

## **Primary Care and Dental Delegation Agreement: Explanatory Note**

### **Policy Positions**

The agreement includes a number of critical changes from the PMC delegation agreement. These positions will apply across all delegated Primary Care and Dental functions:

- **Liability moves to the ICB:**
  - The Health and Care Act 2022 locates liability with the body exercising delegated functions at the point of delegation (for POD functions) or on 1 July 2022 (for primary medical care).
- **Onward Delegation:**
  - Delegation from an ICB to another (relevant) body is permitted within the agreement, subject to some parameters.
  - Onward delegation to providers (NHS Trusts or Foundation Trusts) or joint committees including providers is not permitted.
  - Onward delegation to joint committees of ICBs is permitted and does not require NHSE approval.
  - Other delegations or joint committees are permitted subject to approval by NHSE.
  - 'Triple delegation' – the further delegation of a function from a body which has delegated functions from the ICB – is prohibited.
  - Internal arrangements – e.g. when an ICB chooses to exercise a function through a place-based subcommittee of the ICB board – does not constitute a form of delegation. This is the case even if external bodies participate in the arrangement.
- **Financial Flexibility:**
  - ICBs will have the ability to shift monies from the Delegated Budget to their wider budgets (and vice versa), while meeting their contractual obligations, including those through nationally agreed contracts, such as the Community Pharmacy Contractual Framework.
- **Duty to comply with Guidance:**
  - ICBs now need to comply with a list of specified guidance when exercising the functions. This will include guidance such as the Primary Care policy manuals.
- **Planning and Reporting:**
  - The ICB is now required to include their plans for exercise of the delegated functions and a report on their performance against these plans in their ICS plan and annual report.
- **PCCC Requirements:**
  - The agreement does not mandate the establishment of a PCCC. ICBs which wish to maintain their PCCC are able to do so, while considering how to integrate Primary Care with their wider responsibilities.
- **Assurance:**
  - The current approach (which relies almost exclusively on the SOF) is being replaced by a broader and more flexible assurance arrangement. Where appropriate, the agreement has been adapted to refer to any "any applicable assurance frameworks".

**Strengthened duties to collaborate, comply with the Triple Aim, address health inequalities, and include under-represented groups in decision making.**

## **Background and Context**

The attached Primary Care and Dental Delegation Agreement – which will be used to underpin the delegation of Primary Medical Services, Primary Dental Services, Prescribed Dental Services, Primary Ophthalmic Services, Pharmaceutical Services and Local Pharmaceutical Services from NHS England to ICBs has been based on:

- A comprehensive review of the current Primary Medical Care (PMC) Delegation Agreement, and the experience of its implementation.
- Changes to the legal and operating framework created by the Health and Care Act 2022 (e.g. reflecting increased ICB responsibilities and flexibilities compared to their CCG predecessors).
- The specific safeguards, reserved functions, and administrative approach determined by NHSE.
- Other applicable implementation guidance (e.g. the ‘Guidance on the Employment Commitment’ – which has implications for staff employed by both organisations), and legal requirements (e.g. GDPR).
- An internal review from a wide range of policy and implementation teams across NHSE.

The new DA reflects the principles which have informed ICS establishment:

- **System by Default** – conferring on ICBs the maximum amount of flexibility regarding the use of their delegated functions.
- **Consistency between functions** – ensuring the delegation’s parameters are as consistent as possible for all delegated functions. Avoiding setting requirements that maybe unhelpful for any other NHSE functions that may be delegated in future.
- **Building on precedent** –aligning the content with all related policy guidance and established national policy frameworks.
- **Adaptive to development** – with the flexibilities in the Health and Care Act 2022, ICBs’ system operating models may alter over time. This agreement provides a number of mechanisms – variation, change-via-guidance, and a flexible assurance regime – to respond in a targeted way to changes in ICB maturity and the evolving role of NHSE and systems.

## **NHSE Retentions**

Following delegation, NHSE will retain responsibility for those functions which are core to its national accountability and regulatory roles. Some duties will also be retained for efficiency-based reasons – for example, where splitting a function 42 ways would be a less effective use of resources. NHSE will continue to carry out the following activities:

- Managing national contract development and negotiations.
- Maintaining national stakeholder relationships, including with professional bodies and other representative organisations.
- Designing and deploying national and regional transformation programmes.
- Carrying out national and regional enabling functions, where highly specialist expertise and/or scale will continue to be required (e.g. clinical validation for GPs).
- Maintaining specific national support systems – i.e. commissioning and contracting support, payment and administrative systems (i.e. the BSA). All support systems and processes will be mandatory for ICBs to use unless otherwise specified in the agreement.

Please note that the details of the specific retentions differ by delegated functions.