



Title:	Strategic Partnership Board following publication of the London Health and Care Devolution Memorandum of Understanding (MoU)
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Strategic Partnership Board

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1. Purpose

1.1. With the signing of the London health and care devolution MoU, the London Health and Care Strategic Partnership Board (SPB) now needs to reach agreement on two types of development in its work programme and working methods.

- The first relates to changes that the MoU specifies for decision at the point when the MoU is signed.
- The second group of changes concern the work programme that is required as a result of commitments agreed within the MoU. This creates the need for SPB members to discuss and agree their initial approach to decision making with respect to those powers, duties and commitments that flow from the MoU on devolution to London.

1.2. The MoU describes four phases of progression for the SPB, as it transitions from the current initial 'advisory' phase to the eventual 'decision making' phase' in the next financial year. This report describes the context for change and seeks decisions by the SPB on:

- Discussing the approach to reaching agreements that may be best suited to effective partnership working at the SPB. Over the past 15 months the London Estates Board has developed decision making processes which have found to be effective. The SPB is asked to give specific consideration to how it might adopt a similar approach.

- Progressing from the current “Advisory” phase to the second “Strategic Leadership” phase of SPB operation.
- Agreeing a minimum set of reports that will need to be considered by the SPB as a consequence of the commitments made by signing the MoU.

2. Background

- 2.1. In December 2015, London and national partners came together to describe their aim to test opportunities to transform health and wellbeing outcomes, inequalities and services in London through new ways of working together and with the public. Through a programme of collaboration and co-development with the five London devolution pilots, London Partners have recognised that the pace, degree and nature of transformation is likely to vary across different parts of the city and for different health and care functions.
- 2.2. The guiding principles of partnership working are **attached** as appendix one. These principles have guided the devolution work since the initial 2015 Agreements. These principles will now need to underpin how London will approach delivery of devolution as it relates to London’s best use of health and care estate and capital investment, the delivery of better integrated and sustainable health and care services for Londoners and creating a system where more preventative action enables Londoners to live longer, healthier lives.
- 2.3. The London Health and Care Strategic Partnership Board is established under the devolution MoU, which states that it “*will provide strategic and operational leadership and oversight for London-level activities*” and “*emphasise the partnership approach and an agreed strategy for sustainability and transformation built up from local and sub-regional plans*”. The Board met for the first time in shadow form in March 2017. The current Terms of Reference for the Board, which will be published alongside the MoU in their latest forum, were agreed at the first formal meeting, which took place on 24 May 2017.
- 2.4. Furthermore, it is worth noting that MoU formally recognises the London Health Board as providing democratic oversight of the SPB. That relationship will also develop as the SPB matures. The LHB will give consideration to how the model of political oversight will evolve in response to the signing of the MoU and development of the SPB.

3. Current Phase

- 3.1. The MoU makes an explicit commitment to continuing to uphold the principles set out in the 2015 Agreement. For the purposes of this report, two principles are worth particular consideration (**attached; Appendix One**):

- *Subsidiarity – decisions should be taken or influenced locally wherever possible.*
- *London should be involved in all decisions that materially impact on London’s health and care.*

3.2. The Board has been in Advisory phase in preparation for the devolution MoU. Post-MoU, the Board will be expected to move into the second, ‘Strategic Leadership’, phase and to progress over time to take on decision making functions in subsequent phases.

3.3. During the Advisory Phase, we have followed overarching principles, mirroring those set out in appendix 1, described in the SPB Terms of Reference –

- In accordance with the principle of subsidiarity, decisions should be taken or influenced locally wherever possible and at the lowest appropriate spatial level. Functions will only be aggregated to the London level where there is a clear case and it is preferable to all partners to do “once for all” to avoid duplication.
- London should be involved in all decisions that materially impact on London’s health and care.
- Strategy and transformation in London will be co-developed and locally owned, including early involvement of all relevant stakeholders, including clinical leadership and public/patient input.
- London level governance should provide complementary functions to add value to local and sub-regional arrangements.
- All partners will commit to a supportive approach, sharing learning and expertise and thereby maximising transformation resources.

4. Progressing to Phase Two

4.1. Phase two, as described by the MoU, will require to the SPB to *“provide a central point for co-location of current strategic oversight mechanisms. During this phase, the SPB will begin the process of building the London level strategic plan required for effective oversight, support sub-regional areas to develop and implement robust strategies and act as broker for proposals between national partners and local areas. It is envisaged that this phase will be reviewed against agreed gateway criteria for shadow decision-making in early 2018 to determine whether the SPB can move into the next phase.”*

- 4.2. The MoU states that decision making protocols will be developed for the SPB and arrangements kept under review as the SPB matures. Proceeding to phase two, therefore, asks the SPB to come to an agreement about a clearer approach to decision making.
- 4.3. In coming to a view about how the SPB will wish to approach the question of decision making, there is a value in reflecting on the operating model to date.
- 4.4. The process of securing devolution has been a product of London's collective action. It is critical that collective action continues to be embodied in our approach to holding and administering devolved and delegated powers and budgets. The SPB provides the vehicle for this collective action. As the Board enters phase two, the Board will need to consider how it binds itself more closely as a body which is effective in acting through collective decisions.
- 4.5. The approach to decision making will need to evolve over time as the SPB progresses to take on formal functions. This will be vital to ensure London is able to deliver on the commitments in the MoU as well as in supporting health and care leaders in different parts of the city to go further and faster in transforming health and care for the benefit of Londoners.
- 4.6. As described in the MoU, "under the current framework, the SPB will not have statutory or legal responsibilities and will not affect or replace the statutory responsibilities and accountabilities of each partner, or change the operational arrangements for application of budgets. The SPB will also be accountable to the individual partners through their respective membership." This underscores the importance of collective action as some decisions will need to be taken by means of internal delegation to decision makers from constituent organisations, but informed by collective decisions taken within the forum of the SPB. This is the same approach that the Greater Manchester Health and Care Strategic Partnership Board adopts.
- 4.7. The London Estates Board (LEB) has similar underlying governance and provides an example for how the SPB may aspire to act as a partnership. The LEB operating framework describes that "*Decision-making will seek to achieve consensus so far as is possible, while respecting the views and statutory accountabilities of constituent organisations*".
- 4.8. The LEB reports that this principle has been a valuable operating protocol for bringing constituent bodies together in a way which allows for clear a approach to decision making that respects individual statutory accountabilities.
- 4.9. This approach enables decisions where individuals, rather than the collective, will hold accountability. This means that the individuals holding delegated powers and

functions will remain bound by the terms of that delegation, while they will, as part of the collective, agree to ensure so far as possible that the decision of the individual aligns with the collective view of a partnership. The LEB states that in this model “*partners seek to align approaches and achieve consensus decision-making, whilst respecting that member representatives cannot fetter their discretion*”.

- 4.10. In support of this approach to decision making, an additional explanatory note is proposed to the SPB Terms of Reference – “*Partners seek to align approaches and achieve consensus decision-making, whilst respecting that member representatives cannot fetter their discretion. Within the process of formal decision-making each member organisation representative with an interest will take a decision for, and on behalf of, their constituent organisation, so far as they are enabled to do so under the limits of their delegated authority. Member representatives must legally retain the ability to disagree, or revoke decisions (in a timely way that does not undermine the collective approach), so far as would be possible within the current framework. No organisation with an interest can be bound unless the decision has been expressly signed off by their appointed representative*”.
- 4.11. The Board is asked to consider a new principle by which the SPB will operate going into the next phases, along with an accompanying explanatory note, and agree to incorporate such an amendment into the terms of reference.
- 4.12. Subject to agreement on the principle of decision making, the SPB is recommended to approve progression to Phase Two, Strategic Leadership.

5. Action on MoU Commitments

- 5.1. In progressing to Phase Two, the SPB is committed to becoming a central point for co-location of current strategic oversight mechanisms, which will “begin the process of building the London level strategic plan required for effective oversight, support sub-regional areas to develop and implement robust strategies”. The SPB is also expected to act as broker for proposals between national partners and local areas, including in conjunction with and for the London Health Board where appropriate. In due course, a supporting resources paper will need to be received and agreed by the SPB partners to establish how London will deliver the MoU commitments beyond 2017/18 and into 2018/19.
- 5.2. By way of illustration, Phase Two will require the SPB to provide a forum whereby London will collectively agree how it wishes to engage with, for example, the national Accountable Care System programme, which may have implications for how London would deliver integration through the enabling power of devolution, and how London wishes to prioritise the use of devolved Transformation Funding.

5.3. In order deliver against the MoU commitments during Phase Two, appendix two (**attached**) sets out a series of actions which are required by the MoU and, therefore, should be encapsulated in reports prepared and presented to the SPB.

5.4. Collectively, and individually, the reports in appendix two would aim to

- describe the relevant responsibilities which members of the SPB will now take on collectively,
- ask SPB to come to a collective agreement on recommendations to the delegated decision maker to adopt in the forum of the SPB, and
- by reaching agreement, should provide the mechanism for galvanising London to implement devolution at pace.

5.5. This report, for example, is provided to the SPB as the basis for making a collective decision about how to move to phase two. More challenging issues will flow from other reports, and the list will need to be adapted as the SPB makes decisions about its priorities and how it wishes to deliver devolution.

5.6. The SPB is asked to consider the list at appendix two and, subject to any additions and input from the London Health Board in December 2017 or amendments, agree that a work plan be written and presented to the next SPB meeting In January covering the period January 2018 to March 2019. Direction on the work plan and strategy is likely to be sought from the London Health Board when it meets in December.

5.7. The SPB is also asked to agree priority areas for the January SPB meeting. Issues which may need more urgent decision are

- Transformation Funds delegation and distribution guidelines,
- Preferred approaches to sub regional governance and
- New payment models pilot proposals.

6. Recommendations

6.1. The SPB is recommended to –

- Agree to an amendment to its Terms of Reference to insert an operating principle which states “*Decision-making will seek to achieve consensus so far as is possible, while respecting the views and statutory accountabilities of constituent organisations*” alongside an explanatory note as set out in paragraph 4.9.

- Subject to agreement on the decision making, agree to enter phase two, Strategic Leadership.
- Agree that a work plan be written and presented to the January 2018 meeting of the SPB based on the MoU reports which London is required to produce as set out in appendix two.
- Agree that the papers suggested in paragraph 5.7 be prepared for the January 2018 meeting of the SPB.

Memorandum of Understanding – Overarching Principles

All partners are committed to upholding the principles set out in the 2015 Agreement. In particular:

- Subsidiarity – decisions should be taken or influenced locally wherever possible.
- London should be involved in all decisions that materially impact on London's health and care.
- London and national partners will work towards improving outcomes through greater integration and by phased delegation or devolution of decision-making powers to the lowest, most appropriate level. Any such changes will be subject to the 'receiver' demonstrating robust governance and accountability mechanisms and will reflect the statutory accountabilities of individual organisations, nationally agreed principles and criteria for assessment of devolution proposals¹.
- Healthcare services in London will remain part of the NHS. The commitments described in this MoU aim to strengthen health and care in the London area and continue to uphold the NHS values and standards, including the NHS Constitution and other national commitments, ongoing involvement of the public and co-development of plans with local populations.
- National partners are committed to continue a co-production approach with London partners to facilitate ultimate decisions on devolution – both by national partners to devolve and by London to exercise and 'receive' devolved functions. Partners share an expectation that these co-produced solutions will, in time, transform the entire London health and care economy.
- Further devolution or delegation decisions will continue to be subject to careful consideration by national partners, taking into account the needs of people in London and elsewhere and reflecting the principles and criteria agreed by NHS England.

¹ NHS England criteria available at: <https://www.england.nhs.uk/commissioning/devolution/>

Reports Required for SPB Consequent on Signing MoU

Integration:

1. New payment models pilot proposals
2. Primary care commissioning at local level
3. Immunisation and screening arrangements
4. Proposed approach to revenue control totals
5. Streamlined system for regulation involving NHS E& I and aligned with CQC

Prevention

6. Reports from the London Prevention Partnership Board, to include:
 - a. Illegal tobacco team set up proposals
 - b. Aligning obesity guidance amongst London Partners and DfE on uses of sugar levy funds
 - c. Wider co-ordination between London and National partners on obesity
 - d. Progress of work with Committee of Advertising practise on fat, salt and sugar advertising
 - e. Progress of joint activity with DCMS on gaming machines review
 - f. Progress on engagement with HMRC reviews on illegal tobacco its supply chain
 - g. Progress on Haringey work with DH and DWP on preventing unemployment
 - h. Progress on data sharing to support work and health objectives.

Estates

7. Reports from the London Estates Board
8. Consideration of alignment of Estates and Clinical Strategies

Workforce

9. Reports from the London Workforce Board

Governance

10. Transformation Funds delegation and distribution guidelines
11. Potential for joint appointments across NHS E&I
12. Proposals for set up of Partnership Commissioning Board
13. Preferred approaches to sub-regional governance and consideration of further delegation to local or sub-regional areas, subject to robust governance.
14. Consideration of move to Phase 2 of SPB development