NHS Commissioning Board

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BOARD PAPER - NHS COMMISSIONING BOARD

Title: Report of the CCG authorisation sub-committee
Clearance: Lord Victor Adebowale, Chair of the authorisation sub-committee Barbara Hakin, National Director for Commissioning Development
Purpose of Paper: • To inform the Board of the work of the CCG authorisation sub-committee
Key Issues and Recommendations: • The CCG authorisation sub-committee established 34 CCGs in December and 67 in January.
Actions Required by Board Members: • The Board is asked to note the decisions of the CCG authorisation sub-committee

Report of the CCG authorisation sub-committee

Executive summary

This paper contains an update on the Board's sub-committee on clinical commissioning group authorisation ("the sub-committee"), and presents the Board with the Minutes and decisions of the sub-committee.

Introduction

1. The Terms of Reference of the sub-committee were agreed on 20 September 2012 by the Board Authority and adopted on 1 October 2012. They are available on the website as part of the papers for that meeting.

2. The sub-committee's first meeting was on 5 December 2012, with subsequent meetings on or scheduled for 18 January 2013, 15 February 2013, and 6 March 2013.

CCG Authorisation decisions

3. At the first meeting on 5 December 2012, the sub-committee received detailed briefing on the authorisation programme and were assured as to the robustness of the process.

4. The sub-committee went on to establish 34 CCGs as new statutory organisations. Eight of these were fully authorised, meaning they met all of the 119 criteria required by the applicant's guide. The criteria were developed to demonstrate to the NHS CB that the CCG has satisfied all of the requirements of the relevant legislation (namely, the NHS Act 2006 as amended by the Health & Social Care Act 2012, and the National Health Service (Clinical Commissioning Groups) Regulations 2012). The remaining 26 CCGs had not met all of the 119 criteria and were duly authorised with conditions; one condition relating to each of the criteria not yet met. The sub-committee also formally appointed, on behalf of the Board, the Accountable Officers (AOs) of each group.

5. These decisions were notified to each CCG on 9 December 2012 and published on the NHS CB website on 10 December. The AOs were also notified on 9 December.

6. ANNEX A includes the Minutes of the meeting on 5 December 2012. The complete list of CCGs authorised fully and with conditions is available on the NHS CB website. That table also lists the conditions with reference to the 119 criteria and includes the support that the NHS CB will offer to the CCG to assist with discharging the condition, indicated by a level I to VII. The full list

of the 119 criteria is also available on the website as part of the "CCG authorisation guide for applicants."

7. At the second meeting on 18 January 2013, the sub-committee established a further 67 CCGs as new statutory organisations. Of these, 19 were fully authorised, and 48 had conditions. Of those with conditions, three CCGs had requirements for higher levels of support in discharging their conditions, and the NHS CB issued them with directions. Directions are legally-binding instructions, which relate to certain conditions as specified in the direction. The sub-committee also formally appointed the Accountable Officers of each group. In one case an interim was appointed; the CCG in question is subject to conditions that relate to the appointment of a permanent AO.

8. These decisions were notified to each CCG on 22 January 2013 and published on the NHS CB website on 23 January. The AOs were also notified on 22 January.

9. ANNEX B includes the Minutes of the meeting on 18 January 2013. The complete list of CCGs authorised fully and with conditions is available of the NHS CB website. Also on the website is the full text of the directions issued to the three CCGs.

10. The sub-committee next met on 15 February 2013, to make decisions on the third wave of CCG applications. CCGs are due to be informed on 20 February, and the decisions will be published on the NHS CB website in full. The report from the sub-committee will be presented to the Board at its next meeting.

Recommendations

11. The Board is asked to note:
    - The Minutes and decisions of the sub-committee of 5 December 2012;
    - The Minutes and decisions of the sub-committee of 18 January 2013.

Lord Victor Adebowale, Chair of the CCG authorisation sub-committee
Barbara Hakin, National Director: Commissioning Development
February 2013

ANNEX A

NHS COMMISSIONING BOARD
CCG AUTHORISATION SUB-COMMITTEE

Minutes of the Wave One CCG Authorisation Sub-committee Meeting
5 December 2012 | Maple Street | London

Present:

- Lord Victor Adebowale (VA) - Non-executive Director and sub-committee Chair;
- Ciarán Devane (CD) - Non-executive Director;
- Naguib Kharaj (NK) - Non-executive Director;
- Dame Barbara Hakin (BH) - National Director: Commissioning Development;
- Professor Sir Bruce Keogh (BK) - National Medical Director;
- Paul Baumann (PB) - National Director of Finance;
- Dr Anne Rainsberry (AR) - Regional Director, London (deputising for Ian Dalton).

Apologies:

- Ian Dalton, Chief Operating Officer;
- Jane Cummings, Chief Nursing Officer.

In attendance:

- John Bewick (JB) - Director, CCG authorisation;
- Dr Sarah Pinto-Duschinsky (SPD) - Head of CCG authorisation;
- Keziah Halliday (KH) - Head of CCG authorisation governance;
- Louise Norton-Smith (LNS) - CCG authorisation policy lead;
- Gerard Hanratty (GH) - Partner, Capsticks Solicitors LLP;
- Charlotte Harpin (CH) - Lawyer, Capsticks Solicitors LLP;
- Janet Dawson (JD) - Partner, PriceWaterhouseCoopers LLP;
- Dan Burke (DB) - Director, PriceWaterhouseCoopers LLP;
- Kathy Nelson (KN) - Independent moderator, head of assessment, PriceWaterhouseCoopers LLP.

Item 1 – Welcome

1. VA opened the meeting and welcomed panel members.

2. VA noted that this was the first of the CCG authorisation sub-committee ("the sub-committee") meetings that would be sitting between now and March 2013. He outlined the important role of the sub-committee.

Roles of sub-committee members in CCG authorisation

3. At the request of the Chair, sub-committee members described their experiences of the authorisation process and outlined questions that had been raised at this stage.

4. In general sub-committee members confirmed that all experiences of the authorisation process had provided assurance as to the robustness of the assessments undertaken. Attending site visits had raised some questions, which would be addressed during the sub-committee meeting.

5. Members were initially concerned, but were assured that even where a CCG has conditions, it has met all other criteria and been judged to have the capacity and capability to fulfil all other aspects sufficiently.

6. VA concluded by asking members to note that the authorisation process has been bound by the three parameters of time, legislation and budget.

Item 2 – Terms of reference

7. BH introduced the sub-committee's terms of reference as agreed at the NHS CBA meeting of 20 September 2012 and ratified by the first meeting of the NHS CB on 1 October 2012.

8. The sub-committee noted that the Board had agreed their terms of reference and duly **adopted** these.

Item 3 – The assessment and authorisation of clinical commissioning groups (CCGs) – overview and programme assurance

9. JB and SPD outlined the following points:
    - CCGs will have had only 12 months between the date at which the Health and Social Care Act became law and March 2013 when the old organisations are abolished.
    - The authorisation process, the assessment criteria and the conditions framework can all be traced directly back to the Act.
    - The design and contents of the authorisation process had been presented to the NHS CB or NHSCBA at each stage of its development and been endorsed by Board members.
    - Authorisation is described as a "maturity model" as it is about the transformation towards a different system; the first building blocks from a standing start, rather than achieving any quantum leaps. CCGs had confirmed that where they are now is not where they want to be in the near future.
    - The NHS CB is looking at CCGs' potential ability to commission rather than assessing their ability to deliver specific targets.
    - CCGs cannot be expected to demonstrate outcomes at this stage but the NHS CB can expect them to be working with partners and to have a sound plan.
    - A decent track record is not enough; to be credible, a CCG's plan must also address any challenges it faces with its local population and health system.
    - The baseline for CCGs could be described as "permission to trade". It is the sub-committee's responsibility to make sure they are competent

organisations capable of commissioning services for patients and managing taxpayers' money.

- CCGs operating under delegated authority from PCTs would be working under the PCT plans, but need to be delivering to that plan, even if it is a deficit plan. The real test would be with the 2013/14 planning round.
- If a CCG has a difficult financial situation, it does not need to be a 'better' CCG but it does have to have a 'better' plan.
- The NHS CB had just finalised the outcomes framework and was now moving into planning round. CCGs would be able to flesh out their planning once they know the framework and their allocations.
- A training package for assessors had been developed by the authorisation team and PwC specialist trainers. The first stage evaluation report covers this (Annex R to the sub-committee papers). Attendees had reported a positive response to their training experiences.
- The selection process for assessors assumed that applicants would have certain skills according to their employment background.
- The authorisation process had not looked specifically at the capability of the three leaders of a CCG (AO, Chair and DoF) as they had all been subject to a national assessment process, and a senior NHSCB representative had been on all interview panels.
- CCG self-assessment is very similar to that used when establishing foundation trusts. False declarations within the self-assessment process are a serious matter; and the site visit stage explores self-assessment in more detail.
- Sometimes 'right to replies' submitted by CCGs to the NHS CB had meant that judgements were revisited. This in-built system was also a way to manage factual inaccuracies.
- The authorisation 'maturity model' has been adopted by Health Education England in its own development.
- In an HSJ 'audit' most CCGs, reported being very positive about authorisation being a developmental process.
- CCGs are keen to continue with on-going peer-review as part of the assurance process.

10. With regard to moderation and conditions panels, the following points were made:
    - The first meeting of each panel had spent significant time on assuring themselves of the authorisation process.
    - Each panel studies any individual discrepancies brought to light and any key themes identified ensuring consistency between assessors, geographies and across waves.
    - Panel members are careful to base opinions on the evidence provided and not prejudge. However, the panel do have a sense of where every CCG is in terms of financial planning and ask the relevant questions if necessary. Recurrent themes are emerging from CCGs, including those related to medium-term financial planning.

11. With regard to conditions setting, the following points were made:

- At the conditions panel stage, the majority of the panel time is spent discussing the proposed levels of support which are then increased or decreased according to need; triangulation of regional knowledge; and standardisation between the regions. The regional directors are asked to justify any request to change the default level of support.
- It is the level of support offered to a CCG rather than any red-rated criterion that is indicative of capacity.
- From the seven levels of support available, CCGs were able to manage levels 1-3 themselves. From level four, the sign-off or involvement of the NHS CB would be required.
- The regional teams have a direct input into the setting of support levels and are able to bring their knowledge of a CCG's level of insight to these discussions.
- The support offered primarily sits within the NHS CB's operations directorate but at regional and area level.
- Where the most extensive levels of support were required, the NHS CB has a duty to reflect on any better alternatives. Given the choice between removing functions from a CCG and maintaining these functions with assistance, the preferred option would always be the latter where possible.

12. Following this, the discussion covered the following points regarding resources:
    - BH, JB and SPD all confirmed that sufficient resource had been provided to undertake the programme.
    - SPD expressed her particular satisfaction with the support received from the external providers: PwC, GPTeamnet, Capsticks Solicitors and Ipsos MORI.
    - The first phase evaluation report from PwC outlines the difficulties encountered in sourcing and training sufficient numbers of assessors whilst the system was in transition. However, a positive outcome is that the NHS CB now has a bank of over 1000 trained assessors who are helping deliver all assessments on time.
    - Challenges to the programme related to the short time frame, and the impact of transition on assessor availability.
    - However, it was a central design principle to use senior NHS staff (rather than external services) to help the system get to grips with its new design.

13. SPD then gave a presentation following one CCG through the different stages, demonstrating how the quality assurance process and the moderation stage had had an impact on the CCG's progress through authorisation.

14. BH confirmed that PwC has provided the authorisation programme with the appropriate assistance required to support the process. By having an independent moderator on each panel, the sub-committee can receive assurance that there was someone present on each panel to monitor governance specifically. Any issues identified would have been flagged and escalated appropriately.

15. A parallel assurance process of independent evaluation of the whole authorisation process has been undertaken by a separate PwC team. This final evaluation is due by the end of March 2013.

16. Through discussion, it was agreed that the paper presented to the sub-committee setting out the role of PwC was not yet sufficient to give assurance. The sub-committee requested that the papers are to confirm that PriceWaterhouseCoopers (PwC) and Capsticks Solicitors have provided the contracted services, and that these revised papers be presented to the wave four sub-committee meeting.

17. The sub-committee noted the recent Government Gateway review report (Annex S to the sub-committee papers) that had evaluated the CCG authorisation programme. The following points were highlighted:

    - The report is key to providing assurance on the programme.
    - It had given authorisation a clean bill of health in terms of programme delivery.
    - It had provided the NHS CB with useful recommendations on how to close the programme down successfully and transition to the on-going assurance programme.

18. In summing up, VA underlined that the sub-committee now had a good understanding of the process and acknowledged the useful discussion between sub-committee members and attendees. He commended the walk-through of the different stages of authorisation and the presentation of how a CCG has experienced the assessments and confirmed that appropriate assurances had been received from professional advisors on the resourcing level for programme delivery.

19. The sub-committee **confirmed** that it was assured on the robust nature of the authorisation process and agreed that this assurance provides the basis on which they could consider individual CCG applications. The sub-committee congratulated the authorisation team on the rigour of the process.

Item 4 – The authorisation of wave one CCGs

20. BH gave an update on one specific CCG that was due to be considered. The authorisation team had been contacted during the morning of the sub-committee and had learnt that Liverpool CCG had made a significant change in their commissioning support plans. The change in arrangements meant that the assessment previously undertaken could not be fully assured. As a result of this, the sub-committee **resolved** to defer its decision on Liverpool CCG until a later wave.

21. SPD presented the eight CCGs that were being recommended for full authorisation. She explained that only one – West Cheshire CCG – had come out of moderation with no proposed conditions. The other seven CCGs had

submitted sufficient evidence during the 10-day window for their remaining criteria to be considered as fulfilled.

22. The sub-committee **approved** the full authorisation of:

- Bassetlaw CCG
- Great Yarmouth and Waveney CCG
- Kingston CCG
- Leicester City CCG
- Oldham CCG
- Somerset CCG
- Warrington CCG
- West Cheshire CCG

23. They **further approved** that the proposed accountable officers for each of these eight CCGs be formally appointed.

24. SPD then presented the 26 CCGs recommended for authorisation with conditions. SPD explained that the Berkshire West federation would be considered separately. Putting these four CCGs aside, SPD stated that all others were continuing to make good progress and that the majority of their conditions should be discharged before 1 April 2013.

25. The sub-committee **approved** the authorisation of the following CCGs, with the conditions and support offers as detailed in annex 1:

- Bedfordshire CCG
- Blackpool CCG
- Calderdale CCG
- Cumbria CCG
- Dudley CCG
- East &North Herfordshire CCG
- East Leicestershire & Rutland CCG
- East Riding CCG
- Gloucestershire CCG
- Islington CCG
- Kernow CCG
- North East Lincolnshire CCG
- North Staffordshire CCG
- Oxfordshire CCG
- North East Lincolnshire CCG
- North Staffordshire CCG
- Oxfordshire CCG
- Portsmouth CCG
- Rotherham CCG
- Sandwell & West Birmingham CCG
- Shropshire CCG
- Stoke on Trent CCG

- Wakefield CCG
- Wandsworth CCG
- West Leicestershire CCG

26. They **further approved** that the proposed accountable officers for each of these CCGs be formally appointed.

27. SPD moved to present the Berkshire West Federation of four CCGs, which includes Newbury and District CCG, North and West Reading CCG, South Reading CCG, and Wokingham CCG. The federation intended to have one Accountable Officer and one Chief Finance Officer shared across the four CCGs.

28. BH outlined that the moderation and conditions panel had agreed to bring the most significant issues for resolution to the sub-committee and highlighted that the Berkshire West federation was considered to be the most difficult issue to be resolved in wave one. The main issue with Berkshire West federation was how one AO would be able to service four separate governing bodies at the same time as running the four CCGs on a day-to-day basis.

29. SPD explained that their view had been that the individual CCGs had been so focussed on the creation of their four individual sets of arrangements that they had not concentrated on how they would work as a collective. The assessments had been careful not to pass judgement on the designate AO as an individual but rather expressed concerns that the current arrangements would not be adequate to support all four CCGs.

30. The sub-committee discussed the issue and concluded that the federation should be asked to review its governance functions in order to ensure that the AO and other directors would be able to function effectively.

31. The sub-committee **approved** the recommendation to appoint the AO with these assurances.

32. SPD confirmed that the recommendation to the sub-committee was to authorise each of the four CCGs with conditions.

33. The sub-committee **approved** the authorisation each of the four CCGs within the Berkshire West federated CCGs conditions.

Item 5 – summing up

34. VA concluded the sub-committee meeting, noting the impressive nature of the programme, and commending the excellent staff and the leadership that had been demonstrated. On behalf of the sub-committee, he congratulated the authorisation team on getting the NHS CB and the CCGs to this stage.

Item 6 – Any other business

35. VA expressed an interest in a demonstration of the KMS system, and this was arranged immediately following the meeting.

36. No other business was raised.

37. The sub-committee will next meet on 18 January 2013 to consider their authorisation decisions for CCGs in wave two.

ANNEX B

NHS COMMISSIONING BOARD
CCG AUTHORISATION SUB-COMMITTEE

Minutes of the Wave Two CCG Authorisation Sub-committee Meeting
18 January 2013 | Maple Street | London

Present:

- Lord Victor Adebowale (VA) - Non-executive Director (Chair)
- CiaránDevane (CD) - Non-executive Director;
- Naguib Kharaj (NK) - Non-executive Director;
- Paul Baumann (PB) - National Director of Finance;
- Ian Dalton, Chief Operating Officer (via VC from Newcastle);
- Jane Cummings, Chief Nursing Officer (via VC from Leeds);
- John Bewick (JB) - Director, CCG authorisation (deputising for Barbara Hakin).

Apologies:

- Dame Barbara Hakin (BH) - National Director: Commissioning Development;
- Professor Sir Bruce Keogh (BK) - National Medical Director.

In attendance:

- Dr Sarah Pinto-Duschinsky (SPD) - Head of CCG authorisation;
- Keziah Halliday (KH) - Head of CCG authorisation governance;
- Louise Norton-Smith (LNS) - CCG authorisation policy lead;
- Gerard Hanratty (GH) - Partner, Capsticks Solicitors LLP;
- Dan Burke (DB) - Director, PriceWaterhouseCoopers LLP;
- Kathy Nelson (KN) - Independent moderator, head of assessment, PriceWaterhouseCoopers LLP.

Item 1 – Welcome

1. Lord Victor Adebowale (VA) opened the meeting and welcomed panel members.

2. VA presented the minutes of the previous meeting to the sub-committee. One amendment was requested: that paragraph 16 (page 5) should now read that the "sub-committee requested that the papers are to confirm that PriceWaterhouseCoopers (PwC) and Capsticks Solicitors have provided the contracted services, and that these revised papers be presented to the wave four sub-committee meeting."

3. All other aspects of the minutes of 5 December 2012 were approved by the sub-committee.

4. Turning to matters arising, VA requested an update on Liverpool CCG following the sub-committee's decision on 5 December 2012 to defer it to a later wave.

5. Sarah Pinto-Duschinsky (SPD) confirmed that Liverpool CCG has presented additional evidence, and the authorisation team are now in a position to be able to complete their assessment. The CCG will return to the sub-committee for authorisation at wave four.

6. No other matters were arising.

Item 2 – Overview of wave two CCGs

7. Following VA's invitation, SPD presented item two, an overview of the wave two CCGs to the sub-committee.

8. SPD outlined that the quality assurance mechanisms, as presented to the sub-committee's wave one meeting in December, had continued to underpin the authorisation process. In addition to their quality assurance roles, both PwC and Capsticks Solicitors also provided more general support and advice.

9. This sub-committee would be presented with 67 CCGs in this wave. SPD presented the following key facts:
    a. The percentage of green rated criteria coming out of desk top stage, ranged from 43% to 89%, a much larger range than seen in wave one.
    b. Wave two CCGs demonstrated better sign-posting of their evidence portfolios;
    c. Following desk top stage, 17 CCGs were in a higher risk category, meaning that they were then carefully monitored throughout the assessment process. Ten of the original 17 remain in the higher risk category at the end stage of the process.
    d. Strengths and weaknesses seen in wave two mirror the findings of wave one. Domains 3 (clear and credible plan) and 5 (collaborative commissioning) continue to prove the most challenging whereas CCGs are fulfilling clinical leadership criteria with more success.
    e. There has been less progress made between desktop and site visit for wave two CCGs, compared to the previous wave. This may be explained by the more limited time frame between the two stages for wave two.
    f. Six CCGs had achieved 119 greens following site visit, with three of these maintaining this coming out of moderation panel (and one turning their only red to green through moderation). Six CCGs had over 20 red-rated criteria after site visit.
    g. A number of CCGs had greens turned red at site visit due to conflicting evidence. The guidance issued by the first moderation panel was available for site visit panels by wave two, and as such, changes were made directly at site visit rather than retrospectively at moderation panel.

10. SPD drew the panel's attention to the challenges encountered by CCGs in relation to clear and credible plans. The following points were discussed:
    a. The NHS CB had issued guidance on what constituted a clear and credible plan to CCGs within the applicants' guide.
    b. The clear and credible plan has been a consistent part of the tests applied to CCGs as part of authorisation.

c. Only two CCGs were able to demonstrate full compliance with the clear and credible plan criteria coming out of desktop stage.
d. Every CCG had a key line of enquiry at site visit stage around plans, financial planning, and capacity and capability.
e. 7 CCGs in wave two remain red on key planning criteria. This is consistent with outcomes from wave one.

11. Turning to the theme of shared management and federations, SPD explained that whilst a number of CCGs in wave two were working closely together, none has arrangements that constitute a formal federation. The collaborations extend to the sharing of an accountable officer (AO), a chief financial officer (CFO), other senior management roles and/or working together on key provider arrangements.

12. Responding to VA's question as to the definition of a formal federated arrangement, SPD explained that it is determined by the depth and breadth of shared arrangements. The CCGs presented in wave two are found in the middle of a spectrum between working independently and working as a full federation.

13. SPD outlined the specific tests applied where AOs and CFOs are shared between three or more CCGs. The authorisation process looks at whether the CCGs' arrangements mean that these shared management functions can service multiple governing bodies and audit committees. Assessment outcomes are reviewed together to remove any inconsistencies between these CCGs, and to ensure that any variation in results reflect real differences in the CCGs' performance.

14. Presenting the theme of commissioning support services (CSS), SPD explained that the authorisation process was again looking for CCGs to clearly articulate their 'build, buy, share' arrangements. Evidence for a detailed MoU and/or an SLA with their commissioning support unit (CSU) was needed, as was proof of CCGs' capacity and capability to manage arrangements internally. Although nearly 80% of CCGs were not able to articulate their arrangements at desktop stage, the majority were able to present them at site visit. Only three CCGs in wave two have significant in-house arrangements.

15. In regard to quality, SPD outlined that wave two CCGs performed less well at desk top than wave one. The majority of CCGs in this wave had key lines of enquiry related to quality at site visit. However, only a small minority of CCGs still had quality issues to rectify.

16. Other key points made included:
    a. No failures had been identified in the self-certification testing at site visit.
    b. No particular issues were raised by CCGs concerning site visits. Feedback from the majority of CCGs has been very positive.
    c. No changes were made to the moderation and conditions principles set at the first meetings of these panels. The authorisation team has continually updated the advice given to key assessors and panel chairs concerning these principles.

17. Continuing with her presentation of the regional review, SPD highlighted that:
    a. The regional review period has continued to be a success. For wave two, the CCGs were split into two groups. All but the four of the wave two CCGs recommended for full authorisation by the moderation panel were assessed through the regional review.
    b. The same regional review key principles were applied for wave two as had been established for wave one: the planning criteria of 3.1.1B and C were excluded from review, as were criteria holding a level III support level or above. The regional operations directors have had the opportunity to use their discretion on the latter exclusion. Where this has occurred, an exception report has been presented to the chairs of moderation and conditions panels for review and agreement.
    c. The panel chairs upheld the regional recommendations in all but one case, where discretion had been used to assess a red on 3.1.1B. The chairs felt the planning criteria needed to be reviewed as a whole as part of the planning round.
    d. 546 potential conditions held by wave two CCGs were reduced to 252 conditions following regional review. It has therefore proved an effective way of managing some lower-level potential conditions where the passage of time has allowed for progress to be made by CCGs.
    e. The average number of conditions per CCG has dropped from eight to four.
    f. The number of CCGs recommended for full authorisation has increased from four to 19.
    g. Medway CCG and Herts Valleys CCG had the highest number of reds. Both CCGs had a significant number of conditions at a level III support level
    h. The majority of changes have been related to the appointment of the nurse and/or doctor to the governing body, the ratification of safeguarding policies and the formalisation of collaborative agreements between CCGs.

18. SPD explained that some CCGs still had to fulfil 1.3B (appointment of registered nurse and/or secondary care clinician to the governing body). Where this was proving particularly challenging to a CCG, the regional operations director had increased the relevant support offer.

19. In response to VA's question as to whether the difficulties lay with the appointment of both the nurse and the secondary care clinician; SPD stated that it was very varied across the wave. The nurse appointment had generally been satisfied. The secondary care clinician was more challenging.

20. Jane Cummings (JC) reiterated the importance of the position of a registered nurse on the governing body. These appointments are a clear indicator of the CCG's commitment to multi-professional clinical leadership.

21. Concluding her oral presentation, SPD clarified that the wave two sub-committee would be asked to reflect on and approve the use of directions for the first time. Under the powers held by the NHS CB, directions are being recommended for three CCGs who require more extensive support in the

discharge of their functions. SPD confirmed that the authorisation team had considered that directions were appropriate having exhausted all other possibilities, that the capacity and capability of other CCGs being asked to assist had been assessed, and that such CCGs were ready and willing to help.

22. SPD reiterated that the NHS CB has the power to vary the terms of a direction at any review point and that it has the obligation to remove a direction as quickly as is deemed safe and possible.

23. Finalising the discussion, the following points were made:

    a. For a direction that proposes the involvement of another CCG, Dame Barbara Hakin (BH) had asked for clarification of the legal definition of the term 'lead commissioner.' The relevant direction includes a definition of what is meant by the term, for the avoidance of doubt.
    b. The authorisation team confirmed that it was confident that the moderation panel principles applied in wave two were consistent with those applied in wave one. Ian Dalton (ID) as chair of the conditions panel had sought assurance at each panel meeting that offers of support were also consistent.
    c. ID confirmed that where there had been questions surrounding the compliance of CCGs with the Act, a level III had been imposed to allow for Board sign-off. The 'case law' created during wave one has been applied to wave two CCGs as necessary.
    d. NK asked for clarification surrounding the public nature of directions where these are given. SPD confirmed that the directions letters would be made public along with the authorisation letters.

24. SPD was then invited to present the wave two case studies, focussing on the progress of Nene and North Lincolnshire CCGs through the assessment process.

25. The sub-committee was satisfied by the methodology discussed within the presentation and had no questions in this regard.

26. As such, the sub-committee resolved to **note** the themes and issues for the wave and how the authorisation process had addressed these.

Item 3: Wave 2 CCG Applications - Decisions on Authorisation

27. VA invited SPD to present the 67 CCGs for authorisation to the sub-committee. SPD explained that wave two would be presented in two main groups - CCGs recommended for full authorisation and CCGs recommended for authorisation for conditions. The three CCGs recommended for directions would then be presented individually for consideration.

28. SPD made the following key points in her introduction to the first group:
    a. 19 CCGs were being recommended for full authorisation, four of which were recommended directly by the moderation panel.

b. Some CCGs working closely together were also together in this first group (for example Bradford City and Bradford Districts). There were also some CCGs (for example Ealing) where their collaborative partners were not being recommended for full authorisation. In the latter cases, the moderation panel had been content that the variations were due to real differences in progress and achievements of the CCGs in partnerships.

29. In responding to VA's question on how development issues would be monitored post-April 2013, SPD explained that post-regional review, CCGs were being asked to finalise a rectification plan for all outstanding criteria. These plans set out actions to be undertaken by the CCG in order to achieve as-yet unmet thresholds and were being signed off by the area teams. They would primarily be monitored by the operations directorate at regional and local levels.

30. Paul Baumann (PB) confirmed that the most common issue to date was around the clear and credible plan, including finance and QIPP, and that by March, all CCGs where this was still outstanding would have a clear action plan. He reiterated that the NHS CB has the capacity to support this, with collaboration between the operations and finance directorates now overseeing the process.

31. ID underlined that following the sub-committee's authorisation decisions, support for CCGs transferred from the central authorisation team to the mainstream operations teams. This sets the agenda for future conversations between CCGs and operations, which has thus far proved to be a seamless transition.
32. The sub-committee **approved** the full authorisation of these19 CCGs.

33. SPD referred the sub-committee to the CCGs recommended for authorisation with conditions: The following points were made:
    a. Brent and Harrow CCGs work collaboratively with Ealing CCG. The authorisation team were satisfied that the differences between the CCGs justified the difference in outcomes.
    b. These three CCGs form one of two groups in North West London. Both groups had initially proposed shared remuneration and audit committees, which are not permitted. All CCGs concerned were able to put forward alternative plans compliant with legislation during the additional evidence window. The need for conditions in this regard had therefore been removed.
    c. Cambridgeshire and Peterborough CCG had had its significant in-house CSS plans reviewed in depth and was found to be compliant.
    d. Dartford, Gravesham and Swanley CCG was reviewed alongside Medway CCG as explained in item 2.
    e. Leeds North, Leeds South and East and Leeds West CCGs were reviewed in detail to ensure consistency. Level III support was offered as appropriate, noting Leeds North had the role of lead commissioner for the three CCGs in regard to Leeds Teaching Hospitals NHS Trust.
    f. The regional operations director (North) had been able to reflect improvement in Leeds North due to the substantial new evidence it presented for regional review. This decision was reviewed by BH and ID and upheld.

g. Vale Royal CCG had had discretion applied to the assessment of 3.1.1B. This was the only regional decision that was not upheld and therefore the CCG remains red on this criterion.

34. NK requested reassurance that with 17 reds, Coastal West Sussex did not also require directions. SPD confirmed that their conditions had been imposed with support offers at levels I and II as the CCG's reds were linked to the need for more time rather than anything more fundamental.

35. VA asked the sub-committee if it was in a position to be able to uphold the recommendations for authorisation with conditions for the 45 CCGs presented in this group.

36. The sub-committee **approved** the authorisation these 45 CCGs with the conditions and support offers as outlined.

37. SPD referred the sub-committee to the papers concerning the three CCGs being recommended for authorisation with directions.

38. Beginning with Nene CCG, SPD covered the following points:
    a. Nene CCG has been challenged through its understanding of evidence gaps.
    b. A direction is being recommended linked to six conditions on planning and commissioning, particularly that of acute commissioning.
    c. The CCG is considered to have the capacity and capability to discharge any of its other conditions without directions and through a solid rectification plan.
    d. If the CCG was later found to not be compliant with the direction, the level of intervention could be reviewed and increased. However, continuing dialogue aims to mitigate such an increase.

39. The sub-committee **approved** the authorisation of Nene CCG with conditions and directions as proposed.

40. Moving to Herts Valleys CCG, SPD explained that there had been concerns about the CCG's capacity and capability. The site visit panel had also expressed concern over the plans and off-pace governance arrangements, which led to an on-going conversation between the CCG and the regional and local teams.

41. The following issues were also covered when discussing Herts Valleys CCG:
    a. The CCG's site visit response had not focussed sufficiently on an action plan for rectification.
    b. The CCG's understanding of its outstanding issues has increased as it has moved through the authorisation process.
    c. Dialogue with the Chair has been positive and helpful.
    d. An interim AO is in place and the NHS CB will support the CCG in its appointment process for a substantive AO.
    e. Two directions were proposed: one concerning planning and one concerning the appointment of the CCG's accountable officer.

42. NK asked for clarification around the special arrangements for appointing an AO, as the NHS CB already had the duty to approve AO appointments. SPD explained that in this case, the NHS CB would become more involved in the actual recruitment and selection process before approving the final candidate.

43. The sub-committee **approved** the authorisation of Herts Valley CCG with the conditions and two directions, with the caveat that the direction be reworded to include the involvement of the NHS CB in the shortlisting and final decision-making for the AO appointment.

44. SPD moved to present Medway CCG as the final CCG recommended for directions.

45. The following issues were covered during the Medway CCG presentation:
    a. The CCG had 30 red-rated criteria going into regional review. With additional evidence, the regional team had removed the need for six of these and the CCG was therefore presented with 24 proposed conditions.
    b. Two of the conditions were being linked to a condition around financial planning and strategy
    c. The CCG had a challenging financial position in a challenging financial context. However, it benefitted from having a very experienced chief financial officer in post.
    d. The outstanding issues were related to the governing body requiring a more substantial grip on its financial challenges.

46. PB explained to the sub-committee that the very latest information he had received from the regional team was that the CCG had made progress with its financial issues but that the issue of needing a more substantial gripwas still applicable.

47. The sub-committee discussed the possibility of amending the draft direction to focus more on the building of the governing body's financial capacity and capability.

48. As such, the sub-committee **approved** the authorisation of Medway CCG with 24 conditions and one direction.

Item 4: Summing up

49. VA thanked the authorisation team for their hard work on wave two CCGs and on behalf of the sub-committee stated that they continued to be impressed by the due diligence shown.

Item 5: Any other business

50. No other business was presented. The date for the next sub-committee was confirmed as 15 February 2013.

Addendum 1

51. On Tuesday 22 January 2013, an administrative error was noted with regard to Coastal West Sussex CCG. The Chief Operating Officer briefed the Chair on this error, concerning an incorrect number of conditions for Coastal West Sussex CCG. The Chair confirmed his intention to issue a Chair's action. This action includes the reissuing of the authorisation decision to Coastal West Sussex, to be authorised with 9 conditions. A formal report will be provided to the next meeting of sub-committee on 15 February 2013.

52. Coastal West Sussex CCG were informed of this decision on 24 January 2013 and the relevant letters and reports were reissued via the knowledge management system on the same day.