

ENCLOSURE: 2
AGENDA ITEM: 4

Primary Care Commissioning Committee (Part 1)

DATE: 16 April 2020

Title	Terms of Reference for the South East London CCG Primary Care Commissioning Committee	
This paper is for information		
Borough	All boroughs	
Practice Details	Practice Name	n/a
	Contract Type	n/a
	Site Address(s) inc. branch sites	n/a
	List Size	n/a
	No. of Partners	n/a
	Current CQC Rating	n/a
	PCN Details	n/a
Recommended action for the Committee	Note the terms of reference for the South East London CCG Primary Care Commissioning Committee.	
Summary	<p>From 1st April 2020, the NHS South East London CCG Primary Care Commissioning Committee became the corporate decision making body for the management of the delegated primary care functions and will exercise the delegated powers as set out in the NHS South East London CCG's Constitution and Scheme of Delegation.</p> <p>In recognition that the responsibility for primary care commissioning and contracting remains at Borough level, the Committee's membership will include the 6 Borough Based Directors, and non-voting representatives from Londonwide LMCs, Healthwatch & local authorities. The Committee will be supported by Borough Based Boards, primary care fora in each borough, which will make recommendations, and by the South East London Primary Care Team, led by Jill Webb, Head of Primary Care.</p> <p>These terms of reference will be reviewed on an annual basis by the committee chair. Proposed changes will be referred to the CCG governing body and membership for approval.</p>	
Potential Conflicts of Interest and mitigations	None	
Impacts of this proposal	Key risks & mitigations (and/or BAF reference)	None identified

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	Equalities legislation impact	The application of the terms of reference will assess this impact as a case by case basis, as applicable.
	Financial impact	The application of the terms of reference will assess this impact as a case by case basis, as applicable
	Impact on patients / service users	The application of the terms of reference will assess this impact as a case by case basis, as applicable.
	Impact on other practices, including PCNs	The application of the terms of reference will assess this impact as a case by case basis, as applicable.
	Estates impact	The application of the terms of reference will assess this impact as a case by case basis, as applicable.
	Workforce impact	The application of the terms of reference will assess this impact as a case by case basis, as applicable.
	Improve quality / safety	The application of the terms of reference will assess this impact as a case by case basis, as applicable.
	Support integration	Yes
	How does the recommendation align with the Boroughs primary care strategy?	The application of the terms of reference will assess this impact as a case by case basis, as applicable.
Wider support for this proposal	Patient Engagement	The terms of reference will be published as part of the papers and on the CCG's website
	Other Committee Discussion/ Borough Engagement	The terms of reference have been developed from national guidance and input from CCG officers in south east London.
	Stakeholder engagement, including LMC, Health Watch, Scrutiny committee, MP's, Councillors,	The terms of reference have been shared widely with local stakeholders at former borough PCCC meetings.
	Public Engagement	The terms of reference will be published as part of the papers and on the CCG's website
Author:	Jill Webb	
Job Title:	Head of Primary Care	
Directorate:	SE London Primary Care Team	
Clinical Lead:	Dr Jonty Heaversedge – CCG GP Chair	
Responsible Director:	Christina Windle - Chief Operating Officer	
List of appendices/ Supporting information	Name of document	
Appendix 1	Primary Care Commissioning Committee Terms of Reference	

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NHS South East London Clinical Commissioning Group

Primary Care Commissioning Committee

Terms of Reference

Introduction

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.

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 South East London CCG. The delegation is set out in Schedule 1.

The CCG has established the NHS South East London CCG Primary Care Commissioning Committee ("Committee"). The committee will function as a corporate decision-making body for the management of the delegated primary care functions and the exercise of the delegated powers as set out in NHS South East London CCG's Constitution and Scheme of Delegation.

- It is a committee comprising representatives from NHS South East London CCG, and includes non-voting representatives from Londonwide LMCs, Healthwatch and local authorities (on a first among equals basis) and the Head of Primary Care for south east London CCG.
- It is also important to acknowledge that this committee will be supported by Primary Care fora operating within boroughs, which will make recommendations to this committee.

Statutory Framework

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.

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

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)

The CCG will also need to specifically, in respect of the delegated functions from NHS England, exercise those in accordance with the relevant provisions of section 13 of the NHS Act:

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

The committee is established as a committee of the CCG Governing Body in accordance with Schedule 1A of the “NHS Act”.

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

The committee has been established in accordance with the above statutory provisions to enable the membership of the committee to make collective decisions related to primary care services in south east London, under delegated authority from NHS England.

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 South East London CCG, which will sit alongside the delegation and terms of reference.

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

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.

This includes taking decision related to:

- GMS, PMS and APMS contracts (including the commissioning of PMS and APMS contracts, the procurement of APMS contracts, monitoring of contracts, taking contractual action such as issuing breach/remedial notices, and removing a contract);
- Enhanced Services and newly designed enhanced services (Local Improvement Schemes (LIS) or Local Commissioned Services (LCS) and “Directed Enhanced Services”);
- Design of Local Improvement 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’ payments (e.g., returner/retainer schemes).

The CCG will also carry out other activities as detailed in Schedule 1 of the Delegation Agreement between NHS South East London CCG and NHS England.

Geographical Coverage

The committee is responsible for decisions relating to all GP contracts held by south east London CCG, covering the boroughs of Bexley, Bromley, Lambeth, Lewisham, Greenwich and Southwark.

Membership

The committee shall consist of:

Voting Members

- 2 Lay Members (excluding the lay member for governance who cannot chair or vice chair the committee)
- CCG GP Chair
- Registered Nurse or Secondary Care Specialist (single member)
- Accountable Officer
- Chief Finance Officer
- Executive Director for Commissioning and Planning
- 6 Borough Based Directors

All members may agree a deputy, who can vote on their behalf; however this must be a named individual and agreed with the Primary Care Commissioning Committee Chair.

In attendance¹

- 6 Governing Body GP leads (1 from each borough)
- Local Medical Committee Representative
- Healthwatch Representative
- 6 (1 per borough) Local Authority Representatives of the Health and Wellbeing Board (Elected Member or Mandated Officer)
- Officers as required to undertake business of the committee

Those in attendance will get the papers and minutes and are permitted to contribute to the discussion at meetings.

The chair of the committee shall be a lay member of NHS South East London CCG. This will not be the lay member responsible for Audit & Governance.

The vice chair of the committee shall be a lay member of NHS South East London CCG. This will not be the lay member responsible for Audit & Governance.

Meetings and Voting

As a committee of the governing body, the committee will operate in accordance with the CCG's Standing Orders (in line with NHS England Standard Operating Procedures). This includes the capacity to manage urgent matters outside the normal arrangements. All urgent decision taken between committees, that would otherwise have been taken in a Part 1 committee, shall be reported to the next committee, including full papers and minutes for transparency.

The aim of the committee will be to achieve consensus decision-making wherever possible. In the event that a vote is required, each member of the committee shall have one vote. The committee shall reach decisions by a simple majority of members present, but with the Chair having a second and deciding vote, if necessary.

Quorum

The quorum shall be 50% of the voting members. Where a decision is to be taken regarding a specific borough, that decision cannot be taken without a representative from that borough attending the meeting.

Frequency of meetings

The committee will meet regularly at least 6 times per year. After 6 months the frequency will be reviewed

Procedure

Meetings of the committee shall:

- a) be held in public, subject to the application of b) below;

¹ Representatives to be agreed by the relevant organisations to operate as a 'first among equals'

- 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;
- c) the closed confidential part of the meeting (as provided for at b) above) shall be referred to as Part 2 of the meeting and shall have a separate agenda and minutes;
- d) the committee may invite the representatives of the local authority (Health and Wellbeing Board), Local Medical Committees and Healthwatch to Part 2 of any meeting where it considers it is appropriate for such representatives to attend all or part of Part 2 of the meeting.

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.

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 governed by terms of reference as appropriate and reflect appropriate arrangements for the management of conflicts of interest. It is expected that each borough discusses Primary Care in a local fora (adhering to the requirements above) and makes recommendations into the Primary Care Commissioning Committee to be agreed.

The committee may agree certain decisions can be taken outside of the committee where this is in line with a policy which the Primary Care Commissioning Committee has formally agreed and ratified with NHS England (to ensure this is appropriate to the delegation agreement)². Borough based directors are responsible for ensuring this policy is properly followed in their boroughs, and the Primary Care Commissioning Committee will review all decisions taken outside of the committee at the next meeting.

The committee may call additional experts to attend meetings on an ad hoc basis to inform discussions.

Members of the committee shall respect confidentiality in attending and undertaking the business of the committee.

² Policies agreed as part of the London Operating Model are already agreed

The committee will present its minutes to the governing body of NHS South East London CCG and the London region of NHS England following each meeting for information, including the minutes of any sub-committees to which responsibilities are delegated under paragraph 25 above.

The CCG will also comply with any reporting requirements set out in its Constitution.

Accountability of the Committee

The committee will be accountable for the expenditure of the primary care budget delegated from NHS England to the CCG. Responsibility for authorising expenditure against this budget may be further delegated only as set out in the Operational Scheme of Delegation ratified by the governing body.

For the avoidance of doubt, in the event of any conflict between the terms of the CCG's Operational Scheme of Delegation, the committee's terms of reference and the CCG's Standing Financial Instructions, the Operational Scheme of Delegation will prevail.

Decisions

The committee will make decisions within the bounds of its remit.

The committee will ensure that any conflicts of interest are dealt with in accordance with the CCG's Constitution and Standards of Business Conduct Policies which for the avoidance of doubt may include members (voting or otherwise) being excluded from a decision and/or the discussions leading thereto. The committee will enact its responsibilities as set out in these terms of reference in accordance with the Nolan Principles for Standards in Public Life.

The decisions of the committee shall be binding on NHS South East London CCG and NHS England.

Review

These terms of reference will be reviewed on an annual basis by the committee chair. Proposed changes will be referred to the CCG governing body and membership for approval.