

Agenda item: 6

Report title: Ethical Framework for Decision-Making

1. Background

In carrying out its responsibility to plan and buy health and care services for the population of Bristol, North Somerset and South Gloucestershire (BNSSG), BNSSG Clinical Commissioning Group (CCG) will inevitably have to make difficult decisions. The reasons that some decisions are difficult include:

- Demand for healthcare exceeds the NHS's ability to supply services
- The CCG has a legal duty to break even
- There are competing specialties
- There are competing populations / health needs
- Decision making is complex due to local need, available resources, funding opportunities, need for savings, sources of information, national policy, available evidence
- We often have imperfect information about our existing populations; services and; the evidence about the outcomes of interventions or services

BNSSG CCG has developed a final draft Ethical Framework for Decision Making which will describe the principles that we will use when making commissioning decisions. Primary Care Commissioning Committee received an update on the development of the Ethical Framework for Decision Making in November 2018. BNSSG CCG Governing Body approved the final draft of the framework in January 2019. The final draft can be found at Appendix 1.

It is important that the framework is owned by Primary Care Commissioning Committee in order for it to truly fulfil its purpose.

Each of the principles will be considered fully and equally in each case. The framework is neither a decision-making tool nor the process for decision making. The principles should not be used as a checklist or criteria to be met before a decision can be made.

2. Development Process

The final draft Ethical Framework for Decision Making has been developed by:

- Looking at Ethical Frameworks that other CCGs have in place
- Taking legal advice from a specialist solicitor and from an ethics expert
- A process of co-design including using a workshop with members of Governing Body in July 2018; a workshop with members of Commissioning Executive in September 2018; an update and discussion at Governing Body meeting in November 2018; an update and discussion at Primary Care Commissioning Committee in November 2018; Governing Body seminar in December 2018

– Asking the following stakeholders for their feedback on the Ethical Framework for Decision-Making:

CCG staff including Clinical Leads

GP member practices

Community and Voluntary Sector

Avon & Wiltshire Mental Health Partnership NHS Trust

North Bristol NHS Trust

Weston Area Health NHS Trust

University Hospitals Bristol NHS Foundation Trust

“Any Qualified Provider” organisations

Bristol Community Health

North Somerset Community Partnership

Sirona

Public Health from Bristol City Council, North Somerset Council and South Gloucestershire Council

Clinical Cabinet

100 individual points of feedback on the Ethical Framework were received and were categorised as follows:

Table 1 – Feedback categories

Category	No. of pieces of feedback
Amendments to the principles / consideration of costs on system	35
Comments on consensus decision-making	17
Ideas for implementation	14
Remaining feedback covered general agreement with the document, health inequalities, balancing long term and short term impacts	34

All feedback has been used to help refine the draft that was engaged on. The result is the final draft BNSSG CCG Ethical Framework for Decision-Making which can be found at Appendix 1.

3. Financial resource implications

The Ethical Framework for Decision-Making itself will support BNSSG to understand and take account of financial resource implications across the system when making decisions and will consider these equally with other considerations.

4. Legal implications

The Ethical Framework for Decision-Making will support BNSSG CCG to deliver its duties under the Health and Social Care Act 2012.

5. Risk implications

The absence of an Ethical Framework for Decision-Making may make it more difficult for the CCG to demonstrate the robustness with which it makes decisions. An Ethical Framework for Decision-Making and actions to ensure that it is used will help to mitigate this risk.

6. Implications for health inequalities

The principles described in the Ethical Framework for Decision-Making include making decisions through a non-discriminatory process reinforcing equality of opportunity of access to healthcare and being explicit that there may be times when it is appropriate to target some demographic groups or health issues in order to reduce inequalities in health outcomes and promote the wellbeing of the community.

7. Implications for equalities (Black and Other Minority Ethnic/Disability/Age Issues)

The draft Ethical Framework for Decision-Making was screened as part of the Equality Impact Assessment process (Appendix 2). The purpose of this was to assess how the principles can support the CCG in fulfilling its duty to:

- Reduce inequalities and;
- Have due regard to the need to eliminate discrimination and advice equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it

As a result of feedback, changes to the wording of Principle 2 – Inclusive have been made so that it now states that there should be active attempts to obtain insight so that the perspectives of people who find it difficult to access services are taken into account.

The screening demonstrated that the principles contained in Ethical Framework for Decision-Making could have a positive impact on people with protected characteristics. We recognise that we will need to take practical positive steps to ensure that:

- CCG staff using this framework receive some support to ensure that they fully understand the principles and what it means to make decisions by consensus.
- We adhere to Principle 4 – Transparent and open to scrutiny. This is to ensure that decisions that we make that affect various members of our population can be easily understood by them. We may also need to review the way in which we document the process followed when making decisions and how we show the degree of consensus reached when appropriate.

Table 3 describes, at a high level, some suggested actions that will need to happen to support CCG staff.

Table 3

Action	Owner	Due Date	Outcome
Sessions for staff, including clinical leads to explain the final draft of the Ethical Framework for Decision Making	Adwoa Webber	April 2018	Staff aware of the framework and how they need to use its principles when making decisions
Sessions on facilitating / chairing and participating in consensus decision-making for members of committees of the CCG	Adwoa Webber	April 2018	Committees of the CCG understand and are able to use consensus decision-making
CCG teams responsible for communicating decisions to review the way in which they do this	CCG Executive Directors	April 2018	Stakeholders can more easily understand how decisions have been made
Develop a way that decision-making groups can actively use the framework in the preparation for meetings and during meetings	CCG corporate team and CCG Executive Directors	April 2018	The framework is actively used in relevant decision-making.

Please note that the timescales for actions are different from the original dates outlined in the January 2019 Governing Body paper.

8. Consultation and Communication including Public Involvement

Table 3 below details the engagement activities that have taken place

Table 3

Stakeholder	Activity	Feedback received?
BNSSG CCG staff including Clinical Leads	Staff were informed that an Ethical Framework for Decision Making was being developed and why Staff were encouraged and enabled to give feedback on the draft in a variety of ways, e.g. team meeting with their executive directors, the staff intranet (The Hub), staff newsletter, etc.	Yes

Stakeholder	Activity	Feedback received?
Member GP practices	The Ethical Framework was sent to practices in early November 2018 and they discussed it at their member meetings on 13 and 14 November 2018.	Yes
Community and voluntary sector representatives	Organisations from across BNSSG were invited to a meeting that took place on 5 December 2018. Take up was low with representatives from two organisations attending (North Somerset BME network and the Avon Local Medical Committee).	Yes - limited
Acute hospital service providers including mental health and those providing NHS commissioned services under Any Qualified Provider	The Ethical Framework for Decision Making was sent to Avon & Wiltshire Mental Health Partnership NHS Trust (AWP), Weston Area Health NHS Trust (WAHT), North Bristol NHS Trust (NBT) and University Hospitals Bristol NHS Foundation Trust (UHBristol), Sirona, Bristol Community Health (BCH), North Somerset Community Partnership (NSCP) and Any Qualified Providers (AQPs) in early November 2018.	Yes - NBT, UHBristol, BCH, AQPs No - AWP, WAHT, Sirona, NSCP
Healthier Together Sponsoring Board	The Ethical Framework was sent to the Chief Executives	See above
Clinical Cabinet	The Ethical Framework was sent to all members of Clinical Cabinet and they were also reminded to give feedback at their meeting on 21 November 2018.	See above
Public Health in Bristol, North Somerset and South Gloucestershire	Public health colleagues were sent the Ethical Framework and asked to provide feedback.	Yes

The BNSSG CCG Ethical Framework for Decision had not been shared with local authority colleagues other than public health. Although this is the CCG's framework for use within the CCG, it would be helpful to frame it in way that works for local authorities so that it can be used for joint commissioning or when we commission in parallel. We have taken the Ethical Framework to the South Gloucestershire Health and Wellbeing Board to discuss this and they were supportive of the framework. We will be taking it to the North Somerset and Bristol Health and Wellbeing Boards to do the same for information and discussion.

9. Recommendations

Primary Care Commissioning Committee is asked to:

- Note that Governing Body has approved the BNSSG CCG Ethical Framework for Decision-Making
- Approve the BNSSG CCG Ethical Framework for Decision-Making for use by Primary Care Commissioning Committee

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Appendices

Appendix 1 – Final Draft BNSSG CCG Ethical Framework for Decision-Making

Appendix 2 – Equality Impact Assessment for Ethical Framework for Decision Making

Glossary of terms and abbreviations

Please explain all initials, technical terms and abbreviations. .

Specialities	Branches or fields of medicine
Any Qualified Provider	Provider that meet NHS service quality requirements, prices and normal contractual obligations.
Healthier Together	Healthier Together represents a commitment to work together on improving health and care in Bristol, North Somerset and South Gloucestershire. The Partnership is about tackling the issues that matter most and finding ways to continue providing safe, high-quality care for generations to come.
Healthier Together Sponsoring Board	The Sponsoring Board is responsible for the strategic leadership and direction setting for Healthier Together. Membership includes all the partner organisations and also representatives from Public Health, Healthwatch and NHS England.
Health and Social Care Act 2012	Act of Parliament that provided for the reorganisation of the structure of the National Health Service in England
Health and Wellbeing Boards	Boards that brings together the NHS, public health, adult social care and children's services, including elected representatives and Local Healthwatch, to plan how best to meet the needs of their local population and tackle local inequalities in health. They agree strategic priorities and ensure commissioned services meet local needs.

