

Primary Care Commissioning Committee: Internal Audit Draft Report

Primary Care Commissioning Committee meeting

5 October 2016

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Author(s)	Katrina Cleary, Programme Director Primary Care
Sponsor	John Boyington, Chair PCCC
Is your report for Approval / Consideration / Noting	
Consideration	
Are there any Resource Implications (including Financial, Staffing etc)?	
Not at this stage	
Audit Requirement	
<u>CCG Objectives</u>	
<i>Which of the CCG's objectives does this paper support?</i>	
5. Organisational development to ensure CCG meets organisational health and capability requirements.	
<u>Equality impact assessment</u>	
<i>Have you carried out an Equality Impact Assessment and is it attached?</i>	
Not appropriate	
<u>PPE Activity</u>	
<i>How does your paper support involving patients, carers and the public?</i>	
Not appropriate	
Recommendations	
The Primary Care Commissioning Committee is asked to consider the content of the draft report and comment on any elements to be feedback to Internal Audit.	

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1. Introduction

The CCG has an allocation within its 2016/17 Internal Audit Plan for a review of primary care co-commissioning. This has been utilised to review governance arrangements that have been established to ensure that the CCG complies with the requirements for an organisation with delegated responsibility for commissioning GP services. The objective of the exercise, therefore, was to assess the CCG's establishment of its Primary Care Commissioning Committee and associated governance processes to ensure that they comply with national requirements.

The draft report is attached. The Chair and the Programme Director Primary Care have agreed to feed back to Internal Audit the views of the committee prior to the final version being signed off.

2. Scope of the Review

The scope of the review included an examination of the following areas:

- The governance structure established by the CCG for primary care co-commissioning. This included a review of the extent to which the CCG updated its governance documents and the operation to date of the Primary Care Commissioning (PCC) Committee.
- The operational arrangements in place to manage the day to day review and management of primary care commissioning;
- The process in place for ensuring compliance to the Delegation Agreement with NHS England.
- The extent to which the CCG's PCC Committee complies with the requirements of paragraphs 83 to 92 of 'Managing Conflicts of Interest: Revised Statutory Guidance for CCGs' (acknowledging that the guidance was issued in June 2016).

The 'Findings and Recommendations' section of this report details arrangements the CCG has in place against a range of assessment criteria within each of the four scope areas above. A 'RAG' rating system has been used for each criterion with the following definitions:

- Red – no evidence of control in place. Immediate action required.
- Amber – some evidence of control operating, but improvement action required.
- Yellow – control largely operating effectively. Minor action required for improvement.
- Green – control fully in place and operating effectively.

3. Recommendations

The Governing Body is asked to consider the content of the draft report and comment on any elements to be feedback to Internal Audit.

Katrina Cleary
Programme Director Primary Care

26 September 2016

NHS Sheffield CCG

Primary Care Co- Commissioning

Draft

August 2016
1617SCCG01R



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Distribution

Name	For Action	For Information

Key Dates

Report Stage	Date
Discussion Draft Issued:	
Exit Meeting (through exchange of emails)	
Final Draft Issued:	
Client Approval Received:	
Final Report Issued:	

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Information and Background

In May 2014, NHS England invited clinical commissioning groups (CCGs) to come forward with expressions of interest to take on an increased role in the commissioning of GP services. The intention was to give CCGs more influence over the wider NHS budget and enable local health commissioning arrangements that can deliver improved, integrated care for local people, in and out of hospital. Primary care co-commissioning is also one of a series of changes set out in the NHS Five Year Forward View.

'Next Steps Towards Primary Care Co-commissioning' which was issued in November 2014, set out three co-commissioning models available to CCGs:

- Level 1 - Greater - Greater involvement in primary-care commissioning decision making.
- Level 2 - Joint - Joint commissioning arrangements with NHS England.
- Level 3 - Delegated - Delegated commissioning arrangements.

The CCG chose to adopt Level 1 for the 2015/16 year but moved to Level 3 from the 1st of April 2016. In preparation for taking on delegated responsibilities, the CCG established a Primary Care Commissioning Committee in November 2015, which has met monthly since the beginning of April 2016.

The key functions delegated within Level 3 include:

- GMS, PMS and APMS contracts (including the design of PMS and APMS contracts, monitoring of contracts, taking contractual action such as issuing breach/remedial notices and removing a contract);
- Newly designed enhanced services;
- Design of local incentives schemes as an alternative to QOF (see below);
- The ability to establish new GP practices in an area;
- Approving practice mergers;
- Making decision on 'discretionary' payments (eg returner/retainer schemes); and
- Key quality imperatives

CCGs opting for Level 3 delegation are also required to carry out the following activities in relation to their delegated primary care commissioning functions:

- To plan, including needs assessment, primary medical care services in the local area and to undertake reviews of primary medical care services;
- To co-ordinate a common approach to the commissioning of primary care services generally;
- To manage the budget for commissioning of primary medical care services.

One of the principle issues that CCGs need to be aware of in respect of primary care co-commissioning is the need to manage conflicts of interest. In June 2016, NHS England issued its most detailed guidance to CCGs on this subject to date. Paragraphs 83 to 92 of this guidance deal specifically with Primary Care Co-Commissioning Committees, although other paragraphs are also relevant (such as those that deal with general minute taking).

Audit Objectives and Scope

The CCG has an allocation within its 2016/17 Internal Audit Plan for a review of primary care co-commissioning. This has been utilised to review governance arrangements that have been established to ensure that the CCG complies with the requirements for an organisation with delegated responsibility for commissioning GP services. The objective of the exercise, therefore, was to assess the CCG's establishment of its Primary Care Commissioning Committee and associated governance processes to ensure that they comply with national requirements.

The scope of the review included an examination of the following areas:

- The governance structure established by the CCG for primary care co-commissioning. This included a review of the extent to which the CCG updated its governance documents and the operation to date of the Primary Care Commissioning (PCC) Committee.
- The operational arrangements in place to manage the day to day review and management of primary care commissioning;
- The process in place for ensuring compliance to the Delegation Agreement with NHS England; &
- The extent to which the CCG's PCC Committee complies with the requirements of paragraphs 83 to 92 of 'Managing Conflicts of Interest: Revised Statutory Guidance for CCGs' (acknowledging that the guidance was issued in June 2016).

The 'Findings and Recommendations' section of this report details arrangements the CCG has in place against a range of assessment criteria within each of the four scope areas above. A 'RAG' rating system has been used for each criterion with the following definitions:

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Audit Opinion

Significant Assurance can be provided that there is a generally sound system of control designed to meet the system's objectives. However, some weakness in the design or inconsistent application of controls put the achievement of particular objectives at risk.

Summary Findings

To be finalised following agreement of recommendations.

Summary of Recommendations


	High	Medium	Low	Advisory	Total
Recommendations		1	3	1	5






Follow Up


A follow-up exercise will be undertaken during Quarter 4 to evaluate progress made in respect of issues raised. This will include obtaining documentary evidence to demonstrate that actions agreed as part of this review have been implemented.

Each section below highlights areas of good practice identified. Where relevant, any control weaknesses identified are outlined, including actions that have been agreed in order to address the associated risks. The matrix used for scoring risks is compliant with the ISO 31000 principles and generic guidelines on risk management. This matrix, along with definitions of different opinion levels, is provided at **Appendix A**.


1. Governance Structure Established by the CCG for Primary Care Commissioning


Review Criteria	CCG Position	RAG Rating
<p>The Governing Body has approved the establishment of a Primary Care Commissioning (PCC) Committee.</p>	<p>The Governing Body approved the establishment of a PCC Committee in October 2015. We confirmed that an appropriate Terms of Reference (ToR) for the Committee are in place based on model documentation (and have recently been revised pending final sign-off by NHS England as part of revisions to the Constitution). We noted the Committee met twice in 2015/16 in preparation for the CCG taking on full delegated responsibility and since April 2016 has met monthly.</p> <p>We noted some opportunity for localising the ToR for the Committee, for example, as the Governing Body has recently approved the CCG’s Primary Care Strategy, a future update of the Terms of Reference could include specific reference to how the Committee will be monitoring delivery of the Strategy on behalf of the Governing Body. There are also a number of specific duties emerging, such as considering requests for temporary closures of practice lists.</p> <p>Recommended Action:</p> <p>The CCG should plan a further update of the Committee’s ToR which refers to specific duties the Committee is carrying out in support of the delivery of the Primary Care Strategy. (We note that the Terms of Reference are currently an appendix of the CCG’s Constitution and that therefore approval of both the CCG’s membership and NHS England is required before changes are made. We would support removal of the ToR from the Constitution’s appendices, providing that they remain publicly available on the CCG’s website, to make amending them easier.)</p> <p>Risk: (Impact x Likelihood)</p> <p>Failure to link responsibilities of the PCC Committee as specified within its Terms of Reference to actual duties of the Committee could lead to some responsibilities not being delivered. (3 x 2; Low)</p> <p>Manager’s Comments:</p> <p>Responsible Officer:</p> <p>Implementation Date:</p>	

Review Criteria	CCG Position	RAG Rating
There is clearly defined Senior Management leadership in respect of PCC.	Senior Management leadership is provided by Katrina Cleary, Primary Care Programme Director, who sponsors all key papers being presented to the PCC Committee. We confirmed this through an examination of papers that were submitted to the Committee's meetings in April, May and June 2016.	
The CCG engaged with its GP membership prior to making the decision to apply for full delegation for GP commissioning.	Engagement with the CCG's GP membership on the subject of primary care-commissioning took place using several methods. Most notably the CCG issued a web-based survey in October 2015 asking practices whether they supported a decision to apply for full delegation. 88% of the 41 responding practices confirmed that they would support such a decision.	
The CCG's Constitution has been appropriately amended in order to incorporate its Co-Commissioning Responsibilities.	The process of updating the CCG's Constitution to include its responsibilities for primary care commissioning began in October 2015, when a paper was presented to the Governing Body setting out the proposed changes (though noting that approval was required by the CCG's membership). The Constitution presently available on the CCG's website is dated January 2016, and does incorporate its primary care commissioning responsibilities. We noted that the CCG is currently in the process of revising its Constitution again. Changes include some additional detail being added to the Terms of Reference of the PCC Committee. At the time of writing it had engaged with its membership and was awaiting final approval from NHS England.	
The activities of the PCC Committee are reported to the GBA, where appropriate, to NHS England.	We confirmed that all minutes from meetings of the PCC Committee between November 2015 and June 2016 had been submitted to the Governing Body. Paragraph 30 of the Committee's Terms of Reference requires minutes of all meetings to be sent to NHS England. We confirmed that minutes of both public and private sessions of the Committee were provided via email to NHS England.	
The PCC Committee has a clear work plan in place which ensures that it receives reports on, and makes decisions on all delegated responsibilities as specified within the Delegation Agreement with NHS England.	There is an intention to produce a work plan for the Committee following a development session which is being planned for later this year. Proposed Recommendation A work plan for the Committee needs to be finalised as soon as possible. Risk (Impact x Likelihood) The Committee may not deliver against all its responsibilities if these are not	




Review Criteria	CCG Position	RAG Rating
	appropriately planned throughout the year. (3x3; medium)	
	Manager's Comments Responsible Officer: Implementation Date:	
The operation of the PCC Committee complies with the principles of good governance for effective committee meetings.	We reviewed minutes of the Committee's meetings in November 2015, and February, April, May and June 2016. Minutes included an appropriate level of detail and there was good evidence of actions being clearly identified and then subsequently monitored through a 'matters arising' paper which is considered at the start of each meeting.	

2. Operational Arrangements in Place for Day to Day Management of Primary Care Commissioning

Review Criteria	CCG Position	RAG Rating
Arrangements were in place to ensure that the transfer of responsibilities from NHS England to the CCG took place appropriately.	<p>The CCG developed a formal implementation plan in order to ensure that all necessary tasks involved in the transfer of responsibilities from NHS England to the CCG were completed appropriately. The plan included a total of 48 tasks across 7 key areas including finance, contracting, governance and workforce. It was submitted to the PCC Committee for review at its April 2016 meeting, but hasn't been brought back since. At this point, 15 tasks were reported as having been completed, 20 were in progress, with 13 being reported as 'not started.' Most tasks had a target implementation date of the 31st of March 2016, although 3 tasks had a final implementation date of October 2016.</p> <p>Recommended Action: The implementation plan should be brought back to the PCC Committee after the final target date for clearance of actions passed. This will provide assurance that all tasks have been completed.</p> <p>Risk: (Impact x Likelihood) There is a risk that some tasks involved in the transfer of responsibilities may not have been fully completed. (3x2; Low)</p> <p>Manager's Comments</p>	


Review Criteria	CCG Position	RAG Rating
	Responsible Officer: Implementation Date:	
The CCG has established an appropriately resourced team to deliver the day to day management of delegated primary care functions.	The CCG has developed a draft structure for its Primary Care Team which includes the Programme Director, a Business Manager, an 8b post (which is currently being recruited to) and some administrative support. At this stage it is anticipated that this will be a sufficient level of resource to deliver the CCG's primary care commissioning responsibilities, particularly with the current level of support being provided from NHS England.	

3. Compliance with Delegation Agreement





Review Criteria	CCG Position	RAG Rating
A signed Delegation Agreement is in place which clearly sets out the functions that have been delegated from NHS England to the CCG.	A formal Delegation Agreement was signed by the CCG's Chief Operating Officer and a representative of NHS England on the 1 st of April 2016. Section 6 sets out those responsibilities that have been delegated to the CCG, whilst Section 8 details those that have been reserved by NHS England.	
There is sufficient evidence in place of delegated responsibilities being delivered, commensurate with the amount of time the CCG has been delegated these responsibilities.	Since April the 1 st of 2016, the PCC Committee has received a number of papers and made decisions in respect of several issues that relate to the CCG's delegated responsibilities. These have included approving the primary care budget (and receiving monitoring reports in respect of its performance), approval of a Locally Enhanced Scheme (LES) as well as considering issues such as the closure of practice lists.	
Proposals for actions in respect of delegated functions are submitted to the PCC Committee for decisions to be made. These decisions are clearly recorded in the minutes of meetings.	<p>We reviewed all papers submitted to the PCC Committee since April 2016 and also examined papers being considered for approval by the Governing Body during the same period. We confirmed that there were no decisions taken by the Governing Body during the period examined that we would have expected to have been made by the PCC Committee with its delegated responsibilities.</p> <p>Decisions made by the PCC Committee were clearly recorded, although we noted a minor anomaly in respect of the manner in which some of the covering papers for reports prepared for the Committee indicate how the Committee should respond to the report's content. On occasions the covering paper specified that the report was 'for approval' but in the 'recommendation' section the phrase 'the Committee should support</p>	

Review Criteria	CCG Position	RAG Rating
	<p>the report's concluding recommendation. This may cause some confusion over the Committee's actual powers.</p> <p>Recommended Action (Advisory only): Consistent wording should be used to remove any confusion over the Committee's delegated powers.</p> <p>Manager's Comments:</p>	

4. Compliance With Paragraphs 83 – 92 of 'Managing Conflicts of Interest (Col): Revised Statutory Guidance for CCGs'

Review Criteria	CCG Position	RAG Rating
<p>The interests of all primary care commissioning committee members must be recorded on the CCG's register(s) of interests. (Para 83)</p>	<p>The vast majority of the members of the PCC Committee are either members of the Governing Body or are regular attendees of its meetings and are therefore included Register of Interests relevant to the Governing Body. This includes all voting members of the Committee. Technically speaking, however, the CCG does not comply with the requirements of Paragraph 83 of the Guidance because it has an NHS England representative as a member of its PCC Committee, whose interests (or a formal 'nil return' are not recorded on any of the CCG's Registers of Interest).</p> <p>Recommended Action: There are two possible courses of action. The first is to produce a separate Register of Interests for the Committee which includes all members. The second would be to seek some clarification from NHS England in respect of whether Paragraph 83 of the Guidance was intended to be applied to members of primary care commissioning committees that are neither GPs, voting members or employees of the CCG.</p> <p>Risk: (Impact x Likelihood) Low risk of relevant interests not being declared and subsequently influencing discussion (though note the decision as all voting members' interests are declared.) (2x2; Low)</p> <p>Manager's Comments</p>	

Review Criteria	CCG Position	Rating																					
	<p>Responsible Officer:</p> <p>Implementation Date:</p>																						
<p>Meetings of the PCC committee, including the decision-making and deliberations leading up to the decision, should be held in public unless the CCG has concluded it is appropriate to exclude the public where it would be prejudicial to the public interest to hold that part of the meeting in public. (Para 85)</p>	<p>All meetings are held in public and minutes and papers are published on the CCG's website. We confirmed this through obtaining all papers from the meetings held in November 2015 and February, April, May, June and July 2016 from the CCG's public websites.</p>	●																					
<p>The PCC Committee must be 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 had to withdraw from the decision-making process due to conflicts of interest. (Para 86)</p>	<p>The PCC has a lay & executive majority, as demonstrated by its membership as defined within its Terms of Reference:</p> <table border="1"> <thead> <tr> <th>Role</th> <th>Organisation</th> <th>Position</th> </tr> </thead> <tbody> <tr> <td>Chair (Voting)</td> <td>SCCG</td> <td>Lay Member</td> </tr> <tr> <td>Vice Chair (Voting)</td> <td>SCCG</td> <td>Lay Member</td> </tr> <tr> <td>Voting Committee Member</td> <td>SCCG</td> <td>Accountable Officer Chief Finance Officer Chief Nurse</td> </tr> <tr> <td rowspan="4">Non-voting Committee Members</td> <td>SCCG</td> <td>Medical Director Programme Director Primary Care 2 x Governing Body GPs Lay Member Secondary Care Doctor</td> </tr> <tr> <td>Sheffield City Council</td> <td>Representative of the Health & Wellbeing Board</td> </tr> <tr> <td>NHS England</td> <td>Head of Co-Commissioning</td> </tr> <tr> <td>Other</td> <td>Representatives of Healthwatch LMC</td> </tr> </tbody> </table>	Role	Organisation	Position	Chair (Voting)	SCCG	Lay Member	Vice Chair (Voting)	SCCG	Lay Member	Voting Committee Member	SCCG	Accountable Officer Chief Finance Officer Chief Nurse	Non-voting Committee Members	SCCG	Medical Director Programme Director Primary Care 2 x Governing Body GPs Lay Member Secondary Care Doctor	Sheffield City Council	Representative of the Health & Wellbeing Board	NHS England	Head of Co-Commissioning	Other	Representatives of Healthwatch LMC	●
Role	Organisation	Position																					
Chair (Voting)	SCCG	Lay Member																					
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	NHS England	Head of Co-Commissioning																					
	Other	Representatives of Healthwatch LMC																					

Review Criteria	CCG Position	RAG Rating
<p>A standing invitation must be made to the CCG's local HealthWatch representative and a local authority representative from the local Health and Wellbeing Board to join the primary care commissioning committee as non-voting attendees, including, where appropriate, for items where the public is excluded for reasons of confidentiality. (Para 86)</p>	<p>As can be seen from the table above summarising the Committee's membership representatives from the local HealthWatch and the Health & Wellbeing Board are members of the Committee. Our review of the minutes of meetings held between November 2015 and June 2016 confirmed that both were regular attendees of meetings.</p>	
<p>The quorum requirements for PCC Committee meetings must include a majority of lay and executive members in attendance with eligibility to vote. (Para 89)</p>	<p>Quoracy as stated in the Committee's Terms of Reference are as follows: '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 and [one] lay member, [2] CCG executive members.'</p> <p>We noted one occasion where a meeting was not quorate but this had been identified by the Committee and was clearly recorded in the minutes. Decisions proposed at the meeting were later ratified by voting members of the Committee who had not been present at the meeting and this was clearly recorded as 'post-meeting' notes in the minutes.</p>	
<p>In the interest of minimising the risks of conflicts of interest, it is recommended that GPs do not have voting rights on the PCC Committee. The arrangements do not preclude GP participation in strategic discussions on primary care issues, subject to appropriate management of conflicts of interest. They apply to decision-making on procurement issues and the deliberations leading up to the decision. (Para 90)</p>	<p>As can be seen from the table summarising the Committee's membership above, GP members of the Committee do not have voting rights.</p>	
<p>If any conflicts arise during meetings of the PCC Committee, the chair must ensure the following information is recorded in the minutes:</p> <ul style="list-style-type: none"> • who has the interest; • the nature of the interest and why it gives rise to a conflict, including the magnitude of any interest; 	<p>Declarations of interest are required to be made at the start of each meeting and we confirmed that this took place for all meetings reviewed during the exercise. We did identify, however, that where interests had been declared, action agreed to manage the conflict was not always recorded.</p> <p>This issue has already been identified by the Committee's Chairman, as confirmed by this minute, taken from the minutes of the meeting held on the 29th of June 2016:</p>	

Review Criteria	CCG Position	RAG Rating
<ul style="list-style-type: none"> the items on the agenda to which the interest relates; how the conflict was agreed to be managed; and evidence that the conflict was managed as intended (for example recording the points during the meeting when particular individuals left or returned to the meeting). (Para 93)	<p><i>“The Chair advised members that in future not only would any conflicts of interested need to be noted but there would also need to be a note of action taken to manage this.”</i></p> <p>As action has already been identified as bring required by the CCG we are not making any further recommendation, although we will include the issue in our follow-up work to ensure it has being implemented.</p>	

Score	Impact	Likelihood
1	Negligible	Rare
2	Low	Unlikely
3	Medium	Possible
4	Very High	Likely
5	Extreme	Almost Certain

		Impact				
		1	2	3	4	5
Likelihood	1	L	L	L	L	L
	2	L	L	L	M	M
	3	L	L	M	M	H
	4	L	M	M	H	H
	5	L	M	H	H	H

Audit Opinions

Full Assurance can be provided that the system of internal control has been effectively designed to meet the system's objectives, and controls are consistently applied in all areas reviewed.

Significant Assurance can be provided that there is a generally sound system of control designed to meet the system's objectives. However, some weakness in the design or inconsistent application of controls put the achievement of particular objectives at risk.

Limited Assurance can be provided as weaknesses in the design or inconsistent application of controls put the achievement of the system's objectives at risk in the areas reviewed.

No Assurance can be provided as weaknesses in control, or consistent non-compliance with key controls, could result [*have resulted*] in failure to achieve the system's objectives in the areas reviewed.