NHS
West Norfolk
Clinical Commissioning Group

Appendix A

To Co-Commissioning Committee paper on Delegated Commissioning

The following is the Due Diligence review paper, as presented to the WNCCG Finance and Performance Committee on 21 March 2017.

Subject:	NHS West Norfolk CCG financial due diligence review for adopting delegated commissioning of primary medical services.
Prepared and Presented by:	Chris Randall, Chief Finance Officer
Submitted to:	NHS West Norfolk CCG Finance and Performance Committee 21 March 2017
Purpose of Paper:	For information, discussion and approval.

1.0 Executive Summary

1.0 The aim of this Primary Care co-commissioning financial due diligence review is to ensure that the CCG is prepared for adopting full delegated commissioning of primary medical care functions from NHS England, and to assure the Governing Body that the following points have been addressed:

- The financial implications and risks for the CCG understood from becoming fully delegated.
- The staffing capacity required by the CCG to cover the management of the new contracts.
- The financial implications from not co-commissioning Primary Medical Services.

1.1 Due to the timeframes, it has been necessary to sign the delegation agreement between the CCG and NHS England to clearly explain the responsibilities and risks that each organisation would hold in the new arrangement.

1.2 The recommendation is that, given the relatively small financial risk (less than 1% of allocation) and the availability of reserves to manage this risk compared to the potential benefit of joined up local primary care services, the CCG should approve to move to full Delegation.

2.0 FINANCIAL IMPLICATIONS OF FULLY DELEGATED

2.1 The key points for the Committee to consider are

- The information available to CCGs is detailed at a practice level, which will enable us to forecast the costs more accurately and further clarity is being sought from NHS England on the areas where in detailed figures are required.
- NHS England is currently forecasting that in 2016/17 West Norfolk Practises will be broadly in balance with the resource allocation of £27.81
- NHS West Norfolk CCGs list size growth in the last 2 years has averaged at 0.63%. As NHSE's planning assumptions are based upon growth of 0.7% this could represent limited financial risk.
- Premises cost growth funding of 0.9% had originally been assumed by NHS England when normal growth would be around 1-2%. 1% has been built into our assumptions.
- The business rates that GP practices are charged on premises is likely to change following the recent revaluation. NHS England have not been able to provide a definitive answer on the likely level of change to the rates cost base (£0.5m) therefore the only uplift in our assumption is the 1% inflationary increase mentioned above. This does represent a risk (i.e. a 10% net increase would increase the CCG costs by £50k). It should be noted that there could also be a potential reduction, but at present the risk isnt quantifiable in either direction.

3.1 IMPLICATIONS FOR STAFFING RESOURCE

NHS England is committed to working with NHS Clinical Commissioning Groups and has developed the following offer to support the implementation of delegated arrangements.

In order to support our CCGs to deliver the wide range of functions required under full delegation, the local NHS England Primary Care team will be assigned to an STP footprint, providing support at an STP level. NHS England local office is offering a pragmatic and flexible workforce model to ensure that:

- STPs/CCGs have access to a fair share of local NHS England team's resources to deliver their primary care commissioning responsibilities; and

- Local NHS England teams retain a fair share of existing resources to deliver all their residual primary care commissioning responsibilities (dental, optometry, community pharmacy and Strategic delivery of the GP Forward View and East wide procurements).

- Local memoranda of understanding should not seek to change the provisions of the Delegation Agreement

Nationally NHS England position is:

- NHS England has not prescribed a national model for taking forward co-commissioning arrangements, but supports local decision making based on local models.

- Local arrangements may involve some change in the ways of working for NHS England staff in primary care commissioning teams and will involve some local team staff working more closely with CCG colleagues in some or all of their roles.

- No co-commissioning model will involve transfers of staff from NHS England to CCGs.

The Delegation Agreement sets out three potential staffing models for delegated commissioning:

Model 1 – Assignment: where NHS England staff remain in their current roles and locations and provide services to the STP/CCG under a service level agreement;

Model 2 – Secondment: where NHS England staff are seconded to the CCG; or

Model 3 – Employment: where the CCG may create new posts within the CCG to undertake the Delegated Functions provided that the CCG may only do so if it first offers to existing staff of NHS England an opportunity to apply for such posts.

NHS England Midlands & East – East has set out the staffing model for the delegated commissioning arrangements in **Norfolk and Waveney STP** for **Model 1 – Assignment**.

In line with CCG delegation agreements, these arrangements should be agreed between NHS England and STPs/CCGs by 1 September 2017 (6 months from delegation agreement date).

Principles

The following principles are proposed to support effective fully delegated commissioning of Primary Medical Services:

- Arrangements will aim to make the best use of all NHS resources to enhance primary care commissioning to improve quality, outcomes and value

- Arrangements will be practical, reduce duplication, and minimise additional workload

- Not to destabilise the commissioning resources required for CCGs or NHS England to discharge their respective functions effectively

- NHS England Primary Care staff will have the opportunity to be considered under these arrangements regardless of their current designated functions.

- All staff will be treated with respect, dignity and compassion throughout the transition to new arrangements.

- **Norfolk and Waveney STP** will work across the STP areas to share learning, and endeavour to take a standardised approach to systems and processes, to support efficient and effective service delivery as neighbouring STPs/CCGs take on similar responsibilities.

- **Norfolk and Waveney STP** agrees not to fragment the existing staffing resource as this will limit the team’s ability to deliver against the core functions.

It should be noted that NHS England assigned teams will undertake contracting and commissioning functions for all CCGs within an STP area, including non fully delegated CCGs.

3.5 Current staffing budgets are being reviewed internally as to whether flexibility remains within existing staffing budgets that could be utilised to support increase responsibilities.

3.6 Currently the CCG is operating broadly in line with its full running cost allocation.

4.0 Financial Implications Of Not Going Fully Delegated

4.1 NHS England Midlands and East Local Area Team currently manages the primary care budgets for the CCGs they have a responsibility for. If NHS West Norfolk CCG were to remain at Greater Involvement, then the CCG would be at risk of overpaying for Primary Care services due to having to pay part of other CCGs overspends.

4.2 NHS West Norfolk CCG would not have complete control over how the primary care budget is spent. With QOF and enhanced services being locally agreed the CCG would have little decision making power unless fully delegated, at which point the CCG would be able to use this money to develop services locally.

4.3 CCGs might not see the benefit of rates incorrectly charged to GP Practices because if the allocations stay with NHS England these might be distributed across CCG's to cover overspends elsewhere.

5.0 Detailed Financial Review

5.1 4 year plan

5.2 The 4 year projection below shows the expected funding shortfall over the period to 2020/21.

5.3 It is worthy of noting the assumed levels of cost inflation assumed in this plan are higher than the cost growth between 2015/16 and 2016/17 which were at 0.6%, however it is felt that the assumptions adopted in the CCG costing model are believed to be prudent/conservative levels.

Summarised Financial Table West Norfolk CCG - Primary Care 2017/18 to 2020/21	2017/18 £'000	2018/19 £'000	2019/20 £'000	2020/21 £'000	Total £'000
Allocation Available	28,111	28,405	28,809	29,281	114,606
General Practice - GMS	8,789	8,932	9,078	9,226	36,024
General Practice - PMS	7,249	7,367	7,487	7,609	29,713
Other List-Based Services (APMS incl.)	1,224	1,143	1,062	979	4,409
Premises cost reimbursements	2,676	2,703	2,730	2,757	10,865
Enhanced services	1,402	1,425	1,448	1,471	5,745
QOF	2,701	2,745	2,789	2,835	11,070
Other - GP Services	3,346	3,401	3,456	3,513	13,717
Other reserves	933	933	933	933	3,733
Total	**28,319**	**28,649**	**28,983**	**29,323**	**115,275**
Surplus/(Deficit)	**(208)**	**(244)**	**(174)**	**(42)**	**(669)**
Business Rules Reserves	**422**	**426**	**432**	**439**	**1,719**

	2017/18	2018/19	2019/20	2020/21
Allocation Growth	1.0%	1.12%	1.42%	1.64%
List Size Projection (Based on ONS Projections)	0.63%	0.63%	0.63%	0.63%
Cost Inflation (Based upon NHS England Guidance	1.00%	1.00%	1.00%	1.00%

5.4 It should be noted that the assumed shortfall in 2017/18 assumes a requirement for an increase in funding around Terrington's St John's practise, however this is not anticipated to be recurrent, and is only a provision for potential costs, and not a contractual obligation.

5.5 Allocation

5.6 The resource allocation from NHS England to NHS West Norfolk CCG for Primary Medical Services is £28.111m. This is consistent with figures provided earlier in the process.

5.7 The levels of growth applied in 2016/17 was 2.6%

5.4 The above table has been based on NHS West Norfolk CCG receiving the allocated level of growth (1.2%) for the next 4 years.

5.5 Current Expenditure

16/17 expenditure for NHS West Norfolk CCG is currently £124k over budget predominantly as a result of additional payments in relation to Terrington St John.

5.6 GMS/PMS/APMS payments & List size movements

5.7 Current spend £17.262m. The main areas of impact are patient list size numbers are consistently increasing, on current estimates this is about 0.63% per annum up to April 2021 and an expectation that pay cost will continue to grow by 1% per annum.

5.8 Quality and Outcomes Framework (QOF)

Current spend £2.701m. NHS England's latest forecast shows that QOF spend is likely to underspend in 2016/17, which may give some relief against overspends. The plan assumes that the full increase in price of QOF points is met by the CCG at a cost of £93k per annum, a 3.6% increase. For future years this may prove to be a cost savings as we have based the cost assumptions on QOF being fully achieved.

Should the CCG move to delegated commissioning QOF money could be available to CCG's to adapt the scheme to suit local priorities.

5.9 Enhanced Services

Current spend £1.402m. Due diligence forecast assumes that the increased cost of LD Health checks from £116 to £140 per check is fully funded recurrently. Uplift assumptions are that increase in list size (0.63%) and pay costs (1%) will be required, however that is felt to be a prudent assessment.

As with QOF, if the CCG moved to delegated commissioning the CCG would be able to adapt the enhanced services to fit in with the local priorities.

5.10 Premises Costs

Current spend £2.676m. At the point of writing this report, premise details have not been provided by NHS England for current rents, rent review dates and business rates etc. Given the current position with business rates this should be deemed as a risk or a potential future benefit.

The main issues with Premises are that the allocation only includes growth of 1.0% when normal growth would be around 2.5%. This could present a potential financial risk of £65k for the CCG in the first year.

5.10 'Other' – Current spend £3.346m

This covers professional prescribing fees (net of prescription charges), locum sickness/maternity/paternity pay, legal and medical fees as well as ad hoc payments like printing and sterilisation.

6.0 Detailed Impact Review

6.1 Moving to Delegated Commissioning will mean the CCG having to undertake the following for Primary Care services;

Strategic level

- Define the Primary Care strategy and provide strategic direction, leadership and engagement for West Norfolk GP practices and the CCG.

- Manage through the Primary Care Committee the resolution of issues and approval of business cases and reports.
- Measure, monitor and manage contract performance, including changes/developments and contract disputes.

Operational level

- Agree priorities and discuss delivery plans.
- Develop pathways, specifications and cost up models of care.
- Report on financial performance, patient outcomes, KPI's and CQUINs.
- Hold contract meetings and provide commissioner feedback.

Transactional level

- Sign contracts and approve invoices.
- Arrange board meetings and reports, and respond to Freedom of Information requests.
- Consult with patients and gather feedback
- Publish plans online, request ad-hoc data and perform spot checks.

7.1 Financial Risk Assessment

Full Delegated Due Diligence Risk Assessment				
Finance				
Completed by:				
Key Areas of Risk	**Pre Mitigation Risk Score**	**Potential Mitigation**	**Post Mitigation Risk Score**	**Comment**
Inadequate allocation	3 x 5 = 15	Provision of information by NHS England re shares of central budgets and commitments against these budgets	3 x 4 = 12	Most information received – some limited risk and requirement to utilise reserves.
Practices falling over requiring financial support	3 x 3 = 9	Review of available contingency within allocation	3 x 2 = 6	Only one practise with specific issues addressed elsewhere in this report
Inadequacy of 16/17 accruals leading to an impact in 17/18	3 x 4 = 12	Clean break needed ie agreement that NHSE will consume risk / benefit relating to 16/17 accruals. Need to see proposed delegation agreement.	2 x 2 = 4	A draft of the MOU for the Finances incorporates an appropriate cut-off in relation to this.
Future liabilities relating to previous decisions by NHSE	3 x 4 = 12	Request clarity of any past commitments by NHSE	2 x 2 = 4	None identified
Lack of contracts to support payments	4 x 4 = 16	NHSE have been requested to provide a full schedule of existing contracts and end dates	3 x 3 = 9	Schedules have been provided but not the contracts themselves.
Inadequate staffing	4 x 4 =16	Better understanding from	3 x 3 = 9	CCG's are investing

infrastructure within NHSE offer to CCGs		NHSE and negotiation of available resource. CCGs can then identify measures to fill any gaps in infrastructure. Also need formal agreement with NHSE in respect of covering for sick leave etc		additional resource in relation to managing Primary Care.
Estates costs – unfunded costs arising from routine rent reviews and new premises developments	3 x 3 = 9	Clarity needed of full CCG allocations and amount included as a reserve for rent reviews. Information also needed as to any existing commitments in respect to premises developments and future schedules of rent reviews.	2 x 3 = 6	Not currently available, could be a risk or a potential benefit in relation to Business rates.

7.2 <u>Legal Assessment of the Delegation Agreement</u>

The CCG has secured legal advice on the Delegation Agreement itself which is attached at appendix b. The Four Key Financial risks were identified as follows;

- *Under clause 13.3, NHS England is entitled at any time to increase or reduce the funds made available to the CCG for the delegated commissioning. A decrease could in theory mean that the CCG has less money than it needs to meet the primary medical services arrangements it has entered into (see particularly clauses 13.3.5-13.3.6). This understandably caused some concern amongst CCGs when NHS England's initial proposals were published in 2015 and the position has been improved, but the risk is not entirely eliminated. Clause 13.3A was added to give CCGs comfort that the provisions would only be used to correct a mistake or in "significant or exceptional circumstances that would require such corrections or adjustments (including but not limited to a change in the mandate published by the Department of Health or other external factors)." Our view is that "significant or exceptional circumstances" would include the need for NHS England to deal with a funding crisis of its own.*

- *CCGs are to be responsible for all claims under the primary medical services contracts. NHS England has explained that this is because the funds paid to CCGs under the delegation agreements include NHS England's budget for claims (see clause 14.11). At the request of CCGs, clause 13 has also been amended to say that NHS England will take responsibility where the claim arises from its own fault and that claims which pre-date the delegation (and any claims for which NHS England has a reserve) are outside the CCGs' responsibility. Clause 14.10 says that if the CCG's delegated funds will be insufficient to meet both the claim and discharge its delegated functions, then the CCG and NHS England shall meet to discuss and agree any adjustment that may be needed to the CCG's allocation. Whilst this falls short of an absolute commitment to make up any shortfall, it is a great improvement on the words it replaced.*

- *The CCG is also responsible for any overspends. This is not expressly stated in the delegation agreement, but was mentioned explicitly at a previous NHS England legal webinar and flows from passing the budget and commissioning responsibility to the CCG.*

- *Although, or perhaps because, NHS England retains responsibility for the commissioning functions delegated to the CCG, it makes the CCG responsible for any action which does not comply with the delegated authority, including breach of any of NHS England's commissioning duties. The CCG should also note that NHS England is entitled to dock the CCG's monthly payments for any loss it suffers as a result of "the CCG's negligence, fraud, recklessness or deliberate breach of the Delegation (including any actions that are taken that exceed the authority conferred by the Delegation) or this Agreement" (clause 13.35 and 13.3.3). The CCG has a similar right against NHS England (and there is to be a financial adjustment) for any negligence, fraud, recklessness or deliberate breach of the Delegated Functions by NHS England.*

Appendix 1 – Detailed Expenditure working 2017/18

List Size	As per WNCCG Workings	Opening Balance 17/18 Per Schedule Above	Baseline Adjustments	Adjusted Baseline	Rounded Demographic Growth 0.7%	Rounded Inflation 1%	Additional Indemnity	Other Recurrent Amendments	Other Non-Recurrent Amendments	Impact of MPIG and seniority recycling	QIPP		Total
					0.63%	1%							
	GMS Global Sum	8,198,400	0	8,198,400	51,650	81,984	0	0	0	83,200	0	0	8,415,234
	MPIG	184,400	0	184,400	1,162	1,844		0	0	(51,000)	0	0	136,406
	Other Baseline Adjust		0	0	0	0		0	0	0	0	0	0
	FDR	88,100	(34,500)	53,600	338	536		0	0	0	0	0	54,474
	Seniority	217,500	0	217,500	1,370	2,175		0	0	(38,400)	0	0	182,645
105951	**General Practice - GMS**	**8,688,400**	**(34,500)**	**8,653,900**	**54,520**	**86,539**	**0**	**0**	**0**	**(6,200)**	**0**	**0**	**8,788,759**
	PMS Contract Value	7,165,500	20,638	7,186,138	45,273	71,861		(190,500)		69,300	0	0	7,182,072
	Other Baseline Adjust	251,500	0	251,500	1,584	2,515		0		0	0	0	255,599
	Seniority	139,500	0	139,500	879	1,395		0		(28,200)	0	0	113,574
	Out of hours deductions	(297,400)	0	(297,400)	(1,874)	(2,974)		0		0	0	0	(302,248)
													0
83815	**General Practice - PMS**	**7,259,100**	**20,638**	**7,279,738**	**45,862**	**72,797**	**0**	**(190,500)**	**0**	**41,100**	**0**	**0**	**7,248,998**
10146	**Other List-Based Services (APMS incl.)**	**1,105,500**	**0**	**1,105,500**	**6,965**	**11,055**		**0**	**100,000**	**0**	**0**	**0**	**1,223,520**
	Rent	1,951,400	0	1,951,400		19,514		0	0	0	0	0	1,970,914
	Business Rates	533,800	0	533,800		5,338		0	0	0	0	0	539,138
	Water Rates	16,000	0	16,000		160		0	0	0	0	0	16,160
	Prem Other	500	0	500		5		0	0	0	0	0	505
	Trade Waste	45,400	42,321	87,721		877		104,084	0	0	(43,592)	0	149,090
				0									0
	Premises cost reimbursements	**2,547,100**	**42,321**	**2,589,421**	**0**	**25,894**	**0**	**104,084**	**0**	**0**	**(43,592)**	**0**	**2,675,807**
	Extended Hours	307,900	0	307,900	1,940	3,079		0	0	0	0	0	312,919
	LD Health checks	30,000	0	30,000	189	300		5,718	0	0	0	0	36,207
	Minor surger	223,500	0	223,500	1,408	2,235		0	0	0	0	0	227,143
	Avoiding Unplanned Admissions	570,100	0	570,100	3,592	5,701		0	0	0	0	0	579,393
	Translation Fees	44,100	0	44,100	278	441		37,105	0	0	0	0	81,924
	Dispensing Quality Scheme	161,500	0	161,500	1,017	1,615		0	0	0	0	0	164,132
				0									
	Enhanced services	**1,337,100**	**0**	**1,337,100**	**8,424**	**13,371**	**0**	**42,823**	**0**	**0**	**0**	**0**	**1,401,718**
	QOF	**2,606,800**	**0**	**2,606,800**	**0**	**0**	**0**	**93,845**	**0**	**0**	**0**	**0**	**2,700,645**
	Professional Fees	3,627,800	0	3,627,800	22,855	36,278		0	0	0	0	0	3,686,933
	Prescription Charges	(474,900)	0	(474,900)	(2,992)	(4,749)		0	0	0	0	0	(482,641)
	Other		0	0	0	0		0	0	0	0	0	0
	Apportioned Budgets		0	0	0	0		0	142,122	0	0	0	142,122
	Other - GP Services	**3,152,900**	**0**	**3,152,900**	**19,863**	**31,529**	**0**	**0**	**142,122**	**0**	**0**	**0**	**3,346,414**
	Bank holiday Opening	15,100	(15,100)	0				0	15,100	0	0	0	15,100
	PMS to GMS reversion	53,151	(53,151)	0				0	87,651	0	0	0	87,651
	PMS Premium reduction	202,420	(202,420)	0				0	408,800	0	0	0	408,800
	1% NR	277,775	(277,775)	0				0	281,110	0	0	0	281,110
	0.5% contingency	237,165	(237,165)	0				0	140,555	0	0	0	140,555
	Other reserves	**785,611**	**(785,611)**	**0**	**0**	**0**	**0**	**0**	**933,216**	**0**	**0**	**0**	**933,216**
													0
	Grand Totals	**27,482,511**	**(757,152)**	**26,725,359**	**135,634**	**241,186**	**0**	**50,252**	**1,175,338**	**34,900**	**(43,592)**	**0**	**28,319,076**