REPORT TO:	**NHS SOMERSET INTEGRATED CARE BOARD** **ICB Board Part A**	**ENCLOSURE:** **I**
DATE OF MEETING:	**30 January 2025**	
REPORT TITLE:	**Principal Commissioner Role**	
REPORT AUTHOR:	**Jonathan Higman, Chief Executive** **Alison Henly, Chief Finance Officer and Director of Performance and Contracting**	
EXECUTIVE SPONSOR:	**Jonathan Higman, Chief Executive**	
PRESENTED BY:	**Jonathan Higman, Chief Executive,** **Alison Henly, Chief Finance Officer and Director of Performance and Contracting**	

PURPOSE	DESCRIPTION	SELECT
Approve	To formally receive a report and approve its recommendations, (authorising body/committee for the final decision)	☒
Endorse	To support the recommendation (not the authorising body/committee for the final decision)	☐
Discuss	To discuss, in depth, a report noting its implications	☐
Note	To note, without the need for discussion	☐
Assurance	To assure the Board/Committee that systems and processes are in place, or to advise of a gap along with mitigations	☐

LINKS TO STRATEGIC OBJECTIVES
(Please select any which are impacted on / relevant to this paper)

- ☒ Objective 1: Improve the health and wellbeing of the population
- ☒ Objective 2: Reduce inequalities
- ☒ Objective 3: Provide the best care and support to children and adults
- ☐ Objective 4: Strengthen care and support in local communities
- ☒ Objective 5: Respond well to complex needs
- ☐ Objective 6: Enable broader social and economic development
- ☒ Objective 7: Enhance productivity and value for money

PREVIOUS CONSIDERATION / ENGAGEMENT

The Principal Commissioner Role was discussed at the Board Development Session in December. The paper below responds to the further areas highlighted in this discussion to support the Board. The paper has been shared and tested with the Chair of the Audit Committee.

REPORT TO COMMITTEE / BOARD

Overview of Principal Commissioner arrangements and core accountabilities / responsibilities:

Introduction

The Somerset ICB Board considered the recommendation from the South West Joint Committee to implement a principal commissioner model for specialist commissioned services, following the delegation to the 7 ICBs in the South West on 1 April 2025 at its meeting on 28 November 2024. The Board supported the principal commissioner model.

The Board is now being asked to agree whether Somerset ICB will take this role on behalf of the 7 ICBs in the South West. This was considered at the Board meeting on 28 November 2024, but further due diligence was requested in the following areas:

1. Governance – mechanisms for oversight and assurance of the South West Collaborative Commissioning Hub (CCH) and principal commissioner's activities need to be established
2. Finance – the principal commissioner will manage £1.3 - £1.4bn in spend, mostly through block contract arrangements. A contingency is set aside to manage the risk, but further clarity was requested to clarify the arrangements for any financial risk in excess of the contingency
3. Quality – provide clarity as to who will act to address any quality concerns relating to specialist commissioner services

This paper addresses each of these points.

1. Governance

1.1 NHS England (NHSE) by way of 7 separate Delegation Agreements will delegate the powers, budget and decision-making associated with the specialised commissioning portfolio to the South West partner ICBs. At this point, each ICB becomes responsible as the legal commissioner for delegated specialised services for its population, holding decision making powers and bearing the liability for the decisions it makes, although remaining accountable to NHSE for discharging this responsibility.

1.2 The 7 ICBs will also sign one Collaboration Agreement which describes the arrangements for discharging the delegated specialised commissioning responsibilities between them. The Collaboration Agreement is legally binding. A breach of the Collaboration Agreement by any ICB would also trigger a breach of that ICBs Delegation Agreement with NHSE, allowing NHSE to intervene. This will not have any impact on the principal commissioner model.

1.3 By way of the Collaboration Agreement, the 7 partner ICBs would exercise the powers afforded to them under s.65Z5 of the National Health Service Act 2006 to then further delegate the powers, budgets and decision-making associated with the portfolio to a Principal ICB (Principal Commissioner), to be designated as Somerset ICB. The Principal ICB becomes the sole legal commissioner with full responsibility and liability for this service portfolio and becomes accountable to the partner ICBs for the discharge of these responsibilities.

1.4 While the Principal ICB remains solely legally responsible, strategic decision-making powers are exercised collectively for the consolidated specialised commissioning function with the other six partner ICBs by establishing a Joint Working Arrangement with a statutory Joint Committee formed of membership from all partner ICBs. The arrangement should set out what decisions are reserved to the Joint Committee; officers of the Principal ICB may take any decisions which are not reserved to the Joint Committee, so long as they are acting within the Principal ICB's Scheme of Reservation and Delegation (which will be amended to reflect the delegations).

1.5 This is further explored in the table below.

1.6 Table 1 – Implications of the Collaboration Agreement

	Other 6 Partner ICBs	Somerset ICB
Accountability	To NHSE directly to assure that their portion only of the delegated services are being properly commissioned.	To NHSE directly to assure that their portion only of delegated services are being properly commissioned. To each of the other 6 partner ICBs directly to assure that their respective portions of the delegated services are being properly commissioned.
Responsibility	To ensure that they have oversight of the commissioning carried out by Somerset ICB on their behalf. To comply fully with the terms of the Collaboration Agreement, including active participation in the Joint Committee and adherence to any decisions made. To oversee providers within their geography, including through the exercise of their responsibilities under the NHS provider oversight framework and as the coordinator of any local critical incidents or system issues, assisting Somerset ICB to resolve issues within specific specialised services for which Somerset ICB is the legal commissioner.	To implement Joint Committee decisions on strategic matters (investments, divestments, annual plan, provider configuration, service change) To contract directly with all specialised providers. To manage all financial transactions with specialised providers and to manage financial risk and slippage within the plan. To manage contracted providers against quality and performance requirements To identify, manage and mitigate risks to service delivery for specialised services in contracted providers. To develop and bring forward strategic and planning proposals on the delegated services for Joint Committee review and decision.

1.7 While all partner ICBs remain directly accountable to NHSE, the legal responsibility becomes held solely by the Principal ICB. It is accountable to the partner ICBs for the discharge of these responsibilities. An assurance framework is expected to be developed in 2025/26 by NHSE nationally which will set out a route for NHSE to formally receive assurance on an annual basis. To avoid duplication, routine reporting to the Joint Committee is the route to satisfying both the assurance duty owed to ICBs and any oversight which NHSE wishes to exercise.

1.8 The Principal Commissioner enacts the Joint Committee decisions with the day-to-day management of the service portfolio undertaken by the specialised commissioning team within the Collaborative Commissioning Hub (CCH), feeding into the CCH directors and an executive led Customer Management Board, established between the host ICB, the other partner ICBs and NHS England.

What this means in practice:

1.9 All of the specialist commissioning responsibilities which will fall to Somerset ICB are currently undertaken by the NHSE Specialised Commissioning Team, with established internal processes and internal governance arrangements. The majority of this team will transfer to become employed by Somerset ICB in 2025/26. The full team, including those

that remain in NHS England will continue to perform their current functions on behalf of Somerset ICB, operating within their existing internal processes as part of a Collaborative Commissioning Hub. Further transfers will happen as other areas of responsibility are delegated by NHSE. This predominately relates to health and justice and public health services, which are currently planned for delegation on 1 April 2026.

1.10 The existing Specialised Commissioning Team comprises contracting, finance, BI, pharmacy, transformation, quality, medical admin resource configured to work in MDTs based on the geographical configuration of specialised services in the South West. Teams currently have direct relationships with both providers and their local ICB commissioners, including links into local quality oversight groups. Due diligence is currently being undertaken to ensure the right level of resources transfer to Somerset ICB to fully discharge the duties of the Collaborative Commissioning Hub.

1.11 Somerset ICB involvement in day-to-day discharge of the responsibilities will be minimal. Signoff of activities by the team will be through the CCH Directors with routine upward reporting into Somerset governance processes for assurance purposes.

1.12 The Collaboration Agreement will establish requirements on the Joint Committee, including to agree a balanced financial plan and to take all steps to support Somerset ICB in delivering this plan. As with any subcommittee, the Joint Committee must operate within the limits of Somerset ICBs constitution.

2 Finance

2.1 The value of the delegated allocation for the South West is expected to be in the order of £1.3bn, with circa £1.1bn for physical health and £0.2bn to mental health. The specialised commissioning budget has been in balance over the most four recent years with recurrent commitments being affordable.

2.2 Accounting for income and expenditure will be on Somerset ICB's financial ledger only, with the responsibility for managing financial risk and slippage siting with Somerset ICB.

2.3 The overwhelming majority of the £1.3bn is used to commission services in NHS providers, with broadly £0.0bn used to commission from Non-NHS providers.

2.4 Contracts with NHS providers as a combination of fixed and variable elements. The fixed element is approximately 78% of the contract, and this value in the contract does not vary as activity levels rise or fall. There are two elements that are variable, where payment does increase or fall, depending on the level of activity completed:

- Elective Recovery Fund (ERF) – this accounts for approximately 17% of NHS provider contract values and is handled nationally
- Wider variable – this accounts for approximately 5% of NHS provider contract values and the contract value increases or decreases depending on the volume of activity completed.

2.5 Key financial risks include:

Key Risk	Risk Detail	Risk Mitigation
Variable Activity	In 2024/25 the financial plan included £100m (£70m with NHS providers and £30m with the Independent Sector) of spend in both NHS and Non-NHS providers for activity where payment is 'variable' and based on the actual activity levels delivered	Under the Principal Commissioner model. Somerset ICB must hold the financial risk amongst its ICB partners. The Hub will robustly manage the risk of behalf of Somerset ICB with the following measures to support:

	by providers. The variable nature of payments presents a risk	• The Collaboration agreement will require all ICBs to achieve financial balance, using the Joint Committee as the decision-making forum to approve plans, investment and divestment decisions and monitor performance. • Delegation conditions will be set by NHSE. These include ring fencing of the allocation for specialised services, the requirement to hold a contingency fund, the requirement to include all specialised services in the arrangement to begin with and finally, dual approval of decisions (ICB & NHSE) for ICBs that are subject to greater control by NHSE. • A risk / benefit share arrangement with NHS providers is being discussed. This provides a mechanism to share both surpluses or overspends with providers to deliver a balanced financial position in specialised commissioning.
Elective Recovery Fund	The nationally led ERF programme is nationally funded in 2024/25, however, the arrangements going forward have yet to be notified to commissioners	
Contract Setting	Whilst the vast majority of the allocation is used to commission services from NHS providers on a 'fixed' value basis, the contract value is negotiated each year. National guidance sets out generic uplifts but there is a risk that providers will demand more funding than is available.	
Mental Health Formula, contract and the Mental Health Investment Standard (MHIS)	There are plans to introduce a MH formula to determine fair allocations and to include specialised Mental health in the MHIS. It is not yet known whether SW ICBs are under or over target, what the pace of change may look like or what the impact of the MHIS might be. In addition, the mental health contract runs for 1 year following delegation (with an option to extend for a further year) and plans following this are yet unclear. Stability on this has been highlighted as a condition in the ICB delegation agreement.	
Clinical or Operational Issues	From time to time, issues arise within providers that require funding to resolve.	

3 Quality

3.1 An approach for all quality matters has been agreed whereby, the host ICB for provider will hold the quality accountability for the whole provider with the Specialised Commissioning team working with them to manage any risk in relation to the specialist commissioning portfolio.

3.2 Oversight and reporting of quality matters would be maintained through the normal nub business processes, which will be reported to the Joint Committee.

4 Recommendation

4.1 The Board is asked to agree that Somerset ICB takes the principal commissioner role on behalf of the 7 ICBs in the South West from 1 April 2025.

IMPACT ASSESSMENTS – KEY ISSUES IDENTIFIED (please enter 'N/A' where not applicable)	
Reducing Inequalities/Equality & Diversity	Equality and diversity are at the heart of Somerset ICB's work, giving due regard to eliminate discrimination, harassment, and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as cited in under the Equality Act 2010) and those who do not share it, in its functions including performance management.
Quality	Decisions regarding services are made to deliver the best possible value for service users

Safeguarding	We are dedicated to ensuring that the principles and duties of safeguarding children and adults are applied to every service user and that safeguarding is integral to service development, quality improvement, clinical governance and risk management arrangements
Financial/Resource/ Value for Money	Total resource allocation for specialist commissioning for the South West is circa £1.3bn.
Sustainability	This includes core work elements around sustainable healthcare, public health and wellbeing, estates and facilities, travel and transport, supply chain and procurement, adaptation and offsetting and digital transformation.
Governance/Legal/ Privacy	Financial duties of NHS Somerset not to exceed its cash limit and comply with relevant accounting standards.
Confidentiality	No issues are identified.
Risk Description	NHS Somerset must ensure it delivers its financial and performance targets.