

Developing Collaborative Decision-making for Health & Social Care in Surrey

1. Background

A Joint Commissioning Committee (JCC) workshop held 30 January 2019 provided the opportunity for discussion between SCC and CCG leads and:

- Re-affirmed a shared aim of pursing integrated commissioning between the NHS and local authority;
- Acknowledged that whilst the initially proposed s.75 would have been an important symbolic first step, it doesn't fully reflect the ambition to drive genuine change next year and would complicate rather than simplify decision-making;
- Identified a recommended way forward to enable the partnership to strengthen joined up commissioning in 2019/20.

The recommendation was to evolve the Surrey Heartlands JCC into a Surrey-wide decision-making body / arrangement based on the following rationale:

- Approach will enable us to drive genuine integration of commissioning through aligned decision-making over spend in excess of *£400m in year one (2019/20) (*indicative figure – detailed work being undertaken*);
- Model is aligned to the emerging 10 year Surrey Health & Wellbeing Strategy;
- Streamline decision-making for those Surrey-wide commissioned services included within its scope (for year one - 'at scale' services such as Learning Disabilities, Mental Health, Children's and Continuing Health Care, and the Surrey Better Care Fund);
- Surrey Commissioning Collaborative is already in place to support – with scope to explore how this could also move to a more integrated model.

2. Introduction

This paper sets out a revised approach to collaborative decision-making in Surrey. It discusses some of the issues and makes suggestions as to how the revised approach could operate. Participating organisations are invited to comment/ feedback, to inform the development of Terms of Reference for the Surrey Commissioning Committee

The six Surrey CCGs and Surrey County Council have always worked collaboratively together in commissioning health & social care for Surrey residents. In the past, various organisational collaborative techniques have been used, including consultative advisory groups and delegation of decision-making to a Joint Committee. These arrangements have experienced limitations and legal restrictions in delegating decision-making functions.

The seven participating organisations intend to use collaborative decision-making mechanisms that will enable a comprehensive Surrey-wide approach and be compliant with the current legislative framework. Each participating organisation will establish a committee of its Cabinet or Governing Body and delegate to it the decision-making for a prescribed list of commissioning functions. The resulting seven committees will meet "in common" to consider and make "collective" decisions for their delegated functions.

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The Commissioning Committees in Common (CiC) approach in Surrey has been used successfully for specific services i.e. CAHMS, Stroke. The new Committees in Common (CiC) would make commissioning decisions of a strategic nature, with the participating organisations agreeing the most appropriate route for implementation.

An advantage of using the “Committees in Common” meeting arrangement is that, where necessary and appropriate, only a subset of the participating organisations need attend a meeting. For example, decisions around transformation funding, informed by recommendations from the System Board, would only apply to the geography of Surrey Heartlands CCGs.

3. Statutory Framework

The establishment of the Surrey CCG and the Surrey County Council is through parliamentary statute with various functions, responsibilities and powers being given to these organisations. It is up to each organisation to decide how it will use its powers to fulfil its functions and responsibilities. In most cases a scheme of delegation hands the powers to committees or individuals to make and enact decisions. In certain circumstances, the delegation of some powers can be to another organisation. There are some functions that an organisation may not by statute delegate to another organisation.

Where the same decision is made by all the participating committees at a CiC meeting, the decision is binding on the participating organisations.

3.1 NHS

Under paragraph 3(3) of Schedule 1A of the National Health Service Act 2006 (inserted by the Health and Social Care Act 2012) CCGs’ constitutions may provide for their functions to be exercised by any members or employees of the CCG. Each of the CCGs provides in its Constitution a mechanism that allows specified functions to be delegated to a designated committee, which may meet with identical Committees of other CCGs in a CiC arrangement.

3.2 Local Authority

Under Section 9E of the Local Government Act 2000 the Leader of a local authority operating executive governance arrangements, such as Surrey, may determine to whom executive functions are delegated. Such delegation of functions may be made to a number of defined groups, including a sub-committee of the executive. So long as that sub-committee meets the general local government requirements for taking decisions, it may meet in any location to transact its business.

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4. What decisions would be delegated to the Surrey Commissioning Committees in Common?

The primary purpose of the new collaborative commissioning arrangement is to enable the commissioning of consistent integrated health and care to the benefit of Surrey residents. As well as a formal decision making route, this will also be the forum for the development of strategy, as well as agreeing the scope of services / schemes where an integrated commissioning approach would add value. For example:

- For one or other of Health and Social Care Commissioners to take a commissioning lead;
- To achieve a more integrated approach for a care pathway;
- Where the size of a population required to support a commissioning decision is greater than that of a single CCG (at scale).

Each of the participating organisations would delegate the decision-making of the selected list of services/schemes to their Surrey Commissioning Committee, as recorded in their Scheme of Reservation & Delegation.

The in scope areas which have been identified are those where Surrey wide collaborative commissioning is already established - mental health, learning disabilities, continuing health care, children (including CAMHS) - and Better Care Fund.

5. Section 75 Agreements

A Section 75 Agreement is not a prerequisite for the establishment of a Committees in Common arrangement, but work will continue to identify where a S75 Agreement would enable or enhance greater integration, for example by pooling budgets and/or to enable the commissioning lead to transfer from one organisation to another.

The technical collaborative commissioning of CCGs with Surrey County Council is enabled and underpinned by a variety of Section 75 Agreements – for example Better Care Fund. These agreements transfer the technical commissioning of some services from one organisation to another organisation whilst the “giving” organisation continues to retain statutory responsibility and accountability for the transferred function. Although there are multiple Section 75 agreements across the 6 CCGs with Surrey County Council, the intention is that the range of services for each CCG is the same and therefore the Surrey Commissioning Committees in Common can make the same decision for services across Surrey.

6. How would the Surrey Commissioning Committees in Common be set up?

6.1 Establishment of Surrey Commissioning Committee and definition of their function

Each of the participating organisations:

- Establishes a decision-making committee for commissioning with identical terms of reference as to the committees created by the other participating organisations,
- Formally delegates an agreed list of commissioning decisions to the new committee.

In order for the Committee to deliver the benefits of collaborative decision-making, each Committee must be given the delegated authority to “make decisions” on behalf of the parent organisation and not just to “make recommendations for decision” to their parent organisation.

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6.2 Preparation of Committee Establishment Documentation

The Committee Terms of Reference and the list of delegated commissioning decisions would be prepared by the officers of the participating organisations working with their respective Chairs. The intention would be to prepare the two documents such that they can be approved by the SCC Cabinet/Governing Bodies of the participating organisations without amendment.

It is our intention that the scope of delegated commissioning decisions will expand over time and could change quite rapidly as the organisations gain experience in collaborative decision-making and the external requirement for a faster rate of change gathers momentum in the Surrey health & care system.

6.3 Committee Membership

Since all seven committees would meet at the same time and discuss the same item, if each Committee had a large number of members, there would be a risk of a meeting having too many speakers for effective debate. It is proposed that each CCG committee would be made up of four people:

- Clinical Chair of the organisation
- Accountable Officer
- GP on CCG Governing Body
- Lay member

For the Council, a sub committee of the Cabinet will need to be made up of formal decision makers i.e. county councillors:

- 3x Cabinet Members
- (plus non-voting advisory officers as requested by the Leader of the Council)

6.4 Participating Organisations

The following Surrey health & care organisations have chosen to work together using the “Committees in Common” approach for strategic decision-making:

- Surrey County Council
- East Surrey CCG
- Guildford & Waverley CCG
- North East Hampshire & Farnham CCGf
- North West Surrey CCG
- Surrey Downs CCG
- Surrey Heath CCG

7. How would the Surrey Commissioning Committees in Common operate?

7.1 Priority Setting

Each year the participating organisations agree a work programme and whether additional delegations are required from the participating organisations. At any time during the year, the work programme may be amended to take into account new national or local requirements.

7.2 Meetings

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The Surrey Commissioning Committee for each individual organisation will normally meet “in Common” with all of the other six other Surrey Commissioning Committees. Exceptionally, where the agenda impacts just part of Surrey, only the relevant participating committees would meet in common.

It is intended the Surrey Commissioning Committees in Common will meet in public, with a Part 2 to exclude the public for any confidential business to be transacted

7.3 Annual Timetable & Agenda

The Annual Work Programme sets out the frequency of meetings (quarterly - TBC) and the agenda for each meeting.

7.4 Chairing the Committees in Common

A meeting consists of all seven Commissioning Committees meeting at the same time with the same agenda. Each individual committee is chaired by its formal chair or agreed chair for SCC). The “Committees in Common” approach is designed to enable each of the individual committees to benefit from the contribution of the other committees and to work towards a consensus decision. A meeting of the Committees in Common therefore requires a “Convenor” who can work with the chairs and conduct an orderly meeting. Each of the chairs would invite the Convenor to chair their meeting. The Convenor may either be specifically appointed or be one of the participating chairs, as collectively decided by the participating chairs.

8. How would the Surrey Commissioning Committees in Common make decisions?

The majority of decisions made in common will be by consensus of every member present. Where all the members agree to a decision then the minutes will record that each of the participating committees made the same decision individually.

If there is not a consensus regarding a decision in an individual committee then the alternative decision-making process must be used. This involves each of the Committees making their own decision and informing the Convenor of the outcome. There are various possible outcomes:

- All committees make the same decision and the proposal is passed,
- One or more Committees make a different decision. An assessment is made as to whether the proposal can be partially implemented, otherwise the proposal in its current form fails.

It is in the interests of all members to declare their concerns as early as possible so that these may be addressed and the risk of a proposal not gaining consensus support is avoided.

8.1 Meeting Size

A meeting of the “Committees in Common” can result in a large number of eligible people being present which may make decision-making difficult. In addition some organisations may wish to appoint the same person to serve on two or more of the committees. This means that when individual committees make a decision, the same person will “vote” more than once (ie Once in each Committee that they serve.). The Convenor may need to allow an

individual serving on more than one Committee additional time to speak so as to ensure a balance of input from the different Committees.

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9. a. What are the implications for the CCG Constitutions of the new joint working arrangements?

All six Surrey CCGs Constitutions refer to collaborative working with Local Authorities. All (except NE Hants & Farnham CCG) have explicit clauses regarding how joint working can be set up with a Local Authority. There is no requirement to incorporate in the Constitution a specific Joint Working Arrangement with a Local Authority but if it does not the CCG must have a formal agreement setting out the arrangements (eg Memorandum of Understanding or a Contract).

NHS England has published a new CCG Constitution template, which must be used when a request is made to alter a CCG Constitution. The proposed establishment of the Surrey Commissioning Committees in Common can be achieved using existing clauses in the Constitution and therefore no amendment request need be submitted to NHS England for authorisation.

9. b. What are the implications for the Surrey County Council Constitutions of the new joint working arrangements?

Article 5 in Part 2 of the County Council's Constitution provides that the Leader will carry out all of the County Council functions which are not the responsibility of any other part of the County Council, whether by law or under this Constitution unless otherwise delegated by him or her.

Any changes made by the Leader to the Scheme of Delegation in relation to executive functions will be reported to the next appropriate meeting of the County Council.

Limitations: Any exercise of responsibility for functions or delegated powers shall comply with:

- a) any statutory restrictions;
- b) the Council's Constitution;
- c) the Council's policy framework and any other plans and strategies approved by the Cabinet;
- d) the in-year budget;
- e) the Members' Code of Conduct and the Code of Conduct for Staff;
- f) the Code of Practice on Local Authority Publicity;
- g) agreed arrangements for recording decisions.

The responsibilities for functions and delegations are subject to:

- a) the right of a select committee to consider a proposal within the policy framework;

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- b) the discretionary powers of a select committee to call in or review executive functions.

10. Transitional Arrangements

The intention is to implement these new arrangements as early as possible in 2019/20. The JCC will cease to meet in its current form, with the proposal that the scheduled meeting on 27th March 2019 is a developmental workshop, with an extended membership to other Surrey CCGs.

11. Administration of the Surrey Commissioning Committees in Common

Each of the participating organisations would be responsible for establishing and administering their Surrey Commissioning Committee. This includes selecting and supporting the members, appointment of a chair and adding the Agenda and Minutes to the public record.

The administration of the meetings for Surrey Commissioning Committees in Common would be undertaken by the corporate office. This would include:

- Appointment and support of the Convenor,
- Preparation of Annual Work Programme with seven chairs and convenor;
- Preparation of agenda with the seven chairs and convenor
- Venue and publicity management
- Minute taking and distribution

12. Proposed timetable to set up the Surrey Commissioning Committees in Common

1. W/c 11th February - Initial design of "Committees in Common" proposed
2. Last week of Feb
 - Participating organisations comment and advise on design of collaborative decision-making approach
 - Participating organisations propose work programme for 2019-2020.
3. First week of March – Prepare:
 - Surrey Commissioning Committees in Common Terms of Reference
 - Scheme of Reservation and delegation to Surrey Commissioning Committee
 - Annual Work Programme.
4. Third week of March – Participating organisations:
 - Approve Terms of Reference
 - Establish a Surrey Commissioning Committee:
 - Appoint members to the Surrey Commissioning Committee
 - Approve Annual Work Programme and Scheme of Delegation.
5. From April 2019 Surrey Commissioning Committees in Common start operating.

13. Next Steps

- Discuss with and secure agreement from other Surrey CCGs

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- Governance leads to work up more detailed proposals – and then seek formal agreement across SCC and 6 CCGs
- Finance and Commissioning leads to finalise the budgets in scope across health and social care and identifying if / where a s.75 could be used to support further integration

Appendix 1 – Example list of commissioning decisions delegated to Surrey Commissioning Committees in Common

CCGs:

Area	Service / Scheme
Acute Commissioning	South Central Ambulance Service - Patient Transport Service
Mental Health Services	SaBP - Mental Health Services –Adult
Mental Health Services	SABP - Learning Disability Serv.
Mental Health Services	SABP - CAMHS
Mental Health Services	Local Authority / Joint Services - CAMHS
Mental Health Services	IAPT Service
Mental Health Services	MH - Transformation
Mental Health Services	MH - SLAs-Other providers (non-nhs, inc. VS)
Mental Health Services	MH - NCAs
Community	Healthy Children & Families
Community	Wheelchair services
Community	Children - SLAs - Other providers (Non-NHS, incl. VS)
Continuing Health Care	Continuing Care Services (All Care Groups)
Continuing Health Care	Funded Nursing Care
Continuing Health Care	Children Services - Sussex Community NHS FT
Continuing Health Care	Children Services - Continuing Care Services
Continuing Health Care	Hosted - Continuing Healthcare Assessment & Support
Better Care Fund	Better Care Fund

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Surrey County Council:

Core Better Care Fund (excluding Learning Disability or Mental Health services)	Strategic decisions relating to the Better Care Fund (BCF) programme – this includes signing off the BCF plan on behalf of the County Council and any associated section 75 legal agreement for pooling BCF funds.
ASC Learning Disabilities	Strategic decisions relating to all aspects of services for people with a learning disability (including residential, supported living, day centres, transforming care, behavioural and personal support and employment opportunities).
ASC Mental Health	Strategic decisions relating to services supporting mental health (including inpatient mental health services, direct care services, supported housing, floating support and community connections).
Children's community services / emotional health and wellbeing	Strategic decisions relating to children's community services and emotional health and well-being support provision.
Continuing Health Care (CHC)	Strategic decisions relating to policy and joint delivery of CHC.
Public Health – 0-19 years	Strategic decisions relating to children's public health services including health visiting, school nursing and Family Nurse Partnership.
Public Health - Substance Misuse	Strategic decisions relating to substance misuse services including drugs and alcohol specialist treatment services.
Public Health - Sexual Health	Strategic decisions relating to sexual health services including specialist treatment services and public health agreements with GPs and pharmacists.
Public Health - Smoking Cessation	Strategic decisions relating to smoking cessation including specialist treatment services and public health agreements with GPs and pharmacists.
Public Health - Health Checks	Strategic decisions relating to Health Checks including public health agreements with GPs.

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