

Shropshire Clinical Commissioning Group

Date: 10th August 2016

Subject:	Decommissioning and Disinvestment Interim Policy
Report Written by:	Julie Davies Director of Strategy & Service Redesign
Presented by:	Julie Davies
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PURPOSE OF THE REPORT

To recommend for formal Governing Body approval, the interim process being followed by the CCG to decommission and disinvest in commissioned services as part of its financial recovery.

For information

For decision

For performance monitoring

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WHAT OTHER SUB COMMITTEES HAVE CONSIDERED THIS REPORT; THEIR KEY POINTS OR RECOMMENDATIONS

None

KEY POINTS IN REPORT

To ensure that limited resources are consistently directed to the highest priority areas the CCG has identified the need to develop a Decommissioning and Disinvestment policy that sets out the agreed principles for decommissioning a service, in order that the CCG meets its statutory requirement to manage within its allocated resources. This is an interim policy and a further full policy will be finalised over the coming weeks that reflects the substantive governance structure required to embed an ongoing program of efficiency review within the CCG's approach to commissioning decisions.

There is also a need to ensure that when approval has been given to decommission, or disinvest in a service that a clearly defined process is followed, with clear lines of accountability and responsibility.

For the purpose of this policy the following definitions have been applied:

- **Decommissioning:** This relates to the withdrawal of funding from a provider organisation for a service that is subsequently re-commissioned in a different format.

- **Disinvestment:** This relates to the cessation of a commissioned service.

In the event that a decommissioning or disinvestment proposal is approved by the governing body, service area specific task and finish groups will carry out detailed due diligence work including engagement/consultation as appropriate. These groups will then formally make recommendations for the CCG Governing Body for consideration and final approval to decommission /disinvest in a service area.

RECOMMENDATION TO THE CCG BOARD

The Board is asked to:

- Approve the Decommissioning and Disinvestment Interim Policy.

CONTEXT AND IMPLICATIONS	
Financial implications	This policy outlines the interim process the CCG will follow to support the reduction in its expenditure and regain financial balance
HR/Personnel implications	None
Promoting equality and equity – implications	The policy includes the use of Equality Impact Assessment as part of any decommissioning / disinvestment decision making
Consideration for Quality & Safety	The policy includes the use of a Quality Impact Assessment as part of any decommissioning / disinvestment decision making
What patient and public involvement has there been in this issue, or what impact could it have on patient/public experience?	Where the decision is taken to proceed with a decommissioning/disinvestment decision, full engagement and consultation will be carried out as required, for that service area and the outcome of that will be considered by Governing Body before its final decision.

Decommissioning and Disinvestment Interim Policy

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Executive Summary

Due to the current challenging financial climate, it is important for the CCG to demonstrate that it is making the most effective use of public money to commission the right care, in the right place, at the right time within the context of our resources, and in order to deliver our statutory responsibilities, and meet the needs of the Shropshire population.

To achieve this, effective commissioning arrangements and strong performance management are essential to meet these challenges, and secure the best possible healthcare for our local population.

The CCG will ensure that our commissioning decisions are fully informed and based on health outcomes data by utilising all reliable data sources combined with public health data and clinical analysis.

To ensure that limited resources are consistently directed to the highest priority areas the CCG has identified the need to develop a Decommissioning and Disinvestment policy that sets out the agreed principles for decommissioning a service, in order that the CCG meets its statutory requirement to manage within its allocated resources. This is an interim policy and a further full policy will be finalised over the coming weeks that reflects the substantive governance structure required to embed an ongoing program of efficiency review within the CCG's approach to commissioning decisions.

There is also a need to ensure that when approval has been given to decommission, or disinvest in a service that a clearly defined process is followed, with clear lines of accountability and responsibility.

For the purpose of this policy the following definitions have been applied:

- **Decommissioning:** This relates to the withdrawal of funding from a provider organisation for a service that is subsequently re-commissioned in a different format.
- **Disinvestment:** This relates to the cessation of a commissioned service.

In the event that decommissioning or disinvestment is proposed and supported by its Governing Body, the CCG will need to recognize that a number of steps will be required prior to a final decision being taken by the CCG Governing Body.

These include consideration as to whether a consultation exercise is required with partner organisations, patients, public and the Health Overview and Scrutiny Committee.

1. Introduction

The CCG's significant current financial challenges has inevitably led to the need to clarify the circumstances of when services should be decommissioned, and the need to describe the approach and processes, that will be adopted to ensure decommissioning and disinvestment decisions are fully informed and managed.

Following any service review a number of options will be available to the CCG.

These will include:

- The need to re commission part or all of the service,
- Amend the threshold / restrict access to a service or
- Provide a modified service to ensure that there are no gaps in healthcare delivery.

The CCG describes in this document the interim structure and process that has been used to identify services that may be appropriate for decommissioning and disinvestment, including the service decommissioning/disinvest assessment tool used and the next steps required to implement final decisions

This interim disinvestment and decommissioning policy is to be applied when making both clinical and non-clinical disinvestment and decommissioning decisions pending the development of a substantive policy which will be finalised over the coming weeks..

2. Our Approach to Decommissioning and Disinvestment

The aim of this interim policy is to:-

- Provide a rationale and process to allow services to be identified for review prior to any decision to decommission or disinvest
- Deliver best value for money by ensuring that local health care resources are directed to the most effective services for the local population.
- Ensure all commissioned services are monitored in terms of performance, health outcomes, efficiency, demand management and fitness for purpose to allow for a robust decision to be made regarding the continuation of that service.
- Contribute to the delivery of the CCG's commissioning plan and QIPP agenda, to ensure that resources are directed to the highest priority area in order to achieve the best possible health outcomes for the local population against available resources.

- Ensure all decommissioning and disinvestment decisions are taken in a fully informed manner and follow a set procedure agreed by the CCG Governing Body.
- Ensure the safety of patients remains paramount.

The principles of potential decommissioning/ disinvestment decisions are encompassed within the CCG's policy document 'Ethical framework for priority setting and resource allocation' 2013. See Appendix four.

2.1 Structure

The Governing Body has been required to take urgent action to recover its financial performance in year. Workshops have been held by the Governing Body directly to review initial assessments of services currently commissioned that may require decommissioning or disinvestment. It is proposed that a more detailed policy is developed, over the coming weeks, which fully describes a revised governance structure that embeds an ongoing programme of service efficiency review into the CCG's committee structure and commissioning activities.

3. Decommissioning and Disinvestment Processes for Commissioned Services

The CCG has chosen to adopt a process based on a review of other CCGs equivalent policies that and the Disinvestment / Decommissioning tool flow chart in Appendix One provides at a glance the process for commissioners to follow prior to commencing decommissioning / disinvestment.

An initial draft internal desk top review was done by commissioners to identify potential areas for service review and prioritisation. The output from this was considered by governing body members at a session facilitated by the external turnaround team. Subsequent to this the review and prioritization continued via the governing body workshops described in the steps below:-

3.1 Step One

3.1.1 Identification of service for potential decommissioning or disinvestment

The Process for identifying services for review and potential decommissioning / disinvestment needs to be systematic.

An initial assessment is carried out by the responsible programme lead that provides a service summary and responses to several key criteria:-

- Is it a National 'Must Do' or a strategic fit e.g. STP, Future Fit etc.
- Is it the CCG's responsibility to commission this service
- Is there evidence to support the continuation of the service?
- Lead Commissioner perspective

Following this assessment there are two options:-

1. The service should be progressed to Step 2
2. The service is not suitable for decommissioning/disinvestment – continue usual contractual monitoring/commissioning cycle.

3.2 Step Two

In the event that a service is identified as suitable for potential decommissioning/disinvestment by the initial Step 1 assessment, the responsible programme lead will develop a detailed disinvestment impact

assessment (DIA) (Appendix Two). The Quality Team will also support the programme lead by completing a detailed Quality Impact Assessment / Equality Impact Assessment that will be included within the overarching DIA.

3.2.1 Detailed Assessment and Assessment of impact

The DIA will identify the anticipated or actual impacts of any disinvestment / decommissioning associated with the service.

The impact assessment will also include reference to: -

- Health outcomes – the effect on health outcomes will be assessed to identify potential adverse consequences of disinvestment or decommissioning and what might to done to minimise them.
- Quality of services – to ensure that the quality of services will not deteriorate following any proposed changes. The CCG will use its agreed Quality Impact Assessments tools to carry out the reviews.
- Equality and diversity implications – underpinned by the principle that people should have access to health care on the basis of need. However enshrined in law there are a number of identified protected groups, categories of the population that require specific consideration

In addition to the above, the leads will consider the following criteria

1. Does the service meet the needs of the population? (as identified through the Joint Strategic Needs Assessment, Enhanced JSNA and demand analysis)
2. Is the service low quality?
3. Does it demonstrate value for money?
4. Is it high expenditure and low outcomes?
5. Does the service have continued poor performance as identified through the contract monitoring process and / or feedback from patients, public and partners?
6. Does it meet the standards of a modern NHS as defined by:
 - Professionally driven change i.e. provider driven business case which delivers modern innovative service.
 - Nationally driven change i.e. National policy or guidance requires change in service delivery.
 - The service is one with limited clinical evidence, quality or safety.

Once the DIAs have been prepared they will be presented to the Governing Body workshop for review, each DIA will be reviewed fully.

There are five potential outcomes for the workshop:-

1. Yes to make a recommendation to the Governing Body to proceed with next steps for potential disinvestment/decommissioning
2. Yes to manage decommissioning/disinvestment by usual commissioning processes
3. No, continue to commission and monitor via contractual processes
4. No, but improved outcomes required, pursue via contractual discussions
5. More information, analysis required before a recommendation can be made

3.3 Step three

The recommendations from the Governing Body workshop are presented to the Governing Body meeting held in public for formal approval.

3.4 Step four

3.4.1 Preparing the next steps

Following approval from the Governing Body a decommissioning/disinvestment task & finish group will be established for each area identified as outcome 1 above, to oversee the next steps, which will include for the indicated services:

- Gaps in care created by disinvestment or decommissioning the service
- Managing the negative impact on the services identified for potential disinvestment or decommissioning and mitigated against them.
- The patient experience need must be paramount in informing any decision, action should be taken to minimize the impact of gaps in service provision once the service is decommissioned or disinvested.
- An assessment against legal duties and obligations including the Public Sector Equality Duty, the duty to have regard to the need to reduce inequalities and quality in order to quantify and clarify positive or negative impact on patient care and the wider community (i.e. carers)
- The potential destabilising effect on other service and organisations e.g. third sector, of a decision to decommission/disinvest should be fully considered.

- Consideration of whether the potential disinvestment or decommissioning represents a substantial service change (this needs to be determined locally and for each service area)
- The clinical impact of decommissioning or disinvesting from the provision
- Assessment against the four tests as outlined below:

- Strong patient and public engagement.

The CCG is committed to engaging / consulting as appropriate with patients, carers, the public and wider stakeholders at all stages of commissioning decisions proportionate to the scale and complexity of the change being proposed.

- Appropriate availability of patient choice
- Clear, clinical evidence base
- Clinical support
- A privacy impact assessment identifying requirements for lawful information sharing
- Service models and learning from elsewhere including national and international experience
- Deliverability (e.g. estate implications)

3.5 Step Five

The outputs from the Task & Finish Groups will be presented back to a Governing Body meeting held in public who will consider the recommendations and make a decision on whether to approve decommissioning /disinvestment of each service area.

4.0 Meeting Statutory Responsibilities around Consultation and Engagement

Following the governing body's approval, the Decommissioning / Disinvestment Process will commence.

The CCG will communicate clearly with all providers following any decision to disinvest in or decommission services. **Ten operational days** will be allowed for this communication and queries from providers to be dealt with before notice is served on the provider. The responsibility for serving notice on the provider is with the contract manager or as otherwise determined by the CCG Accountable Officer.

For any disinvestment proposal where the impact of the change could potentially be considered a substantial variation or development in service, the CCG will initiate informal discussions with the local Health Overview and Scrutiny Committee of the Local Authority via its Chair to establish if the proposed variation is "substantial" to warrant formal consultation. If, it is established that the proposed variation is "substantial" a formal presentation of the issue with a plan for formal consultation will be presented to the respective Health Overview and Scrutiny Committee for consideration and agreement. An appropriate period of consultation will then be undertaken before any decision to disinvest or decommission is made.

There is no legal definition of “substantial” in this context and is left to local determination by the NHS and Overview and Scrutiny Committee.

If the proposed change is not considered substantial, then the CCG may decide to undertake engagement activity (non-statutory) to support decision making or determine that existing engagement feedback is sufficient to inform the decision; no further specific engagement activity would be required at this point. The feedback from all statutory (consultation) and non-statutory (engagement) will be fully reviewed and analysed and will be used to assist in the decision making process.

5.0 Exit Plan

As already highlighted the CCG will communicate clearly with all providers following any decision to disinvest in or decommission services. **Ten operational days** will be allowed for this communication and queries from providers to be dealt with before notice is served on the provider.

The provider (following notification of decision to decommission) will be required to develop an ‘Exit Plan’ outlining actions required by both parties for smooth service cessation in collaboration with the commissioner. The plan will cover a minimum:

- Patient continuity of care
- Patient records
- Staff
- Estate
- Equipment
- Stock (where funded by the commissioner)
- A communications and engagement plan to support the exit

The commissioner will ensure mechanisms are in place where, in conjunction with the provider, execution of the exit plan is actively managed.

Decommissioning of any service will be managed in line with the “Principles and Rules for Co-operation and Competition” regulation (2012) and related Monitor Guidelines.

<https://www.gov.uk/government/publications/principles-and-rules-for-cooperation-and-competition>

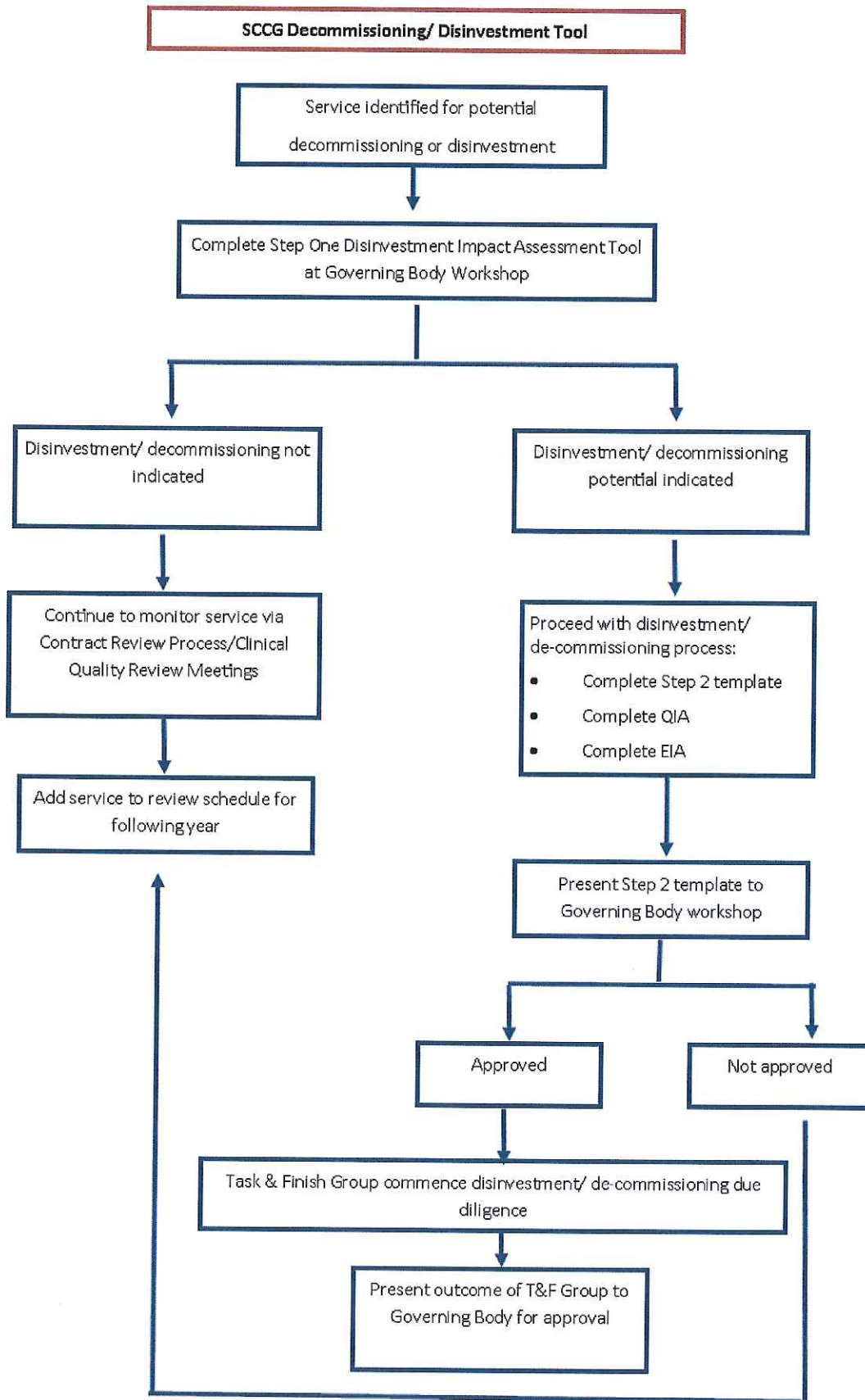
Disinvestment of any decommissioned service will also be processed in line with NHS Shropshire Standing Orders and Prime Financial Policies. In addition an assessment of potential contestability should be undertaken in line with the CCG procurement strategy.

6.0 Recordkeeping

An auditable record/trail of decision making and all communication relating to each decommissioning decision and contract termination will be kept by the CCG.

This is vital, both to demonstrate that the decommissioning process was robust and transparent, and as evidence in the event of any challenge, legal or otherwise.

Appendix One



Appendix TWO

Initial Assessment Tool

SERVICE TITLE

Service Summary

Service title	
Provider organisation	
Service description	
Contract type	
Contract duration	
Notice period required	
Service metrics (activity/outcome)	
Cost of service	

Disinvestment Review Part 1:

	Yes/No	If yes – provide further detail
National 'Must do'		
Is there evidence to support continuation of service		
Is it the CCG's commissioning responsibility to deliver this service?		
Lead Commissioner perspective		

Appendix Three

DIA Template

Service Summary

Service title	
Provider organisation	
Background	
Contract type	
Contract duration	
Notice period required	
Service metrics (activity/outcome)	
Cost of service	

Disinvestment Review

Does the service meet the needs of the population (as identified via JSNA/needs analysis)?	
Does the service deliver its contractual obligations?	
Does the service address health inequalities?	
Is the service aligned to a national or strategic 'must do'?	
Does the service have an innovative and modern approach to service delivery that has a strong clinical evidence base?	
How does the service benchmark against similar services?	
Does the service deliver value for money?	
Are there other services in place that offer a similar service?	
Is there evidence to support the continuation of the service?	
Is there a QIPP in place related to this service?	
Would there be any likely unintended consequences if this service was decommissioned or disinvested in?	
After taking all of the above into account, should the service be decommissioned/disinvested in/continued?	
If the answer to the question above is yes, what are the potential cost savings?	

Additional supporting information (embed docs)

Completed QIA	
Completed EIA	
Additional relevant information	

Appendix Four

Principles around decision making

Making good decisions regarding health care priorities involves the exercise of fair and rational judgment and at times discretion.

Although there is no single objective measure on which such decisions can be based, decisions will be fully informed taking into account the needs of individuals and the community, whilst recognising the CCG need to achieve a financial balance its discretion will be affected by factors such as the NHS Constitution, National Planning Framework, NICE technology appraisal guidance and Secretary of State Directions to the NHS.

The CCG will continue to use its “Ethical framework for priority setting and resource allocation” policy and adopt a robust approach to its decommissioning / disinvestment decisions by ensuring decisions are lawful and consistent.

This will be achieved by:

- Providing a coherent structure for discussion, ensuring all important aspects of each issue are considered prior to decisions being made.
- Promoting fairness and consistency in decision making and with regard to different clinical topics, reducing the potential for inequity.
- Providing a means of explaining the reasons behind the decisions made.
- Reducing risk of judicial review by implementation of robust decision-making processes that are based on evidence of clinical and cost effectiveness and adopting a decision making framework so that decisions are made in a manner which is fair, rational and lawful.
- Ensuring the Vision, values and goals of the CCG are reflected in business decisions.
- Providing a consistent approach for the development of strategy and plans across the whole health care system.