HFMA introductory guide to NHS finance

Chapter 5: NHS finance – the role of integrated care boards

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Overview

This chapter looks at what integrated care boards (ICBs) are, how they are structured and what they do with a focus on accountability, governance, and finance. To remind yourself of where ICBs sit in the NHS structure, look back at the diagram on page 11.

5.1 What are ICBs?

Constitution

Covering the whole of England, ICBs are statutory bodies created by the Health and Care Act 2022. There are 42 ICBs covering areas that are largely in line with either upper tier (county council) or unitary local authority boundaries.

Structure

Each ICB has a unitary board, responsible for ensuring that the organisation plays its role in achieving the four aims of integrated care systems (ICSs) – to improve outcomes in population health and healthcare; to tackle inequalities in outcomes, experience and access; to enhance productivity and value for money; and to help the NHS support broader social and economic development. As a minimum, the unitary board must have the following members:

- an independent non-executive chair who does not hold a role in another health and care organisation within the ICB area, and who is appointed by NHS England
- a minimum of two other independent non-executive members
- chief executive
- chief finance officer
- director of nursing
- medical director
- a minimum of three partner members to include one from NHS trusts and foundation trusts that provide services within the ICB area; one from general practice within the ICB area; and one from the local authority that holds statutory social care responsibility for the ICB area. Partner members are full members of the unitary board, bringing knowledge and a perspective from their sector. They are not acting as representatives for their sector.

The ICB must act in a way that is consistent with its statutory functions, both powers and duties, that include[78]:

- having regard to and acting in a way that promotes the *NHS constitution*
- exercising its functions effectively, efficiently, and economically
- securing continuous improvement in the quality of healthcare services and outcomes
- duties in relation to children, including safeguarding

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[78] NHS England, *Integrated care board: model constitution template,* May 2022

- duties in relation to adult safeguarding and carers
- duties in relation to equality, including the public sector equality duty
- compliance with information law
- meeting the provisions of the Civil Contingencies Act 2004.

Accountabilities

ICBs are accountable to NHS England for improving outcomes for patients and for getting the best possible value for money from the funding they receive, and to the public and patients. The formal accountability link is from the ICB's accountable officer (chief executive) to NHS England's accountable officer but from the public/ patient viewpoint the key document is the ICB's written constitution.

An ICB's constitution sets out how it will meet its responsibilities and describes its governing principles, rules, and procedures. This document is a statutory requirement and must be available to the public. As well as being a public document, the constitution must be adhered to by:

- the ICB's employees
- individuals working on behalf of the ICB
- anyone who is a member of the ICB's unitary board, or any committees/ sub-committees established by the unitary board.

An ICB's constitution must meet the requirements set out in the 2022 Act.

NHS England undertakes an annual assessment[79] of an ICB's overall performance. This annual assessment is required by law. The assessment covers a range of areas including how the ICB has contributed to the wider local strategic priorities of the integrated care system (ICS), how successfully it has performed its statutory functions, and how it has delivered against any other relevant guidance issued around the functions of an ICB. Based on the annual report and accounts, it is structured into five sections:

- system leadership
- improving population health and healthcare
- tackling unequal outcomes, access and experience
- enhancing productivity and value for money
- helping the NHS support broader social and economic development.

The annual assessment sits alongside the *NHS oversight framework*[80] that details NHS England's approach to oversight of ICSs.

If an ICB is unable to fulfil its duties effectively or there is a significant risk of failure, NHS England has powers to intervene. In the most severe cases this will involve mandated intensive support through the recovery support programme. More information about regulation and oversight can be found in chapter 9.

Decision-making within an ICB

ICBs have a scheme of reservation and delegation (SoRD) that sets out how and where decisions are taken. It specifies which functions are reserved to the board; which functions have been delegated to an individual or committee; and which functions have been delegated to another body or

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[79] NHS England, *Annual assessment of integrated care boards 2022-23: supporting guidance,* June 2023
[80] NHS England, *NHS Oversight Framework 2022/23*, November 2023

will be made jointly. This is summarised in a functions and decisions map that should be easily understandable by the public.

In the future, some statutory functions may be delegated to place-based partnerships.

5.2 What ICBs do – roles and responsibilities

Functions of an ICB

ICBs bring partners together from across the local system, to work in a collaborative way. ICBs have several functions:

- developing a plan to meet the health and healthcare needs of the population
- allocating resources to deliver the plan across the system
- establishing joint working arrangements with partners to embed collaboration
- establishing governance arrangements to support collective accountability between partner organisations
- arranging for the provision of health services in line with allocated resources
- leading system implementation of people priorities
- leading system wide action on data and digital
- using joined up data and digital capabilities to understand local priorities and track progress
- ensuring that the NHS plays a full part in achieving wider goals of social and economic development and environmental sustainability
- driving joint work on estates, procurement, supply chain and commercial strategies to maximise value for money
- planning for, responding to, and leading recovery from incidents.

Commissioning

ICBs are responsible for commissioning most of the hospital and community NHS services for their local area (see section 3.6 for services commissioned by NHS England, and Chapter 15 - Commissioning, for more details), negotiating contracts with healthcare providers and monitoring their implementation.

Services commissioned directly by ICBs are:

- planned hospital care
- rehabilitative care
- maternity services
- urgent and emergency services, including ambulance and out-of-hours services (ICBs must also commission these services for anyone in their area although for some patients the costs will subsequently be charged to the ICB that covers the GP practice with which they are registered)
- community health services
- mental health services

- learning disabilities services
- abortion services
- infertility services
- continuing healthcare
- prescribed specialised services
- primary care.

To support their work on integrated care and digital transformation, ICBs can purchase services from commissioning support units (CSUs) through the health systems support framework. Listed providers come from across the public and private sectors.

Personalised care

ICBs also have a role in the implementation, promotion, and expansion of personalised care, which may include a personal health budget (PHB). A PHB is an amount of money used to support a person's health and wellbeing needs, planned and agreed between the person and their local NHS team. PHBs allow individual patients to decide how to use the money that they are entitled to, to deliver the care they need. By enabling individuals to undertake the commissioning role themselves, they have more choice and control in how their long-term healthcare needs and outcomes are met. Several groups of people have a legal right to a PHB[81] including patients eligible for continuing healthcare or children and young people's continuing care, and people eligible for section 117 after-care[82] through the Mental Health Act 1983.

Commissioning of primary care

ICBs hold delegated responsibility to commission primary medical, pharmaceutical, general ophthalmic and dental services[83].

While delegated commissioning allows ICBs to assume full responsibility for commissioning primary care services, legally, NHS England retains its statutory responsibilities. Consequently, NHS England requires assurance that its statutory functions are being discharged effectively even though an ICB is operating under full delegated responsibility.

An ICB has a delegation agreement with NHS England that sets out the matters for which the ICB has decision-making responsibility.

ICBs are responsible for managing GP prescribing – they meet the costs of prescriptions written by GP practices in their area but not the associated dispensing fees.

Specialised commissioning

From 1 April 2024 approximately half of all ICBs will be responsible for directly commissioning specialised services except for public health and healthcare for serving members of the armed forces and forces veterans – these are commissioned by NHS England (see chapter 3). Remaining ICBs are expected to take on this responsibility in 2025[84].

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[81] NHS England and NHS Improvement, *Guidance on the legal rights to have personal health budgets and personal wheelchair budgets,* December 2019
[82] UK Government, Mental Health Act 1983
[83] NHS England, *Direct commissioning delegation*, January 2023
[84] *NHS England, Specialised commissioning 2024/25 – next steps with delegation to integrated care boards*, December 2023

ICB statutory duties

ICBs must also fulfil several other statutory duties that are grouped under six headings in the DHSC's guide *The functions of clinical commissioning groups*[85]: These functions were transferred to ICBs.

General – including the commissioning of NHS services for the local area; to co-operate with other NHS bodies; to have regard to the *NHS constitution* and guidance on commissioning issued by NHS England; to promote innovation in health service provision; to promote the involvement of patients.

Planning, agreeing, monitoring services – including to contribute to the joint strategic needs assessment (JSNA) and joint local health and wellbeing strategy (JLHWS) and to have regard to them; to prepare and publish a commissioning plan before the start of each financial year that sets out how the ICB will secure improvements in services and outcomes, reduce inequalities, involve patients and fulfil its financial duties; to comply with regulations relating to best practice in procurement/ patient choice and anti-competitive conduct.

NHS England issues financial planning guidance each year that establishes the 'business rules' for the financial position. Although not a statutory duty, adherence to these rules informs the ICB's risk rating.

Finance – including to ensure the annual budget, revenue and capital limits and running cost allowance are not exceeded; to provide financial information to NHS England to keep proper accounts and records; to use the prescribed banking service.

Governance – including to have a board and accountable officer; to have a published constitution; to publish an annual report; to maintain one or more publicly accessible registers of interest; to make arrangements for managing conflicts of interest.

Co-operation – including co-operation with local authorities for the wellbeing of children; support planning for carers; and support to local authorities and other relevant bodies where appropriate - for example, care assessments, working with justice services, and for some areas under mental health Acts.

General duties applying to NHS or public bodies – including effectiveness, safeguarding, employment, human rights, equality, data protection and health and safety.

In relation to finance and governance notable powers include the ability to:

- enter partnership arrangements with local authorities - for example, pooled budgets and lead commissioning
- enter contracts to provide services
- act jointly with other ICBs, including pooling commissioning funds for lead/ joint commissioning
- make direct payments to patients (subject to regulations)[86]
- enter externally financed development arrangements
- pay governing body members remuneration and travelling or other allowances.

5.3 How ICBs are financed

ICBs receive funding for commissioning NHS services from NHS England. The main allocation is based on a formula that supports the aim of improving health outcomes and reducing inequalities. It

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[85] Department of Health and Social Care, *The functions of clinical commissioning groups,* June 2012
[86] See personalised care above.

takes account of the number of people registered with each GP (the registered list) in the area covered by the ICB as well as the sparsity of the local population (rurality). Work has been undertaken to review allocation levels against targets, recognising that some local systems have been over or underfunded through previous allocations. An adjustment is made to move ICBs towards their target allocation (known as convergence) in a sustainable way, usually over several years.

Part of an ICB's allocation must be put into a pooled budget with the relevant local authority designated as the better care fund (BCF)[87]. With ICBs required to work collaboratively with local authorities 'to make the most efficient and effective use of health and social care funding', the size and scale of pooled funds is set to increase over the coming years.

ICB running costs

ICBs also receive a separate allowance for their day-to-day management and administration costs, known as the running cost allowance. Based on the population served by each ICB's constituent practices, it is adjusted to take account of the risk of inaccurate lists and unregistered people.

This allowance must cover all ICB management costs including the costs of commissioning support services. ICBs are free to decide how best to use this allowance including buying in any services needed. As well as covering the costs directly associated with commissioning, the allowance covers the costs of the chief executive, chief finance officer, internal and external audit, and counter fraud services.

Key learning points

- ICBs are statutory bodies created by the Health and Care Act 2022 and cover the whole of England.
- ICBs are responsible for agreeing the care needed by patients registered with GP practices in the area covered by the ICB, negotiating contracts with healthcare providers and monitoring their implementation. They commission most NHS services for their patients.
- ICBs are accountable to NHS England for improving outcomes to patients and for getting the best possible value for money from the funding they receive, and to the public and patients.
- ICBs receive funding for commissioning NHS services from NHS England. The main allocation is based on a formula that supports the aim of improving health outcomes and reducing inequalities. It takes account of the number of people registered with each GP as well as the sparsity of the local population.

Additional HFMA resources

The HFMA maintains a directory of resources which provides links to other HFMA outputs such as briefings and webinars across a range of subjects, including a section dedicated to system working. It also highlights online learning courses that are available. The directory of resources can be found here.

[87] NHS England, *Better Care Fund,* June 2023