

ICB Primary Care Commissioning Committee

Date of meeting	8 June 2023
Title of paper	Terms of Reference – Groups Supporting the Primary Care Commissioning Committee
Presented by	Peter Tinson, Director of Primary Care
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Agenda item	2.3
Confidential	No

Purpose of the paper

This paper is seeking the Primary Care Commissioning Committee's approval for the terms of reference of four of the five groups which will support the committee in safely and effectively discharging its duties.

It is proposed that there are five groups, one for each primary care provider group and one for capital investments:

- Primary Medical Services Group
- Primary Dental Services Group
- Pharmaceutical Services Group
- Primary Optometric Services Group
- Capital Working Group- terms of reference to be submitted at a later date.

Executive summary

The ICB holds over 1000 core primary care contracts, resulting in the need to make a significant number of contractual decisions.

The contractual requirements for all four contractor groups are underpinned by national legislation and contractual frameworks. In addition, NHS England publishes policy books to support commissioners in the interpretation of the legislation and to ensure consistency in approach to contractual and commissioning decisions.

The ICB is also responsible for making decisions on capital investment in line with national legislation. This funding is primarily aimed at general practice and decisions on capital spend can often have contractual impacts and vice versa.

As result of the legislation, national contract models and policy books the types of decisions that need to be made can be roughly split into three types - those where the commissioner has no discretion if due process has been followed; those where the commissioner has a degree of discretion but there is a clear policy to be followed (local or national); those where the commissioner has more flexibility in its decision making. A decision making matrix and terms of reference have been developed based on these principles.

Recommendations				
<p>The Primary Care Commissioning Committee is requested to:</p> <ol style="list-style-type: none"> 1. Approve the decision making matrix 2. Approve the terms of reference for four of the five groups of the committee 				
Governance and reporting				
Meeting	Date			Outcomes
N/A				
Conflicts of interest identified				
No identified conflicts				
Implications				
<i>If yes, please provide a brief risk description and reference number</i>	Yes	No	N/A	Comments
Quality impact assessment completed			X	
Equality impact assessment completed			X	
Data privacy impact assessment completed			X	
Financial impact assessment completed			X	
Associated risks			X	
Are associated risks detailed on the ICB Risk Register?			X	
Report authorised by:	David Levy, Chief Medical Officer			

ICB Primary Care Commissioning Committee

Terms of Reference of Groups Supporting the Primary Care Commissioning Committee

1. Introduction

- 1.1 This paper is seeking the Primary Care Commissioning Committee's approval for the terms of reference of the four of the five groups which will support the committee in safely and effectively discharging its duties.
- 1.2 It is proposed that there are five groups, one for each primary care provider group and one for capital investments:
 - Primary Medical Services Group
 - Primary Dental Services Group
 - Pharmaceutical Services Group
 - Primary Optometric Services Group
 - Capital Working Group

2. Background

- 2.1 The ICB holds over 1000 core primary care contracts, resulting in the need to make a significant number of contractual decisions.
- 2.2 The contractual requirements for all four contractor groups are underpinned by national legislation and contractual frameworks. In addition, NHS England publishes policy books to support commissioners in the interpretation of the legislation and to ensure consistency in approach to contractual and commissioning decisions.
- 2.3 The ICB is also responsible for making decisions on capital investment in line with national legislation. This funding is primarily aimed at general practice and decisions on capital spend can often have contractual impacts and vice versa. Given the complexity of decision making the terms of reference will be submitted to the Committee at a later date.
- 2.4 As result of the legislation, national contract models and policy books the types of decisions that need to be made can be roughly split into three types- those where the commissioner has no discretion if due process has been followed; those where the commissioner has a degree of discretion but there is a clear policy to be followed (local or national); those where the commissioner has more flexibility in its decision making.

3. Decision making matrix

- 3.1 A review of the various contractual decisions for all four contractor groups and capital investments has taken place reviewing the relevant legislation, contracts and policy

books to categorise them into the three types. This has been collated into a decision making matrix within **Appendix One**.

- 3.2 For those decisions where the commissioner has no discretion if due process has been followed it is proposed that these decisions are made by an officer. The officer will be of an agenda for change banding 8a or above.
- 3.3 For those decisions where the commissioner has a degree of discretion but there is a clear policy to be followed or local perimeters have been developed, it is proposed that these decisions are made by the relevant group.
- 3.4 For those decisions where the commissioner has more flexibility in its decision making these will be made by the Committee.
- 3.5 The decision making matrix will provide an indication of the level of patient and public involvement that is expected when a decisions is made. This work will be presented to the Committee in July.

4. Terms of Reference of Groups Supporting the Primary Care Commissioning Committee

- 4.1 The terms of reference and membership of the sub-group have been designed to ensure they are able to undertake robust decision making within the scope of the decision making matrix. The terms of reference for the sub-groups can be found as **Appendices Two to Five**.
- 4.2 Supporting information to further define the scope of decision making has been included within the terms of reference.

5. Recommendations

- 5.1 The Primary Care Commissioning Committee is requested to:
 1. Approve the decision making matrix
 2. Approve the terms of reference for four of the five groups of the committee

Amy Lepiorz

June 2023

Appendix 1 – Decision Making Matrix

Primary Medical Services

Area of Decision	Description	Delivery Assurance Manager	PMS group R-recommendation D-decision	PCC Committee	Policy handbook
Decisions in relation to Enhanced Services					
Primary Care Network structures	Changes to core practices, allocation of patients	X	R	D	
Minor surgery funding	Payment rates for minor surgery	X	D	X	
Additional enhanced services decisions	Discretionary payments outside of service spec, e.g. exceptional circumstances. Delegated financial limits apply	X	D	X	
Decisions in relation to Local Incentive Schemes					
Approval of contract content/funding	Approval of place funded Local Incentive Schemes to ensure	X	R	D	

	consistency across the ICB.				
Decisions in relation to the establishment of new GP contracts and premises					
Sub Contracting of Clinical Matters	Sub-contracting of provisions within the core contract	X	D	X	<p>Part B, section 14</p> <p>Under the contract, the contractor has the right to serve a notice of sub-contracting at any time. Where a contractor does so, commissioners must act rapidly to undertake assurance of the proposals and (where appropriate) serve any notice of objection within a 28-day period.</p> <p>Identify the relevant primary medical services contract in place.</p> <p>Review terms re sub- contracting</p> <p>Refer to Annex B</p> <p>Check validity of sub- contracting notice as detailed in the Policy and Guidance Manual</p> <p>Criteria to be considered re notification of novel, contentious or repercussive proposals – notification to NHS England required.</p> <p>Assurance of the proposed sub contract – refer to Assurance framework in Policy and Guidance Manual and completion of full checklist</p>
Procurement process	Decisions to be made within the process, including whether to	X	R	D	National guidance

	procure or disperse a list				
Contract award	Decisions to be made within the process	X	R	D	National guidance
Open and closed lists	Application to close list	X	D	X	<p>Section 5 and 7.13 Part B, section 5 and section 8.13 A contractor may wish to close its list to new registrations e.g., where there are internal capacity issues or premises refurbishments. The contractor must seek approval from the Commissioner by a written application (the "Application") before this may happen.</p> <p>Considerations: 21 days to consider the application what support the Commissioner may give the contractor changes the Commissioner or contractor may make.</p>

Boundary Change	Changes to a practice boundary-increasing or decreasing	X	D	X	<p>Section 7.14 Part B, section 8.14 There may be circumstances when a contractor wishes to change their main practice boundary to either expand or contract the practice area for new registrations due to new redevelopment, local authority compulsory purchase schemes and/or road developments</p> <p>Application from the contractor sets out reasons for change, details practice area</p> <p>Considerations: Impact on other practices and PCNs Patient access Need for patient engagement considered Financial implications of reducing/ expanding patient list</p>
Changes to premises	including relocation, closure of branch surgery, opening new premises	X	R	D	<p>Section 7.15 Supporting document Annex 14A 14B and 15</p>
Opt outs	Opt out of out of hours	X	D	X	Section 7.16
Decisions about 'discretionary' payments					
Discretionary payments under Section 96 of the regulations	As read. Delegated financial limits to apply	X	D	X	Section 10
Applications from GP contractors for financial assistance	Usual towards Premises Running Costs and Service Charges-	X	D	X	<p>Section 12 Supporting documents Annex 2,2A,2B and 3</p>

	Delegated financial limits to apply				
Outcome of tri-annual rent and rates reviews	Process, which may lead to a decision- Delegated financial limits to apply	X	D	X	Premises Directions 2013- Full title
Decisions in relation to the management of poorly performing GP practices					
Remedial notices and Breach notices	Agree to issue- after investigation of concerns	X	D	X	<p>Section 1.2 Supporting documents Part C, section 1 Where the Commissioner considers that a breach has occurred there are a number of options on how to proceed . The Commissioner may :</p> <ul style="list-style-type: none"> Take no action Agree on action with the contractor Issue a remedial notice Issue a breach notice Apply a contract sanction Terminate the contract <p>Considerations : Need to demonstrate that the process for issuing contract notices has been followed as per the policy . including initial discussion with the contractor.</p>
Contract Sanctions	Agree to issue- after investigation of concerns	X	X	D	Section 1.4 Supporting documents
Termination of contract	Agree to issue- after	X	R	D	Section 1.5, 12.6 Supporting documents

	investigation of concerns				
Approval of practice mergers					
Contract Novations and Incorporation/Dis-incorporation	Conversion of a partnership to body corporate	X	D	X	<p>Section 7.1 Supporting documents Annex 7 to 12 Part B, section 8.10</p> <p>It is possible for individual GPs or partnerships holding a General Medical Services, Primary Medical Service (PMS) or Alternative Provider Medical Service contract to seek commissioner approval to operate and deliver services through a company limited by shares (called a “qualifying body” in PMS) - this process is known as “incorporation”. A change from a single-handed or partnership contract to a limited company is a complete change of the identity of the contracting party, regardless of whether the company is owned and/or run by the original contractors. There is no right for a contractor to incorporate or dis-incorporate. They need agreement from the Commissioner, which does not have to be given</p> <p>Considerations: Reference to framework for reviewing Incorporation requests – requirements met Commissioner’s obligations under procurement law Effect of the proposal on the statutory duties of the ICB re involvement duty Value of the contract Likely market interest explored Protection of core services in the contract Assured Continuity of patient care Extent of change to terms of the exiting contract considered Benefits to patients Sustainability</p>

					Checks undertaken re Companies House Outstanding debt and whether novation conditional on repayment Current breach and remedial notices Current Care Quality Committee status
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Practice Mergers and/or Contractual Mergers	Merging of one of more contracts	X	D	X	<p>Section 7.11 Part B, section 8.11 A GP or partnership may hold more than one form of primary care contract with a Commissioner. This flexibility has enabled GP practices to come together in varying ways to provide support for each other, expand on the services available and/or resolve premises issues and achieve economies of scale, though each will have their own reasons for coming together. The overarching issues for the Commissioner to consider when any such proposal is made are the benefits to patients and the financial implications of the practice merger.</p> <p>Considerations: Patient Engagement Costs/ Value for money Quality Outcomes Framework payments Directions under the Standard Financial Entitlements Benefits to patients Access to single service Practice boundary considerations Consistent service for all patients Premises arrangements and accessibility Patient engagement Impact on patient choice</p>
New or novel investments					
Approval of new or novel business cases	Investment in new schemes	X	X	D	

Pharmacy

Area of Decision	Delivery Assurance Manager R- recommendation D- decision	Pharmacy group R- recommendation D- decision	PCC Committee	Policy handbook
Managing and determining applications for inclusion on the Pharmaceutical List				
Reg 24- determination of application (no significant change relocation)	X	D	X	Chapter 17&22
Reg 25- determination of application (distance selling pharmacies)	X	D	X	Chapter 18
Reg 26(1)- determination of application (change of ownership)	D	X	X	Chapter 19
Reg 26(2)- determination of application (no significant relocation/change of ownership)	X	D	X	Chapter 21&22
Reg 26A- preliminary matters	D	X	X	Chapter 20
Reg 27- determination of application (for temp listing arising out of suspension)	X	D	X	Chapter 25
Reg 28- determination of application (right of return to pharm list)	X	D	X	Chapter 26
Reg 29- determination of application (temp arrangements due to emergencies)	D	X	X	Chapter 27

Reg 31- refusal: same or adjacent premises	X	D	X	
Sch 2, para 1(10)- whether best estimate is acceptable	D	X	X	Chapter 29
Sch 2, para 11(1)- determination of missing info	D	X	X	Chapter 29
Sch 2, para 11(2)(b)- determination of reasonableness	D	X	X	Chapter 29
Sch 2, para 14- deferral of applications	D	X	X	Chapter 29
Sch 2, para 19- determination on who to notify	D	X	X	Chapter 29
Sch 2, para 21(4)- determination of full disclosure	X	D	X	Chapter 29
Sch 2, para 22(2)- oral reps	D	X	X	Chapter 29
Sch 2, para 28- determination of notification	D	X	X	Chapter 29
Sch 2, para 30- appeal rights	X	D	X	Chapter 29
Sch 2, para 31- notification of address after best estimate	D	X	X	
Sch 2, para 32- determination whether to accept a change in premises	X	D	X	
Sch 2, para 33- determination as to whether future circumstances have arisen	D	X	X	
Sch 2, para 34A- decisions as to whether notices of consolidation are valid, and if a shorter period can be given	D	X	X	

Sch 2, para 3 34(4)(c)(i) and 34A(4)(b)(i)- extension of notice of commencement date	D	X	X	Chapter 12- 21, 24-27
Sch 2, para 35- notice requiring commencement of pharm services	D	X	X	
Ensuring adequate cover of Pharmaceutical Services				
Reg 61- temp arrangements during emergencies	D	X	X	No
Reg 65(5)-(7)- direction to increase core opening hours	D	X	X	Chapter 36
Reg 32- deferrals arising out of Local Pharmaceutical Services designations	D	X	X	
Reg 67- agreement of a shorter notice period for withdrawal from the pharm list	X	D	X	
Reg 99- designation of an Local Pharmaceutical Services	X	R	D	Chapter 41
Reg 100- review of designation of Local Pharmaceutical Services area	X	R	D	Chapter 41
Reg 101- cancellation of an Local Pharmaceutical Services	X	R	D	Chapter 41
Reg 104- selection of an Local Pharmaceutical Services proposal	X	R	D	Chapter 41
Reg 108- right of return	X	R	D	Chapter 41
Reg 94- overpayments	X	D	X	Chapter 39
Sch 2, para 35- notice requiring commencement of pharm services	D	X	X	
Sch 4, para 23(1)/Sch 5 para 13(1)- consideration to temporarily suspend provision of service	X	D	X	

Sch 4, para 23(7)/Sch 5 para 13(6)- change to reduction in supplementary hours without due notice	D	X	X	Chapter 37
Sch 4, para 23(7)/Sch 5 para 13(6)- change to increase in supplementary hours without due notice	D	X	X	Chapter 37
Sch 4, para 23(7)/Sch 5 para 13(6)- change to supplementary hours with due notice	D	X	X	Chapter 37
Sch 4, para 23(10)/Sch 5, para 9- review reason for temporary suspension	X	R	D	
Sch 4, para 26/Sch 5, para 16- determination of core opening hours instigated by the contractor	X	D	X	
Sch 4, para 27/Sch 5, para 17- temporary opening hours and closures during an emergency	D	X	X	
Sch 4, para 27b- flexible provision of relevant immunisations services during a pandemic	D	X	X	
Sch 4, 28a- premises requirement in respect on consultation rooms	D	X	X	
Approval of responses to an appeal made against a contracts managers decision	D	X	X	
Approval of responses to an appeal made against a group decision	D	X	X	
Decision making in relation to breaches of the Pharmaceutical Regulations or NHS Act				
Reg 30- refusal on language requirements	X	D	X	Chapter 4
Reg 69- determination of whether there has been a breach of Terms of Service	X	D	X	Chapter 38
Reg 70- determinations of breach notices	X	D	X	Chapter 38
Reg 71- determination of remedial notices	X	D	X	Chapter 38

Reg 72- determination whether to withhold remuneration	X	R	D	Chapter 38
Reg 73&74- determination of whether to remove a premises or a chemist from the pharmaceutical list	X	R	D	Chapter 38
Determination of further action where Community Pharmacy Assurance Framework identifies concerns	D	X	X	Chapter 38
Determination of further action where the contractor fails or refuses to agree a date and time for a visit	D	X	X	Chapter 38
Determination of action where any of the following are potentially identified: patient safety issues risk of material financial lost possible fraud/criminal activity	D	X	X	
Determination of action where a contractor fails to complete the required actions or fails to respond to a visit report	D	X	X	
Determination of action where the contractor exceeds the max number of Appliance Use Reviews that may be done in one year	D	X	X	
Decisions on Fitness to Practise Functions				
Reg 33- determination of suitability to be included on the pharmaceutical list	X	D	X	Chapter 4
Reg 34- determination of deferral of application due to fitness grounds	X	D	X	Chapter 4
Reg 35- determination of conditional inclusion on fitness grounds	X	D	X	Chapter 4

Reg 79- determination of review of fitness conditions originally imposed on the grant of an application	X	D	X	Chapter 32
Reg 80- determination of removal of a contractor for breach of fitness conditions	X	R	D	Chapter 31
Reg 81&82- determination of removal or contingent removal	X	R	D	Chapter 32
Reg 83- suspension in fitness cases	X	R	D	Chapter 32
Reg 84- reviewing suspensions and contingent removal conditions	X	D	X	Chapter 32
Reg 85- general power to revoke suspensions	X	D	X	Chapter 32
Determining Rurality decisions				
Reg 36- determination of whether an area is a controlled locality	X	D	X	Chapter 33
Reg 40- applications for new pharmacy premises in controlled localities: refusals because of preliminary matters	X	D	X	
Re 41&42- determination of whether premises are in a reserved location	X	D	X	Chapter 32
Reg 44- prejudice test in respect of routine applications for new pharmacy premises in a part of a controlled locality that is not a reserved location	X	D	X	Chapter 32
Reg 48(2)- determination of patient application (serious difficulty)	D	X	X	Chapter 34
Reg 50- consideration of gradualisation	X	D	X	Chapter 33
Determining Dispensing Doctor decisions				
Regs 51-60- determination of doctor application	X	D	X	

Reg 61- temp arrangements during emergencies dispensing doctor	D	X	X	
Decisions relating to the compliance with the dispensing doctors Terms of Service	X	D	X	
New or novel investments				
Approval of new or novel business cases	X	R	D	

Optometry

Area of Decision	Delivery Assurance Manager R- recommendation D- decision	Optom group R- recommendation D- decision	PC Commissioning Committee	Policy handbook
New Contract				
New Contract Award	X	D	X	Section 5 - Annex 5.1 to 5.12
Re-location - requiring new contract	X	D	X	Section 5 - Annex 5.1 to 5.12
Contract Variations				
Change of opening/testing hours	D	X	X	Section 8.1 to 8.13
Individual to Partnership	D	X	X	Section 8.1 to 8.13
Partnership to Individual	D	X	X	Section 8.1 to 8.13
Partner retirements	D	X	X	Section 8.1 to 8.13
Retirement of a single handed contractor	D	X	X	Section 8.1 to 8.13
24hr retirements OMP contractors	D	X	X	Section 8.1 to 8.13
Body Corporate changes	D	X	X	Section 8.1 to 8.13
Bank Accounts	D	X	X	Section 8.8
Quality In Optometry				
Post Payment Verification	X	D	X	Chapter 12

Remedial notices and Breach notices	X	D	X	<p>Section 7 - Annex 7.1 to 7.10</p> <p>Where it is considered a breach of contract has occurred consideration should be given to: -</p> <p>Has the investigation established breach is capable of remedy?</p> <p>Consider all relevant factors prior to any action being taken.</p> <p>Take no action</p> <p>Agree an action with the contractor</p> <p>Issue a Remedial Notice</p> <p>Issue a Breach Notice</p> <p>Apply a contract Sanction</p> <p>Terminate the contract</p> <p>Remedial Notice to be issued prior to any other action the commissioner is entitled to take:</p> <p>Follow Remedial Flow Chart</p> <p>Action Plan and time period for remedy to be implemented/completed</p> <p>Noncompliance with Remedial Notice action and time frame agreed</p> <p>Consider :</p> <p>any exceptional circumstances that would allow a delay</p> <p>Not issuing a breach notice</p> <p>Or</p> <p>issuing a breach notice</p> <p>If no exceptional circumstances:</p> <p>Does the breach relate to the rights of termination?</p> <p>Does the breach create a serious risk to patient safety?</p> <p>Breach Notice flowchart</p> <p>Consider any financial implications.</p> <p>Post Payment Verification required.</p>
Contract Sanctions	X	R	D	Section 7 - Annex 7.1 to 7.10
Contract Terminations				
Termination due to contractors inability to perform services	X	R	D	Section 7 - Annex 7.1 to 7.10

Termination due to contractors provision of untrue information	X	R	D	Section 7 - Annex 7.1 to 7.10
Termination due to contractors unsuitability	X	R	D	Section 7 - Annex 7.1 to 7.10
Termination due to patient safety	X	R	D	Section 7 - Annex 7.1 to 7.10
Termination due to material financial loss	X	R	D	Section 7 - Annex 7.1 to 7.10
Termination due to significant breach by contractor	X	R	D	Section 7 - Annex 7.1 to 7.10
Termination due to Remedial & Breach Notices	X	R	D	Section 7 - Annex 7.1 to 7.10
Termination due to business which is detrimental to the contract	X	R	D	Section 7 - Annex 7.1 to 7.10
Termination due to a person connected with the contract who is subject to a direction under section 13F of Opticians Act 1989 or an order under section 13H of the Act	X	R	D	Section 7 - Annex 7.1 to 7.10
Termination -changes in partnership is likely to have a serious adverse impact on the ability of the contractor or the commissioner to perform obligations under contract	X	R	D	Section 7 - Annex 7.1 to 7.10
Termination following insolvency	X	R	D	Section 7 - Annex 7.1 to 7.10

Sale of viable practices/winding up arrangements./voluntary strike off dissolution of companies	X	R	D	Section 7 - Annex 7.1 to 7.10
Termination of a contractor following dissolution of a company	X	R	D	Section 7 - Annex 7.1 to 7.10
Termination due to death of contractor (individual/partnership(s))	X	R	D	Chapter 11
Disputes				
NHS contracts and Non NHS Contracts	X	R	D	Section 10 Annex 10.1 to 10.5
New or novel investments				
Approval of new or novel business cases	X	R	D	

Dental

Area of Decision	Delivery Assurance Manager R- recommendation D- decision	Dental group R- recommendation D- decision	PCC Committee	Policy handbook
Contract Variations				
Sub Contracting of Clinical Matters	X	D	X	Section 6.5 Supporting document Annex 7 The sub-contracting of General Dental Services/Personal Dental Services clinical services is a notification from the Contractor, however, some local contracts include additional requirements/restrictions in relation to sub-contracting. Things to consider prior to actioning the notification are:- Is there a Clause in the contract that includes additional requirements/ restrictions? If yes, assess the notification against the requirements of the Clause prior to actioning the notification.
Individual to Partnership General Dental Services	D	X	X	Section 6.6 Supporting documents Annex 8A, 8B, 8C
Individual to more than one individual Personal Dental Services	D	X	X	Section 6.6 Supporting documents Annex 9A, 9B, 9C
Changes to contracts with more than one individual – General Dental Services contracts	D	X	X	Section 6.6 Supporting documents Annex 10A, 10B, 10C

Changes to contracts with more than one individual – Personal Dental Services agreements	D	X	X	Section 6.6 Supporting documents Annex 11A, 11B, 11C
Partnership splits/members dispute – General Dental Services and Personal Dental Services	X	D	X	Section 6.6 The Commissioner should not get involved in endeavouring to resolve the dispute between the partners, instead insisting that the partners notify the Commissioner of their final decision when it is reached. This may result in the notification of a contract termination. Things to consider if a termination notice is received are:- Is a new contract needed in the area? If yes, ICB's Standard Financial Instructions and Regulations in relation to a procurement should be followed
Retirement of a Contractor – Single Handed	D	X	X	Section 6.7
Retirement of a Contractor – Two or More Partners/Individuals	D	X	X	Section 6.8
Twenty-Four Hour Retirement	D	X	X	Section 6.9 Supporting documents Annex 12, 13

Contract Novations and Incorporation/Dis-incorporation	X	D	X	<p>Section 7.1 Supporting documents Annex 14 to 24 A contract novation is not a variation. It involves the termination of the existing contract and entering into a new contract on the same terms as the original contract, and therefore may have procurement law complications. Providing there are no material changes to the contract, the risk of procurement challenge is usually considered to be low.</p> <p>Things to consider if the proposed new contractor is eligible to enter into a contract are:- Is the contract needed in the area? Is additionality needed in the area, i.e. evening or weekend opening hours? Is the risk of procurement challenge low as no material changes to the contract? If the answer to all of the above is yes, proceed to make a decision.</p>
Practice Mergers and/or Contractual Mergers	X	D	X	<p>Section 7.2 Dental practices may wish to come together to provide support for each other, expand on services available and/or resolve premises issues and achieve economies of scale.</p> <p>Things to consider are:- Has an Action Plan been provided to support the application? Has a copy of the patient engagement questionnaire and a detailed analysis of the responses for inclusion in the proposal been provided? If the answer to all of the above is yes, proceed to make a decision.</p>

Changes to Services	X	D	X	<p>Section 7.3 General Dental Services/Personal Dental Services Contracts must specify the number of UDA/UOAs to be provided by the contractor. Either party can notify the other if it believes the level of contracted activity should be varied, this may include variations to the use of UDA and UOA activity metrics, i.e. sessional rates.</p> <p>Things to consider are:- Has the contractor achieved the minimum target at mid year? Has the contractor achieved the minimum target at end of year? Is there history of under performance? If the answer to all of the above is yes, proceed to make a decision to negotiate with the contractor.</p>
Level of Service	X	D	X	Section 7.3

Changes to premises (relocation)	X	D	X	<p>Section 7.4 Supporting document Annex 25, 26, 27 Each application should be considered on a case-by-case basis.</p> <p>Things to consider are:- Local population demography Local Oral Health Needs Assessment Existing local access to NHS Dentistry Are there potential benefits, i.e. improvements to allow for greater use of skill mix, overall improvement in the practice premises and benefits to patients? Is the proposed relocation < or > 5 miles? Are the proposed new premises compliant with HTM 01-05, infection control policies and the Equalities Act 2010? Has a copy of the patient engagement questionnaire and a detailed analysis of the responses for inclusion in the proposal been provided? Have key stakeholders been consulted? If the proposed relocation is <5 miles and sufficient engagement has been undertaken, proportionate to the size of the contract, proceed to make a decision. Should the decision be to approve, this should be conditional upon a clinical advisor inspection prior to services being provided.</p> <p>If the proposed relocation is >5 miles it is likely to require consideration, with a recommendation, by the Primary Care Contracting Group.</p>
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<p>Managing a Personal Dental Services Contractor's Right to a General Dental Services Contract</p>	<p>X</p>	<p>D</p>	<p>X</p>	<p>Section 8.3 Supporting documents Annex 28 to 35 A contractor holding a Personal Dental Services (time limited) Agreement, which is providing mandatory services, has the right to convert to a General Dental Services (in perpetuity) Contract. Things to consider are:- Does the contractor provide mandatory services? Is the contractor eligible to enter into a General Dental Services contract? Is the Units of Dental Activity/Units of Orthodontic Activity value in line with the average local Units of Dental Activity/Units of Orthodontic Activity rates? Benchmark contract against NICE Recall and Access Data to determine value for money and performance Has the Finance Department and relevant persons been made aware of the change to the contracting arrangements as there will be long term financial implications? If the answer to all of the above is yes, proceed to make a decision to negotiate a contract with the contractor that demonstrates value for money.</p> <p>If the Units of Dental Activity/Units of Orthodontic Activity rate is materially higher than the average, consideration should be given to negotiating a reduction in the overall contract value, whilst maintaining the level of contracted activity.</p>
<p>Financial Recovery and Reconciliation</p>				

Withholding Payments Following a Mid-Year Review	X	D	X	<p>Section 9.4 Any withholding of monies needs to be calculated in line with paragraph 59(3) of Schedule 3 of the General Dental Services Regulations and the same provision of the Personal Dental Services Regulations.</p> <p>Things to consider are:- Can the Commissioner and Contractor agree to a non recurrent reduction? Will withholding of monies cause the contract to fall into a negative schedule? Is there an alternative repayment plan, i.e. BACs payment?</p> <p>The method of withholding monies should be agreed with the Contractor, in a way that does not create financial instability for the Contractor</p>
Under Delivery of Units of Dental Activity or Units of Orthodontic Activity – Below 96 Percent	X	D	X	<p>Section 9.6 Supporting documents 45, 46, 49 Where a contractor has delivered less than 96% of their contracted activity, the Commissioner will recover the full amount of money and a Breach Notice will be issued. Repayment will automatically be put onto the payments system to recover over 3 months.</p> <p>Things to consider are:- Will recovery over 3 months create financial pressure for the Provider? If yes, consider extending repayment over a longer period within the current financial year. It is only in very exceptional circumstances that recovery would fall into the next financial year The contractor can opt to make a one-off repayment which must be set up as a debt on the repayment system Is there a valid reason to exclude the contractor from receiving a Breach Notice?</p> <p>The method of repayment for under- performance should be agreed with the Contractor, in a way that does not create financial instability for the Contractor.</p>

				The Commissioner has the flexibility to exclude a Contractor from receiving a Breach Notice, where there are deemed to be exceptional circumstances.
Under Delivery of Units of Dental Activity or Units of Orthodontic Activity - Between 96 Percent and 100 Percent	X	D	X	Section 9.7 Supporting documents Annex 47 Any underperformance between 96-100% will automatically be entered onto the payments system, to be delivered in the next financial year.
Under Delivery of Domiciliary and Sedation Services	X	D	X	Section 9.8 See 17. Above.
Over Delivery	X	D	X	Section 9.9 Supporting documents Annex 48 Any overperformance between 100-102% will automatically be entered onto the payments system as activity that has been delivered in the next financial year. The Commissioner has the flexibility to pay for the additional activity, should funding be available.

Exceptional Circumstances	X	D	X	Section 9.10 Supporting document Annex 49 If a contractor has not fulfilled their contractual requirement to deliver the contracted activity due to exceptional circumstances, the Commissioner has the flexibility to allow for the underperformance to be carried forward. Each application should be considered on a case-by-case basis following the policy on adverse events.
Orthodontics				
Orthodontic Transfer from Abroad	X	D	X	Section 11.1 Supporting document Annex 57 Where a patient begins treatment abroad and subsequently becomes a permanent resident in the UK and entitled to NHS care, treatment may be provided if the orthodontist feels that the NHS criteria would have been met prior to commencement of treatment abroad. Nothing to be considered by the Commissioner.
Contractual Sanctions				
Remedial notices and Breach notices	X	D	X	Section 12.3 Supporting documents Annex 62, 63,64, 65, 66 Where a breach is capable of remedy, a Remedial Notice must be issued before any further action is taken. Where a breach is not capable of remedy, a Breach Notice must be issued. Depending on the seriousness/potential impact of the breach, legal advice should be sought when drafting the notices. In the event that the process leads to a potential contract termination, this will require consideration, with a recommendation, by the Primary Care Commissioning Committee
Contract Sanctions	X	R	D	Section 12.4 Supporting documents 67, 68
Termination of contract	X	R	D	Section 12.5, 12.6
Other contractual issues				

Re-basing of contracts	X	D	X	Local arrangement Page 76 para 13 – Level of service Not covered in the Policy Book The Commissioner has the discretion to commission non-recurrent activity in any financial year which may be funded according to local priorities and circumstances, this may include variations to the use of Unit of Dental Activity and Unit of Orthodontic Activity activity metrics, i.e. sessional rates. ICB’s Standard Financial Instructions and Regulations in relation to a procurement should be followed
Non recurrent/recurrent transfer of Units of Dental Activity between Contracts (Provider Requests)	X	D	X	Local arrangement Page 66 para 7.3 Changes to services The Commissioner has the discretion to transfer non-recurrent activity, where a Contractor holds multiple contracts, in any financial year according to local priorities and circumstances.
In year activity hand backs (non-recurrent) and re-distribution of that activity	X	D	X	Local arrangement Page 77 , 9.4 Withholding Payments Following a Mid-Year Review The Commissioner has the discretion to commission non-recurrent activity in any financial year which may be funded according to local priorities and circumstances, this may include variations to the use of Unit of Dental Activity and Unit of Orthodontic Activity activity metrics, i.e. sessional rates. ICB’s Standard Financial Instructions and Regulations in relation to a procurement should be followed
Year end – financial linking of contracts requests	X	D	X	Local arrangement Page79, 9.6 Under Delivery of Units of Dental Activity or Units of Orthodontic Activity – Below 96 Percent Check Standard Financial Entitlement The Commissioner has the discretion to link activity, where a Contractor holds multiple contracts, in any financial year according to local priorities and circumstances.

Year end - Conversion of Units of Orthodontic Activity to Units of Dental Activity	X	D	X	Local arrangement 7.5 Financial Changes – Statement of Financial Entitlements The Commissioner has the discretion to convert non-recurrent activity, where a Contractor holds multiple contracts. Commissioned to consider local priorities and circumstances.
Year end – provider activity requests. Reductions in activity.	X	D	X	Page 68 para 7.5 Financial Changes and the Standard Financial Entitlement The Commissioner has the discretion to reduce the level of contracted activity, at the request of a Contractor on an either non-recurrent or recurrent basis. This funding may be recommissioned, in any financial year according to local priorities and circumstances.
Premises subsidy arrangements – legacy Primary Care Trust arrangements	X	R	D	Local arrangement.
Procurements				
Market Engagement	X	R	D	
Business Case to proceed with Procurement	X	R	D	ICB's Standard Financial Instructions and Regulations in relation to a procurement should be followed.
Approval of Procurement Evaluation Strategy	X	R	D	
Approval of Recommended Bidder Report	X	R	D	
Extension of incumbent contracts	X	R	D	
New or novel investments				
Approval of new or novel business cases	X	R	D	