

BOARD PAPER - NHS COMMISSIONING BOARD

NHSCB/1/10/2012/1

Title: NHS Commissioning Board corporate policies

Clearance: Bill McCarthy, National Director: Policy and Paul Baumann, Chief Financial Officer

Purpose of Paper:

- To invite the Board to adopt or approve the corporate policies needed by the NHS CB upon its establishment.

Key Issues and Recommendations:

- Please see actions required below.

Actions Required by Board Members:

The Board is invited to adopt the:

- Corporate Governance Framework;
- Standards of Business Conduct;
- Standing Orders;
- Standing Financial Instructions; and
- Risk Management Strategy.

The Board is invited to adopt the policies and agreements below:

- Disciplinary;
- Grievance;
- Attendance;
- Respect in the workplace;
- Capability;
- Partnership agreements; and
- CCG authorisation.

The Board is invited to approve the following new policies:

- Health and safety (which includes incident reporting);
- Business continuity;
- Freedom of Information; and
- Information governance (which includes records management).

NHS Commissioning Board corporate policies

Introduction

1. The NHS Commissioning Board (NHS CB) is formally established as an Executive Non-Departmental Public Body with effect from 1 October 2012. It replaces the NHS Commissioning Board Authority (NHS CBA) which was a Special Health Authority. The legal powers of the NHS CB are wider than those of the NHS CBA but the NHS CB remains in preparatory mode until 1 April 2013.
2. There are three phases in the establishment of the NHS CB:
 - phase one – covering the lifetime of the NHS CBA, during this phase the organisation had limited powers and the corporate governance arrangements in place reflected this;
 - phase two – covering the period from 1 October until the 1 April 2013 when the NHS CB assumes its full statutory duties; and
 - phase three – from 1 April 2013.
3. The change in the organisation's status between phases one and two does not require any radical revision to existing accountability and governance arrangements. However, in order to establish the NHS CB on a sound legal footing the Board is asked to adopt or approve a number of key governance and policy documents. These are detailed below.

Corporate governance policies

4. At its meeting on 21 September the Audit Committee of the NHS CBA agreed that the following corporate governance documents should be recommended for adoption by the NHS CB (these documents can be accessed by clicking on the blue hyperlinks):

- a. [Corporate Governance Framework](#)

It is good practice for an organisation to have a corporate governance framework. This document pulls together all the main components of governance into a single accessible framework and is an important demonstration of the NHS CB's commitment to openness and transparency in how it conducts its business.

The framework includes:

- Schedule of Matters Reserved to the Board
- Scheme of Delegation
- Terms of reference for the following NHS CB sub-committees:
 - Finance and Procurement Committee

- Clinical Commissioning Groups Authorisation Committee
 - Audit Committee
 - Remuneration and Terms of Service Committee.
- b. [Standards of Business Conduct](#)
 - c. [Standing Orders](#)
 - d. [Standing Financial Instructions](#)
 - e. [Risk Management Strategy](#).
5. The Board is invited to adopt these policies.
6. NHS CBA Board members completed declarations of interest, in line with the NHS CBA's standards of business conduct. Board members are completing revised declarations of interest to reflect that from 1 October they will be members of the Board of the NHS CB rather than the NHS CBA.

Policies and agreements

7. The NHS CBA Remuneration and Terms of Service Committee has previously approved a number of HR policies (these documents can be accessed by clicking on the blue hyperlinks):
- [Disciplinary](#)
 - [Grievance](#)
 - [Attendance](#)
 - [Respect in the workplace](#)
 - [Capability](#)
8. At its final meeting on 20 September the NHS CBA Board approved a number of Partnership Agreements and the website link is below.

<http://www.commissioningboard.nhs.uk/files/2012/09/part-agree.pdf>

9. For the purposes of allowing CCG authorisation to begin the Board is also invited to adopt a suite of policies details of which are provided at Annex 1. These have all previously been approved by the NHS CBA Board.
10. The Board is invited to adopt the above policies and agreements.

New policies

11. The NHS CB is also required to have the following policies in place (these documents can be accessed by clicking on the blue hyperlinks)::

- [Information Governance Policy](#) (which includes records management);
- [Business Continuity Policy](#);
- [Freedom of Information](#); and
- [Health and Safety Policy](#) (which includes incident reporting).

12. The Board is invited to approve these new policies.

Summary and recommendations

13. These policies will be subject to further development and review between now and phase three (April 2013), this will give us the opportunity to involve a cross section of staff in developing the policies as they are recruited. Any additional policies required will be brought to the relevant sub-committee or Board meeting.

14. The Board is invited to:

- adopt the corporate governance documents outlined at paragraph 3;
- adopt the policies and agreements outlined at paragraphs 6 to 8; and
- approve the new policies outlined at paragraph 10.

Bill McCarthy
National Director: Policy
September 2012

Paul Baumann
Chief Financial Officer
September 2012

Clinical commissioning group (CCG) Authorisation

1. The NHS Commissioning Board is asked to adopt the following documents, which have previously been approved by the NHS Commissioning Board Authority, for the purposes of permitting CCG authorisation to begin. The documents collectively will fulfil the Board's obligation under The National Health Service (Clinical Commissioning Groups) Regulations 2012 (SI 2012/1631) to publish the procedure that it adopts for dealing with applications for establishment as a CCG under regulation 10(2). They may also be considered as guidance under section 14K(a) of the NHS Act 2006 as inserted by the Health and Social Care Act 2012. The first document below (the Applicant's Guide) also needs to be adopted and then issued as the "document for the purpose" of section 14B(3)(c) of that Act.
2. Most of the documents have minor textual changes, for example to change "Board Authority" to "Board", change titles to remove "draft." They also bring earlier documents fully into line with the latest ones, for example by adding dates and references to regulations made after initial publication. Any more significant changes are noted below:
 - **Clinical commissioning group authorisation: guide for applicants** (first issued by the NHS Commissioning Board Authority as a draft guide in April 2012);
 - **Clinical commissioning group authorisation: guide for assessors undertaking desk top review** (June 2012). *Clinical quality and safety expert* has been added to the panel membership;
 - **Clinical commissioning group authorisation: guide for assessors undertaking site visits** (July 2012). Non-substantive points of detail have been added, for example covering practicalities;
 - **CCG Authorisation: supplement for assessors reviewing CCG commissioning support arrangements** (August 2012); and
 - The decision made by the NHS Commissioning Authority Board at its meeting on 20 September to create a sub-committee as part of the CCG Authorisation Process should also be ratified by the NHS Commissioning Board.
3. The following two documents should also be adopted as they will also be considered as guidance under section 14K(a) of the NHS Act 2006 as inserted by the Health and Social Care Act 2012:
 - **Self-certification information pack** (May 2012) – this summarises the salient information and actions to take for eight of the twelve statements where applicants for authorisation are asked to self-certify compliance on their application form. This includes updated dates for

CCGs (once authorised) to publish equality information and objectives, which have been agreed since original publication of the pack; and

- **[Finance governance tool for CCGs](#)** (May 2012), which was developed to provide support for interim chairs of governing bodies, looking at the arrangements they will need to put in place for good financial governance. No changes are required.

CCG Governance

4. Additionally, the NHS Commissioning Board is asked to adopt the following documents with regard to the CCG Governance process, which were approved by the NHS Commissioning Board Authority. These documents have been amended so that all references to “the Bill” have been replaced with the Health and Social Care Act and a technical appendix has been deleted as the detail has now been published. Additionally, there have been some minor textual amendments for clarity and accuracy, ie tense change, where necessary; and specific updates in *Chapter 6: Key leadership roles* so that the wording is wholly in line with the Regulations subsequently laid before parliament.

- **[Towards establishment: Creating responsive and accountable clinical commissioning groups](#)** This is governance guidance for emerging CCGs, including **[Technical appendix 1 Managing conflicts of interest](#)**

Towards establishment – supporting material:

- **[Model Constitution Framework](#)** (published April 2012). This framework, co-produced with the NHS, provides a template covering the areas CCGs will wish to consider when drawing up a constitution. It brings together all the elements of the proposed legislation and suggests a format to follow. It also includes three templates for governing body committees, standing orders, scheme of reservation and delegation, prime financial policies;
- **[Clinical commissioning group governing body committees audit, Clinical commissioning group governing body committees remuneration, Clinical commissioning group governing body committees quality](#)** (published April 2012). These templates for the audit, remuneration and quality committees have been co-produced with the NHS for emerging CCGs to use when developing their own governance structures;
- **[Clinical commissioning group governing body members: Role outlines, attributes and skills](#)** (first published April 2012; revised July 2012). This resource provides a description of the roles on the governing body and the skills and qualities needed for each;

- **Best Practice Resource/Practical Toolkit for the appointment of lay members of clinical commissioning groups** (first published March 2012). This practical resource covers all the steps CCGs may wish to consider in the appointment process for lay members and includes practical checklists and points to consider throughout the process with examples, including <http://www.commissioningboard.nhs.uk/files/2012/09/advert-examples.doc>
- **Code of Conduct: Managing conflicts of interest where GP practices are potential providers of CCG commissioned services** (published as a draft document July 2012). This will form part of the consolidated guidance the Board publishes on managing conflicts that CCGs must have regard to. The guidance sets out additional safeguards that CCGs are advised to use when commissioning services for which GP practices could be potential providers and
- **Commissioning fact sheet for clinical commissioning groups** (Published July 2012). This fact sheet brings together in one place information about the services CCGs will commission from 1 April 2013; those services that will be commissioned by the NHS Commissioning Board (NHS CB), and those services that will be commissioned or provided by local authorities and Public Health England.