

## London Health and Care Strategic Partnership Board

### DRAFT Terms of Reference

#### Context

Health and care partners in London have been on a journey towards greater integration and collaboration for a number of years. In 2014, the London Health Commission set out 64 recommendations in Better Health for London that would see Londoners leading healthier lives. In March 2015, the London partners signed Better Health for London: Next Steps, which set out a series of shared aspirations and actions to deliver them. In December 2015, the key players in London's health and care economy signed the London Health and Care Collaboration Agreement. Through this agreement, these partners committed to work more closely together to support those who live and work in London to lead healthier independent lives, prevent ill-health, and to make the best use of health and care assets. Central government and national bodies backed this vision through the London Health Devolution Agreement, which referenced the London integration ambition [*DN: Can insert reference to the 2017 devolution agreement when signed*].

The aim of London partners is to achieve the widest and fastest improvement in the health and wellbeing of 8.6 million Londoners. Realisation of this aim requires transformation of the way that health and care services are delivered, how they are used and how far the need for them can be prevented. London partners will lead the way to become England's largest urban area to deliver transformation at scale and pace.

The London Health and Care Strategic Partnership Board (the SPB) will provide strategic and operational leadership and oversight for London-level activities, building on national direction such as the Five Year Forward View, and London plans including Better Health for London, but crucially emphasising the partnership approach and an agreed strategy for sustainability and transformation built up from local and sub-regional plans.

Arrangements for London governance have been developed in accordance with the applicable frameworks, including the National Health Service Act 2006 (the NHS Act), and supporting secondary legislation, local government legislation and the NHS England devolution criteria. Each organisation retains its statutory accountabilities; however the SPB enables all stakeholders to collaboratively shape for future of healthcare in London in accordance with priorities that best serve the interests of the London population.

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## 1. Vision and objectives

The vision for the SPB builds on the shared commitment of the membership to deliver on the 10 aspirations to promote health and wellbeing set out in Better Health for London: Next Steps<sup>1</sup>.

The SPB's vision is to enable the London system to achieve transformation of health and care at pace and scale, in a way that is shaped collaboratively by all partners and delivers tangible improvements in the health and wellbeing of all Londoners.

The SPB will not have statutory or legal responsibilities under the current framework, and will not affect or replace the statutory responsibilities and accountabilities of each partner.

The SPB will provide strategic leadership to the health and care system through the following functions:

- The SPB will **streamline strategic and operational groups which currently exist to enable health and care collaboration**, in order to provide a forum for all London partners to explore common challenges, discuss and co-develop the shape of health and care in London. To reduce duplication, the following groups and their functions will be streamlined into the SPB:
  - London Health Chief Officer Group (coordinated officer leadership across London's health and care system).
  - London Health and Care Integration Collaborative (coordinated leadership from health and social care to champion and drive forward progress on integration).
  - London Planning Board (coordination and oversight of the STP process in London).
  - London Health and Care Devolution Programme Board (DPB) (London-level coordination of health and care devolution) [*DN: the DPB will continue to operate during 2017, meeting quarterly*].
- The SPB will **increase collaboration and integration between all stakeholders, and particularly focus opportunities to join up health and care partners**. With increasing emphasis on Health and Wellbeing boards, the Better Care Fund, New Models of Care and STPs, the health and care system is working more closely together – at all spatial levels and in strategic and operational terms. The SPB will build on London's strong foundation of joint working, and will support local and sub-regional areas to develop effective governance structures to encourage collaborative working. Improved collaboration and accountability will enable more ambitious joint working and help achieve shared aspirations and objectives. The SPB will ensure that health and care strategy in London is built with the necessary clinical and public involvement from the early planning stages.
- The SPB will **provide strategic assessment of activities across the city, enabling whole system strategic planning and prioritisation, where appropriate**. Given city-wide health and care challenges and opportunities, there are instances when strategic assessment of activities may be beneficial across the health and care system (e.g. developing a health inequalities strategy and evaluation of progress against the Health Informatics Service (HIS) and the 10 ambitions<sup>2</sup> for London).
- The SPB will **ensure that policy which impacts on London health and care is jointly owned and built on the basis of local and sub-regional plans and priorities**.

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<sup>1</sup> <https://www.london.gov.uk/business/better-health-london-next-steps>

<sup>2</sup> London Health Commission: Ambitions for London

- Where the applicable frameworks enable policy to be locally developed, the SPB will act as a forum through which London partners can ensure complementarity of London strategies. The SPB will **provide oversight of London-level governance structures and workstreams**, including the Partnership Commissioning Board, Workforce Board, London Estates Board and STP/pilot governance arrangements. It is anticipated that the SPB will receive regular updates from these groups, and representatives will take decisions to approve devolution business cases within the forum of the SPB. The SPB will provide oversight of the STP process, and will support STP and local areas to develop governance arrangements, in order to take on delegated or devolved powers at a more local level, in accordance with robust business cases.
- Where London is required to comply with nationally applicable policy, the SPB will support local and sub-regional areas to comply with national requirements in the way which best serves local populations. For example, the SPB will take on the role previously exercised by the Integration Collaborative in promoting and supporting local areas achieve the integration agenda.
- The SPB will **act as the advocate for the London health and care system**. In discussions with central government and national bodies, London partners need to demonstrate a compelling shared position with political support. In the initial stages, a core role of the SPB will be to act as the advocate for pilots through the process of negotiating the draw-down of powers with central government and national organisations. Where national policy impacts on London health and care, the SPB will provide a communication channel with national partners to ensure that London is properly represented in these discussions.
- The SPB will ensure **sharing of learning across the London system**. There are a number of innovative and successful initiatives within London which are having a real impact on the transformation of health and care. The SPB will support the recognition and sharing of learning, to avoid duplication of work and enable transformation to move faster.
- The SPB will **provide ongoing assessment of the benefits and outcomes of devolution at different spatial levels within London, and share learning**. The SPB will keep the developing London system under review, collate data on outcomes, evaluate progress and disseminate learning within the system.

## 2. Overarching principles

The members of the SPB are committed to upholding mutually agreed principles:

- 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 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.

### 3. Membership, Chairing and hosting arrangements

#### Membership

There is a need to ensure that the SPB membership is appropriately balanced across all areas of its responsibility and has a clear line of sight across London. It is expected that membership of the SPB will mature as London continues on its journey to greater autonomy, and membership will be formally reviewed in September 2017. Membership and governance arrangements will also be reviewed as and when delegated or devolved responsibilities are taken on to ensure probity and address any arising conflicts of interest.

The core membership will include representatives from the following organisations or groups:

- Three leads from each **STP** (comprising of a CCG, borough and provider representative for each of the five London STPs)
- **London Councils**: One representative
- **London CCGs**: One representative
- **GLA**: Two representatives
- **PHE**: Regional Director
- **NHS England**: Two representatives including one Regional Director
- **NHS Improvement**: Executive Regional Managing Director
- **Care Quality Commission**: Regional representative
- **Health Education England**: Regional representative
- Third sector and patient groups

Representatives will be appointed by their constituent organisation.

In addition to the above core membership, representatives from other London and national partners will be in attendance. It is also expected that the SPB will invite additional individuals or organisations to attend meetings on an ad hoc basis, where their expertise is required to either facilitate discussion or inform/support decision-makers.

Members of the SPB have a collective responsibility for the operation of the SPB and are expected to attend all meetings. They will participate in discussion, review evidence and provide objective expert input to the best of their knowledge and ability, and endeavour to reach a collective view.

#### *Patient groups*

It is appreciated that there is no single person who can represent the patient voice on a London level; and the patient voice will continue to be engaged at local and sub-regional level, through Health watch and other mechanisms. However, it is vital that the residents of London are engaged with the both the strategic vision and decision making process. Therefore the SPB will consider in the initial phase how public and patient engagement can most effectively be collated and reviewed on a London-wide level.

#### *Third sector*

There is no single organisation that serves to represent the views of the sector at a London level. Partners will consider in the initial phase how voluntary sector representation could be provided consistently within the forum of the SPB. *[DN: SPB noted the need to ensure voluntary sector involvement]*

### *Clinical representation*

There will be a standing invitation to a representative from the London Clinical Senate. *[DN: partners to discuss the best mechanism of ensuring clinical representation. It is anticipated that an invitation to the Clinical Senate will be issued during the first phase of the Board]*

### *Providers - Primary and secondary care*

Provider representation is a particularly important part of the SPB membership and reflects London's commitment to collaboration and co-design. The SPB members will all remain aware of the fundamental need to maintain the commissioner/provider split. Providers will not take commissioning decisions, and the SPB will keep the potential for conflicts under constant review.

It is anticipated that primary care engagement will take place at local and sub-regional level; however the SPB is also conscious of the need to ensure primary care representation within its forum. Initially, this representation will be provided through the STP representatives who will engage with primary care providers through local/sub-regional provider fora. Going forward, the SPB will consider if there is a need for further representation to ensure adequate engagement with this group.

### *Private sector*

The SPB membership includes representation from NHS providers, who represent the widest cross-section of service users. Engagement with private providers will take place locally and be fed up through the STP representatives in this first instance.

Members will comply with the standards of business conduct and conflicts of interest provisions at section 11.

### Chairing Arrangements

The SPB will be co-chaired by the London Regional Director of NHS England and the Chief Executives' London Committee (CELC) Health Lead.

The Co-Chairs are subject to the following appointment process:

- **Eligibility** – One Chair will be a London NHS representative, and one will provide representation from London local government.
- **Appointment process** – The Chairs are to be appointed by the membership organisations, acting by consensus, by way of agreement to the terms of these ToR.
- **Term of office** – The Chairs shall remain in post until they resign or are removed from office.
- **Grounds for removal from office** – The Chairs may be removed from office by the member organisations, acting by consensus.

### Hosting/secretariat arrangements

The SPB will operate as a forum for a number of partner organisations, whose collaboration will be required for effective and efficient functioning. The SPB will be hosted by the Healthy London Partnership (HLP). The host will perform a secretariat role, which will include:

- Scheduling meetings;
- Agreeing the meeting agenda with the Chairs and circulating ahead of the meetings;
- Developing or collating papers where required for the meeting and circulating in advance of the meeting;

- Taking minutes of the meetings and recording agreed actions; and
- Ensuring actions arising are carried out and reporting back on progress.

The host will provide facilities and premises for the meetings and any staff who work for the SPB.

The host is responsible for recruitment of staff and for hosting any seconded staff. Termination costs of seconded staff will be borne by employing authorities. The host will also be responsible for procurement, which will be undertaken in accordance with their governance procedures.

Financial reporting will run through the host, who will prepare a budget for all phases. London partners will agree how that budget is funded. The host will also provide financial information on the cost of the SPB and financial reports for the SPB, Partnership Commissioning Board and the Strategic Delivery Group. Any expenditure chargeable to a particular organisation (for example, NHS England) must be supported with an annual audit statement from the host. The cost of the auditors will be allowed for in the budget of the SPB.

#### **4. Meetings**

##### Frequency of meetings

The SPB will initially meet every six weeks. The frequency of meetings will be reviewed by the SPB members in June 2017.

The SPB will be supported by a Steering Group.

##### Calling meetings

The Chairs can call an ordinary meeting of the SPB at any time by giving all the member organisations required to attend at least twenty-one (21) days' notice. It is expected that member organisations will work collaboratively and approach the Chairs to call a meeting where necessary. The exception to this is the first meeting, which will be called at Chairs' discretion.

When the Chair of the SPB deems it necessary in light of the urgent circumstances to call an exceptional meeting at short notice, the notice period shall be such as s/he shall specify.

Every notice calling a meeting must:

- Specify the place, day and time of the meeting and the general nature of the business to be transacted; and
- Set out in full any recommendations and/or decisions to be made (so far as these are known), and the members who will be required.

A full agenda and supporting papers will be sent to each member representative no later than 7 days before the date of the meeting.

##### Attendance at meetings

A representative from each member is expected to attend all scheduled meetings. Members will make every endeavour to ensure consistency of representation.

Quorum will be as follows:

- To issue non-binding recommendations and guidance, members agree that one representative from each member organisation will be present in order to ensure that the recommendation issued properly represents the London view.
- For formal decision-making to take place within the SPB forum, it will be necessary to have the representative from each organisation required to take a formal decision, with the necessary delegated authority.

### Minutes

All meetings will be minuted to represent those present, apologies, matters discussed, decisions made, actions to be taken and by whom.

The minutes will clearly set out the mechanisms by which recommendations and decisions have been taken (e.g. “consensus recommendation”, or “decision-maker for NHSE formally took decision to...”).

### Admission of the public

It may be necessary for some meetings to be closed to the public, and a decision will be taken by way of consensus of members.

### Apologies and substitutes

All member representatives are expected to attend relevant meetings.

Representatives who cannot attend meetings should provide apologies as soon as possible and, in any event, 7 days prior to the meeting in question.

Substitutes may attend but should give a clear steer as to the extent of their decision-making powers at the start of each meeting.

## **5. Phasing of functions**

The development of the SPB will be subject to phased progression, with gateways to ensure that governance and accountability mechanisms are sufficiently robust to proceed to the next phase.

Decisions to move between the initial phases will be made by the SPB constituent organisations, acting by consensus. If the gateway conditions require a devolution or delegation of powers, this will need formal approval from the organisation with relevant statutory accountabilities.

The phasing, as set out in the draft Health and Care Devolution Memorandum of Understanding, is included at Appendix B.

## **6. Terms of decision-making**

As a strategic body the SPB has no formal decision-making powers and so any issues requiring a formal decision would need to be taken by representatives from member organisations exercising the appropriate authority. These decisions could be taken either outside or within the SPB forum. Decision-makers must legally retain the ability to disagree, or revoke decisions, so far as would be possible within the current framework.

The following phased approach will be taken to decision-making:

- Initially, the SPB will operate in an advisory capacity, and members will be able to make collective, non-binding recommendations to accountable organisations, who will then take decisions in accordance with current governance arrangements. The aim is that

recommendations will always be made by consensus of the membership; however the SPB will consider introducing voting rights from phase 3. It is likely that a 'core membership sub group' would vote on recommendations, and a 75% majority would be required to carry the recommendation. There would also be a need to ensure that the principle stakeholder groups were represented equally, and so each would be given the same number of vote (i.e. 1 vote each for CCGs, local authorities and providers).

- From phase 3, it is proposed that formal decisions could be taken within the SPB forum. Member representatives could be enabled to take decisions through internal delegations within national organisations. The scope of this decision-making will be detailed with further specificity as the SPB moves through its initial phases, however it is anticipated that the SPB members will be enabled to take decisions on London-wide strategic aims and priorities, and approvals of devolution business cases, to the extent that the functions fall within the statutory functions of their organisation. It is anticipated that the decisions taken within the SPB would be limited to high level priorities and outcomes, and the focus will be on aligning the strategic approaches of all partners. The detailed decisions around specific London-wide strategies (for example, commissioning or estates) would need to be taken at a targeted operational board or committee, or at organisational level. In particular, decisions around London commissioning strategies would be taken at the London Partnership Commissioning Board which operates independently of providers, to manage the potential for conflicts.

## 7. Dispute resolution

All members recognise that, through their role on the SPB, they are committing to the principles of collaborative, partnership working and relationship building. It is therefore expected that any disputes arising would be managed in accordance with these underlying principles.

However, there may be circumstances under which consensus cannot be reached in respect of a motion to issue a recommendation and the SPB members will consider implementing voting provisions from phase 3 onwards. During these initial phases, recommendations will not be issued if consensus cannot be reached.

Members cannot vote on formal decisions, which will remain with the organisation or individual retaining the statutory accountability. Where it is not possible for member representatives to take formal decisions that align, such members would need to take decisions without securing alignment. Member organisations should ensure that these arrangements are set out in the delegation, as organisations may wish to specify the process that would be followed in these circumstances. This will be considered to be a last resort, but provides mitigation in the event that members cannot agree.

## 8. Governance and accountability

Political oversight will be provided by the London Health Board (LHB), chaired by the Mayor of London.

Operational oversight for the first year will be provided by the Devolution Programme Board, who will meet quarterly to oversee the new London governance mechanisms.

Separately, the SPB representatives will be accountable to their consistent organisations. Whilst the LHB oversight will be focused on the extent to which the SPB is meeting its objectives, the scrutiny function provided by the constituent organisations will be focused on ensuring that the SPB is complying with the relevant frameworks for outcomes, strategic planning and decision-making. It is envisaged that the representative for each organisation will report to its Board (or equivalent, in the case of Government Departments) on a regular basis.

Scrutiny of health and care transformation will continue to be provided by local authority overview and scrutiny committees. In accordance with the legislative framework<sup>3</sup>, health partners will be required to submit proposals for scrutiny to their local committee when these amount to a “substantial variation” in the provision of service(s). Where more than one local authority is impacted by the changes, it is a legal requirement that scrutiny takes place at a multi-borough level, through a joint overview and scrutiny committee. It is envisaged that local authority scrutiny will continue to take place at local or sub-regional level, given the variation in specific plans for service change across London. However, London partners will keep under review whether any proposals require a London-level overview and scrutiny committee.

## **9. Operational costs**

London Partners agree to share and deploy their knowledge, expertise, resource and contact networks in support of the commitments made in the London MoU. A full financial plan for structure and delivery will be developed during the advisory phase of the SPB, with arrangements in place by Q2 of 2017

## **10. Risk mitigation: changes in membership and exit strategy**

If the constitution of member organisations changes (e.g. through merger or organisational change), the new body would be recommended as an SPB member, subject to approval by the members. These Terms of Reference will be updated accordingly.

In the event of exit, the statutory accountability would remain with member representatives of constituent organisations. Member organisations should include provision in their delegation arrangements which set out what process the individual should follow, in the event that decisions have been internally delegated.

Following a motion to disband the SPB, members will jointly consider next steps and make recommendations to member organisations as to next steps

## **11. Standards of business and managing conflicts of interest**

Representatives sitting on the SPB will at all times comply with this Terms of Reference and will be aware of their responsibilities as outlined in it. They should act in good faith and in the interests of the public.

Each representative will be bound by their own organisation’s conflicts of interest framework. Member representatives agree that where a representative has an interest, or becomes aware of an interest which could lead to a conflict of interests in the event of the SPB considering an action or decision in relation to that interest, that must be considered as a potential conflict. If in doubt, the individual concerned should assume that a potential conflict of interest exists.

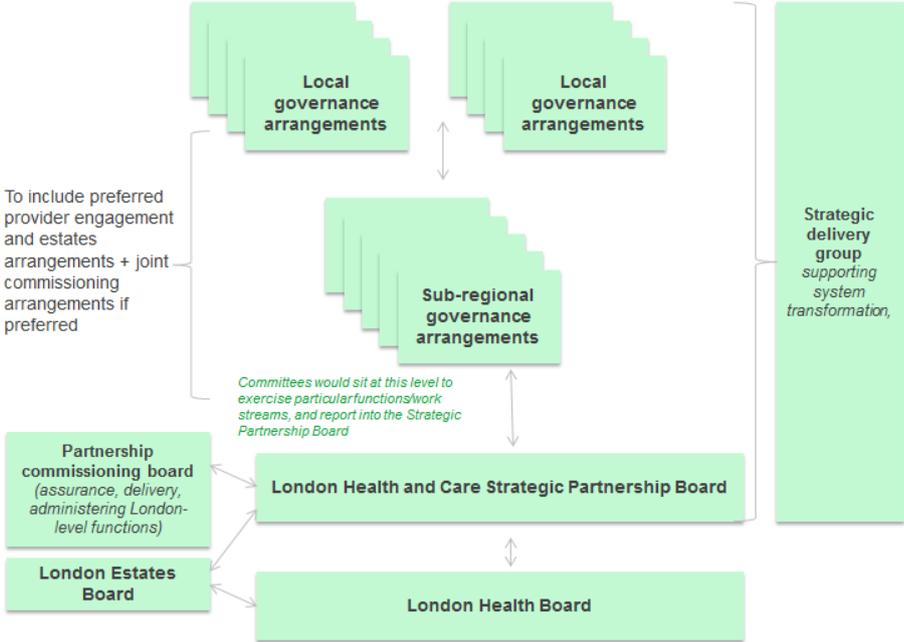
Members will declare any interest that they have, in relation to a decision to be made within the SPB forum as soon as they are aware of it and in any event no later than twenty eight (28) days after becoming aware. The SPB will maintain a register of interests. The registers shall contain names of individuals and details of the interest.

If an individual fails to declare an interest and the Chairs determines that the interest is relevant and material, the Chairs shall refer the matter to that individual’s constituent organisation who will decide how to manage the conflict for their own purpose

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<sup>3</sup> Section 244 of the NHS Act 2006 and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013

# Appendix A – Organogram of London Governance



## Appendix B: Phasing of functions

The MoU proposes that the development of the SPB be subject to phased progression, with gateways to ensure that governance and accountability mechanisms are sufficiently robust to proceed to the next phase. The SPB would begin formal operation after the MoU has been finalised. The indicative timeline for phasing is therefore subject to change:

1. **Advisory/set-up:** Representatives from existing governance structures meet to co-develop the framework under which London governance will operate. The SPB meets in an advisory capacity to provide a pan-London forum for discussion and support partners to commence implementation of agreed devolution, including the set-up of new operating models. It is envisaged that this phase could begin in April 2017, and be reviewed against in June 2017 to determine whether the SPB can move into the 'strategic leadership' phase.
2. **Strategic leadership:** The SPB assumes the role of non-statutory strategic and operational pan-London groups which have been identified as duplicative. The SPB will begin to take on the functions described in 3 but in a strategic, rather than decision-making, capacity. Progress would be reviewed against agreed gateway criteria in September 2017 to determine whether the SPB can move into the next phase.
3. **Shadow decision-making at London level:** The SPB will continue to operate in a strategic capacity, and will commence implementation of devolved/delegated decision-making in shadow form. This would involve making recommendations to national organisations. This will not involve any change to statutory accountabilities. This phase would be reviewed against gateway criteria for the decision-making phase in April 2018 to determine whether the SPB can move into the next phase.
4. **Decision-making at London level:** Following agreement by national partners, certain budgets and commissioning functions may be appropriate for formal delegation to a London level. Partners on the SPB could then take formal decisions, by way of internal delegations to organisational representatives on the SPB. These could include strategic decisions, approvals of devolution business cases and application of transformation funding.