

<b>Meeting name:</b>	NHS West Yorkshire Integrated Care Board
<b>Agenda item no.</b>	4
<b>Meeting date:</b>	11 November 2024
<b>Report title:</b>	Update on the Delegation of Commissioning Responsibility for Specialised Services
<b>Report presented by:</b>	Ian Holmes, Director of Strategy and Partnerships and Deputy CEO, NHS WY ICB
<b>Report approved by:</b>	Ian Holmes, Director of Strategy and Partnerships and Deputy CEO, NHS WY ICB
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<b>Purpose and Action</b>			
Assurance <input checked="" type="checkbox"/>	Decision <input checked="" type="checkbox"/> (approve/recommend/ support/ratify)	Action <input type="checkbox"/> (review/consider/comment/ discuss/escalate)	Information <input checked="" type="checkbox"/>
<b>Previous considerations:</b>			
Specialised commissioning delegation was previously discussed at the 24 September 2024 meeting of the ICB Board and at the 24 July 2024 ICB Board development session.			
<b>Executive summary and points for discussion:</b>			
<p>NHS England (NHSE) has previously set out its intentions to delegate commissioning responsibility for a range of specialised services to Integrated Care Boards (ICBs). It is planned that from 1 April 2025 the identified services will be delegated to all ICBs including the NHS West Yorkshire (WY) ICB. There are 84 services to be delegated, with a financial value of £466m across WY.</p> <p>The information provided in this paper builds on the 24 September 2024 paper and discussion, focusing particularly on the progress that has been made since then toward satisfying the “tests” that were set out.</p>			
<b>Which purpose(s) of an Integrated Care System does this report align with?</b>			
<input checked="" type="checkbox"/> Improve healthcare outcomes for residents in their system <input checked="" type="checkbox"/> Tackle inequalities in access, experience, and outcomes <input checked="" type="checkbox"/> Enhance productivity and value for money			

Support broader social and economic development

**Recommendation(s)**

The NHS WY ICB Board is asked to:

- Note the significant work undertaken to support the safe delegation and landing of commissioning responsibility for specialised services.
- Note the advice provided by the Hill Dickinson commissioned work, and accept this as additional assurance of the work we are and will continue to do.
- Note the new developments since the September discussion which are set out in section 3.2. and 4.2.
- Consider the information provided throughout this paper in order to confirm an agreement in principle to receive delegation, subject to no major deviations arising.

**Does the report provide assurance or mitigate any of the strategic threats or significant risks on the Corporate Risk Register or Board Assurance Framework? If yes, please detail which:**

A risk will be added to the corporate risk register in the next reporting cycle (17 December 2024) in relation the risk of failing to understand the scope, detail and impact of delegation.

**Appendices**

N/A

**Acronyms and Abbreviations explained**

1. ICB – Integrated Care Board
2. MHLDA – Mental Health, Learning Disabilities and Autism
3. NEY – North East and Yorkshire
4. NHSE – NHS England
5. OD – Organisational Development
6. SDC – Safe Delegation Checklist
7. WY – West Yorkshire
8. WYAAT – West Yorkshire Association of Acute Trusts
9. Y&H – Yorkshire and the Humber

## What are the implications for?

<b>Residents and Communities</b>	The services being delegated are crucial for patients living with needs that require complex services and support. Through delegation there is an opportunity to improve services across the pathway.
<b>Quality and Safety</b>	There are implications of delegation for quality oversight and management, and an opportunity through improvement to maximise the quality of services delivered to our patients.
<b>Equality, Diversity and Inclusion</b>	There is scope through delegation to improve the focus on health inequalities, and therefore improving and addressing the health needs of our highest need population groups.
<b>Finances and Use of Resources</b>	The services being delegated are high value. There are significant financial challenges, but an opportunity over the long term to improve efficiency through a greater focus on prevention.
<b>Regulation and Legal Requirements</b>	N/A
<b>Conflicts of Interest</b>	N/A
<b>Data Protection</b>	N/A
<b>Transformation and Innovation</b>	There is a significant transformation opportunity that will be considered and planned for pre-delegation, but realised in the years post-delegation.
<b>Environmental and Climate Change</b>	There may be opportunities through specific service transformations to support our climate change ambitions.
<b>Future Decisions and Policy Making</b>	The Board are being asked to confirm an agreement in principle to receive the delegation of these services.
<b>Citizen and Stakeholder Engagement</b>	N/A

## **1.0. Purpose**

- 1.1. The NHS West Yorkshire (WY) Integrated Care Board (ICB) Board has previously discussed the delegation of specialised commissioning services from NHS England (NHSE) to the ICB.
- 1.2. At the Board meeting in September, it was agreed that an extraordinary meeting of the Board would be called in November to receive a further update in order to make a decision in principle to accept the delegation of these services, in advance of the NHSE Board meeting on 5 December 2024.
- 1.3. This paper provides an update and assurance to the Board on the process and progress being made to support the safe delegation of commissioning responsibility, as well as setting out the next steps that will be taken before 31 March 2025.
- 1.4. The NHS WY ICB Board is asked to:
  - Note the significant work undertaken to support the safe delegation and landing of commissioning responsibility for specialised services.
  - Note the advice provided by the Hill Dickinson commissioned work, and accept this as additional assurance of the work we are and will continue to do.
  - Note the new developments since the September discussion which are set out in section 3.2. and 4.2.
  - Consider the information provided throughout this paper in order to confirm an agreement in principle to receive delegation, subject to no major deviations arising.

## **2.0. Summary**

- 2.1. The [24 September 2024 board paper](#) sets out the full context relating to the delegation of commissioning responsibility for specialised services. In this paper, several “tests” were outlined that the Board would need to be assured on in order to confirm the intention to accept delegation.
- 2.2. Work has and continues to happen at pace on those areas identified, as well as identifying the actions required to follow between now and 31 March 2025.
- 2.3. To support this work, Hill Dickinson LLP were commissioned to undertake a rapid assessment of current position; risks, issues and mitigations; and key legal and governance matters that should be addressed prior to delegation. This was a joint commission with our three partner ICBs in the Yorkshire and Humber (Y&H) region. It is important that the four ICBs in the region arrive at a collective view with regards to the assurance of delegation.
- 2.4. The Hill Dickinson advice provides additional confidence on our areas of focus, guidance on other actions that we should focus on through our ongoing work until

31 March 2025, and will provide assurance to the Board on both of those things to inform the decision to support delegation.

2.5. In summary, the Hill Dickinson advice sets out:

- Agreement with the assessment of risks and priorities set out in our September Board paper.
- The information that must be included in key governance documents, including the Delegation Agreement, ICB Collaboration Agreement, Commissioning Team Agreement and within existing ICB documents, to preserve organisational safety and integrity.
- The importance of clarifying the NHSE oversight arrangements.
- The importance of undertaking a functions and governance mapping exercise.
- That the safe delegation checklist being used does provide adequate due diligence.
- That good and safe governance, alongside a clear operating model, must be in place from day one of delegation.
- The reputational risk that may arise for the ICB, but that cannot be mitigated through the safe delegation or governance processes.

2.6. On 30 October 2024 the four ICB chairs of Audit Committees convened to discuss the current position, risks and our approach to managing the safe delegation. This provided useful feedback and constructive challenge into the process. It was agreed that we would convene again in the new year to provide greater visibility of plans, and further assurance on risk mitigation.

### **3.0. Risks**

3.1. Throughout the safe delegation processes, identifying and managing the risks associated with the process and specialised services generally is crucial. For the Board to take a decision it is important that there is an understanding of the key risks we will inherit, and how they are being or will be mitigated.

3.2. The Hill Dickinson advice and discussion with audit chairs broadly aligns with and reinforces the risks, issues and mitigations already identified through ongoing work.

3.3. We are managing risk via the WY Specialised Commissioning Delegation Programme Board, which holds a detailed view of the risks and is able to track the changing status of those in line with the ICB policy for risk management.

3.4. The programme board maintains a detailed view of the risks to delegation and live risks, and is able to track the changing status of those risks, in line with the ICB policy for risk management. In summary, the key risks are:

- **Timescales:** The timeline to deliver necessary pre-delegation work is tight. This may have several consequences ranging from insufficient progress and the Board not approving delegation, to inadequate awareness of key issues and accepting delegation without complete knowledge. The work that we continue to deliver, as set out in this paper, mitigates this.
- **People:** The specialised commissioning are undergoing a period of significant change, which could have a negative impact on staff morale and retention. Post-delegation, the team will need to be supported to work in a way that delivers ICB ambitions but does not overwhelm their capacity. The work that we are progressing on the operating model, OD and prioritisation for 2025/26 will mitigate this.
- **Service and quality risks:** There are a range of live service risks, that vary in their exact nature and profile. It's important that we fully understand these prior to delegation, and have the governance structures in place to manage them on an ongoing basis. The work that we have undertaken with the specialised commissioning team, including a deep dive on priority service areas and reviewing their contract risk register, supports our understanding and will be reflected in the 2025/26 priority plan.
- **Governance:** There are a range of governance documents and processes that must be developed and in place for 1 April 2025. This will require establishing new arrangements, and amending our current ICB documents. It's crucial that these documents are consistent across the NEY region, and there is a risk that there are barriers to this. We are mitigating this through joint work with ICB governance leads and with advice from Hill Dickinson.
- **Finance:** There are a range of financial challenges, with a risk that there is an insufficient envelope to deliver safe and high quality services; insufficient capital investment; and uncertainty around the future demand and associated financial impact. Our shared understanding of financial risks, work regionally and nationally (for example on the distance from target position) and plans for post-delegation help us to manage and mitigate this.

3.5. To ensure that the Board is adequately aware of and monitoring the risks, we will set out an organisational level risk on the corporate risk register at the 17 December 2024 ICB Board meeting.

#### 4.0. Safe Delegation Progress

4.1. We have made good progress over recent weeks towards a safe delegation, and are confident that we have a clear collaborative view of the work that is required before 31 March 2025. This is further supported by the Hill Dickinson work.

4.2. There have been three substantive developments, aside from our progress, since the last Board meeting:

- NHSE have confirmed three key criteria for delegation of commissioning specialised services: that no staff employed by another organisation shall have access to the NHSE (or ICB) ledgers; that staff delivering the oversight and assurance role must not also be delivering a commissioning function; and that no decision relating to one organisations specialised commissioning functions shall be made by staff employed by a different organisation.
- It has been confirmed that the staff TUPE transfer will be delayed until July 2025. This means that, for a period of three months the commissioning team will remain to be employed by NHSE. This presents a risk in our ability to manage and direct staff, though it should be noted that this is the model which has been deployed by other ICBs across the country, where delegation took place in April 2024, and it was the same as the TUPE timeline applied to pharmacy, optometry and dentistry delegation.
- The retained model and staffing structure has now been confirmed. Whilst challenges around staff capacity still require mitigating, this provides us with greater clarity to work with in defining our operating model, and to begin OD work across the teams and the ICBs.

4.3. To support our progress, we have taken several crosscutting actions, including:

- Commissioning Hill Dickinson LLP across Y&H, as described in sections 2.3-2.5.
- Convening a meeting of the four Y&H Audit Committee Chairs, as described in section 2.6.
- Agreeing to hold one safe delegation checklist across Y&H, to support a consistent position on safe delegation.
- Held two workshops with more planned in, to work through priorities and significant issues with NHSE and ICBs across NEY collectively.
- Held a “deep dive” session with NHSE colleagues, focusing on priority service lines to better understand service specific risks and issues as well as the overall approach to risk management. It was agreed that these would be now held on a quarterly basis to maintain a focus on service risks.

4.4. Against the tests set out in the September Board paper, our progress is as follows:

Category	Tests	Current Position
	That the overall position of the SDC is satisfactory to safely	This aspect will remain open and only be completed at the end of

<b>Transition and delegation</b>	delegate and land specialised commissioning delegation.	<p>March 2025, with actions to follow as described throughout this table.</p> <p>We have made important steps towards this, including:</p> <ul style="list-style-type: none"> <li>• Managing the SDC once across Y&amp;H, to ensure consistency in how all ICBs manage and assure themselves.</li> <li>• Established programme board to oversee and support safe delegation for the WY system.</li> <li>• Identified leads for each area to support safe delegation for WY, which link to these workstreams.</li> <li>• Commissioned work from Hill Dickinson to support our due diligence, which mostly validated our initial areas of focus and added greater specificity in parts.</li> <li>• Made progress on all areas, as set out in the following.</li> </ul>
	There is a robust suite of delegation governance documents in place.	<p>This remains a priority area of work. Developing the governance documents will take some time, but we have established the means to do this, via a governance leads group, and the work from Hill Dickinson guides our focus.</p> <p>There is an emerging view on the governance options with work planned to progress this, as well as an understanding of the key documents that need to be established or changed, and the timeline for this.</p>
<b>Governance and</b>	Any necessary amendments to the ICBs governance	As above.



<b>decision-making</b>	documentation have been/will be made.	It is worth noting that any changes to the Constitution will require NHSE sign off.
	A robust governance and decision-making model will be in place from 1 April 2025, with suitable delegation and empowerment to key forums and individuals to enable efficient operations, but proportionate checks and balances in place.	<p>This is being developed as a priority, as set out above.</p> <p>Two key points of progress will support our ongoing work:</p> <ul style="list-style-type: none"> <li>• The Hill Dickinson work offers guidance on governance and function mapping, and specific contents of our governance agreements.</li> <li>• The clarity around the national retained model will be documented in the Commissioning Team Agreement and means that we are able to start to define how the ICB model will operate.</li> </ul> <p>This will be set out in a range of documents, that the ICB Board will be required to sign off.</p>
	Specialised commissioning governance and decision-making is connected with existing WY forums, to ensure that the benefits of delegation and integration are realised, and that decisions are well informed.	As set out above, this will progress through the functions mapping and defining the operating model.
<b>Operating model and ways of working</b>	The operating model for the team's role over nationally retained functions has been set out, and does not pose significant risk to	We now have clarity on the national model and the impact for the majority of the team. There are known risks, which it is felt that through appropriate governance

	<p>delivering our responsibilities.</p> <p>AND</p> <p>An operating model has been developed and is in place.</p>	<p>and operating model processes can be mitigated.</p> <p>With the clarity on the national model, we are now prioritising the development of the local operating model which will set out the team structures, ways of working, and connectivity into wider ICB teams and functions.</p>
	<p>An OD plan has been developed and will be delivered iteratively.</p>	<p>There is clear support to focus on OD as part of the team transition. However, in the immediate term other areas have been prioritised, and priority in the coming months will need to be on supporting the team through a transition period, with the staff transfer delay until July 2025.</p>
<b>Services and pathways</b>	<p>A complete view of information, risks and issues with delegated services, has been obtained, with mitigations being developed, that is agreed with both WYAAT and the MHLDA collaborative.</p>	<p>We have obtained a complete list of risks by service line. This was further supported by the “deep dive session”.</p> <p>As part of preparations for safe delegation, we will undertake due diligence activities with our provider collaboratives which will validate (or challenge) this understanding.</p>
	<p>A prioritised workplan will be in place and delivered from 1 April 2025.</p>	<p>We will develop this in line with the planning cycle, ensuring that we use the knowledge of risks, discussion with partners, and other sources of information to shape the plan.</p>
	<p>There is a clear approach to service transformation and improvement that aligns with our system</p>	<p>This will be part of the 2025/26 workplan, and will be reflected in the operating model and OD plan.</p> <p>It is important to note that the service specifications and many</p>

	priorities and approach.	priorities are set nationally, and so local priorities will need to balance this.
	There is a clear approach to service planning across the Y&H footprint, including to optimise patient flows.	There is consensus amongst the lead executive directors that as much planning as possible will be done on a Y&H footprint. The governance arrangements and team will be organised accordingly to support this.  Specifically addressing patient flow issues, which are a known and longstanding issue, will happen post-delegation.
	High quality data is available and well utilised to inform service planning and wider work across WY.	There is ongoing work to establish the right data flows.  The operating model, to support the team to connect with other WY colleagues, and OD, will also support this.
	There is a clear approach to working with clinical networks to support our commissioning functions, given the responsibility for the networks will be retained by NHSE.	The role of clinical networks will be considered and embedded through the operating model.
<b>Quality</b>	Robust quality oversight and management arrangements have been developed and will be in place from 1 April 2025.	These arrangements will be fully embedded and established throughout the coming months.  Work is ongoing between WY and NHSE quality leads to understand current arrangements, with clear plans to align the team into existing WY structures and arrangements.  We have established quality and safety oversight processes with the same Trusts. There is an

		<p>opportunity to incorporate specialised commissioning processes into these existing ICB mechanisms delivering a streamlined approach and a better use of resource across both teams.</p>
	<p>Service specific quality concerns are known, with plans in place.</p>	<p>A full service risk profile has been obtained. Further due diligence with provider collaboratives will enhance our understanding.</p> <p>Several quality risks involving specialised services will be already captured through place quality oversight arrangements.</p>
	<p>The quality oversight arrangements from the NHSE region over delegated services are clear and proportionate.</p>	<p>This is currently unknown, but links to section 5.2.</p>
<b>Finance and contracting</b>	<p>We have a complete view of the financial and contractual risks specific to services.</p>	<p>A full service risk profile has been obtained. Further due diligence with provider collaboratives will enhance our understanding.</p> <p>The deep dive session also supported further insight into key service areas, as well as the approach to risk management.</p>
	<p>We understand the considerable “distance from target” position, with the acknowledgement that there is no current plan nationally to address this.</p>	<p>We understand that there is significant distance from target position, which is currently 9.59%. Whilst we know this, there is not currently a clear plan as to how this will be addressed nationally, but it will not be pre-delegation.</p>
	<p>We have an agreed contracting approach</p>	<p>This is crucial to have in place and will be managed over coming</p>

	in place from 1 April 2025.	months by the contracting subgroup.
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## 5.0. Priority Next Steps

5.1. As we move at pace towards delegation, it is crucial that we retain our focus on the areas that must be completed on or before 31 March 2025. As set out above, they broadly are:

- Developing the governance infrastructure, including key forums and documentation, in line with the advice obtained from Hill Dickinson.
- Developing and clearly describing the operating model, in such a way that provides connectivity for the specialised commissioning team across the ICB, enables the team to function efficiently, and ensures visibility of the ways of working and decisions.
- Establishing a complete view and position of consensus on the service risks as part of our due diligence, building on the information obtained to date and the planned due diligence with provider collaboratives.

5.2. In addition to the areas set out, it is important that the Board is aware of the following areas whereby work will need to progress over the coming months:

- The oversight and assurance model that NHSE will implement post-delegation is still in development with no firm model in place. Connecting this in to the existing 4+1 regional assurance model would be optimal and proportionate.
- For a number of service areas there are known risks, shortcomings and pressures. It will be important to understand the scrutiny that will accompany delegation in this regard, and to manage the risk of reputational damage.

## 6.0. Recommendations

6.1. Whilst there are risks associated with delegation and still significant steps to take prior to March 2025, this paper sets out that work is underway and progressing well to manage this.

6.2. The work planned to be completed by March 2025 will mitigate some of the risks. However, it should be acknowledged that several challenges are longstanding, not immediately resolvable, and may require national input and action. As such, this work cannot be low risk. It requires that we retain a moderate risk appetite, with a clear view of the opportunities associated with delegation. Where delegated services do have associated risks, there is a clear opportunity for the ICB to carry out full pathway transformation which increases our ability to mitigate the risks. This is the approach we have taken on renal services.

6.3. The NHS WY ICB Board is therefore asked to:

- Note the significant work undertaken to support the safe delegation and landing of commissioning responsibility for specialised services.
- Note the advice provided by the Hill Dickinson commissioned work, and accept this as additional assurance of the work we are and will continue to do.
- Note the new developments since the September discussion which are set out in section 3.2. and 4.2.
- Consider the information provided throughout this paper in order to confirm an agreement in principle to receive delegation, subject to no major deviations arising.