Working with you to make Sheffield HEALTHIER

NHS Sheffield Clinical Commissioning Group

Commissioning for Value - Decision Making and Prioritisation Framework

J

Governing Body meeting

7 July 2016

Author(s)	Tim Furness, Director of Delivery
Sponsor	Tim Furness, Director of Delivery

Is your report for Approval / Consideration / Noting

Approval

Audit Requirement

CCG Objective:
5. Organisational development to ensure CCG meets organisational health and capability requirements.

Principal Risk
5.4 Inadequate adherence to principles of good governance and legal framework leading to breach of regulations and consequent reputational or financial damage.

This paper proposes a formalisation of the CCG's decision making processes to ensure transparency, consistency and fairness in our commissioning decisions.

Equality impact assessment

Have you carried out an Equality Impact Assessment and is it attached? No

If not, why not? The proposed framework would apply equally to all population groups. The framework requires the completion of equality impact assessments for all commissioning decisions.

PPE Activity

How does your paper support involving patients, carers and the public?
It requires appropriate engagement to be demonstrated in all commissioning decisions, setting out the statutory and policy framework in Appendix 1.

Recommendations

The Governing Body is asked to approve the attached framework and commit the CCG to working within the framework at all times.

Commissioning for Value –
Decision Making and Prioritisation Framework

Governing Body meeting

7 July 2016

1. Introduction

Now more than ever due to the current challenging financial climate, it is important for the CCG to demonstrate that it is making the most effective use of public money to maximise the health and wellbeing of the people of Sheffield. To achieve this, we need to ensure that our resources are used wisely and we maximise the impact of the services we commission to improve health, reduce health inequalities and ensure our population receives appropriate high quality evidenced clinical care.

This paper proposes a formalisation of the CCG's decision making processes to ensure transparency, consistency and fairness in our commissioning decisions.

2. Summary of the Framework

This framework should ensure that resources are invested in the highest priority areas and robust processes are in place to identify services which can no longer be prioritised on the basis of clinical evidence, value for money or affordability. Where approval has been given to decommission, or disinvest from a service a clearly defined process will be followed, with clear lines of accountability and responsibility.

The framework sets out:

- Where decisions are taken, in section 5
- Criteria for resource allocation, in section 5.1
- How we consider in year proposals, in section 5.3
- Requirements for assessing the equality and quality impact of proposals, in section 5.4
- Requirements for engagement, consultation and NHS England approval, in section 5.5 and appendix 1

To a large extent, the framework formalises current practice, but it also embeds best practice and makes explicit priorities and processes that may previously have varied over time.

3. Recommendation

The Governing Body is asked to approve the attached framework and commit the CCG to working within the framework at all times.

Paper prepared by Tim Furness, Director of Delivery
June 2016

Working with you to make Sheffield HEALTHIER

NHS Sheffield Clinical Commissioning Group

FINAL DRAFT

NHS Sheffield Clinical Commissioning Group

Commissioning for Value – Decision Making and Prioritisation Framework

Version: 0.4

Approved by: Commissioning Executive Team

Date Approved: 17 May 2016

Author: Tim Furness

Responsible Directorate: Director of Delivery

Date Issued:

Review Date: Upon receipt of national policy guidance or in May 2017 (whichever is the earlier)

June 2016

Version Control Sheet

Document Title: Commissioning Executive Team Terms of Reference

Version: 0.7

Version	Date	Author	Status	Comment
0.1	March 2016	Diane Prescott	Draft	Draft submitted to Driving Value and PLCV group for comment
0.2	April 2016	Tim Furness	Draft	Draft submitted to Driving Value and PLCV group for approval
0.3	May 2016	Tim Furness	Draft	Draft submitted to CET for approval
0.4	June 2016	Tim Furness	Final Draft	Draft submitted to Governing Body for approval

CONTENTS

Executive Summary

NHS Sheffield Clinical Commissioning Group (CCG) is the local lead commissioner of NHS services for the people of Sheffield, with the following stated aims

1. To improve patient experience and access to care
2. To improve the quality and equality of healthcare in Sheffield
3. To work with Sheffield City Council to continue to reduce health inequalities in Sheffield
4. To ensure there is a sustainable, affordable healthcare system in Sheffield

Now more than ever due to the current challenging financial climate, it is important for the CCG to demonstrate that it is making the most effective use of public money to maximise the health and wellbeing of the people of Sheffield. To achieve this, we need to ensure that our resources are used wisely and we maximise the impact of the services we commission to improve health, reduce health inequalities and ensure our population receives appropriate high quality evidenced clinical care.

We seek to ensure that our commissioning decisions are fully informed and based on the best evidence available and provide best value for money through available benchmarking.

To ensure that our finite resources are consistently directed to the highest priority areas the CCG has developed this commissioning decision making and prioritisation framework that sets out our approach and governance arrangements to ensure as far as possible that our decisions are robust, rational and can be justified to stakeholders and our local population.

This framework should ensure that resources are invested in the highest priority areas and robust processes are in place to identify services which can no longer be prioritised on the basis of clinical evidence, value for money or affordability. Where approval has been given to decommission, or disinvest from a service a clearly defined process will be followed, with clear lines of accountability and responsibility.

The framework sets out:

- Where decisions are taken, in section 5
- Criteria for resource allocation, in section 5.1
- How we consider in year proposals, in section 5.3
- Requirements for assessing the equality and quality impact of proposals, in section 5.4
- Requirements for engagement, consultation and NHS England approval, in section 5.5 and appendix 1

In the event that decommissioning or disinvestment is proposed, the CCG recognises that a number of steps will be required prior to a final decision being taken, including clinical and public engagement to inform that decision.

1. Introduction

The purpose of the Commissioning Prioritisation Framework is to establish a system for transparent and coherent prioritisation for the commissioning of health and wellbeing services. It provides a framework for making decisions about relative priorities at a strategic and planning/commissioning level and facilitates rational and reasonable decisions about which services are commissioned or decommissioned in accordance with our agreed strategy.

The Commissioning Prioritisation Framework provides brings together:

- a mechanism for making decisions about strategic and operational priorities for annual resource allocation through:
    - business cases for investment in the provision of existing or new services and through
    - service or value for money reviews and performance monitoring to decommission or disinvest in services or specific treatments where they no longer provide evidenced clinical value, best value for money or are a lower priority than services we need to fund within our affordability envelope
- the process for exceptional investment or de-commissioning of services outside the annual planning process

the procedure to be adopted for considering requests for funding of care outside existing commissioned services.
This framework applies to all investment and disinvestment decisions made by NHS Sheffield Clinical Commissioning Group (CCG) and should be applied when making both clinical and non-clinical disinvestment and decommissioning decisions.

2. Sheffield CCG Vision Values and strategic aims

We believe our duty is to care for the health and wellbeing of the citizens of Sheffield by commissioning excellence in health and care provision, and placing patients at the heart of all commissioning and transformation decisions. The Sheffield CCG Prospectus (2012) sets out the ambitions and values of the Sheffield NHS Clinical Commissioning Group (CCG). It was developed with member practices and staff supporting the CCG, and in consultation with partner organisations and the public. The CCG Governing Body is clear that the aims set out in the prospectus are consistent with national priorities and the content of the Five Year Forward View.

Our aims are:

1. To improve patient experience and access to care
2. To improve the quality and equality of healthcare in Sheffield
3. To work with Sheffield City Council to continue to reduce health inequalities in Sheffield
4. To ensure there is a sustainable, affordable healthcare system in Sheffield

We have summarised these aims in our draft vision “By working together with patients, public and partners, we will improve and transform the health and wellbeing of our citizens and communities across Sheffield”

The key strands of our five year plan to achieve our aims include:

- Transforming ‘care out of hospital’ by transferring resources and operating ‘care closer to home’ at scale by 2019
- Working with our providers through our contracts and through our partnerships to ensure that Sheffield achieves the highest standards for all our patients, so that we:
- Ensuring an explicit focus on achieving year on year efficiencies in the health and social care system so we can meet the needs of our citizens within available resource.

Eight goals summarise our commissioning intentions:

1. Deliver timely and high quality care in hospital for all patients and their families
2. Become a person-centred city: promoting independence for our citizens and supporting them to take control of their health and health care
3. Tailor services to support a reduction in health inequalities across the Sheffield Population
4. Integrate physical and mental health, ensuring parity of esteem for people with mental health needs
5. Support people living with and beyond life threatening or long term conditions
6. Give every child and young person the best start in life
7. Prevent the early onset of avoidable disease and premature deaths
8. Work in collaboration with partners for sustainable care models

3. Context

The Clinical Commissioning Group receives an allocation from the Department of Health to invest in health care and has a statutory responsibility to improve health, reduce inequalities and commission care, including medicines and other treatments, for its population within available resources by prioritising between competing demands. The precise allocation of resources and the process for prioritising those resources is a matter of judgement for individual CCGs.

The CCG must be able to demonstrate that it has clear mechanisms in place for making decisions about relative priorities both at a strategic and an individual case level, including a mechanism by which individuals that might be an exception to commissioning policies can be considered in a structured and transparent manner.

Any funding approved under this framework will be subject to the Corporate Governance Framework including Standing Orders, Prime Financial Policies and Schemes of Reservation and Delegation as well as legislation, regulations and guidance in respect of procurement.

Decisions in relation to investments / disinvestments will be required on a regular basis as the CCG goes through the various stages of the planning/commissioning cycle.

4. Definitions

For the purpose of this strategy the following definitions are used:

Decommissioning – refers to a decision to re-specify a service to meet current service requirements which is either inappropriate to obtain by contractual negotiation or where required changes cannot be agreed, or where under our procurement obligations we are required to test the market.

Disinvestment – refers to a contracted service is withdrawn because, for example, it does not provide good value or the quality of service we require, it no longer meets NICE guidelines or it is of a lower priority within our overall affordability

Stakeholder – refers to an individual or group who has a stake in the service. This may refer to a patient, carer, clinician or service provider or partner or other agency with a statutory obligation impacted by the change.

5. Decision Making and Prioritisation Approach

NHS Sheffield CCG is required to make decisions relating to the three different situations outlined below.

- Decisions about strategic and operational priorities for annual resource allocation through:
    - business cases for investment in the provision of existing or new services and
    - service or value for money reviews and performance monitoring to decommission or disinvest in services or specific treatments where they no longer provide evidenced clinical value, best value for money or are a lower priority than services we need to fund within our affordability envelope (including proposals for new IFR policies)
- Exceptional investment or de-commissioning of services outside the annual planning process (including proposals for new IFR policies).
- Considering requests for funding of care outside existing commissioned services.

The table below summarises these situations and where decisions will be made.

Type of priority	Priority approved by	Priority proposed by	How
Priorities for annual resource allocation	Governing Body	CET, informed by clinical portfolios	Using Joint Strategic Needs Analysis and other intelligence; national and local policy; proportionate consultation in accordance with criteria in section 5.
In-year consideration of services outside the annual operating framework	CET (supporting AO and CFO) or Governing Body, as set out in the scheme of delegation	Portfolios, practices, external bodies	
Primary care commissioning decisions	Primary Care Commissioning Committee	CET, informed by clinical portfolios	As above
Funding of care outside existing commissioned services (section 6).	Individual Funding Requests Panel	Request made on behalf of individual.	Individual Funding Request Policy and Procedure.

The aim of the approach set out in this document is to:

1. Ensure that the resources available to the CCG are used to best effect in meeting health needs in Sheffield, to achieve the best possible health outcomes for the local population against available resources.
2. Contribute to the delivery of the CCG's strategic, operational and QIPP plans
3. Ensure that the CCG considers the total use of its resources when considering commissioning decisions.
4. Deliver best value for money by ensuring that local health care resources are directed to the most effective and evidence based services for the local population.
5. Provide a rational, transparent and consistent process to allow services to be carefully considered prior to any decision to invest, decommission or disinvest.
6. Ensure all commissioned services are monitored in terms of performance, health outcomes, efficiency, safety, effectiveness and providing positive patient experience, demand management and fitness for purpose to allow for a robust decision to be made regarding the commissioning of a new service or continuation of an existing service.
7. Ensure all decommissioning and disinvestment decisions are taken in a fully informed manner and follow a set procedure agreed by the Governing Body, with due regard to the impact on those potentially affected
8. Ensure that our statutory obligations are met and that the safety of patient remains paramount.

5.1 Priorities for annual resource allocation

NHS Sheffield CCG will prioritise existing resources, decommission services that are not considered to be delivering the expected health benefit and consider any new services or business cases to ensure that we are utilising our resources effectively. Local needs and national benchmarking information where appropriate (e.g. programme budgets) will guide Sheffield CCG in this prioritisation of expenditure at a total level between commissioning programmes.

The following criteria will be used to consider and prioritise proposals for investment, disinvestment or de-commissioning:

a) Alignment with NHS Sheffield CCG's strategic objectives or national mandatory priorities.
b) Benefits are identified and evidenced/ measurable.
c) Compliance with any legal and clinical frameworks or guidance.
d) Response to a need that has been assessed.
e) Clinical effectiveness, including assessment by NICE or other evidence-based review
f) Impact on health inequalities.
g) Will Improve patient safety and experience
h) Accessibility to service users (including equality of access)
i) Affordability and value for money

Service developments which are priorities for annual resource allocation are identified by the Clinical Directors, and Heads of Commissioning during the annual operational planning process.

Service Reviews

The CCG will undertake a systematic review of its current spend utilising the Sheffield Joint Strategic Needs Assessment, clinical evidence, NICE recommendations and available benchmarking to assess the relative priority and value of services already commissioned by the CCG to identify where services should be considered for decommissioning or disinvestment.

In such cases a review will be undertaken. Following a service review a number of options will be available to the CCG, these could include the need to re-commission part of the service, amend the threshold / restrict access to a service, revise the specification and procure a new model of care or disinvest the service. A business case will be produced which evidences the 'case for change' the rationale for decommissioning or disinvesting in the services and whether and/or how these will be consulted upon. See Appendix 1 Sheffield CCG Legal Framework for Public Consultation.

Service developments, service redesigns or the decommissioning of services that are priorities will be set out in the annual operational plan. This is reviewed in development and approved annually by the Sheffield CCG Governing Body.

5.2 Requests for funding of care outside existing commissioned services

Any decision relating to a request to fund a treatment or intervention which does not fall within existing contracts will be made with reference to Sheffield CCG policy on individual funding requests. The details of this policy are not repeated in this document but can be accessed via the Intranet.

5.3 In-year funding decisions (commissioning / decommissioning) outside the annual operating plan

An in-year funding decision, i.e. outside the annual planning and commissioning process, may be made where one or more of the following circumstances apply.

a) A major incident occurs that requires additional funds to manage a serious health risk, such as an outbreak of an infectious disease, or a major environmental accident such as the spillage of a toxic chemical.
b) There is an urgent service problem such as a major failure in clinical practice that requires a look-back exercise to identify at-risk individuals to whom additional screening and treatment might be offered.
c) A new intervention is made available that is of such strategic importance that it should be introduced immediately, for example a vaccine against HIV infection. (In reality it is improbable that such a development would not be known about in advance).
d) A new treatment or service is made available that provides such significant health or financial benefits that Sheffield CCG wishes to introduce it immediately. This might include proposals from external bodies.
e) A new directive is issued from the Secretary of State or a new legal ruling requiring immediate implementation.
f) Additional investment / disinvestment is required in order for the CCG to achieve the annual control total set by NHS England. This may arise due to

non-commencement of planned development(s) thereby creating uncommitted resources.

The criteria for considering proposals specified in section 5.1 will be applied to in-year decisions. In addition, the financial position of the CCG will also be considered, as the financial plan approved by Governing Body will have fully committed the CCG's resources and an in-year decision will often represent a variation to the financial plan.

Proposals for in-year funding / de-funding should be submitted to the Commissioning Executive Team. Decisions will be made in line with the operational scheme of delegation. Where a decision is within the Accountable Officer's or Chief Finance Officer's delegated limits, this will be taken with the advice of CET. Where a decision is outside such delegated limits, or if the Accountable Officer or Chief Finance Officer otherwise considers it appropriate, CET will make a recommendation to the Governing Body, which will make the decision.

External Funding Proposals

Proposals are sometimes put forward by bodies external to the CCG. When this is the case these should be allocated to an internal commissioning lead to assess (which will usually be a Clinical Director).

Should the commissioning lead feel that the proposal does not warrant further development / consideration then they have the authority to reject the proposal and communicate this to the original proposer. If the commissioning lead is unsure as to the merit of the scheme they should discuss this with the Accountable Officer or the CFO.

Should the commissioning lead feel that there is value in the proposal and that it fits with the criteria for service development specified in section 5.1 (a) to (h) then they should develop the proposal in line with the requirements laid out in this document. The lead commissioner will then be required to submit it for approval as set out in Section 5 and present the proposal. Should the commissioning lead feel that the representation from the external body would add value to this presentation then they must receive approval from the Chair of the relevant meeting, however it should be made clear that should the proposal be approved the usual process and regulations regarding procurement would apply (i.e. there is no automatic assumption that funding would be spent with the external body that initially submitted the proposal).

5.4 Quality and Equality Impact Assessments

As part of its decision making process the CCG is required to fully consider the quality and equality impact of proposals. Commissioning leads presenting proposals must always complete assessments of the potential impact on quality and equality, which must be presented at the time the proposal is considered. Where a set of proposals are presented, for instance in the Operational Plan, CET will confirm a decision to proceed with specific proposals, as set out in the Programme Management Framework, and impact assessments should form part of that decision making process.

5.5 Public and Clinical Engagement

The CCG will engage public and clinicians in the development of plans, and will take into account their views in making commissioning decisions. We seek to comply with the principles set out in statute and in NHS guidance at all times (these are summarised at Appendix 1).

5.6 Recording and Reporting

A clear record of all commissioning decisions will be kept, and decisions made by the AO and CFO will be reported to the Governing Body.

5.7 Appeals

The CCG recognises that there may be times when members of the public are dissatisfied with its decisions. We are committed to undertaking engagement and consultation work that, at a minimum, meets national expectations of best practice and believe that doing so will help ensure our decisions are in the interests of the public of Sheffield.

There is no right of appeal against CCG service commissioning decisions. However, any member of the public or member practice who feels that a decision is not justified may register a complaint, and the Chair and AO may, at their discretion, decide to review a decision in responding to that complaint. Ultimately, the CCGs decisions may be the subject to legal challenge from individuals or groups.

6. Structure and Accountabilities

CCG Governance Framework

Within the context of the CCG Governance Framework the following principles for decision making regarding the decommissioning or disinvestment of services will apply. Sheffield CCG acknowledges the right of member practices to identify services that should be considered for decommissioning. The Governing Body, as the legally accountable body for NHS resources, will ultimately take the decision with regard to the decommissioning of any service following the criteria and process set out in this strategy. Consultations will be carried out with the public / partners / providers; this will be informed through the statutory and best practice requirements.

Commissioning Executive Team (CET)

CET will consider proposals, as set out in a ‘case for change’, in line with its terms of reference. It will take into account the views of clinicians and the public in considering a proposal, including the outcome of any consideration by the Clinical Reference Group.

CET does not have delegated authority in itself, but will advise the Accountable Officer and Chief Finance Officer in the exercise of their delegated authority. Where a decision is within the Accountable Officer’s or Chief Finance Officer’s delegated limits, this will be taken with the advice of CET. Where a decision is outside such delegated limits, or if the Accountable Officer or Chief Finance Officer otherwise

considers it appropriate, CET will make a recommendation to the Governing Body, which will make the decision.

CCG Governing Body

Governing Body has the authority to make all commissioning decisions, although some decisions are delegated, as described above. Where decisions are taken by the Accountable Officer or Chief Finance Officer, those decisions will be reported to the Governing Body at the first possible opportunity.

As part of its decision making process the CCG Governing Body is required to fully consider the quality and equity impact assessments undertaken, results of public and statutory consultation and holds the authority to approve or reject proposals for decommissioning and disinvestment of services.

6.1 Roles and Responsibilities

Accountable Officer

The Accountable Officer is accountable for the actions undertaken by the Officers of the CCG, as noted below.

Lead Commissioning Officer

The lead officer responsible for the commissioned service is required to undertake the following actions when considering investment / disinvestment / decommissioning proposals:

1. Secure any appropriate legal advice.
2. Adopt a programme management approach to manage the processes to inform the development of a 'case for change' document. The case for change will include:-
    - The evidence behind why the case for the case is being proposed for a decommissioning / disinvestment decision.
    - Undertake all appropriate impact analysis prior to these being presented to the CCG Quality Committee / QiPP
    - Prepare the documentation for statutory and public consultation including Health Watch and District / County Council Overview and Scrutiny Committees
    - Keep log of the risk and issues identified.

Where a case for change proposes disinvestment or decommissioning, he/she must also assess the benefits the service has realised and assess the potential for any further improvement to the services effectiveness

Quality Team

The Quality Team will often be the first to know when concerns are raised in terms of the quality and safety of the services provided. The team utilises information from a variety of sources to assess the safety, efficacy and service user experience of clinical commissioned services. This information along with site visits and other intelligence is used to assess the relative quality of services commissioned or contracted by the CCG.

The Quality Team will work with the lead commissioner developing the proposal to ensure that a change in services does not have a direct or indirect negative impact on patient safety or the quality of any other related service.

The availability of good quality information is important to the decision making process in commissioning, NICE guidance and commissioning guides are used to inform all relevant commissioning decisions.

Finance Team

The finance team will ensure that proposals accurately reflect the financial implications of the proposals, including any financial modelling that might be required to support consideration of options or to understand the range of possible outcomes of the proposal (e.g. where the impact on other services needs to be estimated).

Public Health Team

The Public Health team will help assess the effectiveness of the intervention(s) provided by the service proposed/considered for disinvestment, and will assess the impact on health inequalities of proposals.

The Public Health team have the skills and ability to add to the interpretation of population based data that are used to highlight areas for decommissioning, such as benchmarking tools which compare the cost and/or outcomes of services compared to other CCG and previous PCTs.

Information Team

The Information team has a joint responsibility with the lead commissioning officer to provide key performance information to ensure that services are appropriately reviewed. The information behind a decision to **decommission** must be of high quality, be auditable and able to be presented as evidence which can withstand challenge should the decision based on performance be disputed. Areas that will be considered as part of the performance review of contracts will include areas of:

- Poor performance against targets
- Delivery of poor health outcomes
- Poor value for money
- Inequality of service provision
- Reduced impact on health outcomes
- Poor quality patient experience.

In addition, the team will provide a key role to support reviewing the programme budgeting reports when considering expenditure compared to health outcomes.

Human Resources Advice

HR expertise must be sought should the decommissioning of services be confirmed to ensure all legal obligations and any potential workforce planning issues are appropriately managed.

Communications Engagement Team

The lead commissioning officer needs to seek expert advice from the team in relation to any engagement / consultation exercise required to comply with best practice and

legal requirements. This advice must be sought at the earliest possible opportunity due to the length of time required for informal engagement and public consultation.

Contracting and Procurement Team

The team will provide advice to ensure that any investment, decommissioning or disinvestment follows the principles and rules of cooperation and competition. National guidance must be considered to ensure that no sector of the provider market is given any unfair advantage, and the CCG will retain an auditable documentation trail regarding all key decisions around procurement law. The Procurement advisors will also ensure market assessments are completed to analyses any impact on the provider market.

Appendix 1

Legal Framework for public consultation, and associated NHS guidance

i. Gunning Principles

The Gunning Principles will be used to ensure best practice in relation to the communications and consultation approach. These state that the activity should be:

1. When proposals are still at the formative stage
   Public bodies need to have an open mind during a consultation and not already made the decision, but have some idea about the proposals.

2. Sufficient reasons for proposals to permit intelligent consideration
   People involved in the consultation need to have enough information to make an intelligent choice and input to the process. An Equality Impact Assessment (EIA) should take place at the beginning of the consultation and should be published.

3. Adequate time for consideration & response
   Timing is crucial – is it an appropriate time and environment, was enough time given for people to make an informed decision and then provide that feedback, and is there enough time to analyse those results and make the final decision?

4. Must be conscientiously taken into account
   Think about how decision-makers have taken consultation responses into account.

ii. Health and Social Care Act 2012

The Health and Social Care Act 2012 makes provision for Clinical Commissioning Groups (CCGs) to establish appropriate collaborative arrangements with other CCGs, local authorities and other partners. It also places a specific duty on CCGs to ensure that health services are provided in a way which promotes the NHS Constitution – and to promote awareness of the NHS Constitution. Specifically, CCGs must involve and consult patients and the public:

- In their planning of commissioning arrangements
- In the development and consideration of proposals for changes in the commissioning arrangements where the implementation of the proposals would have an impact on the manner in which the services are delivered to the individuals or the range of health services available to them, and
- In decisions affecting the operation of the commissioning arrangements where the implementation of the decisions would (if made) have such an impact.

The Act also updates Section 244 of the consolidated NHS Act 2006 which requires NHS organisations to consult relevant Overview and Scrutiny Committees (OSCs) on any proposals for a substantial development of the health service in the area of the local authority, or a substantial variation in the provision of services.

iii. Transforming Participation

NHS England published 'Transforming Participation In Health and Care – The NHS Belongs To Us All'[1] in September 2013 which states how the vision for patient and public participation, outlined in the NHS Constitution and Health and Social Care Act 2012, will become a reality. It states that there are six key requirements for NHS commissioners:

- Make arrangements for and promote individual participation in care and treatment through commissioning activity
- Listen and act upon patient and carer feedback at all stages of the commissioning cycle – from needs assessment to contract management
- Engage with patients, carers and the public when redesigning or reconfiguring healthcare services, demonstrating how this has informed decisions
- Make arrangements for the public to be engaged in governance arrangements by ensuring that the CCG governing body includes at least two lay people
- Publish evidence of what 'patient and public voice' activity has been conducted, its impact and the difference it has made
- CCGs will publish the feedback they receive from local Healthwatch about health and care services in their locality

iv. The Equality Act 2010

The Equality Act 2010 unifies and extends previous equality legislation. Nine characteristics are protected by the Act, which are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation. Section 149 of the Equality Act 2010 states that all public authorities must have due regard to the need to a) eliminate discrimination, harassment and victimisation, b) advance 'Equality of Opportunity', and c) foster good relations.

v. The NHS Constitution

The NHS Constitution came into force in January 2010 following the Health Act 2009. The constitution places a statutory duty on NHS bodies and explains a number of patient rights which are a legal entitlement protected by law. One of these rights is the right to be involved directly or through representatives:

- In the planning of healthcare services
- The development and consideration of proposals for changes in the way those services are provided, and in the decisions to be made affecting the operation of those services

vi. NHS England – Planning, Assuring and Delivering Change for Patients[2]

There must be clear and early confidence that a proposal satisfies the four tests and is affordable in capital and revenue terms. The government's four tests of service reconfiguration are:

- Strong public and patient engagement
- Consistency with current and prospective need for patient choice.
- Clear, clinical evidence base.
- Support for proposals from commissioners.

[1] http://www.england.nhs.uk/wp-content/uploads/2013/09/trans-part-hc-guid1.pdf
[2] https://www.england.nhs.uk/wp-content/uploads/2015/10/plan-ass-deliv-serv-chge.pdf

The four tests are set out in the Government Mandate to NHS England. NHS England has a statutory duty to deliver the objectives in the Mandate. CCGs have a statutory duty to exercise their commissioning functions consistently with the objectives in the Mandate and to act in accordance with the requirements of relevant regulations, such as Procurement, Patient Choice and Competition Regulations2 and associated guidance from Monitor.

Decisions about the extent of assurance required by NHS England will be informed by the scale of the service change proposals under consideration.

Stage 1 - Strategic sense check
This will determine the level for the next stages of assurance and decision making. Clinical senates may at this stage be asked to review a service change proposal against the appropriate key tests (clinical evidence base).

1. Takes place once the commissioner concludes they have a sufficiently robust case for change and set of emerging options, or earlier if the potential implications are far reaching.

2. Involves a formal discussion between commissioners leading the change and the relevant local office within the NHS England regional team.

3. Purpose:
- Explore the case for change and the level of consensus for change.
- Ensure a full range of options are being considered; that potential risks are identified and mitigated; and that options are feasible.
- Ensure high level capital cost and revenue affordability implications are being properly considered.
- Show impact on neighbouring commissioners and populations has been considered.
- Ensure assessment against the 'four tests' is ongoing and other best practice checks are being applied proportionally.
- Agree a proportionate framework for stage two assurance based on the four tests and best practice checks
- Determine the level of assurance and decision making and whether the process is likely to require sign off from IC, the CFO or whether it rests with the relevant RD.

Stage 2 – Assurance checkpoint
For significant service change, it is best practice to seek the clinical senate's advice on proposals again at this stage.
1. Takes place in advance of any wider public involvement or formal consultation process or a decision to proceed with a particular option.
2. Involves assurance of the evidence provided by commissioners against the four tests and NHS England's best practice checks by a panel decided upon in the strategic sense check. It may also incorporate other external independent advice.
3. The purpose is to undertake formal assurance of, and minimise risk in commissioner proposals. The assurance panel will need to consider whether it was assured, partially assured or not assured against each of the agreed criteria. This would form the basis of the panel's report, along with any risks, issues or other recommendations they identified.

Health scrutiny
NHS bodies have a legal duty to consult local authority OSC. Although it is strongly advised that local authority scrutiny functions are involved throughout development, commissioners should hold a separate formal discussion on the final set of proposals on which they intend to consult. This is referred to as 'pre-consultation'.

Appendix 2

Equality Impact Assessment

Title of policy or service:		
Name and role of officer/s completing the assessment:		
Date of assessment:		
Type of EIA completed:	**Initial EIA 'Screening'** ☐ ***or*** **'Full' EIA process** ☐	*(select one option - see page 4 for guidance)*

1. Outline	
Give a brief summary of your policy or service • Aims • Objectives • Links to other policies, including partners, national or regional	

Identifying impact:

- **Positive Impact:** will actively promote or improve equality of opportunity;
- **Neutral Impact:** where there are no notable consequences for any group;
- **Negative Impact:** negative or adverse impact causes disadvantage or exclusion. If such an impact is identified, the EIA should ensure, that as far as possible, it is either justified, eliminated, minimised or counter balanced by other measures. This may result in a 'full' EIA process.

2. Gathering of Information

This is the core of the analysis; what information do you have that might *impact on protected groups, with consideration of the General Equality Duty*.

(Please complete each area)	What key impact have you identified?			For impact identified (either positive and or negative) give details below:	
	Positive Impact	Neutral impact	Negative impact	How does this impact and what action, if any, do you need to take to address these issues?	What difference will this make?
Human rights	☒	☐	☐		
Age	☐	☐	☐		
Carers	☐	☐	☐		
Disability	☐	☐	☐		
Sex	☐	☐	☐		
Race	☐	☐	☐		
Religion or belief	☐	☐	☐		
Sexual orientation	☐	☐	☐		
Gender reassignment	☐	☐	☐		
Pregnancy and maternity	☐	☐	☐		
Marriage and civil partnership (only eliminating discrimination)	☐	☐	☐		
Other relevant groups	☐	☐	☐		

HR Policies only: Part or Fixed term staff	☐	☐	☐		

IMPORTANT NOTE: *If any of the above results in ' **negative'** impact, a 'full' EIA which covers a more in depth analysis on areas/groups impacted must be considered and may need to be carried out.*

Having detailed the actions you need to take please transfer them to onto the action plan below.

3. Action plan				
Issues/impact identified	**Actions required**	**How will you measure impact/progress**	**Timescale**	**Officer responsible**

4. Monitoring, Review and Publication				
When will the proposal be reviewed and by whom?	**Lead / Reviewing Officer:**		**Date of next Review:**	

Once completed, this form **must** be emailed to Elaine Barnes, Equality Manager for sign off: elaine.barnes3@nhs.net.

Elaine Barnes signature:	