



A presentation by

HILL DICKINSON

Integrated care systems, system working and implications for governors

24 May 2023

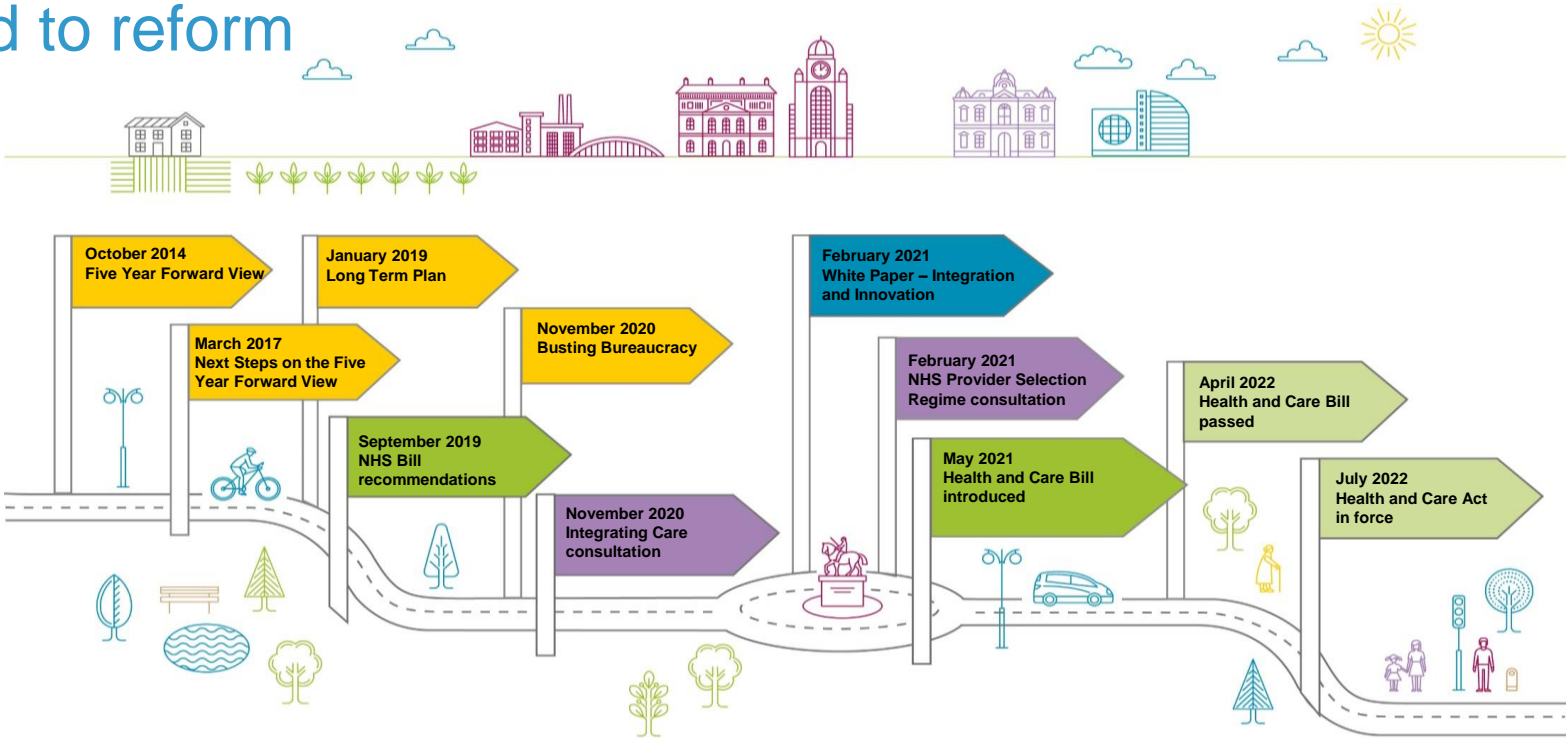
Emma Stockwell, Partner, Hill Dickinson LLP

Trust governors in the new NHS system

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 - to represent the interests of the members of the corporation as a whole and the interests of the public

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Road to reform



Backdrop...



Feb 2021

**Integration
White Paper**

Integration and innovation: working together to improve health and social care for all

Jun 2021

ICS Design Framework

Feb 2022

White paper -
Health and social care integration: joining up care for people, places and populations

Jun 2022

Provider governance consultations
were open until 8 July 2022

July 2022

Health and Care Act

CCG dissolution

ICB establishment

July 2022

All acute and mental health trusts to be part of a provider collaborative

The integrated care system – structure and bodies

Integrated Care System – component parts

Provider Collaborative

“key component of system working, bringing together NHS providers together across one or more ICSs, working with clinical networks and alliances and other partners, to secure the benefits of working at scale”

Integrated Care Board

“To arrange for the provision of services for the purposes of the health service in England”

Integrated Care Partnership

“to align the ambitions, purpose and strategies of partners across each system”

Place based Partnership

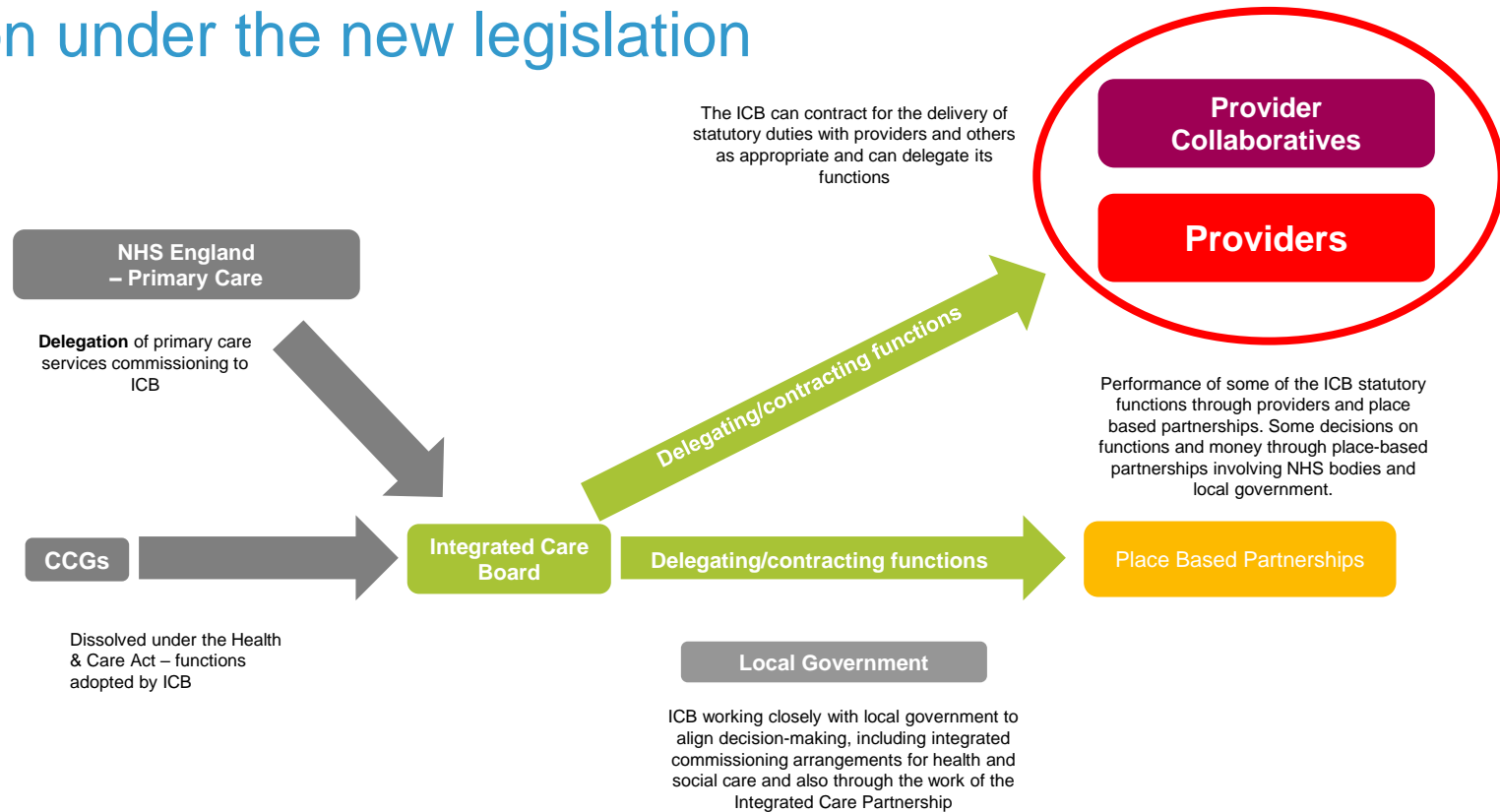
“collaborative arrangements formed by the organisations responsible for arranging and delivering health and care services in a locality or community”

Local
Authorities

Health &
Wellbeing
Board

Trusts /
Foundation
Trusts

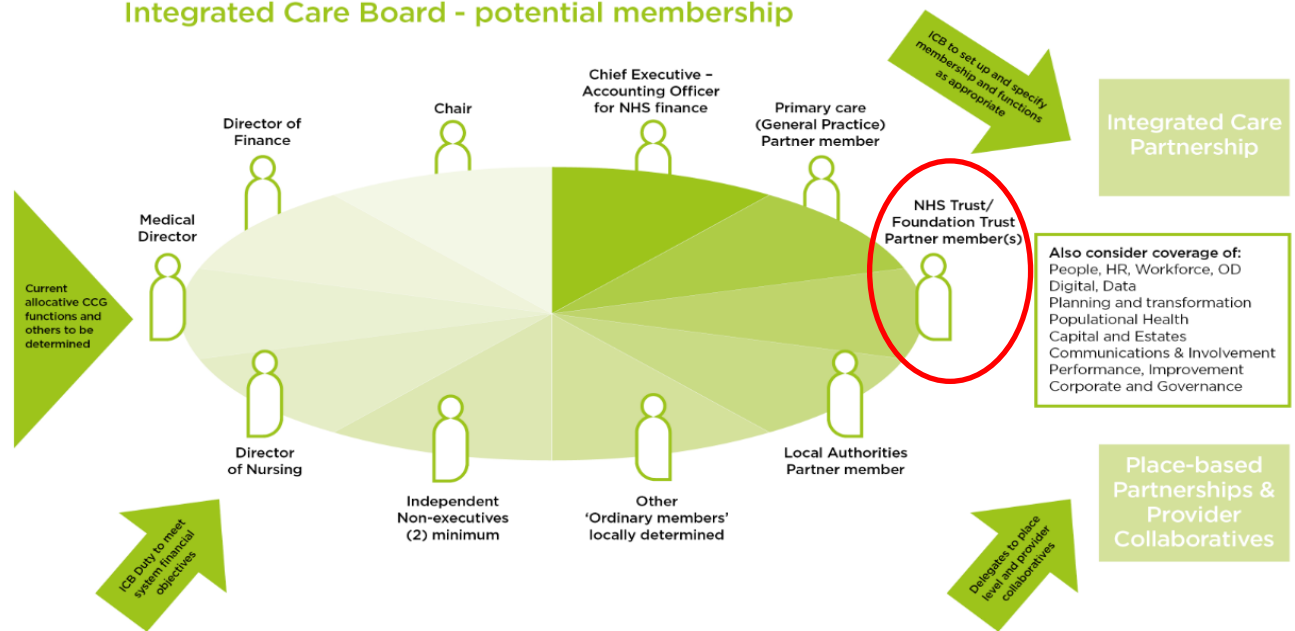
The position under the new legislation



Integrated Care Board (ICB)

- Diagram describes key membership of the ICB and its relationship with other parts of the system
- Includes 'partner members', for example from providers, who are jointly nominated by their sector to bring their '*perspective*' to the ICB – not delegates of sector

Integrated Care Board - potential membership

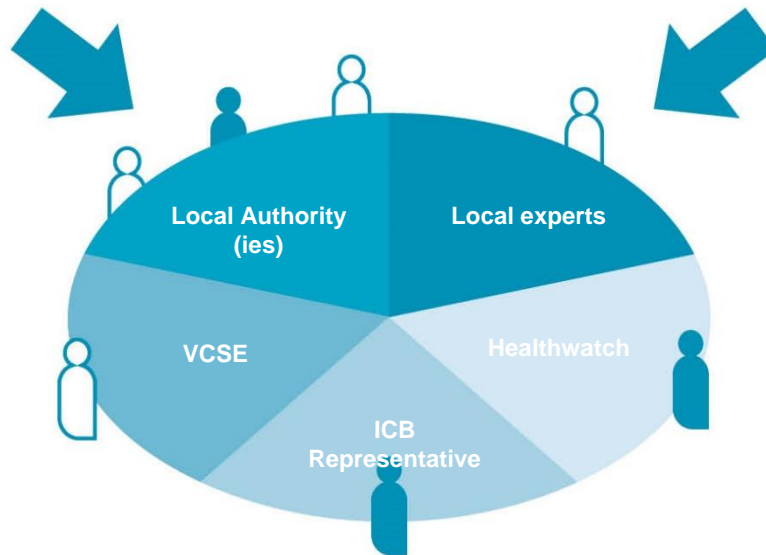


Integrated Care Partnership (ICP)

- **System level**
- **Joint committee of Local Authority(ies) and ICB**

Input from:

- Directors of Public Health
- Representatives of adult and children's social services – at least one Director of Adult Social Services or Director of Children's Services
- Local social care providers



Illustrative list for ICP membership & engagement:

- Voices for children / young people
- Patients, service users, public voices
- Voices from Children's Board
- Women's organisations
- Black and minoritised voices
- Healthwatch
- Social care providers / workforce
- Unpaid carers
- Disability voices
- Mental health providers / service users
- Primary care (GP / dental / eye / pharmacy)
- **NHS Trusts / Foundation Trusts**
- Community care
- Public health voices
- Local authority officers
- Acute care
- Housing voices
- Criminal Justice - including Probation
- Offenders health and care voices
- Alcohol / addiction services
- Homeless services
- Social prescribing services
- Learning disabilities / autism providers / users
- Businesses
- Local Enterprise Partnerships
- Armed forces
- Police and crime commissioners
- Employment services (e.g. Jobcentre Plus)

Key implications for NHS providers

Triple Aim - overview

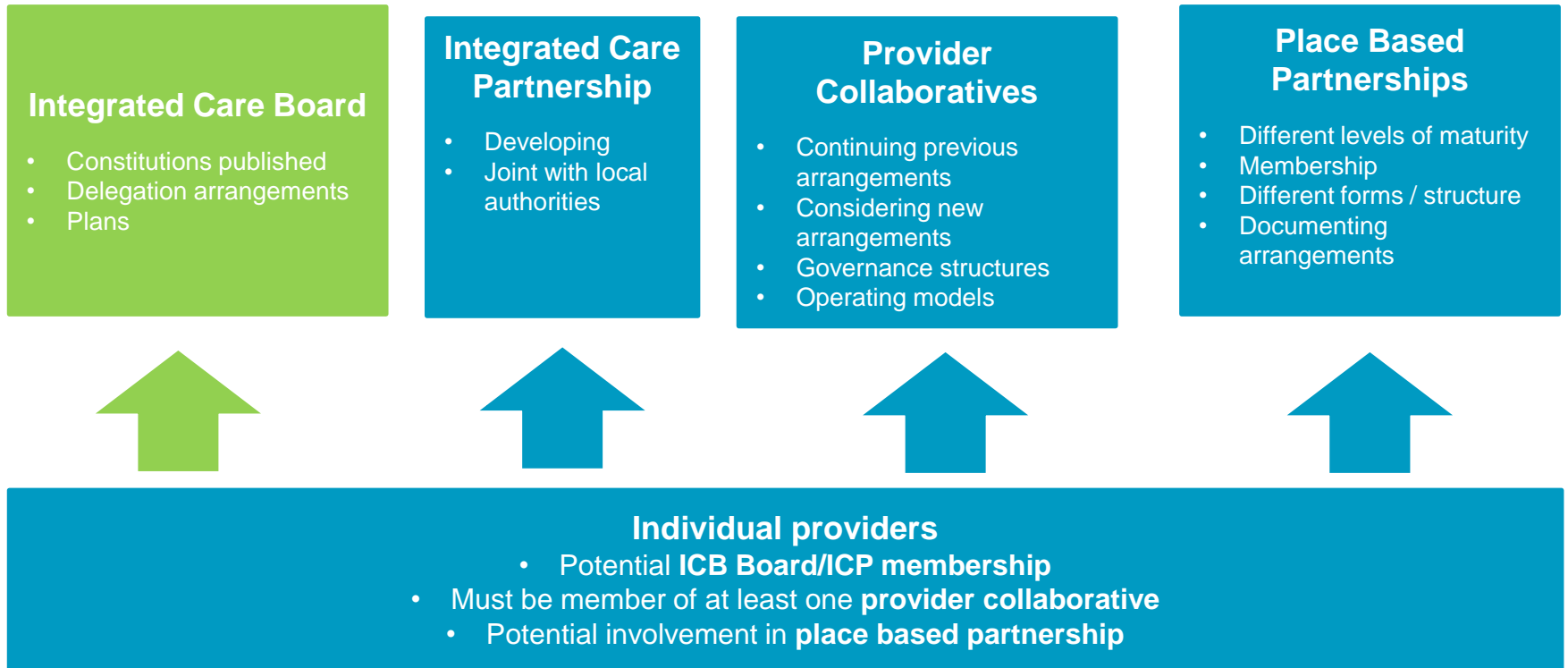
Trust duty to have regard to wider effect of its decisions on:

Health and wellbeing of the people of England

Quality of services

Sustainable and efficient use of resources

Input into various bodies...



Provider roles – many hats!

Trusts will remain as sovereign NHS organisations with statutory powers, duties and functions, **BUT.....**

*“The success of individual trusts and foundation trusts will **increasingly be judged against their contribution to the objectives of the ICS**, in addition to their existing duties to deliver safe and effective care. This will include **delivering their agreed contribution to system financial balance, improving quality and outcomes and reducing unwarranted variation and inequalities across the system as a whole**, in the context of the new ‘triple aim’ duty to promote better health for everyone, better care for all and efficient use of NHS resources.” (ICS Design Framework)*



Providers expected to **take on “commissioning”** functions for certain populations



ICB able to establish **joint committees** with Trusts with delegated decision-making responsibilities



ICB Board - **“at least one member drawn from NHS trusts and foundation trusts** who provide services within the ICS’s area” - not act as a “delegate” of its sector, but in the interests of the ICB and the wider system

Individual provider obligations
VS
System role

Provider collaboratives

“key component of system working, bringing together NHS providers together across one or more ICSs, working with clinical networks and alliances and other partners, to secure the benefits of working at scale”

By July 2022 all acute and mental health trusts to be part of a provider collaborative

Other providers - community services, ambulance trusts, and non-NHS providers - should be part of a provider collaborative where this would benefit patients and would make sense for the providers and systems involved

No prescribed model – members to determine what works best – working in areas of need for local system(s)

Many provider collaboratives already in existence in response to need

Provider collaboratives – ambitions from the guidance

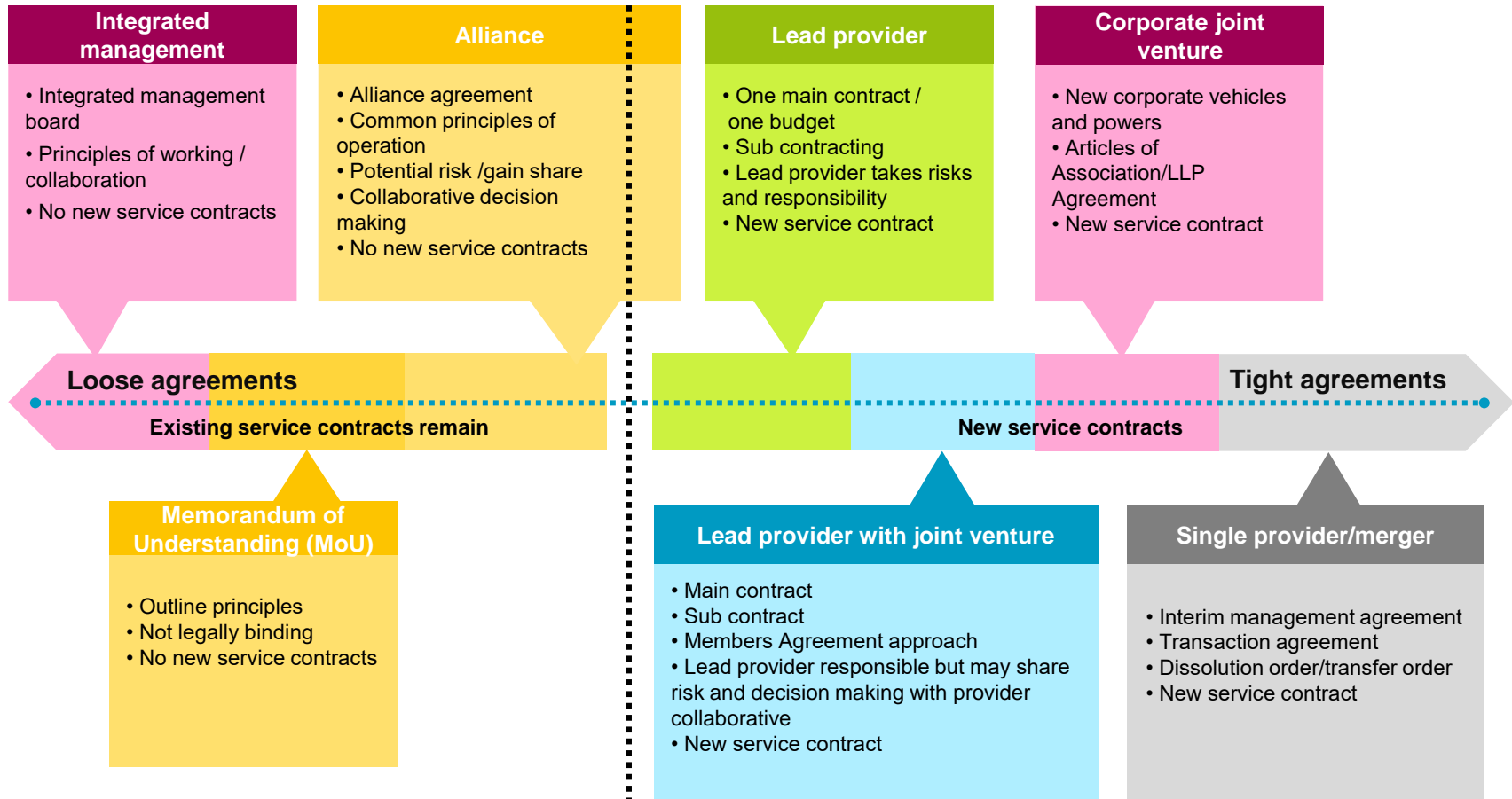
Reducing unwarranted variations in care, including inequalities in health outcomes, services, and patient experience

Improving resilience via arrangements such as mutual aid

Better recruitment, retention and development of staff and leadership talent

Enabling increased specialisation and consolidation to provide better outcomes and value

Collaborative models for providers – contrasting structures



Provider Collaborative guidance – example forms

Provider Leadership Board

- Directors / Chief Executives with common delegated responsibilities
- Deliver shared agenda on behalf of collaborative / system partners
- Committees in common to take aligned decisions
- Providers to involve non-executive directors for scrutiny and challenge

Lead Provider

- Single Trust / Foundation Trust with contractual responsibility for commissioning on behalf of collaborative
- Subcontracts to other providers
- Also partnership agreement between lead provider and other collaborative members

Shared Leadership

- Shared defined leadership structure
- At least one joint Chief Executive
- Achieved by appointing same person / people to leadership posts
- Each provider board remains accountable for decisions
- Shared governance e.g. committees in common to support aligned decision-making

Joint working, joint committees, delegation, pooled funds

Section **65Z5, NHS Act 2006** allows a relevant body (which includes an NHS Trust / Foundation Trust) to arrange for any of its **functions to be exercised by or jointly with:**

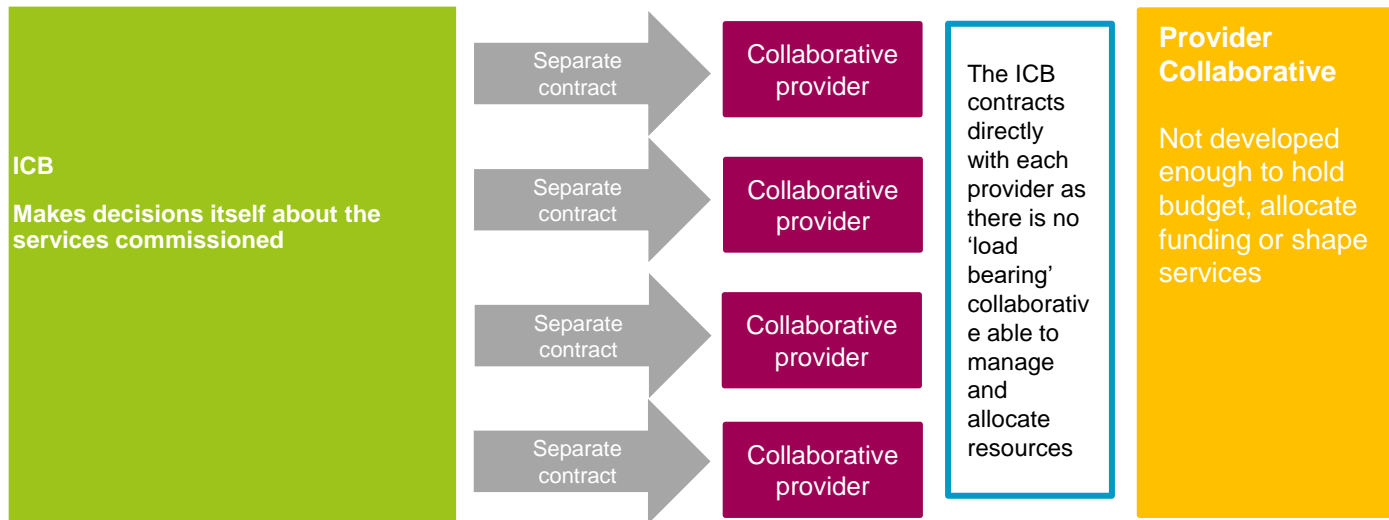
- NHS England
- An ICB
- Another NHS Trust
- Another NHS Foundation Trust
- A local authority
- A combined authority

Section **65Z6, NHS Act 2006** applies where a function is exercisable jointly to enable:

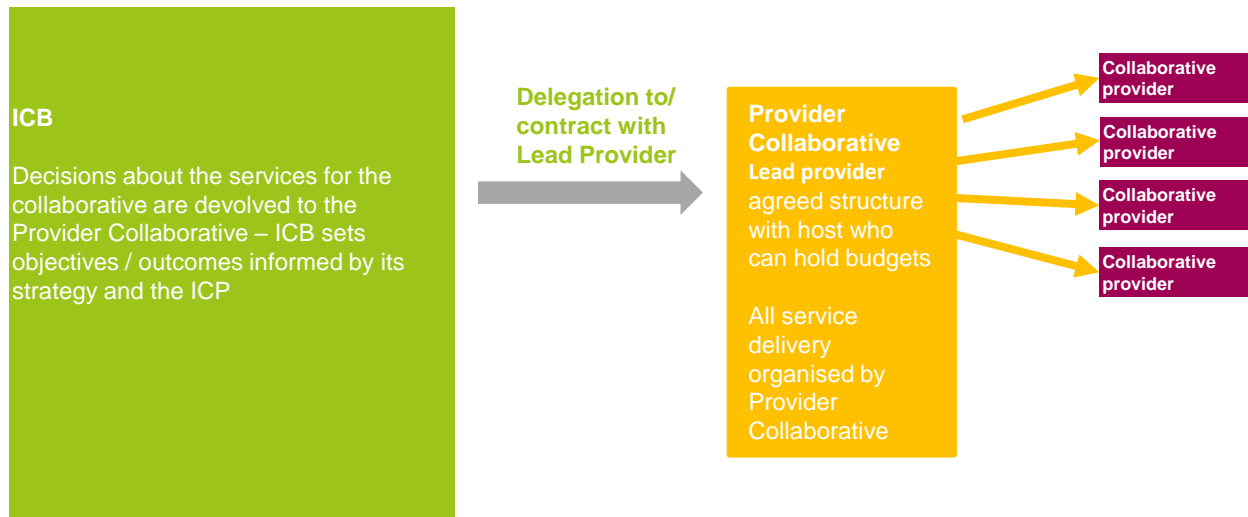
- Functions to be exercised by a **joint committee**
- One or more of the bodies, or a joint committee of them, to **establish and maintain a pooled fund**

Section 47A, NHS Act 2006: An NHS Foundation Trust may enter into arrangements for the carrying out, on such terms as the NHS foundation trust considers appropriate, of any of its functions jointly with any other person

Possible ICB approaches to Provider Collaboratives – emerging



Possible ICB approaches to Provider Collaboratives – maturing



Place Based Partnerships – potential structures

As a minimum should include primary care provider leadership, LA including DPH, acute, community and MH providers and representatives of people who access care

An ICB could establish **any combination of** the following five place-based governance arrangements with partners:

Consultative forum
informing decisions
by the ICB, local
authorities and other
partners

**Committee of the
ICB**
with delegated
authority to take
decisions about the
use of ICB resources

**Joint committee of
the ICB**
one or more statutory
bodies delegate
decision making on
specific functions
/services/populations
to the joint committee

**Individual directors of
the ICB**
having delegated
authority to take
decisions about use of
ICB resources, which
they may choose to
exercise through a
committee

Lead provider
managing resources
and delivery at place
level under a contract
with the ICB

NHS providers - issues to consider...(1)

Input across the system

- Involvement prescribed in some areas, more flexible in others
 - Understanding, mapping, implementing involvement
- Some providers straddle multiple systems – added complexity
 - Understanding involvement at Place
- Reporting on/communicating involvement – particularly to governors

Potential for conflict

- Trusts still sovereign organisations but have duty to act with regard to the wider system
 - Many roles across system – actual / potential for conflict
 - Working out ways to manage will evolve over time

NHS providers - issues to consider...(2)

Commissioning

- Uncertainty around operation of future commissioning and delegations
- What will ICBs commission directly, and what might they delegate and to who?
 - Will contracts go to individual providers, or to provider collaboratives?
- Providers / provider collaboratives also expected to take on some commissioning

Regulation

- NHS Oversight Framework – NHSE approach to overseeing providers and systems, and ICB role
 - CQC role in regulating ICB / system
 - System working approach by providers will be assessed
- Trusts must look to balance obligations under individual provider licence with system commitments

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New governance documents...published October 2022



Code of Governance for NHS Provider Trusts

To set out a common overarching framework for the corporate governance of NHS provider trusts in the context of ICSs, system working, and collaboration

Guidance on good governance and collaboration under the NHS provider licence

To set clear expectations of collaboration by trusts and links effective collaboration to a governance licence condition under the provider licence

Addendum to the guide to the duties of NHS foundation trust governors

To supplement the existing guide - *Your statutory duties – reference guide for NHS foundation trust governors* - and explain how councils of governors support system working and the duties of collaboration



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