1.0 Introduction
This paper follows on from previous papers and discussion at the Board which had identified the opportunities and risks associated with taking on Delegated Primary Care Commissioning from April 2016. It provides a briefing to the Wandsworth CCG Board on our progress towards taking on Delegated Commissioning, including an update on the outcomes of the due diligence exercise, and details the next steps in the process to moving forward with Delegated Commissioning. As agreed at previous Board Meetings this paper will pull together the final details of Delegated Commissioning to allow the Board to make a final decision as to whether to continue with moving forward with the decision to take on Delegated Commissioning from April 2016.

In September the Board agreed to go ahead with our application for Delegated Commissioning in November but that it would reserve the right to take a final decision once the outcomes of the due diligence exercise had been reviewed, with an understanding that any significant risks should be identified and the impact understood before making a final decision. The due diligence reports were published in January giving the Board the opportunity to review in detail before making the final decision. The key outcomes of both the Financial and Legal Due Diligence Reports are included within this paper.

The paper will also provide an update on the local progress including developing the Terms of Reference for new Primary Care Commissioning Committee, in order for the Board to formally approve these documents.

2.0 Delegated – Opportunities, Benefits and Risks
Delegated Commissioning arrangements give CCGs full responsibility for commissioning general practice services. Legally NHSE will retain the residual liability for the performance of primary medical care commissioning and as such NHSE will require assurance that its statutory functions are being discharged effectively by the CCG. The formal liability for primary care commissioning for legal reasons will remain with NHS England although individual CCGs will remain accountable for meeting their statutory duties for instance in relation to quality, financial resources and public participation.

Delegated responsibilities will include:
- Contractual GP performance management
- Budget management
- Complaints management
- Design of local incentive schemes as an alternative to QOF and DES contracts
• Delegated commissioning arrangements will exclude any individual GP performance management. NHSE will also be responsible for the administration of payments and list management

• Legally NHSE will retain the residual liability for the performance of primary medical care commissioning. Therefore will require robust assurances that its statutory functions are being discharged effectively

Delegated commissioning excludes functions reserved to NHS England but CCGS will be expected to work collaboratively with NHS England and will assist and support NHS England to carry out these Reserved Functions. These Reserved Functions include individual GP performance management, administration of payments and performers list management, Section 7A (Public Health) functions and funds, capital expenditure functions and funds, complaints management and decisions in relation to the Prime Ministers Challenge Fund.

Fully Delegated Commissioning offers an opportunity for CCGs to assume full responsibility for commissioning general practice services. Opportunities and benefits that exist within full delegation arrangements include:

• Builds on the good work that we are currently delivering against in Primary Care and fits with our overarching Primary Care Strategy, enabling us to fully Implementation of our plans around the Five Year Forward View, including: Developing an integrated approach with Primary and Community Services as part of our MCP Model

• Benefits our local population by improving primary care access, outcomes, patient experience and supports our work to reduce inequalities

• Will give the CCG the ability to design local schemes to replace QOF and DESs based on local knowledge

• Increases our ability to tackle quality in primary care; greater knowledge of current Practice performance against contracts thus reducing variation in care

• GPs in CCGs to have direct leadership to influence the development of investment in general practice

• CCGs are best placed to commissioning primary, community and secondary care in holistic and integrated manner

• Creates greater freedom within the CCG for how primary care finances are used, with better understanding and control of the financial flow across the organisation

• Supports our effectiveness in transforming healthcare services by enabling us to directly commissioning primary care at a local level, and tailored services to meet the local needs of our patient population

• Gives us greater opportunity to use innovative commissioning to deliver local improvements, whilst optimising the use of resources to target them more effectively

Adopting fully delegated arrangements for Primary Care Commissioning Services will benefit patients as it will provide a greater opportunity for them to influence local service delivery as we take a more active role in commissioning primary care services, based on the needs of the local population. This will mean the provision of local services that are better suited to address local needs and priorities.
Early benefits and opportunities other CCGs have reported in the first six months of Delegated Commissioning include:

- Increased the local appetite and energy to develop primary care services and new models of care
- Enabled the development of a clearer, more joined up vision for primary care, which is aligned to the CCGs wider system priorities
- Increased clinical leadership and public involvement in primary care commissioning, enabling more local decision making
- Improved CCGs’ relationships with a wide range of local stakeholders, including member practices, as more conversations are now happening locally about primary care development and practice sustainability

3.0 Outcomes of the Due Diligence Exercise

3.1 Financial

RSM were requested to carry out due diligence on primary care budgets currently managed by NHS England. This involved discussions with NHS England (as commissioners), NHS Property Services and GP practices. They reviewed budgets over the last 3 years from 13/14 and looked in detail at how the budgets were set, how accurate they were, what engagement happened with practices, management of premises and estates, delivery of QIPP and overall financial management processes. The review concluded that there is a level of financial risk to the CCG in taking on Level 3 delegated commissioning responsibility. The level of risk is related to the budget setting process, QIPP requirements and the historic approach to accruing for costs at a GP Practice level. In addition, the GP practice survey highlighted some issues that NHS England were not aware of, primarily in relation to premises related matters.

These risks need to be considered in the context of the opportunities that Delegated Commissioning may provide, such as the scope for improved financial management is significant and should be weighed up against the likely short-term financial challenge that the CCG will inherit if we move ahead with Delegated Commissioning.

The report highlighted these key recommendations to the CCG:

- Financial reporting – the CCG would need to invest so that a more robust reporting mechanism is in place to go live on 1st April 2016.
- Accruals – improved systems for accruing a GP Practice and CCG level would need to be developed and implemented to take effect from the start of the new financial year.
- Financial Management – practices should be aware of the budget at the start of the year and there should be an on-going programme to monitor costs against that budget throughout the year.
- QIPP – the gap from 2015/16 would need to be eliminated through the financial strategy. Planning for 2016/17 should start now so that schemes are designed and implemented by the start of the year.
• Contract Management – a robust process of contract management should be put in place. A training programme for GP Practices and CCG staff should be designed and implemented to support this change.

• Property – meetings should take place with GP Practices to ensure that all property issues with NHSPS are flagged and an appropriate action plan is put in place.

• Capacity – additional capacity will be needed during the set up phase. Dependent on how the staff are allocated at a SWL or CCG level, there may be some economies of scale. Thereafter the levels of staff transferring could be adequate, though will require new ways of working e.g. the better use of systems to reduce manual intervention.

• Shared Services – the CCG should consider working together so that common standards are applied to the management of these contracts going forward. A shared service approach would allow better staff structures and critical mass so that the CCG can build improvements on the current system, rather than risk going backwards if key skills are diluted.

In response to the finding of the report it is suggested that a review of every practice be undertaken within the CCG to validate the current contract and finance information, allowing the CCG to establish a baseline in order to set a model for ongoing management of the contracts.

A programme of training is currently in development, with initial training being provided to relevant CCG staff in March to ensure that staff are supported to potentially take on any new function following the implementation of Delegated Commissioning responsibilities.

An Organisation Development and Review process is currently underway across South West London to identify and review the current workforce capacity, this should identify what staffing levels will be available to support the functions both at the CCG and across South West London.

3.2 Legal Report

Capsticks were instructed to undertake the legal due diligence on behalf of the 6 South West London CCGs, focussing on the PMS, GMS and APMS contracts through which primary medical services are provided, although they provided an analysis of the general legal risks of the CCGs taking on delegated responsibilities. As with the financial due diligence, a survey was conducted with local practices to provide a picture of the GPs perception of a range of contractual issues. The report also identified a number of ‘Legacy Issues’ which were not initially identified on the unresolved Legacy List identified by NHS England.

The following table provides the Board with an overview of the outcomes of the Legal Report and the suggested actions the could be undertaken by both the CCG and NHS England to resolve such issues:

<table>
<thead>
<tr>
<th>Issue</th>
<th>Summary of Actions Suggested</th>
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<tbody>
<tr>
<td><strong>Primary Medical Contracts</strong></td>
<td>Due diligence exercise at practice level, variation agreements issued and signed where necessary</td>
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<tr>
<td>Differing schedules in place, limited evidence of reviews completed</td>
<td>Develop a consistent performance monitoring framework which is manageable within resources</td>
</tr>
<tr>
<td><strong>Legacy Issues</strong> – GP Survey has highlighted several areas where there are live issues</td>
<td>CCG to ensure consistent processes are in place for future and consider in detail the list of outstanding information requested from NHSE</td>
</tr>
<tr>
<td><strong>Breach and CQC</strong> – Limited evidence of action taken in response to breach notices etc</td>
<td>CCGs to find out what action has been taken by NHSE and ensure processes are in place for future</td>
</tr>
<tr>
<td><strong>GP Survey</strong> – Wide range of issues from practices identified, raising concerns about legacy report.</td>
<td>CCG to ensure consistent processes are in place for future and consider in detail the list of outstanding information requested from NHSE</td>
</tr>
<tr>
<td><strong>Delegation Agreement</strong> – Difficulties accessing information due to poor sharing arrangements</td>
<td>Review delegation and information sharing arrangements with NHSE and agree timeframe</td>
</tr>
<tr>
<td><strong>Delivery of QIPP</strong> – CCG must provide assurance of ownership and delivery</td>
<td>Explore with NHSE the possibility of local variations</td>
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</tr>
<tr>
<td><strong>Joint Working</strong> – Governance needs to be clear to avoid risk of challenge</td>
<td>Ensure clear governance arrangements are developed to allow development of at scale solutions.</td>
</tr>
<tr>
<td><strong>Conflicts of Interest Management</strong> – Increased scrutiny and risk of challenge</td>
<td>Ensure best practice is adopted, actively review arrangements and ensure staff are trained.</td>
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</table>

As noted earlier a individual practice review will be undertaken across the CCG, this will also identify any contractual issues, and enable the organisation to ensure that any outstanding issues are identified and can be managed accordingly.

Work is ongoing with the local NHS England Regional team to work through and address some of the areas where there are outstanding issues, or further clarification is required in order to ensure that systems and processes are in place and sufficient to take on the Delegated Functions.

### 4.0 Delegation Agreement

The Delegation Agreement (summary Appendix?) sets out the primary medical services functions that will be delegated to the CCG, and how these should be exercised. This is the next phase in our application to take on Delegated Commissioning from April 2016, following our initial application in November 2015, and should the Board agree to move forward with Delegated Commissioning, then this document will be expected to be completed and returned to NHS England by the 26th February 2016.

The Delegation Agreement was developed in collaboration with CCGs and Clinical Commissioners alongside NHS England. To ensure consistency, there is one standard Delegation Agreement for all CCGs wishing to take on Delegated Commissioning Arrangements, and as such NHS England will not accept any local variations, nevertheless we have agreed with the NHS England Team that an additional ‘side letter’ will be included with this agreement, in order to identify and agree explicit...
areas specific for Wandsworth, which will aim to limit the risks transferred as part of the Delegated Agreement and confirm responsibilities for some of the outstanding Legacy issues.

In order for the CCG to move forward with Delegated Commissioning we are asked to compete the relevant parts of the Agreements and return to NHS England signed by Friday 26th February. Following successful completion of the Delegation Agreement NHS England will issue the final Delegation.

The Delegation Agreement provides the operational details on how the parties to the delegation will operate, with the content divided into three sections:

- **The Particulars**: which contain the sections which require local completion
- **The Terms and Conditions**: which contains the terms and conditions governing the delegation of the primary medical care commissioning functions to the CCG and how these are to be exercised by the CCG; and
- **The Schedules**: which contains further detailed provisions including in relation to the Delegated Functions, the Reserved Functions, Finances, Staffing and other provisions.

Work is underway to review the particulars in the Delegated Agreement to ensure that we are in a position to complete the form in order to meet the NHS England deadlines.

5.0 Governance

As part of the requirements to move to fully Delegated Commissioning arrangements the CCG will have to establish Primary Care Committee in order for NHS England to effectively discharge the functions associated with primary care commissioning. Appendix 2 provides the final version of the Terms of Reference for the Committee based on the National Model and updated to reflect local discussions at the Primary Care Implementation Group. It is proposed that we initially establish the Primary Care Commissioning Committee in March in seminar mode in order to work through a plan the development of the Committee for the first Public Meeting to be held once the Delegation has been finalised and functions formally transferred to the CCG. In the interim period regular meetings of the Primary Care Commissioning Implementation Group will take place to ensure that the process is managed and the ongoing work programme is implemented. It is proposed that once established the Primary Care Commissioning Committee will be held in public at least quarterly.

6.0 Next Steps

The Primary Care Implementation Group will continue to ensure that the CCG are in a position to take on Delegated Commissioning, until such time as the Primary Care Commissioning is in place and the functions have been discharged to the CCG.

Work is being undertaken across South West London to understand the Resource and Workforce implications to support the management and transfer of Delegated Functions, which will then inform part of the discussions with NHS England on the resources and capacity transferred.

7.0 Recommendations

The Board are also asked to:
• Note the due diligence reports and to request a side letter as an addendum to the Delegation Agreement with NHS England that will set out a process for agreeing local matters.

• Agree to continue with our application to take on Delegated Commissioning from April 2016, which will include the completion and submission of the Delegation Agreement.

• Agree the Terms of Reference for the Primary Care Commissioning Committee, noting the ongoing work of the Primary Care Commissioning Implementation Group to continue to ensure that we have robust governance arrangements in place.

• Note that the CCG will seek to have one to one conversations with every practices to assess the current contracting and financial baselines and validate information.