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Key issues for Clinical Commissioning Groups

Issue 4

Our fourth briefing paper summarises the current key issues facing the sector and the solutions being adopted across the country, drawing on sector insights as the external auditor to around 40% of clinical commissioning groups (CCGs)

Top ten issues

Many of the issues from our February bulletin, not surprisingly, remain. The main change is that 'strategic change has risen in importance in light of the 'NHS five year forward view'.

1 **Financial pressures and underlying deficits in future years.** 19 CCGs (9%) reported an overspend against allocation in 2013/14 and a slightly greater number are reporting potential overspends in 2014/15. However, there is a mixed picture with some health economies reporting a balanced picture. We set out in our second bulletin more detail on good practice financial reporting.

2 **Ensuring commissioning support services are high quality and deliver value for money.** CCGs report differing experiences CSUs. A number of CCGs are questioning whether CSUs are providing the services they require at the right price. We are seeing some CCGs bring services in-house with others re-negotiating contracts or reporting concerns on the viability of CSUs once other CCGs have removed services. NHS England has developed a new Lead Provider Framework agreement for commissioning support services. The framework is intended to enable CCGs to source some or all of their commissioning support need including transactional back office support services. The framework goes live from February 2015 and Appendix 4 sets out details on what CCGs should be doing and how we can help. All CCGs will now have to reach a decision on their 'make share buy' options around commissioning support services. CCGs have recently received CSu service auditor reports and CCGs and their internal and external auditors will wish to consider any actions they need to take as a result.

3 **Better Care Fund.** CCGs have submitted revised plans for the Better Care Fund. Appendix 1 includes a summary of our review of original pans. The challenge remains to make the plans work by building positive working relationships between CCGs and local government at a local level. We are keen to use our unique position of working with both CCGs and local government to facilitate local discussions to assist the process of both building relationships and reviewing plans to manage the transition from existing arrangements to more integrated relationships. We have already facilitated workshops in a number of areas CCGs and local government. This area could also create some fairly complex accounting issues and we are happy to assist you working through these.

4 **Capacity of CCGs.** The capacity of CCGs is stretched by the agenda CCGs are managing. CCGs are investigating options to address the capacity including using the legislative reform order to create 'mergers' or 'joint committees'.

5 **Provider trusts.** Concerns continue to be raised on the financial stability and performance against contracts of provider trusts. An increasing number of CCGs are reporting that they have un-signed contracts with their providers. Not surprisingly, these issues are translating into relationship difficulties in some areas. In addition CCGs are also expressing concerns on the quality of care and performance, such as difficulties achieving the four hour waiting time target for Accident and Emergency. Many CCGs have raised concerns over the quality of data they receive from trusts they commission from and the difficulties this presents in managing the contracts. CCGs are increasingly considering their role in addressing these concerns.

6 **Delivery of QIPP schemes.** Some CCGs continue to struggle to deliver planned QIPP schemes. There is some desire to see good practice examples of identifying and managing QIPP schemes more successfully. More details on managing QIIP schemes and ways in which we can assist were set out in our first bulletin.

7 **Strategic review and redesign of health and social care services.** These are major issues in many areas across the country, as the need for service transformation has become widely acknowledged. Examples of such reviews are the Worcestershire Joint Services Review.

8 **Co-commissioning of primary healthcare.** NHS England is giving CCGs the opportunity to addume greater power and influence over the comissioning of primary medical care from April 2015 and each CCG needs to decide how it will respond. We have seen a large amount of interest to date. Primary care co-commissioning is one of a series of changes set out in the 'NHS five year forward

view' and is potentially a key enabler in developing integrated out-of-hospital services based around the needs of local populations. It will also potentially drive the development of new models of care such as multispecialty community providers and primary and acute care systems. The document 'Next steps towards primary care co-commissioning' provided three models CCGs could take forward:

1 greater involvement in primary care decision-making
2 joint commissioning arrangements
3 delegated commissioning arrangements.

Applications are to be made in January 2015 with the aim of supporting as many CCGs as possible to implement arrangements by 1 April. Draft governance arrangements have already been developed for joint and delegated arrangements. Conflicts of interest will need to be very carefully managed and a national framework for conflicts in this area was published as statuatory guidance in December. Our conflict of interest workshops are a very useful way of preparing yourself to deal with this risk

9 **Governance reviews.** Most CCGs have either carried out, or are considering carrying out, a review of their governance arrangements. Some are completing their reviews in-house, while others have considered the benefits of an external view. Our governance review process offers objectivity, insight and best practice. Several audit committees have challenged their effectiveness in fulfilling their governance role and are taking action to address this, such as the appointment of lay members with a financial background. In February we will be publishing our fourth annual NHS governance report which summarises our conclusions on the current state of NHS governance and includes good practice from our large CCG client base.

10 **Strategic planning.** Commissioners have to balance many competing requirements, one of which is the need to fulfil the vision of the 'Five year forward view'. This is a core requirement in the 2015/16 planning guidance. All CCGS have an opportunity to bid to NHS England for funding to develop and co-design new models of care, creating one of four prototype models. We have the experience to help in many aspects of this process, including the development of a vision and plan for all the organisations involved as well as a financial model

Earlier preparation of financial accounts in 2014/15

The first year of preparing financial accounts was an important issue at all CCGs in 2013/14. In anticipation of this, we issued a joint publication with the HFMA to help non accountants understand CCG financial statements and Bulletin 3 set out a summary of our experience and the learning points.

In 2014/15, the deadline for submission of audited accounts has been brought forward to 29 May 2015. We will continue to support our clients in achieving this earlier deadline by, among other things, the early discussion of issues. We are also running again our popular chief accountants workshops across the country in February and an invitation is attached in Appendix 4

HMRC targeting CCGs

HMRC is now taking a keen interest in CCGs and are reviewing gross payments made by CCGs to general practitioners (GPs) and seeking Pay As You Earn (PAYE) and National Insurance contributions (NIC) and potentially interest and penalties where there should have been withholding. The challenge for CCGs is to demonstrate that they comply fully with the PAYE and NIC obligations. Appendix 2 considers further the matter of payments to GPs

Exploring issues further

The following issues are explored in this bulletin in more detail:

- Appendix 1 – Better Care Fund report
- Appendix 2 – Tax issues for CCGs
- Appendix 3 – Make, share or buy
- Appendix 4 – Chief Accountants workshops

Future bulletins will explore other key issues, but please contacts us in the meantime if you wish to discuss any of the issues raised in this bulletin, or talk through any emerging issues at CCG

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Appendix 1

Pulling together the Better Care Fund

Summary messages from our September 2014 report: 'Pulling together the Better Care Fund' November 2014

In June 2013, the Government announced that it would transfer £1.1 billion to social care in 2014/15, building up to a £3.8 billion pooled budget in 2015/16. The aim is to ensure that health and social care services work more closely together and stimulate transformation of services to improve health and social care outcomes through integrated care.

The fund should align with the local joint strategic needs assessment and be an integral part of the CCG's five year strategic plan and two year operational plan.

Although the legislation under which funds are pooled is not new, the Better Care Fund (BCF) and supporting requirements are. The time available from introducing the requirements to having plans in place is challenging and comes early in CCGs' existence. The BCF does not bring new additional funds into the health and social care system, rather it brings together funds from the NHS and social care.

BCF plans must be joint and will include at least one local authority and one CCG. In some areas the arrangements will be more complex than others, and will include a number of local authorities with adult social care responsibilities, a number of CCGs and possibly more than one NHS provider.

A total of 151 local area BCF plans were agreed by local health and wellbeing boards (HWBs) by 4 April 2014. On the 5 July 2014 the Department of Health announced in a press release that more than 80% of the BCF plans are on course to transform 'out of hospital' services.

Summary findings

Funding levels

- The amount of funding included within the BCF varies. Minimum levels have been set for the BCF. For the majority the funding levels in 2014/15 and 2015/16 do not exceed the minimum requirements. The number of BCF planning areas that exceed the minimum requirement increased in 2015/16 compared to 2014/15

Strategic planning

- The BCF plans are very high level strategic plans, which set out the vision and aims up to 2018. However, they lack detail, both financial and operational, and are not yet supported by implementation plans
- Implications for NHS trusts – the plans have identified the intended activity/operational impact, such as a 10% reduction in avoidable emergency admissions and 20% (2 day) reduction in the non-elective length of stay, but only 30% of the BCF plans we looked at identified the financial impact for NHS providers

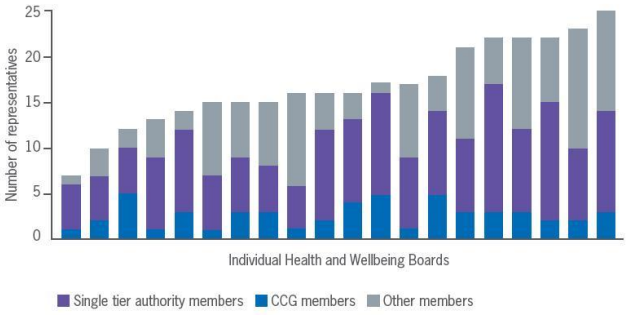
The issue remains as to how costs are taken out of the acute system if activity does not decrease. The Department of Health announced on the 5 July 2014 that further guidance will be issued to address this risk and support the acute sector should avoidable emergency admissions not reduce by 3.5%.

Health and Wellbeing Boards

- HWBs do not have the delegated authority to agree the local BCF plans. Plans first have had to be agreed by the CCG governing body and the local authority full council or cabinet before being reviewed and agreed by the HWB
- HWBs are dominated by the upper tier authority, with an average ratio of three local authority members to one CCG member
- the total membership of HWBs varies from
- seven to 27 individuals
- membership includes the core statutory members
- the extent of other members such as police, third sector and business representatives is limited
- acute trusts were members of only 35% of the HWBs reviewed
- mental health trusts were members of only 12% of the HWBs reviewed

We consider that current membership affects the CCG's ability to influence the HWB's decision making process.

HWB membership – single tier authorities



Partnership working

- The BCF relies on effective partnership working. Our review indicates that there remains a lack of trust between CCGs and local authorities in some areas. This is compounded by limited understanding and concern over how the funds will be spent
- The Department of Health's announcement on the 5 July 2014 may assist in reducing some of the anxiety and support more open and transparent risk sharing arrangements

Monitoring performance

- The BCF plans require performance to be monitored and assessed on both national and local indicators. Reducing avoidable emergency admissions is a national indicator which the Department of Health announced on the 5 July 2014. If the number of avoidable emergency admissions does not reduce, then £1 billion of 2015/16 fund can be spent within the hospitals treating those patients, ensuring the NHS trusts are not destabilised
- The BCF plans lack operational detail and are not supported by implementation plans, while the performance metrics are also high level and require further development
- The role of the HWB in performance monitoring is unclear and many are developing their approach

Cross boundary issues

- For a significant number of BCF planning areas the local authority is coterminous with one CCG. However, this does not taken into account the situation for NHS trusts, both acute and mental health, who are likely to be affected by more than one BCF plan
- Also there are instances where CCGs may also be part of more than one BCF plan, or where a number of CCGs are part of one plan
- The plans need to ensure that interdependencies are considered and that what is agreed in one BCF plan does not have a detrimental impact on the neighbouring health economy and BCF planning area

What needs to be done?

In order to reduce and manage the risks relating to the BCF, CCGs need to:

- develop robust implementation plans based on detailed financial plans
- ensure NHS providers understand the impact, both financial as well as operational. Plans needs to be in place which will first reduce activity and then reduce costs
- evaluate the HWB governance arrangement to ensure that CCGs are able to influence, but also to ensure the HWB is effective and able to add value
- ensure that NHS providers, both acute and specialised such as mental health are engaged in the process
- develop effective performance management based on SMART KPIs which will monitor outcomes and operational delivery

How can we help further?

To assist CCGs in further developing their BCF planning arrangements, we can:

- share our knowledge of good practice and innovative BCF projects
- review the effectiveness of partnership arrangements and HWBs. This could involve the use of our board self-evaluation checklist which can track progress over time and also compare with other HWBs
- review performance management arrangements.

Who should I contact?

To download the full report, please visit www.bit.ly/GTBCF14

If you would like to find out more about how we can support CCGs, please contact:

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Appendix 2

Tax Issues for CCGs

Introduction

Following the introduction of clinical commissioning groups (CCGs) in April 2013, the engagement of general practitioners (GPs), their employment and/or office holder status and related tax issues have been a constant distraction.

Despite the publication in October 2012 of tax and pensions guidance commissioned by NHS England, it appears that tax and National Insurance contributions (NIC) compliance issues continue to arise.

The issues are arguably made worse by both the payment of fees directly to GP practices and the prevalent use by GPs and others of personal service companies (PSCs). It would appear that there is a common misconception that if a CCG contracts with a practice or pays a PSC, rather than an individual, the CCG ceases to have any responsibility for deducting and remitting tax under Pay As You Earn (PAYE) or Class 1 NIC. This may not be the case; office holders and NHS appointees are employees for PAYE and NIC purposes.

Challenges

Due to the large number of variations on the method of payments, HM Revenue & Customs (HMRC) is taking a keen interest, reviewing the payments made by CCGs and seeking PAYE, NIC and potentially interest and penalties.

The challenge for CCGs is to demonstrate that they have complied fully with their PAYE and NIC obligations during the 2013/14 tax year and that they continue to do so.

In addition, Monitor is now carrying out reviews at NHS bodies following the tightening of the anti-avoidance rules on 'off payroll' appointments announced by the Treasury in May 2012. The revised rules were set out in Sir David Nicholson's letter of 20 August 2012 and took effect, for all NHS bodies, from October that year

These new, tighter, rules are being monitored carefully and any organisation that does not comply can be fined. Indeed, we have already seen fines of over £1m for the Land Registry and £400,000 for the Department of Transport. An investigation by Monitor, ordered by the Treasury, revealed that 30 NHS trusts were still breaching those rules. It found that 86 senior executives on service contracts, working in 21 different trusts, had been asked to provide assurance about their tax situation but those assurances had not been given.

How we are assisting CCGs

We can undertake an employment status/office holder review to identify non-compliance and help you to rectify this. Where, as a consequence of such a review, a voluntary unprompted disclosure is made to HMRC, this can have a positive impact on both penalties and risk-profiling.

By introducing robust procedures for the engagement of office holders – and senior appointees – the CCG can ensure that tax compliance is achieved without risk to the budgeting process.

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Appendix 3

Make, share or buy

Getting better outcomes from your commissioning support services

As the lead provider framework moves closer to being launched in the first half of 2015, many of our CCG clients are revisiting the decision about how and from whom they access their commissioning support – this is the 'make, share, buy' decision. For the best performing CCG this is a routine part of the business planning and review process. What we see at these clients is a robust process in place to support the make, share or buy decision, and having this in place goes a long way to alleviating a number of the top ten CCG issues noted earlier.

CCGs must get 'business ready' if they are going to be able to continue to manage the in year issues, such as RTT and A&E, whilst continuing to develop plans for 15/16 and moving quickly towards making the five year forward view a reality. Careful selection around 'make, share, buy' could facilitate the journey, so it is a less bumpy one.

Process

There is no one single process to determining the right type of commissioning support; it needs to be practical and flexible to ensure commissioners are able to deliver better quality outcomes for patients. The diagram below sets out some of the key elements to consider when undertaking the make, share or buy decision making process:

- Do we want to provide service in-house or buy?
- What is the CCG strategy and is it still valid?

- What is the best business model and how does this compare with the current service provision?
- What alternative opportunities are available in the market?
- If make or buy, do we want to work collaboratively?

- What are the value for money, quality and capability criteria to be considered in making the decision?
- What services require a more in-depth review (business case)?

- Have we undertaken the necessary consultation before finalising the decision?
- Is the right contract in place, and is this supported by a detailed service specification?

- Does the implementation plan set out the right level of control and has it been appropriately resourced?
- Are processes in place to effectively manage service performance?

Critical factors in making the right decision

Drawn from our insight into the market, three factors that deserve significant attention when considering the make, share or buy decision are as follows:

- **CCG capacity to manage the process** – Often several iterations of the configuration of services will be considered and the amount of time required to manage the process is easily underestimated. Senior management time is required along with sufficient consultation time with other internal and external stakeholders.
- **Capability of support and partner organisations –** It is important that CCGs work with partner organisations to form a clear view on the potential benefits and costs of working together, including an consideration of the opportunity cost. In particular CCGs should undertake a robust assessment of the capability of existing and proposed partners to ensure that the best option is selected.
- **Scope of services and service specifications -** Once a preferred option has been selected, having a clear service specification that all parties are fully signed-up to, including a common understanding on what is excluded from the service, will help to ensure that successful service outcomes are achieved. Ensuring smart outcome based incentives are incorporated into the contract will also increase the likelihood of success.

How we can help

To assist CCGs with managing the make, share or buy decision, we offer:

- **workshops with senior CCG managers (and partner organisations if required)** tailored to each CCG, this is a very practical way of working through what the CCG seeks to achieve and what support services may be needed.
- **work with you** to develop and evaluate options, through to developing business cases. This could

involve helping to ensure you apply appropriate methodologies.

- **acting as a critical friend** we provide support as required in advising on and challenging any aspect of the make, sure or buy process.
- **if you choose to buy** we can support you with the process from scoping the services through to contract close. This is relevant whether or not you use the lead provider framework.
- **reviewing the CCGs arrangements to manage the make, share or buy decision** we can review the arrangements that the CCG has in place to effectively manage the process. The aim is to provide external assurance and support so that this process is well managed from the outset.

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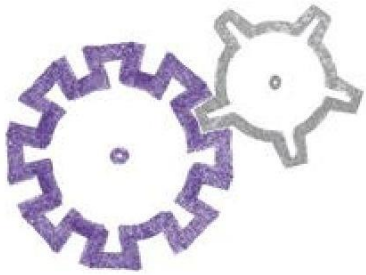
Appendix 4

Accounts workshops for NHS commissioners



I am delighted to invite you to our workshops for preparers of accounts at NHS commissioners. Our workshops are designed and delivered by our highly experienced public sector assurance team.

They will help you prepare for your financial statements by highlighting potential risk areas and giving you the opportunity for discussion and questions.

Amongst the areas we plan to cover are:

- changes to the Manual for Accounts
- key accounting and audit risks including continuing health care, agreement of balances**,** reliance on service organisations
- working with your auditor

If you would like to accept our invitation or send a colleague, please RSVP by 19 January 2015 to Rachel Gidman-Stroh providing a purchase order number and invoice address.

NHS commissioners – preparation of financial statements

When and where?

Eight dates in February 2015 at a choice of venues.

13:30 to 16:30 preceded by a buffet lunch at 12:30.

How much?

£175 + VAT per delegate

How do I book a place?

Please RSVP to:
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E rachel.gidman-stroh@uk.gt.com

Dates and venues	
2 Feb 2015	**Birmingham, Colmore Plaza**
3 Feb 2015	**London, Finsbury Square**
3 Feb 2015	**Manchester, Spinningfields**
4 Feb 2015	**Leeds, Whitehall, Riverside**
5 Feb 2015	**Liverpool, Liver Building**
11 Feb 2015	**London, Finsbury Square**
25 Feb 2015	**Exeter, Devon Hotel (subject to demand)**
26 Feb 2015	**Bristol, Hartwell House**

Yours sincerely

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