

| Meeting: Governing Body | | | |
|--------------------------------|--|---------------------|-----------|
| Meeting Date | 24 July 2019 | Action | Recommend |
| Item No. | 6a | Confidential | No |
| Title | Strategic Commissioning Board | | |
| Presented By | Dr Jeffrey Schryer, CCG Chair | | |
| Author | Lisa Featherstone Deputy Director of Business Delivery | | |
| Clinical Lead | - | | |

Executive Summary

This paper seeks the formal agreement of the Governing Body for onward recommendation to the CCG Membership for their approval to establish the Strategic Commissioning Board as a sub-committee of the Governing Body, as set out in the Terms of Reference attached at Appendix 6 of the report.

The paper provides an update on the development of a Strategic Commissioning Board, which will be established as a Joint Committee, under the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 (as amended) to support the delivery of health and care integration in Bury from that previously circulated to Governing Body members earlier in July.

The Strategic Commissioning Board would have wide ranging responsibility for all matters relating to health, social care and the Council's 'health related' functions, which can be delegated to it (subject to reserved matters) under the main legal mechanism set out at Section 75 of the National Health Services Act 2006.

In addition, the it is also proposed that there will be alignment of wider Council, CCG and public services by inclusion so far as legally possible within the role of the SCB and in respect to these matters and aligned funds, the SCB will be an advisory group making joint recommendations for decision to the CCG Governing Body or Council's Cabinet.

Recommendations

It is recommended that the Governing Body:

- formally support the establishment of the Strategic Commissioning Board as a sub-committee of the Governing Body, as set out in the Terms of Reference attached at Appendix 6 and recommend these to CCG Membership for their approval;
- note the updates provided; and
- note that the Partnership Agreement, including S75, will be presented for approval to the Governing Body in September.

| Links to CCG Strategic Objectives | |
|--|-------------------------------------|
| SO1 People and Place To enable the people of Bury to live in a place where they can co-create their own good health and well-being and to provide good quality care when it is needed to help people return to the best possible quality of life | <input checked="" type="checkbox"/> |
| SO2 Inclusive Growth To increase the productivity of Bury's economy by enabling all Bury people to contribute to and benefit from growth by accessing good jobs with good career prospects and through commissioning for social value | <input checked="" type="checkbox"/> |
| SO3 Budget To deliver a balanced budget for 2019/20 | <input checked="" type="checkbox"/> |
| SO4 Staff Wellbeing To increase the involvement and wellbeing of all staff in scope of the OCO. | <input type="checkbox"/> |
| Does this report seek to address any of the risks included on the Governing Body Assurance Framework? Yes | |
| GBAF – GB1920_PR_3.6, GB1920_PR_4.1 and GB1920_PR_4.2 | |

| Implications | | | | | | |
|--|-----|-------------------------------------|----|-------------------------------------|-----|-------------------------------------|
| Are there any quality, safeguarding or patient experience implications? | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input type="checkbox"/> |
| Has any engagement (clinical, stakeholder or public/patient) been undertaken in relation to this report? | Yes | <input checked="" type="checkbox"/> | No | <input type="checkbox"/> | N/A | <input type="checkbox"/> |
| Have any departments/organisations who will be affected been consulted? | Yes | <input checked="" type="checkbox"/> | No | <input type="checkbox"/> | N/A | <input type="checkbox"/> |
| Are there any conflicts of interest arising from the proposal or decision being requested? | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input type="checkbox"/> |
| Are there any financial Implications? | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input type="checkbox"/> |
| Has an Equality, Privacy or Quality Impact Assessment been completed? | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input checked="" type="checkbox"/> |
| Is an Equality, Privacy or Quality Impact Assessment required? | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input checked="" type="checkbox"/> |
| Are there any associated risks including Conflicts of Interest? | Yes | <input checked="" type="checkbox"/> | No | <input type="checkbox"/> | N/A | <input checked="" type="checkbox"/> |

| | | | | | | |
|---|-----|-------------------------------------|----|--------------------------|-----|-------------------------------------|
| Are the risks on the CCG's risk register? | Yes | <input checked="" type="checkbox"/> | No | <input type="checkbox"/> | N/A | <input checked="" type="checkbox"/> |
|---|-----|-------------------------------------|----|--------------------------|-----|-------------------------------------|

| Governance and Reporting | | |
|---------------------------------|--------------|--|
| Meeting | Date | Outcome |
| Governing Body | 27 June 2019 | Terms of Reference (v0.8) circulated electronically to invite virtual feedback from Governing Body members. No feedback points received. |
| CCG Membership | 2 July 2019 | An earlier version of the report (v0.3) and Terms of Reference (v0.8) was circulated electronically to invite virtual feedback from the CCG Membership. No feedback points received. |

Development of the Strategic Commissioning Board

1.0 Introduction

- 1.1 This paper seeks the formal agreement of the Governing Body for onward recommendation to the CCG Membership for their approval to establish the Strategic Commissioning Board as a sub-committee of the Governing Body, as set out in the Terms of Reference attached at Appendix 6.
- 1.2 The paper provides an update on the development of a Strategic Commissioning Board, which will be established as a Joint Committee, under the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 (as amended) to support the delivery of health and care integration in Bury from that previously circulated to Governing Body members earlier in July.

2.0 Background

- 2.1 In September 2015, NHS Bury CCG and Bury Local Authority signaled their ambition to work more closely to ensure better outcomes for the Borough of Bury through the most economic, efficient and effective use of the Bury pound to improve outcomes for the residents of the Borough.
- 2.2 This ambition is very much in keeping with the advent of health and social care devolution.
- 2.3 The Bury Locality Plan for Health and Social Care Transformation 2017-21 further reinforced this ambition and set out the desire to form a 'One Commissioning Organisation' which would have a remit to:
- Bring together health and social care commissioning functions of the CCG and Council into one structure
 - Create pooled and aligned budget arrangements for health and social care;
 - Develop a single health and social care commissioning strategy;
 - Create a shared approach to maximizing social value;
 - Strategically commission for outcomes against a wide ranging and dynamic local evidence base; and
 - Recognise the role of the new Local Care Organisation as a single provider accountable for delivering all age services at a neighborhood level.
- 2.4 During the last 18 months, work has been undertaken to progress and develop the arrangements needed to enable this, and a number of significant developments have established a more solid base from which future developments can be shaped, including:
- Co-location of the CCG and Council staff members within the Bury Campus from June 2018;
 - Establishment of an OCO Shadow Partnership Board in April 2018 which includes Clinicians, Lay Members, Executives and Elected Members
 - Reviewed 4 areas to test how commissioning would work through an integrated model – Mental Health, CHC and LD, Carers and SEND;
 - Established a single Joint Executive Team across both CCG and Council;
 - Appointed a single CCG Chief Executive and CCG Accountable Officer in

- October 2018; and
- Appointed a single Chief Finance Officer across both the CCG and LA in June 2019.

- 2.5 Key principles that underpin the establishment of the One Commissioning Organisation are that:
- strong and effective clinical and political leadership must be maintained; and
 - a place-based approach, focusing on outcomes, engaging communities and using community assets must be embraced.
- 2.6 As part of the wider Public Service Reform agenda and the devolution arrangements within Greater Manchester there is also a move to integrate public services more widely, joining up not only health and social care services but health services with the full range of Council functions; and together with wider public service and community partners.
- 2.7 By joining up CCG functions with ‘everything the Council does’, the Council and CCG will be able to set joined-up objectives to improve further the health and wellbeing of the people of Bury and bring to bear the full powers, influence, resources and capability of the CCG and Council, working together to achieve those objectives.
- 2.8 Many of the localities in Greater Manchester have made significant progress in integrating health and social care commissioning, and with the wider integration agenda. Our proposals for Bury have learned from their experiences, whilst adapting them to be right for Bury.
- 2.9 By creating the Bury One Commissioning Organisation the CCG and Council will be able to work together better to:
- Improve health and wellbeing outcomes for and with the people of Bury, and reduce inequalities;
 - Provide a single and consistent commissioning voice to providers, including the Local Care Organisation;
 - Enable commissioning staff to work together to commission more joined up services which are more cost effective and possibly less costly; and
 - Make a real shift towards enabling and supporting people to stay well and independent in their own communities.
- 2.10 The benefits that it is expected will be gained from the One Commissioning Organisation are:
- common strategic and operational business plans;
 - making best use of available resources;
 - having an efficient means to jointly commissioning services; and
 - retaining and building on the key strengths of each respective organisation to further enhance performance and delivery.
- 2.11 It is important to note that each organisation will remain accountable as a statutory body for discharging its duties, however through changing the way in which both organisations work, and the application of effective and appropriate governance arrangements, the emergence of the One Commissioning Organisation formalises the working arrangements between both organisations.

- 2.12 A single Strategic Commissioning Board will be the foundation of these arrangements, with equality of representation from Members of the Council and the CCG Governing Body.
- 2.13 This report sets out the framework for this and builds on the support received from the CCG Membership at the GP Together Event on 12 June to establish the Strategic Commissioning Board as a Joint Committee, as part of the CCG's constitutional arrangements and to amend the CCG Constitution, Scheme of Reservation and Delegation and Standing Financial Instructions to support the changes proposed.
- 2.14 Discussions in respect to the emerging structures have also been held with the (shadow) OCO Partnership Board at its meeting on 19 June, and with the CCG Governing Body and Cabinet members on 26 June 2019.
- 2.15 A report was submitted to the Council on 10 July 2019 where authority to progress on the same basis was agreed.
- 2.16 Notification of the proposed developments have also been shared with Bury Healthwatch and the Local Medical Committee as part of a wider stakeholder engagement programme.
- 2.17 Subject to the recommendation of the Governing Body, an updated CCG Constitution, including reference to the establishment of the Strategic Commissioning Board as a sub-committee of the Governing Body, will be submitted CCG Membership for approval, before submitting to NHS England for final ratification. This final stage of approval can take up to 6 weeks, and the expectation is that full implementation will commence from 1 October 2019.

3.0 Development of the Strategic Commissioning Board

- 3.1 The development of the Strategic Commissioning Board, and its ability to operate effectively is underpinned by a number of distinct but connected elements:
 - **Governance**
- 3.2 Key to the success of the One Commissioning Organisation will be a Strategic Commissioning Board (SCB) which will bring the leadership of the CCG and Council together across a full range of functions. This is not a separate legal body, but a Board where each participant makes joint decisions, in line with the scheme of delegation, which are binding on each other.
- 3.3 It is important that the governance arrangements put in place are sufficiently robust to enable each organisation to be assured that duties delegated to the SCB can be discharged effectively, however it is also understood that these arrangements will develop further over time and will be kept under review to ensure there are agile processes to support decision making.
- 3.4 Whilst interim governance has been in place to support the work of the OCO Partnership Board, which includes oversight of delivery of the Locality Plan objectives, it is proposed that the SCB is integrated into the existing CCG Governance (and Council) structure as reflected at Appendix 1.

- 3.5 This will not replace either of the existing statutory bodies, instead it will be a Joint Committee of the two statutory organisations established under Regulation 10(2) of the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000.
- 3.6 Provision will also be made to ensure the duties and responsibilities of the statutory roles within the Council, including specifically the Director of Children’s Services, Director of Adult Social Care Services, Director of Public Health, Section 151 officer and Monitoring Officer are reflected in the decision-making arrangements.
- 3.7 The SCB would have wide ranging responsibility for all matters relating to health, social care and the Council’s ‘health related’ functions, which can be delegated to it (subject to reserved matters). These matters are set out in Appendix 2 – 5.
- 3.8 It is also proposed that there will be alignment of wider Council, CCG and public services by inclusion so far as legally possible within the role of the SCB, so that members of the CCG Governing Body and Councillors can contribute to and make decisions to benefit the population of Bury. In respect of these matters and the aligned funds, the SCB will be an advisory group making joint recommendations for decision to the CCG Governing Body or Council’s Cabinet.
- 3.9 In practice it is therefore proposed that:
- CCG decisions previously taken individually by the CCG Governing Body will in the future largely be taken jointly with Council colleagues at the Strategic Commissioning Board. Where it is not possible to delegate such decisions to the Strategic Commissioning Board, the Board will enable collaborative joint discussions to take place with the aim of developing mutually supported and integrated policy for subsequent Governing Body decision; and
 - Council decisions previously taken individually by Cabinet will in the future largely be taken jointly with CCG colleagues at the Strategic Commissioning Board. Where it is not possible to delegate such decisions to the Strategic Commissioning Board the Board will enable collaborative joint discussions to take place with the aim of developing mutually supported and integrated policy for subsequent Cabinet decisions;
- 3.10 Proposed terms of reference have been drafted for the Strategic Commissioning Board and are included at Appendix 6.
- 3.11 It is proposed that the SCB’s membership will be as follows:
- CCG Governing Body Members – 9 of the clinical and lay members to include 7 voting members, of which the majority will be clinicians and 2 non-voting members;
 - Councillors – Cabinet Members of the Council to include no more than 7 voting Cabinet Members, plus two opposition party representatives in attendance (non-voting); and
 - The Joint Chief Executive/Accountable Officer, the Joint Chief Finance Officer and the Director of Strategic Commissioning as voting members.
- 3.12 The SCB will be quorate with:

- three members of the CCG Governing Body, which must include at least two practicing clinicians;
- three members of the Cabinet present which must include the Leader or Deputy Leader; and
- at least one Joint Officer.

3.13 The SCB will be jointly chaired by the Leader of the Council and the Chair of the CCG with chairing responsibilities rotated between meetings. In the absence of the CCG Chair, the CCG Chair will nominate a deputy drawn from the CCG members of the Strategic Commissioning Board. In the absence of the Leader, the Deputy Leader will Chair the meeting.

3.14 The SCB will aim to achieve consensus for all decisions and securing the support of both partners will be critical to the success of most of the decisions made. In exceptional circumstances where consensus cannot be reached, and should a vote be required, it will be by a simple majority of voting members present. If the vote is tied and a deadlock position is reached, the item of business will be referred back, with the minuted views of the Strategic Commissioning Board members, to the respective decision-making body from which the item of business is delegated.

3.15 The SCB will be directly supported by key advisory committees. Current thinking reflects four sub-committees; however, these are for illustrative purposes only and final proposals will be developed in partnership before being submitted for approval to the Governing Body.

- Professional Congress – advice from a clinical and professional perspective
- Patient/Public/Stakeholder Congress – advice from a citizen and user perspective
- Finance/Contracting and Procurement Committee – detailed scrutiny of finances and commissioning contracts and to provide assurance (allowing the Board to maintain its strategic focus)
- Quality and Performance Committee – detailed scrutiny of compliance and performance and to provide assurance

- **Pooled and Aligned Budgets**

3.16 Section 75 of the National Health Services Act 2006 is the main legal mechanism provided by legislation to structure integration between the Council and the CCG and enables the CCG and the Council to enter into partnership arrangements and to pool resources (known as ‘pooled budgets’). To ensure that it is possible to work in an integrated way beyond what is possible through the pooled budget arrangements, a comprehensive partnership agreement will be developed, which will include within it the S75 permissions, and will reference the arrangements in respect to those budgets agreed as ‘aligned’ and ‘in-view’. The areas prioritised will be aligned with the Locality Plan. (A ‘pooled budget’ agreement already exists for the Better Care Fund).

3.17 The functions that will be delegated to the SCB and can legally be done so under S75 partnership arrangements, are set out in detail at Appendices 2-5.

3.18 In the spirit of further collaboration and ensuring better value for money and improved outcomes, integrated working for both pooled and non-pooled areas will be adopted,

the latter will be developed by aligning budgets. Work is ongoing to expand the Section 75 arrangements and the real challenge is to bring together the financial systems and processes.

3.19 The Governing Body is advised that the joint S75 / Partnership Agreement will be presented for approval in September 2019.

- **Operations**

3.20 In practice, to enable Strategic Commissioning, operational arrangements also need to be in place. Health and Social Care teams across both organisations will also need to be integrated in order to support the SCB in its decision making and enacting of commissioning decisions.

3.21 The ambition is for these teams to come together and work effectively, as one, and with communities, the Local Care Organisation and with wider public service partners.

3.22 A comprehensive programme is underway to co-design the future structures and arrangements which are on-track to go-live from 1st April 2020. Updates will be provided as required.

- **Consultation**

3.23 Regulation 4 of the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 states that partners may not enter into any partnership arrangements unless they have consulted jointly, such persons as appear to them to be affected by such arrangements.

3.24 Any consultation, which would more appropriately be considered as 'engagement' in this instance, should include both staff and the local population affected, the latter of which may be more appropriately delivered through engaging with local forums and groups as a means to ensuring compliance with consultation duty.

3.25 This should be completed before the S75 Partnership Agreement is approved and should sufficiently demonstrate that:

- representative groups have been informed of the proposals and kept them up to date with progress as a minimum;
- there had been the opportunity for those groups to feedback on the joint commissioning arrangements; and
- there is evidence of that feedback having been taken into account by the CCG's Governing Body and Cabinet accordingly in reaching a final decision.

3.26 The proposal to establish a One Commissioning Organisation was set out clearly in the Locality Plan, which was subject to a robust engagement approach, and additionally there has been further formal and active stakeholder engagement, including with staff members as the developments have emerged.

3.27 All engagement undertaken to date will be reviewed and assessed to consider whether any further engagement is required.

- **Legal Opinion**

3.28 The CCG has sought a legal opinion in respect to the emerging proposals and Terms

of Reference as drafted, which is summarised as:

- in broad terms the proposals set out are within the scope of the applicable legislative framework set out principally in the National Health Service Act 2006 (“the Act”) and the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 (“the Regulations”);
- the proposals are achievable legally and do not push the boundaries legally;
- There are not fundamental legal issues that will prevent the achievement of the CCG’s and Council’s intentions and aspirations for their commissioning functions as set out;
- The establishment and delegation to a joint committee (the Strategic Commissioning Board) all those functions permitted by Section 75 of the Act is permitted for this purpose under the Regulations;
- Whilst the mechanism for the joint committee to act in an advisory capacity is not expressly provided for, this arrangement would not conflict with any constitutional law requirement;
- The independent meetings of the Governing Body and Cabinet to consider recommendations from the Strategic Commissioning Board is normal business practice; and
- The CCG will retain its Primary Care Commissioning Committee and will need to ensure continued compliance with the Primary Care Functions Delegation Agreement with NHS England.

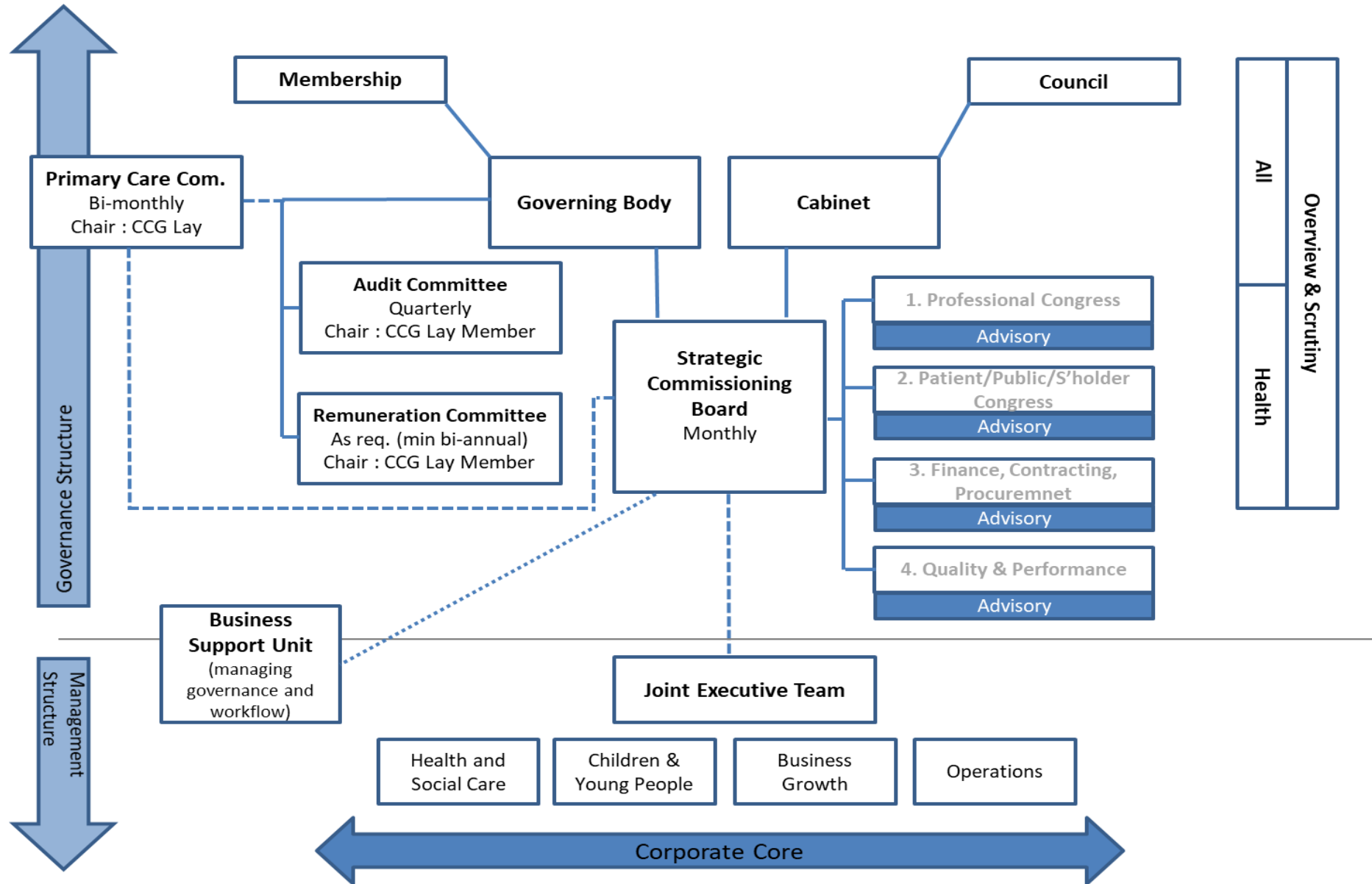
4.0 Recommendations

4.1 The Governing Body is recommended to:

- formally support the establishment of the Strategic Commissioning Board as a sub-committee of the Governing Body, as set out in the Terms of Reference attached at Appendix 6 and recommend these to CCG Membership for their approval; and
- note the updates provided;
- note that the Partnership Agreement, including S75, will be presented for approval to the Governing Body in September.

Lisa Featherstone
Deputy Director of Business Delivery
June 2019

Appendix 1: Proposed Governance Structure



Appendix 2: Functions of NHS Bodies that can be subject to S75 partnership arrangements

| Legislation | Function |
|---|--|
| <p><i>Sections 3 & 3A of the NHS Act 2006 (NHS Act)</i></p> <p><i>*Note these functions need to be read together with the exclusions in Annex 2</i></p> | <p>Duty of a CCG to arrange for the provision of the following to the extent it considers necessary to meet the reasonable requirements of the persons for whom it has responsibility:</p> <ul style="list-style-type: none"> • hospital accommodation; • other accommodation for the purposes of any service under the NHSA; • medical, dental, ophthalmic, nursing and ambulance services; • such other services or facilities for the care of pregnant women, women who are breastfeeding and young children as the CCG considers are appropriate as part of the health service; • such other services or facilities for the prevention of illness, the care of persons suffering from illness and the after-care of persons who have suffered from illness as the CCG considers are appropriate as part of the health service; • such other services or facilities as are required for the diagnosis and treatment of illness. <p>Power of a CCG to arrange for the provision of such services or facilities as it considers appropriate for the purposes of the health service that relate to securing improvement:</p> <ul style="list-style-type: none"> • in the physical and mental health of the persons for whom it has responsibility; or • in the prevention, diagnosis and treatment of illness in those persons. <p>NB: This includes rehabilitation services and services intended to avoid admission to hospital.</p> |
| <p><i>Section 3B of the NHS Act</i></p> <p><i>*Note these functions need to be read together with the exclusions in Annex 2</i></p> | <p>Regulations may require NHS England (NHSE) to arrange the provision, to such extent as it considers necessary to meet all reasonable requirements, for the provision as part of the health service of:</p> <ul style="list-style-type: none"> • dental services of a prescribed description; • services or facilities for members of the armed forces or their families; • services or facilities for persons who are detained in prison or in other accommodation of a prescribed description; • such other services or facilities as may be prescribed. |
| <p><i>Section 83 of the NHS Act</i></p> | <p>From 1 April 2016 the function of arranging the provision of primary medical services where these are commissioned under an APMS contract.</p> |

| | |
|---|---|
| <p><i>Section 117 of the Mental Health Act 1983 (MHA)</i></p> | <p>Duty of the CCG to arrange for the provision of, in co- operation with relevant voluntary agencies, after-care services for persons who are:</p> <ul style="list-style-type: none"> • detained under section 3 of the MHA; or • admitted to a hospital in pursuance of a hospital order made under section 37 of the MHA; or • transferred to a hospital in pursuance of a hospital direction made under section 45A of the MHA; or; • a transfer direction made under section 47 or 48 of the MHA; <p>and then cease to be detained and (whether or not immediately afterwards) leave hospital, until such time as the CCG and the local social services authority are satisfied that the person concerned is no longer in need of such services (but they shall not be so satisfied in the case of a community patient while he remains such a patient).</p> |
| | <p>Function of providing the after-care services referred to above.</p> |
| <p><i>Section 12A(1) of the NHTA and the National Health Service (Direct Payments) Regulations 2013</i></p> | <p>The function of making direct payments</p> |
| <p><i>Regulation 8A of the Healthy Start Scheme and Welfare Foods (Amendment) Regulations 2005</i></p> | <p>The function of arranging the provision of Healthy Start vitamins.</p> |
| <p><i>Schedule 1A of the Mental Capacity Act 2005</i></p> | <p>Functions relating to the Deprivation of Liberty</p> |

Appendix 3: Functions of NHS Bodies that cannot be the subject of Section 75 partnership arrangements

| Legislation | Function |
|---|---|
| <i>Sections 3, 3A & 3B of the NHS Act 2006 (NHSA)</i> | The function of arranging the provision of: <ul style="list-style-type: none"> • surgery; • radiotherapy; • termination of pregnancy; • endoscopy; • the use of Class 4 laser treatments and other invasive treatments; • emergency ambulance services. |
| <i>Sections 83*, 92 & 99 of the NHSA</i> | The function of arranging the provision of: <ul style="list-style-type: none"> • primary medical services • primary dental services (*From 1 April 2016 the function of arranging the provision of primary medical services where these are commissioned under an APMS contract will be able to be the subject of a S75 partnership arrangement.) |

Appendix 4: Functions of local authorities (Health-Related Functions) that can be the subject of S75 partnership arrangements

| Legislation | Function |
|--|---|
| <i>Schedule 1 of the Local Authority Social Services Act 1970</i> | <ul style="list-style-type: none"> • This Schedule covers a wide range of social services functions (these are subject to exclusions – see appendix 5) |
| <i>Regulation 8A of the Healthy Start Scheme and Welfare Foods (Amendment) Regulations 2005</i> | <ul style="list-style-type: none"> • The function of providing Healthy Start vitamins. |
| <i>Sections 7 of the Disabled Persons (Services, Consultation and Representation) Act 1986</i> | <ul style="list-style-type: none"> • Duty to arrange an assessment for persons on discharge from hospital, having received medical treatment for mental disorder as an in-patient for a continuous period of not less than 6 months, of their needs for healthcare services. (This duty is not yet in force). • Duty of local authority to take into account abilities of a carer |
| <i>Section 19 of the Local Government (Miscellaneous Provisions) Act 1976</i> | <ul style="list-style-type: none"> • The functions of providing or securing the provision of recreational facilities. |
| Section 578 Education Act | <ul style="list-style-type: none"> • The functions of local authorities under the Education Acts as defined |
| <i>Part I of the Housing Grants, Construction and Regeneration Act 1996 and under Parts VI and VII of the Housing Act 1996</i> | <ul style="list-style-type: none"> • Functions of local housing authorities. |
| <i>Section 126 of the Housing Grants, Construction and Regeneration Act 1996</i> | <ul style="list-style-type: none"> • Functions relating to regeneration and development. |
| <i>Environmental Protection Act 1990</i> | <ul style="list-style-type: none"> • Functions of waste collection or disposal. |
| <i>Sections 180 & 181 of the Local Government Act 1972</i> | <ul style="list-style-type: none"> • Functions of providing environmental health services. |
| <i>Highways Act 1980 and Section 39 of the Road Traffic Act 1988</i> | <ul style="list-style-type: none"> • Functions of local highway authorities. |
| <i>Sections 63 & 93 of the Transport Act 1985</i> | <ul style="list-style-type: none"> • Functions relating to passenger transport and travel concession schemes. |

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| <p>Care Act 2014</p> | <ul style="list-style-type: none"> • Where the partners enter into a Section 75 partnership arrangement in respect of meeting needs for care and support under section 18 or 19 of the Care Act 2014 (duty and power to meet needs for care and support) the function of carrying out the financial assessment in relation to the making of a charge under section 17 |
| <p>Care Act 2014</p> | <ul style="list-style-type: none"> • Where the partners enter into a Section 75 partnership arrangement in respect of providing or arranging for the provision of services, facilities or resources, or taking steps under section 2(1) of the Care Act 2014, the function of making a charge for that provision, arrangement or taking of steps under regulations under section 2(3) of that Act. |
| <p>Functions under or by virtue of Sections 2B or 6C(1) of, or Schedule 1 to, the NHSA</p> | <ul style="list-style-type: none"> • Functions relating to the improvement of public health; • Public-health functions of the Secretary of State (where local authorities are required by Regulations to exercise these); • Local authority functions under Schedule 1 of the NHSA, including: <ul style="list-style-type: none"> - medical inspection and treatment of pupils; and - weighing and measuring of children. |

Appendix 5: functions of local authorities that cannot be the subject of S75 partnership arrangements

| Legislation | Nature of Function |
|---|--|
| <p><i>Section 14 Care Act 2014 (subject to sub paragraph k), section 17 of the Care Act and section 69 of Care Act)</i></p> | <ul style="list-style-type: none"> • Power to charge, assessment of financial resources and recovery of charges or under regulations under section 2(3) of the Care Act, charging for preventing needs |
| <p><i>Section 6 of the Local Authority Social Services Act 1970</i></p> | <ul style="list-style-type: none"> • Function of appointing an officer, to be known as the director of adult social services. |
| <p><i>Section 3 of the Adoption and Children Act 2002</i></p> | <ul style="list-style-type: none"> • Function of maintaining an adoption service and providing the requisite facilities for that purpose. |
| <p><i>Sections 114 & 115 of the Mental Health Act 1983 (MHA)</i></p> | <ul style="list-style-type: none"> • Function of approving a person to act as an approved mental health professional for the purposes of the MHA. • Power of an approved mental health professional to enter and inspect premises. |
| <p><i>Parts VII to IX and Section 86 of the Children Act 1989</i></p> | <ul style="list-style-type: none"> • Functions relating to: <ul style="list-style-type: none"> ○ the provision of accommodation for children by voluntary organisations; ○ private children’s homes/ limits on number of foster children; ○ privately fostered children; ○ children accommodated in care homes or independent hospitals. |

Appendix 6: Draft (Strategic Commissioning Board) Terms of Reference

Context

1. As part of the Bury Locality Plan for Health and Social Care Transformation 2017 to 2021 and to progressing the wider public service reform agenda there is a commitment to full alignment and integration between the Council and the Clinical Commissioning Group to form Bury Health and Social Care One Commissioning Organisation.
2. As part of this commitment the statutory bodies have agreed to form a single “Strategic Commissioning Board” in Bury to bring together the integrated governance of health and social care commissioning in its widest sense.
3. The following document sets out the terms of reference for the Strategic Commissioning Board (SCB).
4. Any changes to these Terms of Reference must be approved by the Council Cabinet and the CCG Governing Body

Statutory Framework

5. The SCB is not a statutory body. It is not intended to replace any of the existing statutory bodies in the locality; instead it is a joint committee of the two statutory organisations, Bury Metropolitan Borough Council (“the Council”) and NHS Bury Clinical Commissioning Group (“the CCG”). The SCB will have overarching responsibility for all powers as have been delegated to it by the two statutory organisations (subject to any reserved matters) and set out in the associated Scheme of Delegation.

Role of the Strategic Commissioning Board

6. The SCB will be responsible for setting the principles and high-level strategic direction across the full responsibilities of health and care commissioning that is the responsibility of the two partners and will align wider Council, CCG and public services by inclusion so far as possible.
7. The SCB has been established to make decisions on the objectives, priorities, strategic design, commissioning and overall delivery of health and care services, including the oversight of their effectiveness, quality and performance.
8. In performing its role, the SCB will exercise its functions in accordance with duties delegated to it to support the delivery of the Bury Locality Plan for Health and Social Care Transformation 2017 to 2021, and its successor strategies and plans; including the Bury Strategy.
9. Members of the SCB have a collective responsibility for its operation. In undertaking its role, clinical and democratic accountability will be implicit within all decisions, as will respect for all professional areas of knowledge and expertise. Decisions will be based on achieving better outcomes and experience for the residents of Bury and those that use services within

the Borough, better quality and better value.

10. The ethos of partnership working will underpin the programme of work, recognising that on occasion, difficult decisions may be required to benefit the population of Bury.
11. The SCB will have responsibility for providing a Bury response to Greater Manchester commissioning matters.

Core Business

12. As the SCB will operate as a “place based”, strategic, outcomes-based commissioner, the items of business for the SCB are likely to be:
 - a) Understanding the aspirations, strengths and needs of Bury communities
 - b) Leading collaboratively agreement of priorities for improvement
 - c) Leading collaboratively the agreement of commissioning and enabling strategies and associated use of financial and other resources
 - d) Enabling and supporting others to fulfil their roles within the system
 - e) Providing oversight and gaining assurance in respect of outcomes, quality, performance and finance
 - f) Providing leadership, oversight and assurance in respect of the development of an effective “One Commissioning Organisation”
13. The items of business for the SCB are unlikely to include detailed plans for operational service design and re-design.

Membership

14. The Strategic Commissioning Board shall consist of the following members:
 - Councillors – Cabinet Members of the Council to include no more than 7 voting Cabinet Members;
 - CCG Governing Body Members – 9 of the clinical and lay members to include 7 voting members, of which the majority will be clinicians; and 2 non-voting members;
 - The joint Chief Executive and Accountable Officer;
 - The joint Chief Finance Officer (including S151 responsibilities); and
 - The joint Director of Strategic Commissioning.
15. In addition, other Officers and representatives will be invited to the SCB, and will be recognised as in attendance, enabled to participate fully in discussions to inform the decisions of the SCB, but will not hold voting rights. This will include, but is not limited to:
 - 2 opposition party representatives;
 - additional members of the CCG Governing Body (who are not members of the SCB)
 - additional members of the CCG/Council Joint Executive Team or any such equivalent successor team (who are not members of the SCB)

Chair

16. The SCB will be jointly chaired by the Council’s Leader on behalf of the Council and the CCG Chair on behalf of the CCG, with chairing responsibility rotated between meetings.

17. In the event of the Chair of the SCB being unavailable for all or part of the meeting, the following deputising arrangements will apply:

- The Deputy Council Leader will deputise for the Council Leader; and
- The CCG Chair will nominate a deputy drawn from the CCG members of the SCB.

Quorum

18. The meeting will achieve quoracy if the following requirements are satisfied:

- A minimum of 3 elected members, of which 1 must be the Leader or Deputy Leader of the Council;
- A minimum of 3 Governing Body representatives, of which 2 must be practicing clinicians; and
- At least one joint Officer.

Voting

19. It is anticipated that decisions will be made by consensus, however in the event that this cannot be achieved, a vote will be undertaken. Each voting member of the SCB will have one vote and a simple majority vote will be sufficient to carry the decision.

20. In the event that the vote is tied, and a deadlock position is reached, the item of business will be referred back, with the minuted views of the Strategic Commissioning Board members, to the respective decision-making body from which the item of business is delegated.

Deputies

21. Deputies are only permitted in respect to the Chairing of the SCB or Officer members.

22. With the exception of deputising arrangements for the Chair of the SCB, nominated deputies will not hold a vote nor will they count towards quoracy.

Frequency of meetings

23. The SCB will routinely meet at monthly times; a schedule of pre-arranged meeting dates will be distributed on an annual basis with a proposed annual calendar of business.

24. The meetings of the SCB shall be held in public:

- a) subject to any exemption provided by law
- b) the SCB may resolve to exclude the public from a meeting that is open to the public (whether during the whole or part of the proceedings) whenever publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for other special reasons stated in the resolution and arising from the nature of that business or of the proceedings or for any other reason permitted by both the Public Bodies (Admission to Meetings) Act 1960 (as amended or succeeded from time to time) and the Local Government Act 1972.

Attendance

25. Members are expected to attend every meeting.
26. Where a member is unable to attend a meeting, apologies should be notified in advance to the Chair of the meeting.

Conduct of Meetings

27. The SCB will give no less than five clear working days' notice of its meetings.
28. The agenda and supporting papers will be published at least 5 clear working days in advance of the meeting, not including the publication day and the day of the meeting. Authors of papers presented must use the required template. Papers must be received by the committee secretary in line with the published deadlines unless, in exceptional circumstances, explicit agreement has been reached with the SCB Chair.
29. The SCB will be appropriately resourced to ensure the timely distribution of papers, production of minutes, action and decision tracking, and the maintenance of the formal record and documentation of the business of the SCB.
30. Presenters of papers can expect all SCB members to have read the papers and should keep to a summary that outlines the purpose of their paper/report and key issues arising since the time of publication which may materially influence the decision or actions of the SCB. SCB members and others in attendance may question the presenter.

Conflict of Interest

31. As a statutory Joint Committee formed by the two statutory organisations, the SCB must comply with the standards set by the Local Government Act 2000 as set out in Part 5(a) of the Council's Constitution and Section 140 of the National Health Service Act 2006 (as amended) as set out in Section 6 of the CCG Constitution.
32. In addition, the Register of Interests will be maintained for the members of the SCB and published on the Council and CCG websites.

Reporting

33. A highlight report from the SCB will be submitted to the Governing Body and Cabinet meetings, drawing the attention of the respective Statutory Committee to any items where further action is required. The SCB minutes will be included as an appendix to this report.

Monitoring Compliance

34. Meetings of the SCB shall be conducted in accordance with the provisions of both bodies Constitutions, Standing Orders, Scheme of Reservation and delegation of the respective partners and the duties delegated.
35. The SCB shall submit an annual report to the Governing Body and Council, incorporating

progress, reporting arrangements, frequency of meetings and membership attendance. A summary of which will be included within the respective Governance Statements.

36. A review of effectiveness of the SCB will be undertaken at the end of the first year of operation and at further intervals as agreed appropriate.
37. The Terms of Reference of the SCB will be reviewed at least annually and submitted through the appropriate Governance arrangements for approval.