

WOLVERHAMPTON CCG

GOVERNING BODY 11 OCTOBER 2016

Agenda item 8

Title of Report:	Constitution Variation
Report of:	Corporate Operations Manager
Contact:	Peter McKenzie
Governing Body Action Required:	<input checked="" type="checkbox"/> Decision <input type="checkbox"/> Assurance
Purpose of Report:	To ask the Governing Body to agree to making an application to vary the CCG Constitution in preparation for the application for full delegation of Primary Care Co-Commissioning from April 2017 and to give effect to previously reported changes to Governing Body Membership to meet new requirements for managing Conflicts of Interest.
Public or Private:	This Report is intended for the public domain
Relevance to CCG Priority:	Developing and Strengthening Leadership Capacity and Capability as a CCG.
Relevance to Board Assurance Framework (BAF):	Outline which Domain(s) the report is relevant to and why
<ul style="list-style-type: none"> • Domain 1: A Well Led Organisation 	The Constitution underpins the CCG's Governance Framework and ensuring that it is robust and up to date is fundamental to the CCG's leadership priorities.
<ul style="list-style-type: none"> • Domain 3: Financial Management 	The constitution includes the high level framework for the CCG's financial management arrangements (Prime Financial Policies), which are essential for delivering the CCG's financial duties.
<ul style="list-style-type: none"> • Domain 5: Delegated Functions 	The proposed amendments incorporate the Terms of Reference for the Joint Committee for exercising delegated functions with NHS England



1. BACKGROUND AND CURRENT SITUATION

- 1.1. As previously reported, NHS England have been clarifying the process for applying for fully delegated co-commissioning of Primary Care from April 2017. Now more details are available, work has begun to prepare the CCG's application, including the variation of the constitution.
- 1.2. Other changes to the constitution are required to give effect to the change of membership of the Governing Body in response to statutory guidance on conflict of interests and following reviews of Prime Financial Policies (PFPs) and the Scheme of Reservation and Delegation.

2. PRIMARY CARE CO-COMMISSIONING

- 2.1. Details of the application documentation required for submission to NHS England have now been made available which have clarified the changes in respect of the Governance arrangements that the CCG will need to have in place. As previously reported, the CCG will be required to establish a Primary Care Committee to exercise the functions delegated to it that complies with the membership requirements in the statutory guidance for managing conflicts of interest.
- 2.2. The main body of the constitution has been amended to include the appropriate references to the new committee and terms of reference have been drafted based on the current Primary Care Joint Commissioning Committee terms of reference and the model terms of reference supplied by NHS England. The terms of reference will be accompanied by a delegation agreement from NHS England that will set out in more detail the activities and functions that the CCG will be undertaking on their behalf. This agreement will be developed in consultation with NHS England and may result in minor amendments being required to the draft terms of reference prior to the submission of the application by 5 December 2016.
- 2.3. Work will continue to develop the application for full delegation prior to 5 December 2016 and the Governing Body will receive further details as this work goes on. At this stage, the Governing Body is asked to formally confirm its intention to make an application and to make a recommendation to the CCG membership meeting on 19 October that it be authorised to do so.

3. CONFLICTS OF INTEREST MANAGEMENT – CHANGE TO GOVERNING BODY MEMBERSHIP

- 3.1. Following the changes to the CCG's arrangements for managing conflicts of interest, in response to new national guidance, the Governing Body has agreed to the appointment of an additional Lay Member for Finance and Performance. The constitution, Standing Orders and Terms of Reference for the Finance and Performance Committee have been updated to reflect this.



- 3.2. Further minor changes have also been made to the constitution to ensure it remains consistent with the operational policies. In particular, the categories of relevant interests have been amended to reflect the new national guidance and standing orders have been updated to clarify the arrangements in place when Governing Body meetings cannot be quorate due to clinical conflicts of interest. These changes (along with all of the other changes referenced in this report) are tracked in the updated document.

4. REVIEW OF PRIME FINANCIAL POLICIES AND SCHEME OF RESERVATION AND DELEGATION

- 4.1. As previously reported, in line with the documented procedure, the CCG's PFPs and Scheme of Reservation and Delegation have been reviewed by the Finance and Performance and Audit and Governance Committees in July 2016. A number of minor, presentational amendments have been made to Sections 1.1.4, 3.4, 3.5, 12.1(c) & 13.4 of the PFPs and the following additions have been made to the Scheme of Reservation and Delegation:-
- Additional item added to include the arrangements for the procurement of external auditors which has recently been delegated to CCGs;
 - Additional item added to reflect the Commissioning Committee's role in approving business cases and service developments. This is to replace the item previously included within the Detailed Scheme of Delegation.
 - In addition, there has been one presentational amendment to substitute 'the NHS Commissioning Board' for 'NHS England'.
- 4.2. As with the terms of reference for the Primary Care Commissioning Committee, the Scheme of Reservation and Delegation may require further minor amendment to reflect the delegation agreement with NHS England for full delegation. This will be discussed as the agreement is developed.

5. NEXT STEPS

- 5.1. As highlighted above, the Governing Body is asked to formally agree to make an application for fully delegated commissioning and to seek the agreement of the CCG Membership to this course of action. In addition, the making of an application to vary the constitution is reserved to the Membership so the Governing Body is also asked to recommend to the Membership that an application is made that includes the above amendments.
- 5.2. As highlighted above, a number of further amendments may be required to the current drafts of the constitution and appendices attached to this report as a result of preparation for the application for full delegation of Primary Care. The Governing Body is asked to authorise the Chair and Interim Accountable Officer to agree the final versions for submission once the delegation agreement with NHS England is reached.



- 5.3. NHS England requires the CCG to follow a prescribed process for making an application for a variation, including the completion of an impact assessment that covers issues such as stakeholder engagement and the financial impact of the amendment. This will be signed off by the Accountable Officer and Chair prior to the application being made.

6. CLINICAL VIEW

- 6.1. Whilst the changes do not have specific clinical implications, this will be discussed at the Membership meeting on 19 October 2016.

7. PATIENT AND PUBLIC VIEW

- 7.1. Patient and Public input will be detailed as part of the Impact assessment process prior to the application being made. The CCG has previously sought views on the Primary Care strategy which set out the CCG's aspiration to move to full delegation by 2017.

8. RISKS AND IMPLICATIONS

Key Risks

- 8.1. The risks associated with the application for fully delegated commissioning are being managed through the application process. NHS England require assurance that the CCG will be able to deliver fully delegated commissioning and will be assessed through the proforma provided.
- 8.2. The other amendments to the Constitution mitigate risks associated with the CCG not having up to date arrangements or, in the case of the changes relating to the management of conflict of interests, arrangements that reflect statutory guidance.

Financial and Resource Implications

- 8.3. There are no financial implications arising from this report. The resource implications of fully delegated commissioning will be considered through the application process and up to assuming responsibility in April 2017.

Quality and Safety Implications

- 8.4. There are no Quality and Safety implications arising from this report.

Equality Implications

- 8.5. There are no equality implications arising from this report.

Medicines Management Implications



8.6. There are no Medicines Management implications arising from this report.



Legal and Policy Implications

- 8.7. The application will be submitted in line with the nationally prescribed process and statutory guidance for constitutional review. This will result in an update to the CCG's published constitution.

9. RECOMMENDATIONS

- 9.1. That the Governing Body:-

- **Agrees** to make an application for full delegation of Primary Care Commissioning.
- **Recommends** to the Membership that an application for full delegation of Primary Care Commissioning and consequent variation of the Constitution is made, also including the inclusion of the additional Lay Member of the Governing Body, the and amendments to Prime Financial Policies and the Scheme of Reservation and Delegation highlighted in the report.
- **Authorises** the Interim Accountable Officer and the Chair to agree the final versions of the amended constitution and associated documents in line with the agreement that will be reached with NHS England in respect of the delegated powers.

Name Peter McKenzie
Job Title Corporate Operations Manager
Date: September 2016

RELEVANT BACKGROUND PAPERS

NHS England webpage on delegated commissioning

<https://www.england.nhs.uk/commissioning/pc-co-comms/pb-cc-approval/>

ATTACHED DOCUMENTS

Amended Constitution

Amended Standing Orders

Amended Scheme of Reservation and Delegation

Amended Terms of Reference – Finance and Performance Committee

Draft Terms of Reference – Primary Care Commissioning Committee



REPORT SIGN-OFF CHECKLIST

This section must be completed before the report is submitted to the Admin team. If any of these steps are not applicable please indicate, do not leave blank.

	Details/ Name	Date
Clinical View	N/a	
Public/ Patient View	N/a	
Finance Implications discussed with Finance Team	N/a	
Quality Implications discussed with Quality and Risk Team	N/a	
Medicines Management Implications discussed with Medicines Management team	N/a	
Equality Implications discussed with CSU Equality and Inclusion Service	N/a	
Information Governance implications discussed with IG Support Officer	N/a	
Legal/ Policy implications discussed with Corporate Operations Manager	Report Author	29/09/2016
Signed off by Report Owner (Must be completed)	Peter McKenzie	29/09/2016

