NHS England - Service Reconfiguration Assurance

Horton HOSC meeting, Town Hall, Banbury

19 December 2018

What this presentation covers:

1. NHS policy framework for ‘service change’
2. NHS England’s role in service change
3. Legal framework for NHS service change
4. NHSE Assurance - key principles and process; the assurance ‘tests’ for service change, Stage1 and Stage 2 panels
5. Role of the Clinical Senate in service reconfiguration assurance
6. NHS England - assurance decision-making thresholds
7. NHS England guidance
8. Discussion of the Q’s from Horton HOSC

Information in this presentation has been summarised from NHS England’s guidance “Planning, assuring and delivering service change” 2018. For further details, refer to this guidance which is available at:
https://www.england.nhs.uk/publication/planning-assuring-and-delivering-service-change-for-patients/

Policy framework for ‘service change’

In October 2014, NHS England published the *NHS five year forward view* (Forward View). This key policy document sets out a vision of how NHS services need to change to meet the current and future health needs of the population.

The policy

- focuses on the need for the NHS to place far greater emphasis on: prevention, integration of services, reduction of health inequalities, and putting patients and communities in control of their health;

- sets out an expectation that, through Sustainability and Transformation Partnerships (ICSs), clinical commissioners and their partners will think creatively about how to achieve the vision.

NHS England's role in service change

NHS England's role is to **support NHS commissioners and their local partners,** including providers, **to develop clear, evidence based proposals for service change, and –** where it is agreed that a service change is 'substantial' **- to undertake assurance to ensure that commissioners and partners can progress, with due consideration for the government's four tests of service change and NHS England's test for proposed bed closures.**

Although there is **no single accepted, legal definition of 'substantial' service change** it is generally understood to involve a significant shift in the way front line health services are delivered, usually encompassing **a change to the geographical location** where services are delivered; a proposal to '**decommission'** a service; or if a large number of patients will be affected.

(See page 10 of NHSE's Guidance https://www.england.nhs.uk/publication/planning-assuring-and-delivering-service-change-for-patients/)

Legal framework (1)

Clinical Commissioning Groups (*and NHS England, if NHS England are directly commissioning services*) are under a **statutory duty regarding public involvement and consultation**, set out in:

- **s.13Q NHS Act 2006 (as amended by the *Health and Social Care Act 2012*)** for NHS England; and
- **s.14Z2 NHS Act 2006** for Clinical Commissioning Groups

Consultation with local authorities – *Local Authority (Public Health, HWB and Health Scrutiny) Regulations 2013*

- *a*pplies to "substantial development"
- confers legal power of referral to Secretary of State for Health and Social Care (*separate from Judicial Review*) where
  - consultation is perceived as inadequate
  - proposals for service change are considered to be not in the interests of health services in the area.

Legal framework (2)

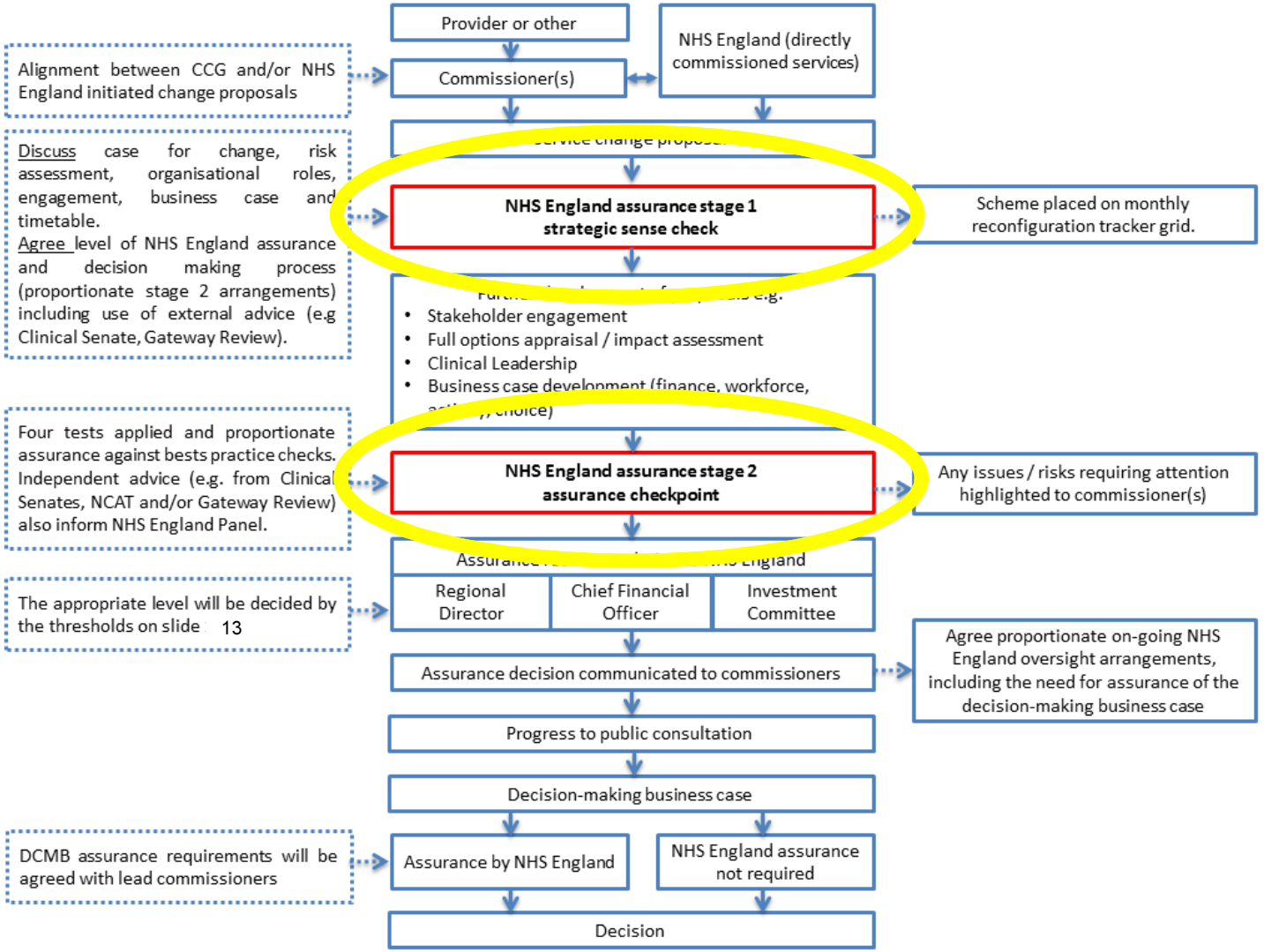
Clinical Commissioning Groups have a statutory duty to

- exercise their commissioning functions consistently with the objectives in the Government's **Mandate** and to act in accordance with the requirements of relevant regulations, such as Procurement, Patient Choice and Competition Regulations, **CCG Improvement and Assurance Framework** and guidance from **NHS Improvement.**
- consider relevant **Joint Strategic Needs Assessments** and **Joint Health & Wellbeing Board Strategies** (section 116B of the Local Government and Public Involvement in Health Act 2007) as part of the decision-making process. In light of the legal duty to consider JSNA and JHWS, there is an expectation that proposals will demonstrate a clear alignment to the JSNA and JHWS.
- comply with the Equality Act 2010 regarding the **public sector equality duty** ('PSED') and the **duty to reduce health inequalities**, and duties under the NHS Act 2006 (as amended by the HSCA 2012). Service change proposals and communications should be appropriate and accessible to meet the needs of diverse communities.

NHSE Assurance process – key principles

- **The objective** of service change should be to achieve a fundamental improvement in the quality and sustainability of services, in a way that gains the support of patients, staff and the public.
- **Proposals require commissioner ownership, support and leadership** (even if change is initiated by a provider organisation) so that proposals align with commissioning intentions. Where services are commissioned by two or more commissioners, it is essential that proposals align with each organisation's commissioning intentions. All proposals **need to be supported by the relevant STP/ICS**.
- It is important that NHS England/NHS Improvement undertake a **robust and consistent assurance process,** to ensure that all parts of the NHS are working together, and to provide confidence to patients, staff and the public.
- Assurance of proposals should be **undertaken in advance of formal public consultation**.
- Service change assurance requirements **should not place an additional burden on CCGs**, as these are requisite for a well-managed change.
- The assurance process aims to help organisations progress complex reconfiguration programmes. The application of a 'best practice' approach also helps to **mitigate risk of challenge**.

The Assurance Process



Tests for Service Change

FOUR TESTS FOR SERVICE CHANGE

1.Strong public and patient engagement

2. Consistency with current and prospective need for patient choice

3. Clear, clinical evidence base

4. Support for proposals from clinical commissioners

NHS ENGLAND'S FIFTH TEST

Plans to significantly reduce hospital bed numbers, NHS England will expect commissioners to be able to evidence that they can meet one of the following three conditions:

Demonstrate sufficient alternative provision, such as increased GP or community services, is being put in place alongside or ahead of bed closures, and that the new workforce will be there to deliver it	Show that specific new treatments or therapies, such as new anti-coagulation drugs used to treat strokes, will reduce specific categories of admissions	Where a hospital has been using beds less efficiently than the national average, that it has a credible plan to improve performance without affecting patient care (for example in line with the Getting it Right First Time programme)

Stage 1 - The Strategic Sense Check

A strategic sense check is a formal discussion between commissioners leading the change and NHS England at the appropriate level (usually the local office / Regional team). NHS England will explore the case for change and the level of consensus for change; ensure a full range of options are being considered and that potential risks are identified and mitigated. The alignment between the proposed changes and local STP or ICS, other key partners and neighbouring organisations will also be explored.

Areas of focus can include:

Organisational roles/impact	Likely resource requirements, including support requirements	The role clinical networks, Senates and specialised commissioning might offer in providing advice, guidance and assurance	Capital and estates implications (involving NHS Improvement and NHS England's Project Appraisal Unit where appropriate)
The level of stakeholder involvement and sign up	Inter-relationships between CCG and/or NHS England initiated change proposals and alignment of these elements (including a lead commissioner for assurance purposes)	Choice and competition implications of the proposals	Clinical quality, other non-financial and financial parameters for defining and appraising options (involving NHS England's strategic finance team where appropriate)

By this point, engagement with NHS Improvement should have commenced and, if capital is likely to be required, discussions with the relevant NHS England and NHS Improvement finance teams should have begun.

The strategic sense check will agree NHS England's expectations in terms of assurance and the use of a best practice approach. The use of external independent advice, e.g. from Clinical Senate and/or Project Appraisal Unit, will be agreed at this stage. Any particular issues to be included in terms of reference for these reviews will also be specified.

Stage 2 - Assurance Checkpoint

This stage is a more detailed assurance of proposals undertaken by NHS England, the scope of which will reflect the agreement made at the strategic sense check. NHS England may decide to establish an assurance panel to discharge its assurance responsibilities. The Panel would be formed by NHS England staff suitably qualified to consider evidence submitted against the five key tests plus financial deliverability, affordability and value for money and to advise on the additional checks.

NHS ENGLAND PANEL

Contributions from NHS Improvement, HEE, Clinical Senates, specialised commissioning and other experts may be sought.

NHS England will want to assure:

- strategic alignment of the proposals within the STP/ICS
- current and future provision of directly commissioned services;
- change proposals from neighbouring health systems and the delivery of national priorities

Support for proposals from providers and other commissioners impacted to a significant degree by the proposals will be tested as part of the assurance process and, where relevant, letters of support may be required as part of the assurance evidence.

Recommendation to the appropriate decision making forum within NHS England

The role of Clinical Senates

The purposes of the Clinical Senates are to:

- Support commissioners to make the best decision about healthcare for their populations
- Bring together a range of health and social care professionals, with patients, to take an overview of health and healthcare for local populations
- **Provide a source of strategic, independent clinical advice and leadership on how services should be designed to provide the best overall care and outcomes for patients**
- **Provide clinical advice to inform the NHS England reconfiguration assurance process**

As commissioners and transformation programmes work to reconfigure services, Clinical Senates can provide them with independent clinical advice to enable them to demonstrate compliance with the Four Tests* for Service Change (**particularly Test 3 – *Clear Clinical Evidence Base***) and the Fifth Test regarding **changes in bed numbers**.

*See Slide 9 for a description of the Tests

The role of Clinical Senates (2)

In addition to making recommendations to NHS England regarding compliance with Test 3 *Clear Clinical Evidence Base,* there are a range of '**best practice**' checks for service change proposals which include ensuring that the proposals provide:

- a clear articulation of patient and quality benefits;
- evidence that the clinical case fits with national best practice; and
- an options appraisal that includes consideration of a network approach, cooperation and collaboration with other sites and / or organisations.

The process is as follows:

- Proposal is developed by the commissioner - documentation/evidence is submitted to the Senate
- The Senate convenes an external expert panel – ensuring no conflicts of interest
- The commissioner documentation is reviewed and Key Lines Of Enquiry are developed
- The Panel meets to review the evidence and produce recommendations for NHSE

NHS England assurance – Decision Making Thresholds

1. The Investment Committee Turnover > £500m

- Capital value > £100m
- Requires transition or transaction support > £20m from NHS England funds
- Provider in tier 4 NHSI's Single Oversight Framework (was special measures)

2. Chief Financial Officer Turnover > £350m

- Capital value > £50m
- Requires transition or transaction support from NHS England
- Distressed health economy / success regime

3. The Regional Director (NHS South East – Anne Eden) will oversee assurance for all schemes beneath these thresholds

Guidance

.

NHS England Guidance includes 'good practice' advice on

- developing proposals, business cases, public involvement and consultations;
- the Government's 'four tests' for reconfiguration; NHS England's 5th test for bed closures;
- a summary of relevant legislation (including legal duties on public involvement and consultation with local authority health scrutiny);
- how service reconfiguration proposals will be supported and assured by NHS England;
- governance for schemes involving multiple commissioning organisations

By following this guidance, and appropriately and effectively involving local diverse communities, local authorities, key stakeholders and expert advisors (for example from Clinical Senates), commissioners may reduce the risk of their service changes being referred to the Secretary of State, Independent Reconfiguration Panel or challenged by judicial review.

Questions from Horton HOSC

NHS England/Thames Valley Clinical Senate is asked to discuss:

1. Summary of the NHS Assurance process and timescales
2. The progress OCCG and OUHFT have made on addressing the Thames Valley Clinical Senate recommendations
3. The capacity of the JR (and other obstetric units as appropriate) to absorb additional births as a result of the closure of obstetrics at the Horton General Hospital/
4. The work which has been undertaken on recruitment and retention of staff at OUHFT.
5. How important an obstetric unit at the Horton General Hospital is for the local area?
6. Acceptable NHS England standards for travel and transfer times for women in labour to obstetric services.
7. The draft long-list options (dated 29th Nov 2018) for an obstetric unit at the Horton General Hospital?.
8. What are the most important criteria when making an assessment on future options? What weight should they be given when assessing options?
9. The impact for strategic provision of maternity services of the closure of an obstetric unit at the Horton General Hospital.
10. What do you think would be the impact of a permanent closure?
11. The NHS England position on how purdah impacts the process of engagement and consultation on changes to service provision. In particular; why is this seen as precluding such activity?