

Governance Report

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Governing Body Meeting

2 May 2013

Author(s)/Presenter and title	Linda Tully, Company Secretary and Head of Governance
Sponsor	Ian Atkinson, Accountable Officer
Key messages	
<ol style="list-style-type: none"> 1. NHS Sheffield CCG is fully prepared to meet its legal responsibilities from 1 April 2013. 2. The CCG has strong governance systems in place to manage the statutory requirements going forward. 3. The CCG has functions set out in legislation encompassing; commissioning, financial probity, governance and cooperation. 4. The NHS Commissioning Board (NHS CB) will direct the CCG to commission certain primary care services on its behalf and will apportion pharmaceutical services remuneration to the CCG. 5. The Ballot for the city-wide elected Governing Body GP will run from 1 to 23 August 2013. 6. Member Practice Representatives voted to agree a number of amendments to the Constitution. 	
Assurance Framework (AF)	
<ul style="list-style-type: none"> • 1.3.2c Provides assurance that governance arrangements have been reviewed as part of the transition process • 898 This paper provides assurance that the CCG has a full set of appropriate and up to date policies to ensure it acts both legally and effectively. 	
Equality/Diversity Impact	
<i>Has an equality impact assessment been undertaken?</i> No .	
Public and Patient Engagement	
Not necessary	
Recommendations	
The Governing Body is asked to note the content of this report and assure itself that from 1 April 2013, NHS Sheffield CCG is fully prepared to meet its legal responsibilities.	

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1. Executive Summary

This paper assures the Governing Body that in accordance with The NHS Act 2006 (amended by the Health and Social Care Act 2012), (The Act), and from 1 April 2013, NHS Sheffield CCG is fully prepared to meet its legal responsibilities and has strong governance systems in place to manage the statutory requirements going forward. Specifically, it:

- confirms our capability and compliance with the directions and determinations delegated to the CCG by the NHS Commissioning Board,
- describes the arrangements for the election of governing Body GPs
- reports the results of the member's decision to accept a number of constitutional changes.

2. Core Duties and Powers of the CCG

As a statutory body, the CCG now has a wide range of functions set out in legislation encompassing: Commissioning, financial probity, governance and cooperation,

In performing these functions it is important to distinguish between:

- Key Statutory duties (ie the "must dos" that we are legally responsible for delivering)
- Key statutory powers (ie that we have the freedom to do if we wish to help us to meet the duties)

The legislative framework allows the CCG to decide whether functions will be delivered by the CCG itself or in partnership (ie with the local authority), or with external commissioning support. However, it is important to note that the legal responsibility can never be delegated and will always remain with the CCG.

A summary of the core duties and powers is set out in the NHS Commissioning Board document; *The Functions of CCGs* published March 2013. <http://www.england.nhs.uk/wp-content/uploads/2013/03/a-functions-ccgs.pdf>

3. NHS Commissioning Board Directions

In accordance with powers set out in The Act, the NHS Commissioning Board (NHS CB) will:

- Direct CCGs to commission certain primary care services on its behalf. Annex A summarises the directions, indicates the lead officer for each area and RAG rates each area in terms of compliance.

- Make determinations with respect to apportionment to CCGs of pharmaceutical services remuneration. The position is detailed in *Apportionment to CCGs of Pharmaceutical Services Remuneration* (Annex B of this paper)

4. Managing Conflicts of Interest

The Act requires all CCGs to make arrangements for managing real and potential conflicts of interest, to safeguard the integrity of the CCGs decision making processes. Governing Body members will be acutely aware of the potential for conflicts of interest between the commissioner and provider roles of GPs. The Sheffield CCG Conflict of Interest Protocol can be found at Appendix I of the Sheffield CCG Constitution; <http://www.sheffieldccg.nhs.uk/about-us/our-constitution.htm> and the register of interest is available at; <http://www.sheffieldccg.nhs.uk/about-us/declarations-of-interest.htm>

Additionally, and in line with their legal duty under Section 140 of The Act, the NHS CB has published; *Managing conflicts of Interest: Guidance for Clinical Commissioning Groups*, (28 March 2013). The full document can be accessed at; <http://www.england.nhs.uk/wp-content/uploads/2013/03/manage-con-int.pdf>

5. Election

The current terms of office for the city-wide elected GP Governing Body members are due for review in October 2013. At the meeting of 4 April, the Governing Body agreed that the Electoral Reform Service would be commissioned to undertake the administration of the ballot and returning officer arrangements for the 2013 election for four City-wide GP representatives. A democratic election process that is inclusive and capable of scrutiny is critical to secure a strong mandate from our 88 member practices. Our aim is to attract the widest range of talent from across Sheffield and we will seek nominations from all Sheffield GPs regardless of contract status, for tenure of up to three years. The city-wide election process will comply with the Equality Act 2010. Whilst considering diversity, appointments must clearly be made on merit; therefore all candidates will be formally assessed by an appointments panel, against a list of essential and desirable skills, competencies and attributes drawn from relevant national guidance prior to the election. The appointments panel will run between Thursday 4 July – Thursday 18 July 2013. The timetable for the election is set out at table 1.

Further information about the election including job description and person specification, Training / OD opportunities and timetable will be available shortly on the CCG's internet member's page <http://www.sheffieldccg.nhs.uk/members-professionals/>

Table 1	
Nominations open	Tuesday 4 June 2013
Nominations close	Tuesday 2 July 2013 @ 5pm
Nominees verified (interviewed)	Thursday 4 – 18 July 2013
Ballot opened	Thursday 1 August 2013
Ballot instructions reissued to all non-voters (reminder)	Friday 15 August 2013
Ballot closed	Friday 23 August 2013 @ 5pm

6. Constitutional Changes

At the Members Council Meeting on 20 March 2013 the following amendments to the constitution were formally presented:

1. Amendments to Section 6:
 - a.) Joint commissioning arrangements; strengthened by increasing the number of CCGs in the partnership
 - b.) Composition of the Governing Body; strengthened by increasing the number of Lay Members from two to three
2. Strengthening Terms of Reference of the following Committees:
 - a) Quality Assurance Committee; to increase the number of GPs in attendance
 - b) Remuneration Committee; to increase the number of Lay Members
3. Clarity of wording to the following constitutional documents:
 - a) Prime Financial Policies
 - b) Scheme of Reservation & Delegation
 - c) Standing Orders

Member Practice Representatives were invited to vote on the proposals and voting slips were sent out to all 88 Practice Representatives. In accordance with the Constitution, proposals put to a vote are determined to be agreed based on a two thirds majority (67%) or more of votes cast. Having followed due process, a total of 48 votes were cast with 97% (ie 47 votes) supporting the amendments to the Constitution.

7. Recommendation

The Governing Body is asked to note the content of this report and assure itself from 1 April 2013, NHS Sheffield CCG is fully prepared to meet its legal responsibilities.

Paper prepared by Linda Tully, Company Secretary and Head of Corporate Governance
On behalf of Ian Atkinson, Accountable Officer

21 April 2013

Annex A NHS Commissioning Board directions to CCGs

NHS Act	POWER	DIRECTION	CCG Lead	Compliant
Section 13Z	Direct a CCG to exercise any of the Board's functions relating to the provision of primary medical services and primary ophthalmic services	CCGs must exercise the Board's function to commission the following primary care services (These must be commissioned in accordance with the NHS Commissioning Board's guidance Primary medical care functions delegated to CCGs: Guidance and Securing Excellence in GP IT Services: Operating model):		
		GP Out of Hours Services (except where GP practices have not 'opted out')	JN	Green
		Local Enhanced Services for primary medical care and primary ophthalmic care agreed prior to 1 April 2013 by PCTs for which responsibility is transferred to the NHS CB	JN	Green
		GP Information Technology Services	IG	Green
Section 14Z11(2)(a)(i)	Specify the date on which the period covered by a CCG commissioning plan should start (e.g. to cover plans by a CCG which is established after the start of a financial year)	CCG commissioning plans should start from 1 April 2013	TF	Green
Section 14Z11(5)	The CCG must give a copy of the plan to the Board before the date specified by the Board in a direction	CCGs must submit a copy of their commissioning plan to the NHS Commissioning Board, via the Area Team Director, in accordance with the date set out within the planning guidance, Supporting Planning 2013/14 for Clinical Commissioning Groups For 2013/14 this should be 5 April 2013.	TF	Green
Section 14Z15(4)	Specify the form and content of the annual report	Each CCG's annual report must be in the form specified within the NHS Commissioning Board's NHS CCG Annual Reporting Manual and associated guidance and must include the content set out therein.	LT	Green
Section 14Z15(5)	Specify the date by which the CCG must give the Board a copy of its annual report	CCGs must submit a copy of their annual report to the NHS Commissioning Board, via the Area Team Director, in accordance with the date set out within the NHS CCG Annual Reporting Manual and associated guidance		Green
Schedule 1A Paragraph 17(3)	With the approval of the Secretary of State, direct a CCG to prepare accounts in respect of a specified period	CCGs must prepare accounts for the period April 2013 – March 2014 in accordance with the NHS Commissioning Board's NHS CCG Annual Reporting Manual and associated guidance	LT	Green
Schedule 1A Paragraph 17(4)	With the approval of the Secretary of State, the Board may give directions to a CCG as to the methods and principles according to which its annual or other accounts must be prepared, and the form and content of such accounts	CCGs must use the Integrated Single Financial Environment and comply with related guidance and the NHS Commissioning Board's NHS CCG Annual Reporting Manual and associated guidance	JN	Green

Schedule 1A Paragraph 17(5)	Direct that accounts other than annual reports must be audited in accordance with the Audit Commission Act.	CCGs must audit their annual reports in accordance with the Audit Commission Act and the government standards for internal audit, as set out in the attached. http://www.dh.gov.uk/health/files/2012/07/NHS-internal-audit-standards-april-2011.pdf	JN	Green
Schedule 1A Paragraph 17(7)	Specify a date by which the CCG must send its audited accounts to the Board	CCGs must send audited accounts to the Board in accordance with the NHS Commissioning Board's NHS CCG Annual Reporting Manual and associated guidance	LT	Green
Schedule 1A Paragraph 17(8)	Direct a CCG to send its unaudited annual accounts to the Board by a specified date	CCGs must send audited accounts to the Board in accordance with the NHS Commissioning Board's NHS CCG Annual Reporting Manual and associated guidance	JN	Green
Schedule 1A Paragraph 18	Direct a CCG to supply it with specified information, within a specified period, relating to its accounts, income or expenditure, including estimates of future income or expenditure, or future use of resources	CCGs must use the Integrated Single Financial Environment and comply with related guidance and the NHS Commissioning Board's NHS CCG Annual Reporting Manual and associated guidance	JN	Green
Sections 223I and 223J	Direct a CCG to ensure that in a financial year the following do not exceed specified amounts: - capital resource use for specified matters; - revenue resource use for specified matters; Directions to decide to which CCG a use of revenue resources or capital resources should be attributed for the purposes of section 223I or 223J	CCGs must remain within the relevant resource limits as set out in the Limits Report	JN	Green
Section 223J(4)	Specify uses of capital or revenue resources which must, or must not, be taken into account for the purposes of Sections 223J(subsection 1) or (as the case may be) subsection (2) or (3)	CCGs must account for capital and revenue resources in accordance with the NHS Commissioning Board's NHS CCG Annual Reporting Manual and associated guidance	JN	Green

Key to Leads: JN = Julia Newton, TF= Tim Furness, IG = Idris Griffiths, LT = Linda Tully

Pharmaceutical Services Remuneration – Apportionment to CCGs

The following costs that arise from the provision of pharmaceutical services in response to the patient presenting a prescription written by a prescriber under primary medical services¹, to a pharmacy or dispensing appliance contractor, will be apportioned to the CCG of the prescriber:

1. The actual cost of the medicine or the appliance supplied; and
2. A proportion of non-specific reimbursement costs.

The amounts under 1 and 2 above are established from the payments to community pharmacies and dispensing appliance contractors according to the Drug Tariff. More details as to the components of the “actual cost of the medicine or the appliance” and the components of the “share of non-specific reimbursement costs” and how it is calculated can be found below.

For dispensing doctors, the CCG will meet the costs of the item dispensed, as set out in the Drug Tariff, less an assumed discount set out in the General Medical Services Statement of Financial Entitlement. Dispensing doctors do not receive non-specific reimbursement costs.

Actual Cost of medicine or appliance

The actual cost of the medicine or the appliance includes:

- the basic reimbursement price of the drug;
- less the national average discount percentage (a discount is applied to the basic reimbursement price for pharmacy contractors depending on the pharmacy’s total of basic reimbursement - this discount is averaged across all products);
- plus payment for consumables and containers; and
- plus out of pocket expenses.

Non-specific reimbursement costs

The table below outlines the components of the ‘share of non specific reimbursement costs’ that will be apportioned to CCGs for prescriptions issued under primary medical services and how it is calculated.

¹ Includes prescribers under out of hours primary medical services

Cost

How it is calculated

Actual cost of medicine/appliance associated with a prescription where the prescriber/commissioner is unidentified including cross border prescriptions
Broken bulk

By proportion of total cost of medicines and appliances²

By proportion of total cost of medicines and appliances¹

Adjustments made to pharmacy or dispensing appliance contractors' payments relating to reimbursement where the prescriber/commissioner cannot be identified or the cost is not linked to a specific prescription

By proportion of total cost of medicines and appliances¹

² % proportion is calculated by dividing the cost of medicines and appliances recharged to the CCG by the total cost of medicines and appliances for all prescriptions dispensed by pharmacy and dispensing appliance contractors as part of pharmaceutical services.