NHS England

Paper NHSE111406

BOARD PAPER - NHS ENGLAND

Title: Proposed next steps towards primary care co-commissioning

From: Ian Dodge, National Director: Commissioning Strategy

Purpose of paper:

- To update the Board on the development of the policy and proposed arrangements for co-commissioning of primary care.
- To seek the Board's agreement on key elements of the proposed approach as basis for the publication of more detailed guidance.

Actions required by the Board:

To consider approving the following recommendations as the framework for Next steps towards primary care co-commissioning:

That NHS England:

1. Sets out three standard models for the co-commissioning of primary care for reasons of governance and administrative efficiency
2. Takes a national, robust approach to the management of conflicts of interest to mitigate risk to both CCGs and NHS England
3. Allows for local flexibilities for contracts and incentives schemes to enable innovation and optimal local solutions
4. Sets national principles for the deployment of administrative resources to support the implementation of the policy.

Introduction

1. In May 2014, NHS England invited CCGs to come forward with expressions of interest 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 for the benefit of patients and local communities. There has been a strong response from CCGs across the country to NHS England's initial announcement. We want to harness this energy, along with the frustrations CCGs have expressed in the current primary care commissioning arrangements, to more effectively shape high quality local services.

2. CCGs have put forward a range of expressions of interest of varying levels of aspiration. Some CCGs want to work independently, whilst others wish to take forward new co-commissioning arrangements with neighbouring CCGs, or as a 'strategic planning unit.'

3. There are three possible models that CCGs could pursue:

4. 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 diverse local populations. To this end, co-commissioning of primary care is also a critical enabler of the *NHS Five Year Forward View*: both to implement the new deal for primary care, and to support the development of new models of care, such as Multispecialty Community Providers and Primary and Acute Care Systems.

5. Co-commissioning could potentially lead to a range of benefits for the public and patients including:

- Improved access to primary care and wider out-of-hospitals services, with more services available closer to home;
- High quality out-of-hospitals care;
- Improved health outcomes, equity of access, reduced inequalities; and
- A better patient experience through more joined up services.

6. Many CCGs have asked for further information and clarification of the options open to them. To this end, NHS England will publish *Next steps towards primary care co-commissioning*. This document will:

- Provide more information on the choices and options around co-commissioning to give CCGs an opportunity to choose afresh what co-commissioning model they wish to assume. This includes financial arrangements, local flexibilities and staffing implications;
- Provide practical solutions to the key issues and challenges of co-commissioning;
- Set out a legally robust model for joint and delegated governance arrangements;
- Describe the national framework we are putting forward for conflicts of interest management; and
- Clarify the timeline and approvals process for implementing co-commissioning arrangements.

7. A joint CCG and NHS England group - the primary care co-commissioning programme oversight group—was established in August 2014 to steer the development of the *Next Steps* document and overall co-commissioning policy direction. This group is co-chaired by Dr Amanda Doyle (Chief Clinical Officer, NHS Blackpool CCG) and Ian Dodge (National Director: Commissioning Strategy). Membership is set out in Annex A. The recommendations of this paper are made on behalf of the programme oversight group.

Recommendations for the Board's consideration and agreement

8. This paper sets out the following key recommendations:

   That NHS England:

   1. Sets out three standard models for the co-commissioning of primary care for reasons of governance and administrative efficiency
   2. Takes a national, robust approach to the management of conflicts of interest to mitigate risk to both CCGs and NHS England
   3. Allows for local flexibilities for contracts and incentives schemes to enable innovation and optimal local solutions.
   4. Sets national principles for the deployment of administrative resources to support the implementation of the policy.

Recommendation 1: A standard approach of three models of primary care co-commissioning

9. An early policy intention was to take a permissive approach to local variants of models of delegations of functions. However, the early expressions of interest submitted by CCGs contained in excess of 150 different models, the implementation of which would add great complexity to the financial, governance, and assurance arrangements required. To simplify matters for both CCGs and NHS England, a standardised approach is instead being proposed where CCGs can opt for either (1) greater involvement in primary care decision-making; (2) joint commissioning arrangements; or (3) delegated commissioning arrangements. It will include a standard governance framework each for joint and delegated commissioning arrangements. NHS Clinical Commissioners support this approach, and the great majority of CCGs consulted at the NHS Assembly annual event in October 2014 were in agreement with the proposal. A more tailored approach for 2016/17 could be explored, should any CCGs wish to pursue it.

Recommendation 2: Conflicts of interest management

10. CCGs are already handling conflicts of interests as part of their day to day work, and there is formal guidance and a code of conduct in place for CCGs and General Practitioners in commissioning roles. However, without a strengthened approach, co-commissioning of primary care could significantly increase the frequency and range of potential conflicts of interest —especially for delegated arrangements. We have therefore developed a significantly enhanced approach on which we will be consulting and which we will put on a statutory footing for the first time.

    This guidance will:

    - build on existing guidance;
    - have regard to any statutory guidance issued by Monitor;
    - continue to facilitate clinically-led decision-making as far as possible within the important constraint of the effective management of conflicts of interests. We have engaged with the NHS Clinical Commissioners (NHS CC), the Royal College of GPs (RCGP) and the General Practitioners' Committee (GPC) on this issue.

11. It will include a strengthened approach to:
    - **the make-up of the decision-making committee**: the committee must have a lay and executive majority and have a lay chair;
    - **national training for CCG lay members** to support and strengthen their role
    - **external involvement of local stakeholders**: the local Health Watch and a local authority member of the local Health and Well-being Board will have the right to serve as observers on the decision-making committee;
    - **register of interest**: the public register of conflicts of interest will include information on the nature of the conflict and details of the conflicted parties. The register would form an obligatory part of the annual accounts and be signed off by external auditors;
    - **register of decisions**: CCGs will be required to maintain and publish, on a regular basis, a register of all key procurement decisions.

12. NHS England has worked closely with NHS Clinical Commissioners in the development of these proposals. We believe that they reflect good current practice, already occurring in some CCGs, and mitigate the increased risk of conflicts of interest brought by co-commissioning of primary care, whilst being practical and implementable by CCGs.

13. These proposals will be taken for formal consultation with the National Audit Office, HealthWatch and Monitor. The final conflict of interest framework will be issued as statutory guidance in accordance with section 14Z8 of the NHS Act 2006 (as amended by the Health and Social Care Act 2012), to be published in December 2014

Recommendation 3: Local flexibilities for contracts and incentive schemes

14. At present, NHS England has policies in place to ensure national sign-off on any variation to national incentive schemes. However, the introduction of co-commissioning brings in local partners—CCGs—and offers them the opportunity to take on the decision-making and responsibilities of primary care commissioning, either jointly with NHS England, or independently, through delegated commissioning arrangements. The purpose of primary care co-commissioning policy is to enable clinically led, optimal local solutions tailored to local populations on the basis of local Joint Strategic Needs Assessments and Health and Wellbeing Strategies. This is done by delegating functions and decision-making to the local level: we are legitimising CCGs being able to make these decisions without them needing to go through a case by case approvals process.

15. The counter approach (i.e., a non-permissive approach to local flexibilities) would undermine the ultimate policy aim of co-commissioning. In addition, it would add a substantive further resource burden for regions and area teams in the processing, administration and assurance aspects of handling local requests for variation.

16. Under delegated arrangements, CCGs would have the ability to offer GP practices the opportunity to set the strategic direction for quality by providing a locally commissioned service or participating in a locally designed incentive scheme. This is without prejudice to the rights of practices to their GMS entitlements being negotiated and agreed nationally. Any migration from a national standard contract to a local contract could only be affected through voluntary action.

17. Any CCG who wishes to develop a local incentive scheme is expected to first consult with the Local Medical Committee. Local flexibilities for incentives schemes would also be granted to joint commissioning arrangements, where CCGs and NHS England would jointly make decisions. On-going assurance of new schemes will form part of the CCG assurance process.

18. With the freedoms of co-commissioning arises the need for mitigation of the potential risks of inconsistency of approach in areas where national consistency is clearly desirable. There is already an ability to set out core national requirements in GMS, PMS and APMS contracts through regulations. In line with this, it is proposed that NHS England reserves the right to set national standing rules, as needed, to be reviewed annually. NHS England intends to work with CCGs to agree rules for areas such as: a requirement to publish GP earnings; the collection of data for national data sets; and IT intra-operability.

19. The standing rules would become part of a binding agreement underpinning the delegation of functions and budgets from NHS England to CCGs.

20. With regard to decisions about whether to establish new GP practices in an area, in joint commissioning arrangements the decision would be taken by the joint committee (consisting of both CCG/s and NHS England). In delegated arrangements, the decision would be taken by the CCG in line with procurement rules and subject to any direction established by NHS England. Further, NHS England will also be working with

CCGs to develop new approaches to expand primary care provision in line with the *NHS Five Year Forward View*, for example through national action on tackling health inequalities.

Recommendation 4: National principles for the deployment of administrative resources

21. Through a series of conversations with CCGs, regional and area team colleagues, and colleagues in HR, some national principles have been agreed: given the complexities involved, it would not be possible to transfer running cost allowance associated with primary care commissioning to CCGs in 2015/16, or to transfer the employment of the associated staff from area teams (ATs) to CCGs. Equally, it is only reasonable and logical that CCGs taking on delegated responsibilities to be able to access a proportionate share of the area team's primary care commissioning team resources—with the clear assumption that where such resources are deemed insufficient, it will be at the CCGs' discretion to fund and secure further commissioning resource and to share such arrangement between CCGs, where practical and desired. Area teams will retain a proportionate share of existing resources to deliver their ongoing primary care commissioning responsibilities.

22. Pragmatic local solutions will need to be put in place locally by CCGs and ATs. Whilst local arrangements will be a matter for local CCGs and area teams, the NHS CC and NHS England are committed to supporting such local discussions in any way deemed helpful.

23. In addition, NHS CC and NHS England are planning to evaluate, in the light of 2015/16 experiences, the administrative resources available to CCGs in 2016/17 to effectively implement the co-commissioning of primary care.

Stakeholder engagement

24. NHS England has worked closely with NHS Clinical Commissioners and regional and area team colleagues on the development of the co-commissioning policy; the RCGP and the GPC have been involved with the conflicts of interest work in particular. The national lay member network of CCGs and the Local Government Association each has representatives on the programme oversight group. A host of other key stakeholders will be engaged as we take the proposals forward for implementation.

Next steps

25. Pending Board approval of the content set out above, *Next steps towards primary care co-commissioning* will be published on 10 November 2014. Between mid-November and early December, NHS England's Commissioning Strategy and Commissioning Operations directorates will be holding regional roadshows offering practical support and help to CCGs, field force colleagues and local stakeholders in developing their co-commissioning proposals for implementation. We will also establish a national training programme for CCG lay members.

Recommendations and action requested

26. The Board is asked to consider and confirm the following recommendations that NHS England:
    1. Sets out three possible standard models for the co-commissioning of primary care for reasons of governance and administrative efficiency
    2. Takes a national, robust approach to the management of conflicts of interest to mitigate risk to both CCGs and NHS England
    3. Allows for local flexibilities for contracts and incentives schemes to enable innovation and optimal local solutions.
    4. Sets national principles for the deployment of administrative resources to support the implementation of the policy.

Ian Dodge

National Director: Commissioning Strategy

Annex A

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