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Title of paper	Harmonised constitution
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Confidential	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/> Items are only confidential if it is in the public interest for them to be so

The Governing Body is asked to:

Endorse the harmonised CCG constitution prior to it being presented to the CCG's member practices seeking membership approval to change the constitution.

Summary of purpose and scope of report
1. The purpose of harmonising the eight NWL CCG constitutions is:

- The NW London CCGs are working towards the establishment of a decision-making Joint Committee to undertake certain commissioning functions where such would make sense to be done once, rather eight times. Governing Body members will be familiar with the GB considerations and decisions to this end since July 2017. To provide a transparent and robust framework for joint CCG working where the CCG agrees joint working at scale to improve patient outcomes. It is important to emphasise that the CCG remains a sovereign entity with the right to withdraw from joint arrangements and any joint decision-making must be delegated by the CCG.
- Harmonising constitutions is an essential enabler if CCGs are to commission and work together effectively and safely at scale. At present, each CCG's constitution, whilst similar and already enjoying provisions to enable joint working at this level, do differ and, at times, contradict. The end result is that each constitution is opaque, hard to understand and open to interpretation and challenge – harmonising the key provisions of the eight constitutions is a crucial mitigation to the risk of successful technical challenge of the operation of the Joint Committee and joint working.

2. Key changes

- Standard dispute resolution process with member practices introduced (3.4)
- Joint arrangements clearly set out, including enabling the Joint Committee (6.5)
- Governing Body composition standardised (6.6.2)
- Practice representative role defined so there is a uniform understanding across

CCGs (7.1)

- Joint appointments – explicit authority for the Accountable Officer to make joint appointments (7.8)
- Conflicts of Interest – added non-conflicted GPs as an option to enable quoracy (8.4)
- Key roles defined (some constitutions were missing terms relating to Lay Members etc) (Standing Order 2.2)
- Meetings of Governing Body and Committees standardised including Quoracy; Emergency Powers; Vice-Chairs deputises for Chairs etc (Standing Order 3)
- Scheme of Delegation (Appendix D) standardised. Terms of Reference are delegated to Governing Body to approve. Following membership feedback, there are explicit reservations to members for any decision to delegate to joint committee relating to Primary Care, Community Services, CHC and Prescribing.

3. Robust and broad assurance

In developing and producing the proposed harmonised constitution, the Governing Body should note the following assurances:

- we have reverted to the NHS England model template for CCG constitutions and have kept changes to this as limited as possible;
- Legal review – Capsticks have vetted the changes and confirmed the harmonised constitution is legally compliant;
- provisions specific to CCGs' Members (membership decision-making meetings, voting, elections etc.) have been preserved for each CCG;
- the Governance Design Group has had oversight and significant influence over the work;
- the Governance Technical Group (an executive level group of Governance experts from across NWL that reports to the GDG) and all CCG Governance leads have worked closely together to produce an agreed and thoroughly-vetted harmonised constitution to recommend to decision-makers
- review of the proposed changes has been undertaken also by GB Chairs, enabled by each Chair having sight of the proposed draft flagging the changes to their CCG's constitution specifically, with each Chair being walked through the changes and any areas of potential sensitivity;
- the constitutions have been taken to GB Seminars;
- Audit Committee consideration;
- London-wide LMC, LMC Law and local LMC vetting – from a member practice perspective;
- Membership meeting discussion; and
- Lay Member group review.

4. Next steps

The ambition is for member practice and NHS England approval of the constitution to be completed by the end of November to allow the Joint Committee to become decision-making from 6 December.

Quality & Safety/ Patient Engagement/ Impact on patient services:

Quality & Safety: The changes being made do not fundamentally affect the basis of CCG operation, other than to ensure that existing duties and responsibilities are defined consistently across NWL. Harmonising constitutions will clarify and streamline decision-making so it can be done clearly, once. This is a significant quality and safety benefit, enabling CCG's to take prompt action to address quality and safety issues.

Patient Engagement – The process, rationale and proposed constitutions have been discussed with our membership and governing body members throughout the course of the project.

Finance, resources and QIPP

There are no financial costs to moving to a harmonised constitution. The changes are aimed in part at reducing the likelihood of successful legal challenge and minimising unnecessary duplication of management effort, both in the operation of the CCGs and scrutiny / accountability.

Moving to a harmonised constitution offers financial planning and co-ordination advantages in supporting the CCGs meet their financial control totals and QiPPs.

Equality / Human Rights / Privacy impact analysis

A separate equality impact assessment has been undertaken for moving to the Joint Committee. No equality issues were identified that impact on the Constitution change. However, following vetting by the Governance Design Group, additional definitions of how CCGs will meet CCGs' duties under the Equalities Act 2010 have been added to the Constitution in section. The wording added is based on legal advice and feedback from the Assistant Director for Equalities.

Risk	Mitigating actions
Risk 1: Distrust of NWL joint decision-making or misunderstanding that joint decision-making equates to merger (which is very different from collaboration) could lead to Governing Bodies or CCG memberships voting against the harmonised constitution.	The assurance steps set out in the paper including LMC liaison; GB Seminars; membership meetings; communications etc.
Risk 2: The harmonised constitution is not legally sound.	Capsticks solicitors vetted the constitution and assured the constitution is legally sound. Other assurance steps include Governance

	Design Group and Audit Committee oversight and LMC Law vetting the constitution.
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Supporting documents

- Appendix 1: Harmonised constitution
- Appendix 2: Summary of key differences between the harmonised constitution and the NHS England model constitution
- Appendix 3: Retained membership-related sections

Governance and reporting

Committee name	Date discussed	Outcome
Audit Committee	10/05/2018 (BHH) 03/05/2018 (CWHHE)	Audit Committee acknowledged the assurance steps to ensure the constitution is robust and did not identify any additional assurance steps.