CC of the outcome of its Governing Body discussion, by 25<sup>th</sup> September 2015.</li> </ul>	

<b>Committees which have previously discussed/agreed the report:</b> None
<b>Financial Implications:</b> To be considered
<b>Implications for CCG Governing Body:</b> To be considered
<b>How has the Patient voice been considered in development of this paper:</b>
<b>Other Implications: (including patient and public involvement/Legal/Governance/Risk/Diversity/Staffing) to be considered</b>
<b>Equality Assessment:</b>
<b>Information Privacy Issues:</b>
<b>Communication Plan: (including any implications under the Freedom of Information Act or NHS Constitution)</b>
This will be undertaken by individual CCG supported by SWL Collaborative Commissioning.

# **Delegated Commissioning Updated following latest NHS England Guidance**

13th August 2015

# Delegated commissioning of primary care: Introduction

## Introduction

- In the July 2015 round of SWL CCG Governing Bodies, CCGs started to have exploratory discussions about a move to delegated commissioning as of April 2016, recognising this as a key enabler to supporting transformation of out of hospital services across SWL. At this time NHS England had indicated that applications for delegation commissioning would be required by 2nd October 2015, as of the 11th August, NHSE have revised this application date to the 6th November 2015.
- SWL CCGs are continuing to have discussions on this matter at Governing Body level and some are planning to ballot members and others are discussing with their Council of members, all with a view to confirming decisions in September 2015.
- Subject to further discussions of this nature, it appears likely that 4 of the 6 CCGs are on track for a delegation application with the other 2 CCGs working through if an April 2016 delegation timing is right for them at this point. As a result it may be that in 2016 there will continue to be a Joint Committee for 1 or 2 SWL CCGs as well as individual delegation arrangements for the remaining SWL CCGs and transition arrangements for this will need to be worked through.
- It has been agreed at CCG CO and Chair level, that delegated applications for SWL CCGs will also be made on the basis of the satisfactory outcome of a due diligence exercise, which is to be commissioned (explained further on slide 4).
- As the following text box sets out, this paper provides further information (as well as being a reminder on key detail) relating to delegation to help inform the on-going CCG level discussions.

### Purpose of this paper:

This paper is aimed as providing an update and reminder on the following matters relating to delegation:

- The range of functions to be delegated to CCGs
- Due diligence exercise
- Resources to support delegation
- Refresh of approach to conflicts of interest
- Detail on the proforma for a delegation application
- The 'ask' of Governing Bodies
- Timeline for delegated submission
- Appendix A – opportunities and risks

### CCG Governing Bodies are asked to:

1. Consider and decide whether to proceed with a submission to NHS England on 6th November 2015 to move to delegated commissioning, as of the 1st April 2016, subject to the outcome of the due diligence exercise.
2. If a decision to proceed to delegation is made, make local arrangements for CCGs to submit their application for delegated commissioning to NHS England London Region in time for the 6th November 2015.
3. Inform SWL CC of the outcome of its Governing Body discussion, by 25th September 2015.

# Delegated commissioning of primary care: delegated functions

## Functions delegation to CCGs

- Delegated commissioning will support the development and implementation of new integrated out of hospital models of care. This includes multispecialty community providers and primary and acute care systems, as set out in the NHS Five Year Forward View, to transform primary care. The opportunities delegation affords and some of the risks have been previously highlighted to CCGs and are summarised in Appendix A.
- Delegated commissioning means that individual CCGs will assume full responsibility for commissioning general practice services and the functions delegated to them as set out below. The liability for primary care commissioning, for legal reasons, will remain with NHS England London region although individual CCGs remain accountable for meeting their statutory duties, for instance in relation to quality, finance and public participation. Under this arrangement CCGs will contract Primary Care on behalf of NHS England London region.
- The responsibilities of NHS England and the CCGs are set out below:

### Functions remaining with NHS England:

- Responsibility for dental, ophthalmic and pharmacy (Management of the national performers list for GPs)
- Management of the revalidation and appraisal process
- Administration of payments and performers list management
- Capital Expenditure Functions
- Section 7a Functions e.g. national screening and immunisation programmes
- Functions in relation to complaints management
- Decisions in relation to the Prime Minister's Challenge Fund.

### Functions to be delegated to CCGs:

- General practice commissioning
- Procurement of Primary Medical Services Contracts
- Responsibility for GP practice contract managing performance
- The approval of practice mergers
- Responsibility for making decisions on practice closures; however, the CCG will still need to consult with NHSE
- Ability to establish new practices in an area
- Design and implementation of local incentive schemes
- General practice budget management
- Planning primary medical care services, including carrying out needs assessments
- Undertaking reviews of primary medical care services
- Complaints management
- Decisions in relation to the management of poorly performing GP practices;
- Premises Costs Directions Functions including making payments in relation to recurring premises costs (such as rent) and premises developments or improvements
- Capital expenditure will not be delegated to CCGs due to the capital approvals process.

# Moving towards delegated commissioning: Due diligence exercise

## **Due diligence**

It is clear from those CCGs who have already taken on delegated commissioning that there are a considerable number of legacy issues which will be handed over to CCGs upon delegation. SWL CCGs propose to work closely with NHS England London region in the lead up to an application for delegated commissioning on 6<sup>th</sup> November 2015.

SWL CCGs are planning to commission a focused 'due diligence' exercise between September and November 2015 (reporting by December 2015) on the funding implications and resources required to take on delegated commissioning. CCG delegation applications will be made subject to satisfactory findings of the due diligence report, which it is anticipated will be shared with CCGs and Governing Bodies.

The scope of the due diligence exercise will include:

- Finance
- Legal
- Governance and regulatory issues

## **Resources to support delegation**

SWL CCGs are aware of the need to look at the most appropriate model to support the transfer of delegated functions across the 6 CCGs. The options include:

- any resources that might be acquired from NHSE;
- the primary care team resource the CCGs may need to invest in; and
- the resources and functions that will remain available in NHSE for the maintenance of contracts, patient registers etc.

At a meeting on the 4<sup>th</sup> August with SWL COs and Clinical Chairs, they expressed their support for a SWL approach to workforce dedicated to support delegated commissioning. This needs further work however colleagues discussed some form of "CSU type function" but the menu of services they could offer and the cost implications need to be further determined and worked through.

# Moving towards delegated commissioning: Refresh of Col

## Arrangements for Managing Conflicts of Interest

SWL CCGs have already put in place a number of measures to ensure management of conflicts of interest was strengthened in line with updated national guidance when they took on joint commissioning arrangements. These included the following, which as part of a delegation submission would need to be reviewed to confirm their robustness:

- Register of Interest: the public register of conflicts of interest includes information on the nature of the conflict and details of the conflicted parties;
- The Joint Co-Commissioning Committee has a lay chair and vice chairs;
- National training has been provided for CCG lay members to support and strengthen their role;
- A Local Healthwatch and a member of each local Health and Well-being Boards have the right to serve as observers on the joint committee;
- CCGs are now required to maintain and publish, on a regular basis, a register of all key procurement decisions;
- There is requirement for GP's to make public their earnings 2015-2016; and
- Primary Care Co-Commissioning Joint Committee Meetings are held in public.

# Proforma for delegated commissioning: Application

## Submission proforma for delegated commissioning arrangements:

NHS England published a revised and updated proforma for delegated arrangements on 11<sup>th</sup> August 2015 and it includes the following: and fi

Delegated Commissioning Checklist		
<CCG Name> has set out clearly defined objectives and benefits of the arrangement		Y / N
CCG Constitution or proposed constitutional amendment has been updated in line with the <a href="#">guidance</a> (and this has also been approved by the NHS England regional office and sent to <a href="mailto:england.co-commissioning@nhs.net">england.co-commissioning@nhs.net</a> prior to this submission).		Y / N
Governance documentation has been updated in line with the NHS England <a href="#">guidance</a> (delegated terms of reference)		Y / N
CCG has reviewed its conflicts of interest policy in line with NHS England’s managing conflicts of interest statutory <a href="#">guidance</a> . The DCO confirms the CCG meets the required conflicts of interest management thresholds.		Y / N
CCG IG Toolkit meets level 2 criteria as a minimum		Y / N
The CCG’s current assurance level (as at Q2 of 2015/16 or equivalent) for each of the five assurance components:  (Key: <u>O</u> utstanding, <u>G</u> ood, <u>L</u> imited <u>A</u> ssurance, <u>N</u> ot <u>A</u> ssured)	Well led organisation	O/G/LA/N A
	Delegated Functions, if previously engaged in joint commissioning	O/G/LA/N A
	Finance	O/G/LA/N A
	Performance	O/G/LA/N A
	Planning	O/G/LA/N A
	Additional Comments:	
Finance template for delegated budgets completed in full (include complete the table overleaf): <b>Notes for completing the finance template:</b> <ol style="list-style-type: none"> <li>Double click into the table to complete the excel template.</li> <li>Please enter the notified numbers for your CCG and how the primary care allocation is split between GP Services and other primary care functions for 2015/16 (below)</li> <li>This will be reconciled back to the area team allocation for primary care and subsequent in year adjustments. Where possible M6 2015/16 figures should be used.</li> <li>It is recognised that uplift for 2016/17 cannot be notified until the completion of the spending review, and allocation process which is expected to be available from late December 2015.</li> </ol>		Y / N

# Proforma for delegated commissioning: Application

<b>PART II</b>				
<b>Finance Template for delegated budgets</b>				
	Notified delegated Budget (1)	Movement out of GP Services (2)	Movement Into GP Services (3)	Total
	£'000	£'000	£'000	£'000
	+	-	+	+/-
<b>GP Services</b>				
General Practice - GMS				0
General Practice - PMS				0
Other list based services (APMS)				0
Premises cost reimbursements				0
Other premises costs				0
Enhanced services				0
QOF				0
Other GP services				0
Primary care NHS property services - GP				0
<b>Sub Total GP services</b>	0	0	0	0
	N/A	+	-	+/-
Acute services				0
Mental health services				0
Community health services				0
Primary care services				0
Continuing care services				0
Other care services				0
<b>Sub total CCG programme costs</b>		0	0	0
<b>Total</b>	0	0	0	0
<b>Please provide a description in the change in spend detailed above</b>				

The DCO confirms the CCG demonstrates appropriate levels of sound financial control and meets all statutory and business planning requirements.	Y / N
The DCO confirms the CCG is capable of taking on delegated functions	Y / N

# Next steps to delegated commissioning: 'Ask' of CCG GBs

SWL CCG Governing Bodies are asked to:

- Consider and decide whether to proceed with a submission to NHS England on 6<sup>th</sup> November 2015 to move to delegated commissioning, as of the 1<sup>st</sup> April 2016, subject to the outcome of the due diligence exercise.
- If a decision to proceed to delegation is made, make local arrangements for CCGs to submit their application for delegated commissioning to NHS England London Region in time for the 6<sup>th</sup> November 2015.
- Inform SWL CC of the outcome of its Governing Body discussion, by 25<sup>th</sup> September 2015.

CCGs are also asked continue to support the Joint Committee and the working groups set up to support work of the committee in 2015/16 in order to get further detailed understanding and insight of current work being carried out by NHS England London region.

The timeline set out overleaf for submission of delegation applications aims to have this completed for early October to ensure there is sufficient time to collectively review final submissions and allow for any unplanned requests from NHS England or further submission requirements.

## South West London Collaborative Commissioning

# Timeline for delegated commissioning submission

	July, 27-31	August, 3-14	August, 17-28
<b>Meetings</b>			
<b>GB meetings</b>	Sutton – 1 July Croydon – 7 July	Kingston 7 July Wandsworth – 8 July	Richmond – 13 July Merton – 23 <sup>rd</sup> July
<b>NHSE (sending organisation)</b>	<ul style="list-style-type: none"> <li>Provide adequate support and resources to all CCGs to take forward the commissioning arrangement of their choice</li> </ul>	<ul style="list-style-type: none"> <li>Provide financial support to formation of delegation budget in conjunction with Finance Working Group</li> <li>Provide necessary financial, IT and primary care data to CCGs</li> </ul>	<ul style="list-style-type: none"> <li>Continued support to CCGs through delegation process, e.g. additional guidance on governance and/or conflicts of interest</li> </ul>
<b>SWL CC</b>	<ul style="list-style-type: none"> <li>Start to co-ordinate support to delegated commissioning process, and in particular the Finance WG</li> </ul>	<ul style="list-style-type: none"> <li>Co-ordinate with NHSE (London Region) to provide support to CCGs in building capacity and skills to deliver delegated commissioning</li> <li>Support discussions regarding pan-SWL governance support for delegated commissioning in each CCG</li> <li>Undertake session with SWL Chairs and COs to discuss delegation options, due diligence process and SWL resourcing for delegation</li> <li>Develop a scope for due diligence review in Sept – Dec 2015</li> </ul>	<ul style="list-style-type: none"> <li>Provide an update paper regarding the process for delegated commissioning no later than mid-August, in advance of September Governing Body meetings</li> </ul>
<b>CCGs (Receiving organisation)</b>	<ul style="list-style-type: none"> <li>Provide update on initial discussions on delegation option to SWLCC</li> <li>Engage members in discussion of Delegated Commissioning</li> <li>Establish Joint Committee CCG Working Groups, considering structure that will support delegated commissioning</li> </ul>	<ul style="list-style-type: none"> <li>Ongoing engagement with members</li> <li>Review delegation submission pro-forma and start to identify local resource to support</li> <li>Arrange appropriate support from NHSE and JC Working Groups</li> </ul>	<ul style="list-style-type: none"> <li>Explore resource, capacity and skills within organisation to deliver delegated functions</li> </ul>

## South West London Collaborative Commissioning

# Timeline for delegated commissioning submission

	September 1-11	September 14-30	October - November
<b>Meetings</b>			
<b>GB meetings</b>	Croydon – 1 <sup>st</sup> Sept. Sutton – 2 <sup>nd</sup> Sept. Kingston – 8 <sup>th</sup> Sept. Wandsworth – 9 <sup>th</sup> Sept.	Richmond – 22 <sup>nd</sup> Sept. Merton – 24 <sup>th</sup> Sept.	Regional Moderation Panels – mid Nov 2015 (tbc) PCOG Moderation – end Nov 2015 (tbc) Executive Scrutiny Group– by mid Dec 2015
<b>NHSE (sending organisation)</b>	<ul style="list-style-type: none"> <li>Continued support to CCGs through delegation process</li> <li>Confirm ongoing NHSE support to each CCG in delegation</li> </ul>	<ul style="list-style-type: none"> <li>Final questions regarding CCG delegation proformas answered</li> </ul>	<ul style="list-style-type: none"> <li>Confirm any further info requests or changes to submission process</li> </ul>
<b>SWL CC</b>	<ul style="list-style-type: none"> <li>Continued support to CCGs through delegation process</li> <li>Develop and co-ordinate information needed for and outputs of GB discussions</li> </ul>	<ul style="list-style-type: none"> <li>Develop and co-ordinate information needed for and outputs of GB discussions</li> </ul>	<ul style="list-style-type: none"> <li>Feedback to CCGs, support and coordinate final submissions</li> <li>Commission due diligence review</li> </ul>
<b>CCGs (Receiving organisation)</b>	<ul style="list-style-type: none"> <li>Confirm GB papers including submission proforma and financial template</li> <li>Ensure ongoing discussion and membership engagement</li> </ul>	<ul style="list-style-type: none"> <li>Give notice to NHSE of expected date of submission</li> <li>Send draft final copy of CCG submission proforma to SWLCC</li> </ul>	<ul style="list-style-type: none"> <li>Update draft final submission for any final feedback</li> <li>Submit CCG delegation</li> </ul>
		<b>CCG delegated submission materials submitted to SWL CC by 25 Sept. 2015</b>	<b>midday Friday 6 November 2015 – CCG Delegated Submission</b>
			<ul style="list-style-type: none"> <li>Review submission paperwork for each CCG</li> <li>Inform CCGs of outcomes of moderation process</li> </ul>
			<ul style="list-style-type: none"> <li>Coordinate with NHSE in updates from submission moderation</li> <li>Discuss initial process to stand down the Joint Committee, once delegation comes into effect in April 2016</li> <li>Due diligence work to be undertaken between October-December</li> </ul>
			<ul style="list-style-type: none"> <li>Complete necessary amendments to CCG constitution</li> <li>Consider how new delegation arrangements will be established alongside existing workplans</li> <li>Update on 2015/16 CCG Assurance Framework to help inform the process for 2016/17</li> </ul>

# Appendix A

Summary of Opportunities and Risks re Delegation

# Opportunities and Risks re Delegation

The ability for CCGs to take full responsibility for commissioning General Practice and primary care services has the potential to bring many benefits and opportunities.

Opportunities/Benefits	Risks
GPs in CCGs will have direct leadership to influence the development of investment in general practice	Timescale for submission to NHS England (6 November 2015)
CCGs will be best placed to commission primary, community and secondary care in a holistic and integrated manner	Limited resources to deliver work as the CCG will need to engage on primary care commissioning issues which will be resource intensive
Ability to redesign local schemes to replace QOF and LES contracts based on local knowledge	Performance management places tension between the CCG and its Members
CCGs will have more power to drive the Five Year Forward View agenda	Failure to deliver effective commissioning plans will undermine the whole primary care transformation plan
Ability to use innovative commissioning to implement local priorities	Reliant on IT and practice data sources being shared outside of Primary Care
Tailored services to meet the local needs of the population	Increased expectation from NHSE in contract management and complaints handling
Opportunity to create the ability to develop and commission end to end care	There are governance rules in terms of GPs not being able to make certain decisions: strengthened and transparent processes for decision-making will be needed
Is a key enabler of developing seamless integrated out-of-hospital services	
Could drive outcomes based commissioning in primary care by aligning outcome measures and incentives used in PC	

# Opportunities and Risks re Delegation

Issues to consider:	Opportunities	Risks
Funding to pay for new/improved/enhanced general practice services	Local determination of change, some potential for place based budgets Complete control over how PC budget is spent	Additional funding put in to support general practice may place other areas of CCG commissioned care under pressure
Relationship to the membership across the CCG – accountability & influence	Performance management of general practice individuals and revalidation will be retained by NHS England, but improved ability to influence development support to primary care	Performance management will sit with CCGs and which could risk the membership “ethos” unless particular attention is given how it is managed
Managing potential conflict of interest	An opportunity to improve transparency in decision making but need to ensure they are robust and transparent	May increase perceived COI in relation to the commissioning of services from member practices and federated practices. Potentially more bureaucratic processes to assure transparency
Resources to undertake the work	Locally determined approach to staff resourcing, which will involve pan CCG working	CCGs may find that the support that comes from NHS England is not enough to fulfil the full demand of commissioning activity
Practice contract management	CCG can have developmental relationship with member practices. Quality improvement will be “peer” driven which may mean that member practices are more likely to respond	CCGs can be accused of policing practices which, if not executed well, may lead to the reputational damage No involvement of NHS England may lead to a gap in primary care performance information across CCGs
Governance	Opportunity for CCG to revise their governance arrangements including the constitution and secure membership engagement	Increased resources will be required around governance, including extensive stakeholder engagement, establishing and running of a PC commissioning committee and scrutiny processes
Patient engagement	Opportunity for CCG to meaningfully engage with local public about the totality of expectations for primary and out of hospital care and wider system integration	Dealing with public appeals and concerns may take CCG resource away from commissioning
Ability to re-design service delivery models including integration of care	Ability to make redesign decisions across a portfolio of providers and so across pathways of care tailored to the needs of local population.	CCGs are accountable for the decisions they make and require transparency of process as well as the engagement and support of members practices, the public and other stakeholders
Operational arrangements for transacting commissioning arrangements	Ability to change the way in which the transactional elements work, such that they operate as efficiently and effectively as possible	CCGs may find themselves with competing priorities over use of the NHS England team available to support joint and delegated commissioning