

PAPER C

Agenda Item: PCCC16/46		FOI Exempt: No
NHS Leeds South and East CCG Primary Care Commissioning Committee		
Date of meeting: 3 November 2016		
Title: Primary Care Commissioning Committee Terms of Reference		
Lead Primary Care Commissioning Committee Member: Maureen Kelly – Acting Director of Nursing, Quality and Corporate Affairs	Category of Paper	Tick as appropriate
Report Author: Jenny Hamer – Acting Head of Corporate Affairs	Discussion and Approval	✓
Reviewed by EMT/SMT/Date: N/A	Information	
Reviewed by Committee/Date: N/A	Discussion	
Checked by Finance (Y/N/N/A - Date): N/A		
Approved by Lead Primary Care Commissioning Committee member: No		
Strategic Aims – that this report relates to		
1. To improve the health of the whole population and reduce inequalities in our communities.		
2. To secure continuous improvement in the quality and safety of all services commissioned for our population		
3. To ensure that patient, public and carer voices are at the centre of our healthcare services from planning to delivery		
4. To deliver continuous improvement in health and social care systems within available resources		
5. To develop and maintain a healthy organisation to underpin the effective delivery of our strategy		✓
Assurance Framework - to which risks on the GBAF does this report relate?		
EXECUTIVE SUMMARY:		
<p>This paper presents members of the Primary Care Commissioning Committee with a revised version of the Terms of Reference for the Primary Care Commissioning Committee.</p> <p>It is proposed that the Terms of Reference are amended to reflect the following:</p> <ul style="list-style-type: none"> • The incorporation of the Clinical Chief Officer as a standing non-voting member of the committee • The incorporation of nominated representatives to attend on behalf of Executive Members with delegated voting rights <p>The Clinical Chief Officer is the executive lead Director for Primary Care Commissioning within the CCG. Under the new Conflicts of Interest Guidance issued by NHS England whilst GPs are not excluded from being members of the Primary Care Commissioning Committee, it is recommended that GPs do not have voting rights, to minimise the risks of conflicts of interest.</p>		

The arrangements do not preclude GP participation in strategic discussions on primary care issues, subject to appropriate management of conflicts of interest.

The recognition of deputies for Executive members will allow the organisation to ensure it can continue to effectively run the committee.

NEXT STEPS:

- Subject to approval by members of the Primary Care Commissioning Committee the amended Terms of Reference will be presented to the Governing Body for approval and adoption within the Organisation's constitution.

RECOMMENDATION:

The Primary Care Commissioning Committee is asked to:

- (a) Review the amended Terms of Reference for the Primary Care Commissioning Committee*
- (b) Recommend to the Governing Body that the amended Terms of Reference for the Primary Care Commissioning Committee are approved and adopted by the organization and incorporated within the organisations constitution.*

Corporate Impact Assessment: Insert commentary or refer to body of report or N/A

Statutory/Legal/Regulatory/Contractual	Yes
Financial	N/A
Communication and Involvement	N/A
Workforce	N/A
Equality	N/A
Environmental	N/A



*Leeds South and East
Clinical Commissioning Group*

Primary Care Commissioning Committee Terms of Reference

Version:	FINAL
Committee Approved by:	Leeds South and East CCG
Date Approved (CCG):	10 September 2015
Date Approved (NHSE)	18 December 2015
Responsible Director:	Chief Finance Officer
Date Issued:	
Review Date:	September 2016

1. Introduction

1.1. Simon Stevens, the Chief Executive of NHS England, announced on 1 May 2014 that NHS England was inviting CCGs to expand their role in primary care commissioning and to submit expressions of interest setting out the CCG's preference for how it would like to exercise expanded primary medical care commissioning functions. One option available was that NHS England would delegate the exercise of certain specified primary care commissioning functions to a CCG.

1.2. In accordance with its statutory powers under section 13Z of the National Health Service Act 2006 (as amended), NHS England has delegated the exercise of the functions specified in Schedule 2 to these Terms of Reference to Leeds South and East CCG. The delegation is set out in Schedule 1.

1.3. The CCG has established the Leeds South and East CCG Primary Care Commissioning Committee ("Committee"). The Committee will function as a corporate decision-making body for the management of the delegated functions and the exercise of the delegated powers. This Committee will replace the existing GP Conflicts Committee.

1.4. It is a committee comprising representatives of the following organisations:

- Leeds South and East CCG
- NHS England
- Health and Wellbeing Board
- Healthwatch

Statutory Framework

1.5. NHS England has delegated to the CCG authority to exercise the primary care commissioning functions set out in Schedule 2 in accordance with section 13Z of the NHS Act.

1.6. Arrangements made under section 13Z may be on such terms and conditions (including terms as to payment) as may be agreed between the Board and the CCG.

1.7. Arrangements made under section 13Z do not affect the liability of NHS England for the exercise of any of its functions. However, the CCG acknowledges that in exercising its functions (including those delegated to it), it must comply with the statutory duties set out in Chapter A2 of the NHS Act and including:

- a) Management of conflicts of interest (section 14O);
- b) Duty to promote the NHS Constitution (section 14P);
- c) Duty to exercise its functions effectively, efficiently and economically (section 14Q);
- d) Duty as to improvement in quality of services (section 14R);
- e) Duty in relation to quality of primary medical services (section 14S);
- f) Duties as to reducing inequalities (section 14T);
- g) Duty to promote the involvement of each patient (section 14U);
- h) Duty as to patient choice (section 14V);
- i) Duty as to promoting integration (section 14Z1);
- j) Public involvement and consultation (section 14Z2).

1.8. The CCG will also need to specifically, in respect of the delegated functions from NHS England, exercise those set out below:

- Duty to have regard to impact on services in certain areas (section 13O);
- Duty as respects variation in provision of health services (section 13P).

1.9. The Committee is established as a Committee of the Governing Body of the CCG in accordance with Schedule 1A of the "NHS Act"

1.10. The members acknowledge that the Committee is subject to any directions made by NHS England or by the Secretary of State.

2. Membership

2.1. The Committee is established as a committee of the Governing Body and consists of:

Members

- Lay Chair of the Governing Body (Chair)
- Lay member leading on communications and patient and public engagement (Deputy Chair)
- Lay member leading on governance and audit
- Chief Finance Officer
- Chief Operating Officer
- Director of Nursing, ~~and~~ Quality and Corporate Affairs
- Secondary Care Consultant¹
- Public Health Consultant*

In attendance²

- Clinical Chief Officer
- A representative of Leeds Health and Wellbeing Board as nominated by that organisation
- A representative of Healthwatch as nominated by that organisation
- Representative of NHS England

2.2. Other officers may be invited to attend any or part of any meeting as and when appropriate

¹ There is a lay member/Executive member (majority membership). The Secondary Care Consultant and Public Health Consultant are clinicians

² Attendees are Non-voting.

Comment [JH1]: Note that recent Conflicts of Interest guidance recommends that GPs can be members of primary care commissioning committee to ensure sufficient clinical input but must not be in majority. Recommends that does not have voting rights on Committee.

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~~2.3. GP members of the Governing Body shall be invited to attend meetings to participate in strategic discussions on primary medical services' issues. They will be required to withdraw from the meeting during the deliberations leading up to a decision and from the decision making where there is an actual or potential conflict of interest~~

2.3. The Clinical Chief Officer shall be a non-voting members of the Committee. The arrangements do not preclude GP participation in strategic discussions on primary care issues, subject to adherence with the CCG's Conflicts of Interest requirements and the appropriate management of conflicts of interest. They will be required, for example, to withdraw from the meeting during the deliberations leading up to a decision and from the decision where there is an actual or potential conflict of interest.

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2.4. GP members of the Governing Body shall be invited to attend meetings to participate in strategic discussions on primary care issues, subject to adherence with the CCG's Conflicts of Interest requirements and the appropriate management of conflicts of interest. They will be required, for example, to withdraw from the meeting during the deliberations leading up to a decision and from the decision where there is an actual or potential conflict of interest.

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2.5 Nominated representatives may attend on behalf of Executive members, with delegated voting rights.

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3. Arrangements for the Conduct of Business

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3.1. Meetings of the Committee shall:

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- a) Be held in public, subject to the application of 3.1 (b)
- b) The Committee may resolve to exclude the public from a meeting that is open to the public (whether during the whole or part of the proceedings) whenever publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for other special reasons stated in the resolution and

arising from the nature of that business or of the proceedings or for any other reason permitted by the Public Bodies (Admission to Meetings) Act 1960 as amended or succeeded from time to time.

3.2. Chairing the Committee

The Chair and Deputy Chair of the Committee will be a lay member of the Committee. In the event of the chair of the Committee being unable to attend for all or part of the meeting, the Deputy Chair will chair the meeting/that part of the meeting.

3.3. Quoracy

Meetings shall be considered quorate when the following are present – there must be a Lay Member/Executive Member majority:

- 2 lay members
- 2 Executives - or nominated representative

3.4. Voting

The aim of the Committee will be to achieve consensus decision-making. Should a vote need to be taken, only the members of the Committee shall be allowed to vote. In the event of a tied vote, the Chair shall have a second and casting vote.

3.5. Frequency of meetings

The Committee shall meet on a bi-monthly basis or as business dictates. Meetings will normally be convened to coincide with Governing Body meetings.

Items of business to be transacted and all supporting papers for such items for inclusion on the agenda need to be notified to the Chair of the

meeting at least 7 clear working days (i.e. excluding weekends and bank holidays) before the meeting takes place.

The agenda and supporting papers will be circulated to all members of a meeting on the Friday before the date the meeting takes place. With the agreement of the Chair, items of urgent business may be added to the agenda after circulation to members.

When the Chair of the Committee deems it necessary in light of the urgent circumstances to call a meeting at short notice.

3.6. Standards of Business Conduct and Conflicts of Interest

Members of the Committee shall at all times comply with the standards of business conduct and managing conflicts of interest as laid down in the NHS Leeds South and East CCG Constitution and the Conflicts of Interest Policy.

Declarations of interest will be a standing item on all meeting agendas.

Attendees who have any direct/indirect financial or personal interest in a specific agenda item will declare their interest. The Chair of the meeting will decide the course of action required, which may include exclusion from participation in the discussion.

All declarations of interest and actions taken in mitigation will be recorded in the minutes.

4. Role of the Committee

4.1. The Committee has been established in accordance with 1.5 above statutory provisions to enable the members to make collective decisions on the review, planning and procurement of primary care services in Leeds South and East, under delegated authority from NHS England.

4.2. In performing its role the Committee will exercise its management of the functions in accordance with the agreement entered into between NHS England and Leeds South and East CCG, which will sit alongside the delegation and terms of reference.

4.3. The functions of the Committee are undertaken in the context of a desire to promote increased co-commissioning to increase quality, efficiency, productivity and value for money and to remove administrative barriers.

4.4. The role of the Committee shall be to carry out the functions relating to the commissioning of primary medical services under section 83 of the NHS Act.

4.5. This includes the following:

- GMS, PMS and APMS contracts (including the design of PMS and APMS contracts, monitoring of contracts, taking contractual action such as issuing branch/remedial notices, and removing a contract);
- Newly designed enhanced services (“Local Enhanced Services” and “Directed Enhanced Services”);
- Design of local incentive schemes as an alternative to the Quality Outcomes Framework (QOF);
- Decision making on whether to establish new GP practices in an area;
- Approving practice mergers; and
- Making decisions on ‘discretionary’ payment (e.g., returner/retainer schemes).

4.6. The CCG will also carry out the following activities:

- a) To plan, including needs assessment, primary medical care services in Leeds South and East;
- b) To undertake reviews of primary medical care services in Leeds South and East;
- c) To co-ordinate a common approach to the commissioning of primary care services generally;
- d) Have oversight and review the financial plans for primary medical care services in Leeds South and East;
- e) To manage the budget for commissioning of primary medical care services in Leeds South and East;
- f) Taking procurement decisions in respect of primary medical services. These shall be in line with statutory requirements and guidance, the CCG's Constitution and Standing Orders and the delegation Agreement between NHS England and the CCG.

5. Authority

5.1. The Committee is authorised by the Governing Body to investigate any activity within its terms of reference. It is authorised to seek any information in requires within its remit, from any employee of Leeds South and East CCG or member of the Governing Body and they are directed to co-operate with any reasonable request.

5.2. The Committee is authorised by the Governing Body to commission reports or surveys it deems necessary to help fulfil its obligations, with the budget available.

5.3. In exceptional cases, the Committee is authorised to obtain legal or other independent professional advice and secure the attendance of advisors with relevant expertise if it considers this is necessary. In

doing so the Committee must follow any procedures put in place by the Governing Body for obtaining legal or professional advice. The Governing Body is to be informed of any issues relating to such action.

5.4. The Committee is authorised to delegate tasks to such individuals, sub-groups, working groups or individual members as necessary to fulfil its responsibilities within its terms of reference. The Committee may not delegate executive powers delegated to it within these terms of reference (unless expressly authorised by the Governing Body) and remains accountable for the work of any such group.

5.5. Any such arrangements shall reflect appropriate arrangements for the management of conflicts of interest.

6. Accountability and decision making

6.1. The Primary Care Commissioning Committee has delegated authority from the Governing Body to make decisions within the bounds of its remit. Specifically:

- a) Financial Plans in respect of primary medical services
- b) Procurement of primary medical services
- c) Practice payments and reimbursement
- d) Investment in practice development
- e) Contractual compliance and sanctions

6.2. The decisions of the Committee shall be binding on NHS England and NHS Leeds South and East CCG.

7. Reporting

7.1. A register of procurement decisions taken by the Committee will be publically available.

7.2. Following each meeting, the Committee will produce an executive summary report which will be presented to the Yorkshire and Humber Area Team of NHS England and the Governing Body of Leeds South and East CCG for information together with its Minutes and those of any sub-groups, once approved.

8. Conduct of the Committee

8.1. Members shall have due regard to and operate within the Constitution of the CCG, standing orders, detailed financial policies and other financial procedures.

8.2. Members of the Committee shall abide by the 'Principles of Public Life' (The Nolan Principles) and the NHS Code of Conduct and any confidentiality requirements set out in the CCG's Constitution.

8.3. Members of the Committee have a collective responsibility for the operation of the Committee. They will participate in discussion, review evidence and provide objective expert input to the best of their knowledge and ability, and endeavour to reach a collective view.

8.4. The Committee may delegate tasks to such individuals, sub-committees or individual members as it shall see fit, provided that any such delegations are consistent with the parties' relevant governance arrangements, are recorded in a scheme of delegation, are governed by terms of reference as appropriate and reflect appropriate arrangements for the management of conflicts of interest.

8.5. The Committee shall undertake an annual self-assessment of its own performance against its workplan, membership and terms of reference. The self-assessment shall form the basis of the annual report from the Primary Care Commissioning Committee which will be submitted to the Governing Body.

8.6. The terms of reference will be reviewed on an annual basis and will also take account of any Directions issued by the Department of Health or NHS England and any revised model terms of reference issued by NHS England. The revised terms of reference shall be submitted for approval by the Governing Body.

[Signature provisions]

[Schedule 1 – Delegation-to be added when final arrangements confirmed]

[Schedule 2 – Delegated functions-to be added when final arrangements confirmed]

[Schedule 3 - List of Members-to be added when confirmed]