

**Review of Terms of Reference  
for Primary Care Commissioning Committee**

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**Primary Care Commissioning Committee meeting**

**17 November 2016**

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<b>Sponsor</b>	Julia Newton, Director of Finance
<b>Is your report for Approval / Consideration / Noting</b>	
<p>For RECOMMENDATION to Governing Body for APPROVAL: A review of the Terms of Reference (ToFR) for the Primary Care Commissioning Committee (PCCC) has been conducted and proposed changes to the ToFR are described in the attached paper and supporting documentation.</p>	
<b>Are there any Resource Implications (including Financial, Staffing etc)?</b>	
None.	
<b>Audit Requirement</b>	
<p><b><u>CCG Objectives</u></b></p> <p><b><i>Which of the CCG's objectives does this paper support?</i></b>  This paper supports delivery of the CCG's Strategic Objective 5 - Organisational development to ensure CCG meets organisational health and capability requirements.</p> <p>It also gives assurances against Risk 5.4 - Inadequate adherence to principles of good governance and legal framework leading to breach of regulations and consequent reputational or financial damage.</p>	
<b><u>Equality Impact Assessment</u></b>	
<p><b><i>Have you carried out an Equality Impact Assessment and is it attached?</i></b> No.</p> <p><b><i>If not, why not?</i></b> There are no specific issues associated with this report.</p>	
<b><u>PPE Activity</u></b>	
<p><b><i>How does your paper support involving patients, carers and the public?</i></b>  This paper has included comments from the CCG's internal audit provider and has been discussed with the Lay Chair of PCCC, Director of Finance and the Primary Care Programme Director prior to submission to a public meeting of PCCC and then presentation to a public Governing Body meeting.</p>	

## Recommendations

The Primary Care Commissioning Committee is asked to:

- CONSIDER the attached report and proposed changes to the Terms of Reference for PCCC
- RECOMMEND the proposed changes for Governing Body APPROVAL

## **Review of Terms of Reference for Primary Care Commissioning Committee**

**Primary Care Commissioning Committee meeting**

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### **1. Introduction**

A review of the Terms of Reference (TofR) for the Primary Care Commissioning Committee (PCCC) has been conducted and proposed changes to the TofR are described in the report below and supporting documentation.

Section 6 of the CCG's Constitution (Decision Making: The Governance Structure) describes how the committee structure of the CCG must operate. This includes compliance with the CCG's principles of good governance, operating within the Scheme of Reservation and Delegation and compliance with the Standing Orders and Prime Financial Policies. It also describes how, when discharging their delegated functions, the committees of the Governing Body must operate in accordance with their approved TofR.

Previously the TofR for the Governing Body committees were appended to the Constitution. However, it has been proposed that in future, TofR will be referenced in the Constitution but will not be appended to it. This will enable them to be updated and amended quickly and effectively to reflect current circumstances. All changes will be subject to rigorous governance process, will be reviewed by the relevant committee / sub-committee and taken to Governing Body for approval. All TofR will be published on the CCG's website. The Governing Body and Practice Membership have approved this change to the Constitution. The proposed changes to the Constitution are now with NHS England for final approval.

### **2. Proposed changes to the Terms of Reference for Primary Care Commissioning Committee**

Primary Care Commissioning Committee (PCCC) has been established as a committee of the Governing Body and therefore must operate within the governance framework described above. It is good practice to review and update TofR and it is particularly appropriate to do this in relation to PCCC as it has been operating for just over six months, from April 2016, with delegated authority from NHS England. This enables the learning of the past six months of operation to be reflected in the proposed TofR as well as incorporating comments from 360 Assurance, the CCG's internal auditors, report on the review of primary care commissioning at the CCG.

Once the proposed changes have been discussed at PCCC they will be presented to a public meeting of the Governing Body for final approval. Depending on timing this may be at the December 2016 or February 2017 public Governing Body meeting.

A copy of the proposed revised TofR is attached at Appendix A. If members of the committee require a track changed version of the document this can be provided on request. For ease of reference the key changes to the document are listed below:

- The recommendation in the 360 Assurance report have been included,
- The proposed changes have been cross referenced with the national guidance for delegated primary care commissioning,
- The previous TofR made some reference to “primary care” and some to “primary medical care”. The TofR have been refreshed to ensure consistency noting that Section 3 clearly states that “*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.*” The attached Schedule 2 clearly states that for NHS Sheffield CCG this is currently Primary Medical Services so the term “primary care” has been used in the TofR with the cross reference to Schedule 2 which gives the detail of what element of primary care the CCG has delegated responsibility for,
- Clarification has been made with regard to which members are voting members, non-voting members, those in attendance and those who have a standing invitation,
- The quorum details have been updated to reflect the membership and the split between Lay Members and Officers,
- The frequency of the meetings has proved challenging over the past six months and it is therefore suggested that the TofR are changed from “monthly” to “at least six (6) times per year”,
- The timescale for paper has also been amended from “seven working days” to “five days” which is in line with Governing Body papers,
- Reference to conflicts of interest have been updated and reference to the CCG’s Conflict of Interest protocol made.

### **3. Recommendation**

The Primary Care Commissioning Committee is asked to:

- CONSIDER this report and proposed changes to the Terms of Reference for PCCC,
- RECOMMEND the proposed changes for Governing Body APPROVAL.

Paper prepared by  
Jill Dentith, Management Consultant

On behalf of  
Julia Newton, Director of Finance

7 November 2016

## Primary Care Commissioning Committee

### Terms of Reference

#### INTRODUCTION

1. 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 NHS Sheffield CCG. The delegation is set out in Schedule 1.
2. The CCG has established the NHS Sheffield CCG Primary Care Committee (hereafter known as “the 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 and for the management and exercise of functions and powers delegated by the Governing Body to the Committee in relation to the CCGs responsibilities for primary care, where the Governing Body determines that conflicts of interest prevent decisions being taken by the Governing Body as set out in the CCG’s Standing Orders.

It is a committee comprising representatives of the following organisations:

- NHS Sheffield Clinical Commissioning Group
- NHS England

#### STATUTORY FRAMEWORK

3. 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.
4. 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.
5. 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);
6. 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).
  7. The Committee is established as a committee of the NHS Sheffield Clinical Commissioning Group Governing Body in accordance with Schedule 1A of the "NHS Act".
  8. The members acknowledge that the Committee is subject to any directions made by NHS England or by the Secretary of State.

## **ROLE OF THE COMMITTEE**

9. The Committee has been established in accordance with the above statutory provisions to enable the members to make collective decisions on the review, planning and procurement of primary care services in Sheffield under delegated authority from NHS England.
10. In performing its role, the Committee will exercise its management of the functions in accordance with the agreement entered into between NHS England and NHS Sheffield Clinical Commissioning Group, which will sit alongside the delegation and terms of reference.
11. 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.
12. The Governing Body has approved the CCG's Primary Care Strategy. The Committee will monitor delivery of the Strategy on behalf of the Governing Body through a quarterly review. The Committee will also receive regular updates on the work plan for primary care.
13. 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.

14. 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)
15. The CCG will also carry out the following activities:
- a) To plan, including needs assessment, primary care services in Sheffield;
  - b) To undertake reviews of primary care services in Sheffield;
  - c) To co-ordinate a common approach to the commissioning of primary care services generally;
  - d) To manage the budget for commissioning of primary care services in Sheffield.
  - e) Approval of the recommendations from the special cases advisory group
16. The CCG also intends that the Committee will take responsibility for conducting the review of the redistribution of the PMS premium funding subject to the subsequent approval of the application for Delegated Commissioning as per paragraph 14 above.

## **GEOGRAPHICAL COVERAGE**

17. The Committee will comprise NHS England – North (Yorkshire and Humber) or successor organisation) and NHS Sheffield CCG. It will undertake the function of jointly commissioning primary medical services for the population of Sheffield.

## **MEMBERSHIP**

18. The Committee is constituted to have a lay and executive majority, where lay refers to non-clinical. This ensures that the meeting will be quorate if all GPs

have to withdraw from the decision-making process due to conflicts of interest.

The Committee shall consist of:

<b>Status</b>	<b>Role</b>	<b>Organisation</b>	<b>Position</b>
Voting Member	Lay Chair of committee	NHS Sheffield CCG	Lay Member of Governing Body
Voting Member	Lay Deputy Chair of committee	NHS Sheffield CCG	Lay Member of Governing Body
Voting Member	Lay member of committee	NHS Sheffield CCG	Lay Member of Governing Body
Voting Member	Officer member of committee	NHS Sheffield CCG	Accountable Officer
Voting Member	Officer member of committee	NHS Sheffield CCG	Director of Finance
Voting Member	Officer member of committee	NHS Sheffield CCG	Chief Nurse
Voting Member	Officer member of committee	NHS Sheffield CCG	Director of Delivery – Care Outside Hospital
Non-voting Member	Officer member of committee	NHS Sheffield CCG	Medical Director
Non-voting Member	Officer member of committee	NHS Sheffield CCG	Programme Director Primary Care
Non-voting Member	Governing Body GP	NHS Sheffield CCG	Governing Body GP
Non-voting Member	Governing Body GP	NHS Sheffield CCG	Governing Body GP
Non-voting Member	Secondary Care Doctor	NHS Sheffield CCG	Secondary Care Doctor
Non-voting Member	NHS England representative	NHS England	Head of Co-Commissioning
In attendance (non-voting)	Committee Administration	NHS Sheffield CCG	Committee Administrator / PA to Director of Finance
Standing Invitation (non-voting)		Sheffield City Council	Representative of the Health and Wellbeing Board
Standing Invitation (non-voting)			Representative of Healthwatch
Standing Invitation (non-voting)			Representative of LMC

19. The Chair of the Committee shall be a Lay Member of NHS Sheffield CCG
20. The Deputy Chair will be a Lay Member of the NHS Sheffield CCG.
21. A standing invitation will be made to representatives from the following organisations, although those representatives will not form membership of the committee, be permitted to vote or form part of the quorum of meetings. They will also, where appropriate, be allowed to remain where the public are excluded for reasons of confidentiality, and subject to Section 28.2 below. Deputies of such representatives will be allowed.

Representation from Healthwatch

Representation from the Health and of Wellbeing Board

Representation from the Local Medical Committee

22. In exceptional circumstances, deputies (with comparable qualifications to the respective member of the committee) may be nominated to attend prior to the meeting, with the Chair's approval.
23. Member of the committee, both voting and non-voting, deputies and those in attendance or with a standing invitation to attend will be required to comply with the CCG's Conflicts of Interest Protocol.

## **NOTICE OF MEETINGS AND VOTING**

24. The Committee will operate in accordance with the CCG's Standing Orders. The Committee Administrator will be responsible for giving notice of meetings. This will be accompanied by an agenda and supporting papers and sent to each member representative no later than five days before the date of the meeting. When the Chair of the Committee deems it necessary in light of the urgent circumstances to call a meeting at short notice, the notice period shall be such as s/he shall specify.
25. Only Voting Members of the Committee will be allowed to vote. Each Voting Member of the Committee shall have one vote. The Committee shall reach decisions by a simple majority of Voting Members present, but with the Chair having a second and deciding vote, if necessary. However, the aim of the Committee will be to achieve consensus decision-making wherever possible.

## **QUORUM**

- 26 Attendance by four (4) members entitled to attend and to vote on the business to be transacted (or a validly appointed deputy for a member) including the Chair or Deputy Chair (thus ensuring a Lay Member present) and two (2) CCG Voting Officer Members.

## **FREQUENCY OF MEETINGS**

27. The Committee shall meet as frequently as necessary to effectively undertake its business and at least six (6) times per year.

## **28 MEETINGS OF THE COMMITTEE**

- 28.1 Meetings of the Committee shall, subject to the application of 25(b), be held in public. Notice of meetings shall be published via the NHS Sheffield CCG internet.
- 28.2. 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.
29. Members of the Committee shall 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.
30. 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.
31. The Committee may call additional experts to attend meetings on an ad hoc basis to inform discussions.
32. Members of the Committee shall respect confidentiality requirements as set out in the CCG's Standing Orders referred to above.
33. The Committee will present its minutes to NHS England – North (Yorkshire and Humber) and the governing body of NHS Sheffield CCG each month for information, including the minutes of any sub-committees to which responsibilities are delegated under paragraph 27 above.
34. The CCG will also comply with any reporting requirements set out in its constitution.
35. It is envisaged that these Terms of Reference will be reviewed from time to time, reflecting experience of the Committee in fulfilling its functions. NHS England may also issue revised model terms of reference from time to time.

## **ACCOUNTABILITY OF THE COMMITTEE**

36. Responsibility of this Committee is outlined within the Sheffield Clinical Commissioning Group's Constitution. The Committee is accountable to the Governing Body of the NHS Sheffield Clinical Commissioning Group.
37. The Committee is responsible for both overseeing the management of primary care delegated budgets and ensuring decisions made do not exceed the primary care delegated budget for the CCG.
38. The Committee will ensure that patient/public consultation is considered and undertaken when appropriate to aid decision making.
39. For the avoidance of doubt, in the event of any conflict between the terms of these Terms of Reference and the Standing Orders or Prime Financial Policies of the CCG, the latter will prevail.

## **PROCUREMENT OF AGREED SERVICES**

40. The Committee will make procurement decisions relevant to the exercise of the delegated functions in accordance with the detailed arrangements regarding procurement set out in the Delegation Agreement between the CCG and NHS England.

## **DECISIONS**

41. The Committee will make decisions within the bounds of its remit and decisions will be aligned with the CCG's Commissioning Plan.
42. The decisions of the Committee shall be binding on NHS England and NHS Sheffield CCG.
43. The Committee will present its minutes to the Governing Body of NHS Sheffield CCG and produce an executive summary report which will be presented to NHS England – North (Yorkshire and Humber) each month for information.

## Delegation Agreement

### 1. Particulars

- 1.1. This Agreement records the particulars of the agreement made between NHS England and the Clinical Commissioning Group named below.

<b>Area</b>	<b>Sheffield</b>
<b>Clinical Commissioning Group</b>	<b>NHS Sheffield CCG</b>
<b>CCG Representative</b>	<b>Maddy Ruff</b>
<b>CCG Address for Notices</b>	<b>722 Prince of Wales Road, Sheffield, South Yorkshire, S9 4EU</b>
<b>Date of Agreement</b>	<b>1 April 2016</b>
<b>Delegation</b>	<b>means the delegation made by NHS England to the CCG of certain functions relating to primary medical services under section 13Z of the NHS Act and effective from 1 April 2015 2016 (as amended pursuant to the Delegation)</b>
<b>NHS England Representative</b>	<b>Karen Curran</b>
<b>Local NHS England Team</b>	<b>South Yorkshire and Bassetlaw</b>
<b>NHS England Address for Notices</b>	<b>Oak House, Moorhead Way, Bramley, Rotherham, South Yorkshire, S66 1YY</b>



- 1.2. This Agreement comprises:
- 1.2.1. the Particulars (Clause 1);
  - 1.2.2. the Terms and Conditions (Clauses 2 to 24 and Schedule 1 to Schedule 6 and Schedule 8 to this Agreement); and
  - 1.2.3. the Local Terms (Schedule 7).

**Signed by**

**NHS England**

**Paul Baumann (for and on behalf of NHS England)**

A handwritten signature in black ink, appearing to read 'P. Baumann', written over a horizontal line.

**Signed by**

**NHS Sheffield Clinical Commissioning Group**

**Idris Griffiths (for and on behalf of NHS Sheffield CCG)**

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## **Schedule 2 - Delegated functions**

The Delegated Functions are the functions set out in Schedule 1 of the Delegation Agreement between the CCG and NHS England, being:

- decisions in relation to the commissioning, procurement and management of Primary Medical Services Contracts, including but not limited to the following activities:
  - decisions in relation to Enhanced Services;
  - decisions in relation to Local Incentive Schemes (including the design of such schemes);
  - decisions in relation to the establishment of new GP practices (including branch surgeries) and closure of GP practices;
  - decisions about 'discretionary' payments;
  - decisions about commissioning urgent care (including home visits as required) for out of area registered patients;
- the approval of practice mergers;
- planning primary medical care services in the Area, including carrying out needs assessments;
- undertaking reviews of primary medical care services in the Area;
- decisions in relation to the management of poorly performing GP practices and including, without limitation, decisions and liaison with the CQC where the CQC has reported noncompliance with standards (but excluding any decisions in relation to the performers list);
- management of the Delegated Funds in the Area;
- Premises Costs Directions Functions;
- co-ordinating a common approach to the commissioning of primary care services with other commissioners in the Area where appropriate; and
- such other ancillary activities that are necessary in order to exercise the Delegated Functions.