

Appendix B

CCG Delegated Functions

The following content is taken from the Delegation Agreement in place from April 2015, a part of the standard agreement for delegated functions from NHS England.

Part 1: Delegated Functions: Specific Obligations

1. Introduction

- 1.1. This Part 1 of Schedule 2 (*Delegated Functions*) sets out further provision regarding the carrying out of each of the Delegated Functions.

2. Primary Medical Services Contract Management

- 2.1. The CCG must:
 - 2.1.1. manage the Primary Medical Services Contracts on behalf of NHS England and perform all of NHS England's obligations under each of the Primary Medical Services Contracts in accordance with the terms of the Primary Medical Services Contracts as if it were named in the contract in place of NHS England;
 - 2.1.2. actively manage the performance of the counter-party to the Primary Medical Services Contracts in order to secure the needs of people who use the services, improve the quality of services and improve efficiency in the provision of the services including by taking timely action to enforce contractual breaches and serve notice;
 - 2.1.3. ensure that it obtains value for money under the Primary Medical Services Contracts on behalf of NHS England and avoids making any double payments under any Primary Medical Services Contracts;
 - 2.1.4. comply with all current and future relevant national Guidance regarding PMS reviews and the management of practices receiving Minimum Practice Income Guarantee (MPIG) (including without limitation the *Framework for Personal Medical Services (PMS) Contracts Review* guidance published by NHS England in September 2014 (<http://www.england.nhs.uk/wp-content/uploads/2014/09/pms-review-guidance-sept14.pdf>));
 - 2.1.5. notify NHS England immediately (or in any event within two (2) Operational Days) of any breach by the CCG of its obligations to perform any of NHS England's obligations under the Primary Medical Services Contracts;

- 2.1.6. keep a record of all of the Primary Medical Services Contracts that the CCG manages on behalf of NHS England setting out the following details in relation to each Primary Medical Services Contract:
 - 2.1.6.1. name of counter-party;
 - 2.1.6.2. location of provision of services; and
 - 2.1.6.3. amounts payable under the contract (if a contract sum is payable) or amount payable in respect of each patient (if there is no contract sum).
- 2.2. For the avoidance of doubt, all Primary Medical Services Contracts will be in the name of NHS England.
- 2.3. The CCG must comply with any Guidance in relation to the issuing and signing of Primary Medical Services Contracts in the name of NHS England.
- 2.4. Without prejudice to clause (*Financial Provisions and Liability*) or paragraph 2.1 above, the CCG must actively manage each of the relevant Primary Medical Services Contracts including by:
 - 2.4.1. managing the relevant Primary Medical Services Contract, including in respect of quality standards, incentives and the QOF, observance of service specifications, and monitoring of activity and finance;
 - 2.4.2. assessing quality and outcomes (including clinical effectiveness, patient experience and patient safety);
 - 2.4.3. managing variations to the relevant Primary Medical Services Contract or services in accordance with national policy, service user needs and clinical developments;
 - 2.4.4. agreeing information and reporting requirements and managing information breaches (which will include use of the HSCIC IG Toolkit SIRI system);
 - 2.4.5. agreeing local prices, managing agreements or proposals for local variations and local modifications;
 - 2.4.6. conducting review meetings and undertaking contract management including the issuing of contract queries and agreeing any remedial action plan or related contract management processes; and
 - 2.4.7. complying with and implementing any relevant Guidance issued from time to time.

Enhanced Services

- 2.5. The CCG must manage the design and commissioning of Enhanced Services, including re-commissioning these services annually where appropriate.
- 2.6. The CCG must ensure that it complies with any Guidance in relation to the design and commissioning of Enhanced Services.

- 2.7. When commissioning newly designed Enhanced Services, the CCG must:
- 2.7.1. consider the needs of the local population in the Area;
 - 2.7.2. support Data Controllers in providing 'fair processing' information as required by the DPA;
 - 2.7.3. develop the necessary specifications and templates for the Enhanced Services, as required to meet the needs of the local population in the Area;
 - 2.7.4. when developing the necessary specifications and templates for the Enhanced Services, ensure that value for money will be obtained;
 - 2.7.5. consult with Local Medical Committees, each relevant Health and Wellbeing Board and other stakeholders in accordance with the duty of public involvement and consultation under section 14Z2 of the NHS Act;
 - 2.7.6. obtain the appropriate read codes, to be maintained by the HSCIC;
 - 2.7.7. liaise with system providers and representative bodies to ensure that the system in relation to the Enhanced Services will be functional and secure; and
 - 2.7.8. support GPs in entering into data processing agreements with data processors in the terms required by the DPA.

Design of Local Incentive Schemes

- 2.8. The CCG may design and offer Local Incentive Schemes for GP practices, sensitive to the needs of their particular communities, in addition to or as an alternative to the national framework (including as an alternative to QOF or directed Enhanced Services), provided that such schemes are voluntary and the CCG continues to offer the national schemes.
- 2.9. There is no formal approvals process that the CCG must follow to develop a Local Incentive Scheme, although any proposed new Local Incentive Scheme:
- 2.9.1. is subject to consultation with the Local Medical Committee;
 - 2.9.2. must be able to demonstrate improved outcomes, reduced inequalities and value for money; and
 - 2.9.3. must reflect the changes agreed as part of the national PMS reviews.
- 2.10. The ongoing assurance of any new Local Incentive Schemes will form part of the CCG's assurance process under the CCG Assurance Framework.
- 2.11. Any new Local Incentive Scheme must be implemented without prejudice to the right of GP practices operating under a GMS Contract to obtain their entitlements which are negotiated and set nationally.
- 2.12. NHS England will continue to set national standing rules, to be reviewed annually, and the CCG must comply with these rules which shall for the purposes of this Agreement be Guidance.

Making Decisions on Discretionary Payments

- 2.13. The CCG must manage and make decisions in relation to the discretionary payments to be made to GP practices in a consistent, open and transparent way.
- 2.14. The CCG must exercise its discretion to determine the level of payment to GP practices of discretionary payments, in accordance with the Statement of Financial Entitlements Directions.

Making Decisions about Commissioning Urgent Care for Out of Area Registered Patients

- 2.15. The CCG must manage the design and commissioning of urgent care services (including home visits as required) for its patients registered out of area (including re-commissioning these services annually where appropriate).
- 2.16. The CCG must ensure that it complies with any Guidance in relation to the design and commissioning of these services.

3. Planning the Provider Landscape

- 3.1. The CCG must plan the primary medical services provider landscape in the Area, including considering and taking decisions in relation to:
 - 3.1.1. establishing new GP practices in the Area;
 - 3.1.2. managing GP practices providing inadequate standards of patient care;
 - 3.1.3. the procurement of new Primary Medical Services Contracts (in accordance with any procurement protocol issued by NHS England from time to time);
 - 3.1.4. closure of practices and branch surgeries;
 - 3.1.5. dispersing the lists of GP practices;
 - 3.1.6. agreeing variations to the boundaries of GP practices; and
 - 3.1.7. coordinating and carrying out the process of list cleansing in relation to GP practices, according to any policy or Guidance issued by NHS England from time to time.
- 3.2. In relation to any new Primary Medical Services Contract to be entered into, the CCG must, without prejudice to any obligation in Schedule 2, Part 2, paragraph 3 (*Procurement and New Contracts*) and Schedule 2, Part 1, paragraph 2.3:

- 3.2.1. consider and use the form of Primary Medical Services Contract that will ensure compliance with NHS England's obligations under Law including the Public Contracts Regulations 2015/102 and the National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013/500 taking into account the persons to whom such Primary Medical Services Contracts may be awarded;
- 3.2.2. provide to NHS England confirmation as required from time to time that it has considered and complied with its obligations under this Agreement and the Law; and
- 3.2.3. for the avoidance of doubt, Schedule 5 (*Financial Provisions and Decision Making Limits*) deals with the sign off requirements for Primary Medical Services Contracts.

4. Approving GP Practice Mergers and Closures

- 4.1. The CCG is responsible for approving GP practice mergers and GP practice closures in the Area.
- 4.2. The CCG must undertake all necessary consultation when taking any decision in relation to GP practice mergers or GP practice closures in the Area, including those set out under section 14Z2 of the NHS Act (duty for public involvement and consultation). The consultation undertaken must be appropriate and proportionate in the circumstances and should include consulting with the Local Medical Committee.
- 4.3. Prior to making any decision in accordance with this paragraph 4 (*Approving GP Practice Mergers and Closures*), the CCG must be able to clearly demonstrate the grounds for such a decision and must have fully considered any impact on the GP practice's registered population and that of surrounding practices. The CCG must be able to clearly demonstrate that it has considered other options and has entered into dialogue with the GP contractor as to how any closure or merger will be managed.
- 4.4. In making any decisions pursuant to paragraph 4 (*Approving GP Practice Mergers and Closures*), the CCG shall also take account of its obligations as set out in Schedule 2, part 2, paragraph 3 (*Procurement and New Contracts*), where applicable.

5. Information Sharing with NHS England in relation to the Delegated Functions

- 5.1. This paragraph 5 (*Information Sharing with NHS England*) is without prejudice to clause 9.4 or any other provision in this Agreement. The CCG must provide NHS England with:
 - 5.1.1. such information relating to individual GP practices in the Area as NHS England may reasonably request, to ensure that NHS England is able to continue to gather national data regarding the performances of GP practices;
 - 5.1.2. such data/data sets as required by NHS England to ensure population of the primary medical services dashboard;

- 5.1.3. any other data/data sets as required by NHS England; and
- 5.1.4. the CCG shall procure that providers accurately record and report information so as to allow NHS England and other agencies to discharge their functions.
- 5.2. The CCG must use the NHS England approved primary medical services dashboard, as updated from time to time, for the collection and dissemination of information relating to GP practices.
- 5.3. The CCG must (where appropriate) use the NHS England approved GP exception reporting service (as notified to the CCGs by NHS England from time to time).
- 5.4. The CCG must provide any other information, and in any such form, as NHS England considers necessary and relevant.
- 5.5. NHS England reserves the right to set national standing rules (which may be considered Guidance for the purpose of this Agreement), as needed, to be reviewed annually. NHS England will work with CCGs to agree rules for, without limitation, areas such as the collection of data for national data sets and IT intra-operability. Such national standing rules set from time to time shall be deemed to be part of this Agreement.

6. Making Decisions in relation to Management of Poorly Performing GP Practices

- 6.1. The CCG must make decisions in relation to the management of poorly performing GP practices and including, without limitation, decisions and liaison with the CQC where the CQC has reported non-compliance with standards (but excluding any decisions in relation to the performers list).
- 6.2. In accordance with paragraph 6.1 above, the CCG must:
 - 6.2.1. ensure regular and effective collaboration with the CQC to ensure that information on general practice is shared and discussed in an appropriate and timely manner;
 - 6.2.2. ensure that any risks identified are managed and escalated where necessary;
 - 6.2.3. respond to CQC assessments of GP practices where improvement is required;
 - 6.2.4. where a GP practice is placed into special measures, lead a quality summit to ensure the development and monitoring of an appropriate improvement plan (including a communications plan and actions to manage primary care resilience in the locality); and
 - 6.2.5. take appropriate contractual action in response to CQC findings.

7. Premises Costs Directions Functions

- 7.1. The CCG must comply with the Premises Costs Directions and will be responsible for making decisions in relation to the Premises Costs Directions Functions.

- 7.2. In particular, but without limiting the generality of paragraph 7.1, the CCG shall make decisions concerning:
- 7.2.1. applications for new payments under the Premises Costs Directions (whether such payments are to be made by way of grants or in respect of recurring premises costs); and
 - 7.2.2. revisions to existing payments being made under the Premises Costs Directions.
- 7.3. The CCG must comply with any decision-making limits set out in Schedule 5 (*Financial Provisions and Decision Making Limits*) when taking decisions in relation to the Premises Costs Directions Functions.
- 7.4. The CCG will comply with any guidance issued by the Secretary of State or NHS England in relation to the Premises Costs Directions, including the Principles of Best Practice, and any other Guidance in relation to the Premises Costs Directions.
- 7.5. The CCG must work cooperatively with other CCGs to manage premises and strategic estates planning.
- 7.6. The CCG must liaise where appropriate with NHS Property Services Limited and Community Health Partnerships Limited in relation to the Premises Costs Directions Functions.

Delegated Functions: General Obligations

1. Introduction

- 1.1. This Part 2 of Schedule 2 (*Delegated Functions*) sets out general provisions regarding the carrying out of the Delegated Functions.

2. Planning and reviews

- 2.1. The CCG is responsible for planning the commissioning of primary medical services.
- 2.2. The role of the CCG includes:
 - 2.2.1. carrying out primary medical health needs assessments (to be developed by the CCG) to help determine the needs of the local population in the Area;
 - 2.2.2. recommending and implementing changes to meet any unmet primary medical services needs; and
 - 2.2.3. undertaking regular reviews of the primary medical health needs of the local population in the Area.

3. Procurement and New Contracts

- 3.1. The CCG will make procurement decisions relevant to the exercise of the Delegated Functions and in accordance with the detailed arrangements regarding procurement set out in the procurement protocol issued and updated by NHS England from time to time.
- 3.2. In discharging its responsibilities set out in clause **Error! Reference source not found.** (*Performance of the Delegated Functions*) of this Agreement and paragraph 1 of this Schedule 2 (*Delegated Functions*), the CCG must comply at all times with Law including its obligations set out in the National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013/500 and any other relevant statutory provisions. The CCG must have regard to any relevant guidance, particularly Monitor's guidance *Substantive guidance on the Procurement, Patient Choice and Competition Regulations* (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/283505/SubstantiveGuidanceDec2013_0.pdf).
- 3.3. Where the CCG wishes to develop and offer a locally designed contract, it must ensure that it has consulted with its Local Medical Committee in relation to the proposal and that it can demonstrate that the scheme will:

- 3.3.1. improve outcomes;
- 3.3.2. reduce inequalities; and
- 3.3.3. provide value for money.

4. Integrated working

- 4.1. The CCG must take an integrated approach to working and co-ordinating with stakeholders including NHS England, Local Professional Networks, local authorities, Healthwatch, acute and community providers, the Local Medical Committee, Public Health England and other stakeholders.
- 4.2. The CCG must work with NHS England and other CCGs to co-ordinate a common approach to the commissioning of primary medical services generally.
- 4.3. The CCG and NHS England will work together to coordinate the exercise of their respective performance management functions.

5. Resourcing

- 5.1. NHS England may, at its discretion provide support or staff to the CCG. NHS England may, when exercising such discretion, take into account, any relevant factors (including without limitation the size of the CCG, the number of Primary Medical Services Contracts held and the need for the Local NHS England Team to continue to deliver the Reserved Functions).

Reserved Functions (NHS England)

1. Introduction

- 1.1. This Schedule 3 (*Reserved Functions*) sets out further provision regarding the carrying out of the Reserved Functions.
- 1.2. The CCG will work collaboratively with NHS England and will support and assist NHS England to carry out the Reserved Functions.

2. Management of the national performers list

- 2.1. NHS England will continue to perform its primary medical care functions under the National Health Service (Performers Lists) (England) Regulations 2013.
- 2.2. NHS England's functions in relation to the management of the national performers list include:
 - 2.2.1. considering applications and decision-making in relation to inclusion on the national performers list, inclusion with conditions and refusals;
 - 2.2.2. identifying, managing and supporting primary care performers where concerns arise; and
 - 2.2.3. managing suspension, imposition of conditions and removal from the national performers list.
- 2.3. NHS England may hold local Performance Advisory Group ("**PAG**") meetings to consider all complaints or concerns that are reported to NHS England in relation to a named performer and NHS England will determine whether an initial investigation is to be carried out.
- 2.4. NHS England may notify the CCG of all relevant PAG meetings at least seven (7) days in advance of such meetings. NHS England may require a representative of the CCG to attend such meetings to discuss any performer concerns and/or quality issues that may impact on individual performer cases.
- 2.5. The CCG must develop a mechanism to ensure that all complaints regarding any named performer are escalated to the Local NHS England Team for review. The CCG will comply with any Guidance issued by NHS England in relation to the escalation of complaints about a named performer.

3. Management of the revalidation and appraisal process

- 3.1. NHS England will continue to perform its functions under the Medical Profession (Responsible Officers) Regulations 2010 (as amended by the Medical Profession (Responsible Officers) (Amendment) Regulations 2013).
- 3.2. All functions in relation to GP appraisal and revalidation will remain the responsibility of NHS England, including:
 - 3.2.1. the funding of GP appraisers;
 - 3.2.2. quality assurance of the GP appraisal process; and
 - 3.2.3. the responsible officer network.
- 3.3. Funding to support the GP appraisal is incorporated within the global sum payment to GP practices.
- 3.4. The CCG must not remove or restrict the payments made to GP practices in respect of GP appraisal.

4. Administration of payments and related performers list management activities

- 4.1. NHS England reserves its functions in relation to the administration of payments to individual performers and related performers list management activities under the National Health Service (Performers Lists) (England) Regulations 2013 and other relevant legislation.
- 4.2. NHS England may continue to pay GPs who are suspended from the national performers list under the Secretary of State's Determination: Payments to Medical Practitioners Suspended from the Medical Performers List (1 April 2013).
- 4.3. For the avoidance of doubt, the CCG is responsible for any ad hoc or discretionary payments to GP practices (including those under section 96 of the NHS Act) in accordance with clause and Schedule 2 (*Delegated Functions*) Part 1 paragraphs 2.13 and 2.14 of this Agreement, including where such payments may be considered a consequence of actions taken under the National Health Service (Performers Lists) (England) Regulations 2013.

5. Section 7A Functions

- 5.1. In accordance with clauses. NHS England retains the Section 7A Functions and will be responsible for taking decisions in relation to the Section 7A Functions.
- 5.2. In accordance with clauses, the CCG will provide certain management and/or administrative services to NHS England in relation to the Section 7A Functions.

6. Capital Expenditure Functions

- 6.1. In accordance with clauses NHS England retains the Capital Expenditure Functions and will be responsible for taking decisions in relation to the Capital Expenditure Functions.

7. Functions in relation to complaints management

- 7.1. NHS England retains its functions in relation to complaints management and will be responsible for taking decisions in relation to the management of complaints. Such complaints include (but are not limited to):
 - 7.1.1. complaints about GP practices and individual named performers;
 - 7.1.2. controlled drugs; and
 - 7.1.3. whistleblowing in relation to a GP practice or individual performer.
- 7.2. The CCG must immediately notify the Local NHS England Team of all complaints received by or notified to the CCG and must send to the Local NHS England Team copies of any relevant correspondence.
- 7.3. The CCG must co-operate fully with NHS England in relation to any complaint and any response to such complaint.
- 7.4. In accordance with clauses, NHS England may ask the CCG to provide certain management and/or administrative services to NHS England (from a date to be notified by NHS England to the CCG) in relation to the handling and consideration of complaints.

8. Such other ancillary activities that are necessary in order to exercise the Reserved Functions

- 8.1. NHS England will carry out such other ancillary activities that are necessary in order for NHS England to exercise the Reserved Functions.
- 8.2. NHS England will continue to comply with its obligations under the Controlled Drugs (Supervision of Management and Use) Regulations 2013.

- 8.3. The CCG must assist NHS England's controlled drug accountable officer ("**CDAO**") to carry out its functions under the Controlled Drugs (Supervision of Management and Use) Regulations 2013.
- 8.4. The CCG must nominate a relevant senior individual within the CCG (the "**CCG CD Lead**") to liaise with and assist NHS England to carry out its functions under the Controlled Drugs (Supervision of Management and Use) Regulations 2013.
- 8.5. The CCG CD Lead must, in relation to the Delegated Functions:
 - 8.5.1. on request provide NHS England's CDAO with all reasonable assistance in any investigation involving primary medical care services;
 - 8.5.2. report all complaints involving controlled drugs to NHS England's CDAO;
 - 8.5.3. report all incidents or other concerns involving the safe use and management of controlled drugs to NHS England's CDAO;
 - 8.5.4. analyse the controlled drug prescribing data available; and

On request supply (or ensure organisations from whom the CCG commissions services involving the regular use of controlled drugs supply) periodic self-declaration and/or self-assessments to NHS England's