

A meeting of the Governing Body of Bromley Clinical Commissioning Group 24th November 2016

ENCLOSURE 14

APPLICATION FOR FULLY DELEGATED PRIMARY CARE COMMISSIONING IN BROMLEY

DIRECTOR RESPONSIBLE: Angela Bhan, Chief Officer

CLINICAL LEAD: Andrew Parson, Chair

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SUMMARY

In September 2016, the governing body discussed the opportunity and process for Bromley CCG to apply for level 3 fully delegated responsibility for primary care commissioning. This came following a call from NHS England to ask all CCGs in London at level 2 co-commissioning status to take on further responsibility for commissioning of general practice from April 2017.

In Bromley, engagement with our GP membership in early 2015 identified an eagerness amongst practices to move towards level 3 delegated commissioning, with 68% of the vote favouring this option. Further engagement with our membership and other stakeholders in summer and autumn 2016 confirmed this appetite and ratified the earlier decision to apply. For information, all six CCGs in South East London have decided to apply for level 3 delegation.

The deadline for applying for level 3 delegation is Monday 5th December. Following this, CCGs will be assessed for their readiness to take fully delegated responsibility, which will include scrutiny of how we are preparing for changes to our governance, conflict of interest and risk management.

This paper asks the CCG governing body to:

- A) Note the engagement and preparation to date for level 3 delegation, and planned next steps (supplementary to the information in the annex of this paper)
- B) Agree to a Chair's action being taken in early December to approve the final application form for the 5th December deadline
- C) Receive updates on the post-application assurance process between the CCG and NHS England up to April 2017, and any implications for CCG operations or finances that arise

Included as an annex to this paper is information that went to the September governing body about what is included at level 3 that will be different from the current level 2 arrangements; and a summary of the advantages, disadvantages, risks and 'unknowns' of moving to level 3 delegation, should this be useful for discussion.

ENGAGEMENT WITH CCG MEMBERSHIP

Further to the progress reported at the September governing body, please note that the following engagement has now been completed:

- ✓ Engagement with all three GP cluster meetings at the September round of clusters, including presentation of the background, benefits and risks, and 'Q&A' session to allow discussion of the opportunities
- ✓ Letter to all Bromley GP practices to let them know about the opportunity to apply for level 3 delegated commissioning of primary care, and give them an opportunity to give their comments and feedback (September)
- ✓ Update and discussion with most practices (71%) on an individual basis during the primary care team's quarterly practice visits between August and October
- ✓ Communication to the GP membership through the weekly GP e-bulletin and Practice Zone (intranet) in September
- ✓ Discussion with Bromley LMC in person (July and November) and by letter (October)

In addition, this item is planned to go to the 22nd November meeting of the CCG membership for information and discussion.

Please note that details of committee and public involvement are included later in this paper.

Also note that earlier engagement with the CCG membership on level 3 delegation in 2015 saw a vote that yielded 68% support for level 3 (26% voted for level 2 co-commissioning, which was since implemented; and 7% voted for level 1 involvement).

FURTHER WORK REQUIRED TO SUPPORT OUR APPLICATION

Bromley CCG is working closely with Bexley, Greenwich, Lambeth, Lewisham and Southwark CCGs to develop aligned applications for delegation of primary care commissioning from April 2017. Applications are due by 5th December 2016 and if successful, will require further assurance including:

- Governance arrangements (to include the impact of new conflict of interest guidance)
- Operational resource to support delegation (currently linked to the NHSE London Organisational Development review)
- Financial and related due diligence information

In addition, the CCG has been working with the other SEL CCGs to discuss the practical tasks and decisions required to support assurances required from each CCG by NHS England as part of our applications. In preparation for completion of applications, this joint work is primarily focussed on the following three areas:

i. Governance Arrangements and Conflicts of Interest Processes

Current arrangements for co-commissioning with NHS England include Joint Committees for Primary Care Commissioning formed by each CCG with NHS England which meet in common and in public on a bi-monthly basis. The location for the committee in common alternates between boroughs. In support of the committees, each CCG has a sub-committee including NHS England representation, held in advance of the public meeting, where agenda items are discussed. Decisions are reserved for the public meeting. The committees also make use of other local governance arrangements, for example management of conflicts of interest.

CCGs are currently reviewing the above approach in light of experience gained over the last 18 months of co-commissioning and lessons learned by other boroughs who already undertake delegated commissioning. This review aims to ensure that the governance approach included in the application is compatible with existing governance arrangements, and allows CCGs in south east London to discharge their local and joint responsibilities effectively and transparently.

Alongside the review of primary care commissioning governance arrangements, CCGs are also reviewing Conflicts of Interest processes in light of updated NHS England governance. A key outcome of this review is the ability of each Primary Care Commissioning Committee to demonstrate transparently that meetings have been conducted and decisions made without conflict.

ii. Operational Resource to Support Delegation

At the current time, the level of resource – both financial and human – that would come from NHS England if we move to delegated commissioning is under discussion. Delegation is being taken into account as part of the Organisational Development review of NHS England (London region) by Ernst and Young which has been ongoing since Spring 2016. South east London CCGs are directly inputting into this review to reflect our preferences and recommendations for what devolved support for south east London CCGs should look like in the context of a likely move towards full delegation of primary care.

iii. Financial and Related Due Diligence

As part of the co-commissioning arrangements over the last 18 months, south east London CCGs and NHS England have been operating with much more transparency relating to financial budgets and plans for primary care commissioning. With greater financial responsibility being placed on CCGs as part of delegation, due diligence work is currently underway including:

- Budget allocation for Primary Care from 2017/18
- Funds committed for ongoing programmes, including source of funds and responsibility for any under- or overspend

NEXT STEPS

Next steps in this process include:

- All SEL CCG governing bodies to endorse intent to apply for delegated primary care commissioning and aligned approach to completion of applications
- Develop proposed updates to local and joint south east London governance structures to enable move to full delegation including the assurance required after our applications are made
- Develop updated conflict of interest guidance, incorporating primary care commissioning requirements
- Identify and make any updates required to constitutions to support delegation. These will be limited as most changes made to support co-commissioning were made in a way that would enable a future move to delegation
- Develop aligned applications for submission to NHS England, including the application pro forma and supporting documentation and rationale

COMMITTEE INVOLVEMENT:

Delegated commissioning was discussed at the CCG governing body meetings of January and March 2015 and September 2016; and at the CCG Clinical Executive Group in June 2016. Related matters such as risk management and conflicts of interest have also been discussed at the Primary Care Programme Board in October 2016.

PUBLIC AND USER INVOLVEMENT:

No public engagement has been undertaken to date. A patient and public event on primary care transformation is going ahead on 13th December. This will allow the CCG to meaningfully engage with patients around primary care priorities and transformation to help shape our operations as we move towards full delegation.

IMPACT ASSESSMENT:

An impact assessment will be conducted as part of the application and assurance process. This will be updated as more information is released by NHS England regarding the level of resource and the governance requirements associated with moving to level 3.

RECOMMENDATIONS:

The CCG governing body is asked to:

- A) Note the engagement and preparation to date for level 3 delegation, and planned next steps (supplementary to the information in the annex of this paper)
- B) Agree to a Chair's action being taken in early December to approve the final application form for the 5th December deadline
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ACRONYMS

CCG – Clinical Commissioning Group

Col – Conflict of Interest

DES – Direct Enhanced Service

GP – General Practitioner

LMC – Local Medical Committee

NHS – National Health Service

QOF – Quality Outcomes Framework

SEL – South East London

STP – Sustainability and Transformation Plan

Also: PMS/GMS/APMS – different types of GP contracts

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ANNEX A

a) DEFINITIONS – WHAT DOES LEVEL 3 FULL DELEGATION MEAN?

At level 3, the CCG would take responsibility for:

- GMS, PMS and APMS contracts (including the design of PMS and APMS contracts, monitoring of contracts, taking contractual action such as issuing breach/remedial notices and removing a contract)
- Newly designing enhanced services
- Design of local incentives schemes as an alternative to QOF
- Establishing new GP practices in an area as appropriate
- Approving practice mergers
- Making decisions about 'discretionary' payments (e.g. returner/retainer schemes)

The CCG would continue to discharge its statutory duties, for example those relating to quality, financial balance and public participation.

The following responsibilities would remain with NHS England:

- Holding the medical performers' list
- Performers' appraisal and revalidation
- Pay and rations
- Complaints
- Commissioning of dental, community pharmacy and eye health services

NHS England would remain accountable for outcomes and therefore would continue its assurance role of CCGs to ensure responsibilities are being adequately discharged and well managed to yield the intended outcomes.

b) ADVANTAGES AND DISADVANTAGES OF FULL DELEGATION

Delegated primary care commissioning enables commissioning budgets and plans to be formally delegated and therefore provides greater opportunity to deliver population wide commissioning beyond the services currently commissioned by the CCG, allowing services to be better integrated around the patient.

Delegation ensures that the allocated budget for general practice remains in the borough and empowers CCGs with greater control to make more optimal and locally responsive decisions about how primary care resources are deployed as well as greater consistency between outcome measures and incentives used in primary care services and wider out-of-hospital services.

High level summary of advantages of delegated commissioning:

- Empowers and enables CCGs to improve primary care services for the benefit (and with the input) of patients and local communities
- Enables clinically led, optimal local solutions to local needs
- Enables commissioning and service design across the whole patient pathway
- Allows greater control over local decisions affecting primary care informed by local knowledge of services, practices and challenges

- Enables CCGs to shift investment from acute to primary and community services
- Enables the ongoing development of seamless integrated out-of-hospital services and ICNs
- Offers an opportunity to design local incentive schemes as an alternative to QOF or DESs
- Offers an opportunity to drive outcomes based commissioning in primary care by aligning outcome measures and incentives used in primary care
- Offers more control locally to contract monitor and manage the new PMS contracts and GMS equalisation services
- Mitigates the risk around the status quo whereby NHS England 'local' teams cover a large geographical patch, manage all independent contractors (GP practices, dental, optometry, pharmacy) and face considerable staffing and financial challenges
- Adheres to national policy, trends and commentary which favours full delegation to CCGs

Potential disadvantages of delegated commissioning:

- Workload for the CCG will increase. For example, the CCG will need to provide assurance that it is discharging NHS England's statutory functions effectively. This could be onerous in terms of monitoring and intervention. It will be important to ensure that there are adequate resources (funding and staff), although this is currently an unknown factor
- The range and frequency of real and perceived conflicts of interest will increase, and governance rules about GPs making decisions where conflict of interest applies will need to be carefully adhered to. However, strengthened and transparent processes for decision-making are being considered and will be finalised during the transition process to mitigate this risk as far as possible
- There is a risk of inconsistency of approach amongst CCGs in matters where national consistency is desirable, e.g. 8-8 primary care access, 7 days a week. The CCG would need to continue to work with NHS England on national priorities and with other CCGs to learn from best practice and experience elsewhere

c) RISKS AND UNKNOWN FACTORS

Resources:

At the current time, the level of resource – both financial and human – that would come from NHS England if we move to delegated commissioning is unknown. Delegation is being taken into account as part of the Organisational Development review of NHS England (London region) by Ernst and Young which has been ongoing since Spring 2016. SEL CCGs are directly inputting into this review to reflect our preferences and recommendations for what devolved support for SEL CCGs should look like in the context of a likely move towards full delegation of primary care.

Risk status: High

Mitigation: Contribution to OD work and representation of existing resource and its focus

Financial risks

CCGs will take full responsibility for NHS England Primary Care QIPP requirements at level 3 delegation. CCGs will need to consider Primary Care commissioning priorities alongside other competing priorities, and factor this into prioritisation of the QIPP programme and staff resource for delivery.

Risk status: High

Mitigation: Development of an ambitious and deliverable QIPP programme will be important for managing this risk

Governance and operational risks

Moving to level 3 could present risks related to financial reporting; information and performance monitoring; and governance and conflict of interest. However, learning from CCGs that have already moved to level 3 shows that these risks can be mitigated successfully and we would seek to learn

Clinical Commissioning Group

from others' experience during the transition period. For example, recent conflict of interest guidance is already being analysed and implemented in Bromley through the lay member-chaired Conflict of Interest working group and plans for a Primary Care Commissioning Committee at local level are being actively discussed. The CCG is also beginning to play a greater role in information, performance and contract monitoring of GPs in anticipation of delegation, including through the structure of the proposed PMS/GMS commissioning intentions, work on GP information packs and a new Quality in Primary Care working group to look at practice resilience.

Risk status: Low

Mitigation: Preparation for changes to governance and C.o.I. are underway is good time and using best practice

South East London consistency

If all six CCGs opt for different levels of delegation, consistency and timescales for delivery across the patch will be more difficult. However, all six CCGs have engaged with their members and governing bodies to understand the opportunities and benefits of full delegation, and have since opted to apply for level 3.

Risk status: Low/nil

Mitigation: SE: CCGs' decisions to apply for level 3 are being ratified at November governing bodies