

NHS Herts Valleys Clinical Commissioning Group

Primary Care Commissioning Committee V1.4 Terms of reference

Introduction

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 (medical services) commissioning functions to a CCG.
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 Herts Valleys CCG. The delegation is set out in Schedule 1.
3. The CCG has established the Herts Valleys CCG Primary Care (Medical Services) Commissioning Committee ("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.

Statutory Framework

4. 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.
5. 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.
6. 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 and premises (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).

7. 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.
8. The Committee is established as a committee of the Board of Herts Valleys CCG in accordance with Schedule 1A of the "NHS Act".
9. 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

10. 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 west Hertfordshire, under delegated authority from NHS England.
11. In performing its role the committee will exercise its management of the functions in accordance with the agreement entered into between NHS England and Herts Valleys CCG, which will sit alongside the delegation and terms of reference.
12. It is not within the remit of the committee to consider the commissioning of other primary care services such as community pharmacy, dentistry or optometry. The interface between general practice and other primary care services will be considered by the Commissioning Executive Committee.
13. 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.
14. 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.
15. This includes the following:
 - GMS and APMS contracts (including the design of APMS contracts, monitoring of contracts, taking contractual action such as issuing breach/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;
 - Making decisions on 'discretionary' payment (e.g., returner/retainer schemes);and
 - Enabling and supporting transformational change in primary care medical services.

- Decision making relating to practice premises.

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

- a) To plan, including needs assessment, primary medical care services in west Hertfordshire;
- b) To undertake reviews of primary medical care services in west Hertfordshire
- c) To co-ordinate a common approach to the commissioning of primary care services generally;
- d) To manage the budget for commissioning of primary medical care services in west Hertfordshire.

Geographical Coverage

17. The committee will comprise the area covered by Herts Valleys CCG.

Membership

18. The Committee shall consist of:

Two CCG Board Lay Members

An independent GP, being *either*

Executive Clinical Lead for Primary Care Transformation; *or,*

a co-opted GP from out of area

A clinical quality representative, being Director of Nursing & Quality

Chief Finance Officer

Chief Executive Officer

The CCG Deputy Clinical Chair

2 CCG Board GP Members, with another 2 available as deputies (these four to cover all localities)

The following members can send a deputy to represent them:

Chief Executive Officer –Deputy Chief Executive Officer

Chief Finance Officer- Deputy Chief Finance Officer

Director of Nursing and Quality – Deputy Director of Nursing and Quality

19. The Chair of the Committee shall be a CCG Board Lay Member.

20. The Vice Chair of the Committee shall be a CCG Board Lay Member.

21. Regular non-voting attendees of the Committee will be:

- Director of Primary Care
- Assistant Director, Localities and General Practice Development.
- Assistant Director Premises

- One elected representative from the Hertfordshire Health and Wellbeing Board.
- One representative from Healthwatch Hertfordshire.
- One representative from the Local Medical Committee.
- Other members of the HVCCG Primary Care Team.
- A patient representative of the Board
- Other attendees by invitation as required.

Meetings and Voting

- 22.** The committee will operate in accordance with the CCG's Standing Orders. The Secretary to the committee 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 four working 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.
- 23.** 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. However, the aim of the committee will be to achieve consensus decision-making wherever possible.

Quorum

- One Lay member being either Chair or Lay vice Chair
- Two executive voting representatives from NHS Herts Valleys CCG listed in paragraph 18 above
- One non-conflicted clinician voting member, being either a clinical executive representative from NHS Herts Valleys CCG listed in paragraph 18 above or an independent GP listed in paragraph 18 above.

Frequency of meetings

- 24.** Meetings will take place approximately bi-monthly
- 25.** Meetings of the committee shall:
- a) be held in public, subject to the application of 25(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.
- 26.** 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 endeavor to reach a collective view.

27. 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.
28. The committee may call additional experts to attend meetings on an ad hoc basis to inform discussions.
29. Members of the committee shall respect confidentiality requirements as set out in the CCG's Constitution and standards of business conduct policy.
30. The committee will present its minutes to central midlands area team of NHS England and the governing body of Herts Valleys CCG every two months for information.
31. The CCG will also comply with any reporting requirements set out in its constitution.
32. 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

For the avoidance of doubt, in the event of any conflict between the terms of the Delegation and Terms of Reference and the Standing Orders or Standing Financial Instructions of any of the members, the Delegation will prevail.

Decisions

33. The committee will make decisions in line with the CCG's standing financial instructions.
34. The decisions of the committee shall be binding on NHS England and Herts Valleys CCG.

Conflicts of interest

35. Herts Valleys CCG takes seriously its statutory duties to manage conflicts of interest. It also recognises that there are specific risks of conflicts of interest relating to primary care commissioning, as local GPs are involved in decision making. These risks are mitigated in a number of ways, including:
36. The committee is constituted to have a lay and executive majority. This ensures that committee meetings are quorate if all local GPs had to withdraw from the decision-making process due to conflicts of interest.

- 37.** The committee has a lay chair and lay vice chair.
- 38.** Standing invitations are made to the CCG's local Healthwatch Hertfordshire representative, a local authority representative from the local Health and Wellbeing Board and the central midlands area team.
- 39.** Maintaining declarations of interest register for the committee.
- 40.** Capturing declarations of interest in respect of the agenda items both prior to and at the commencement of each meeting.
- 41.** Holding committee meetings in public, unless it would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted

Reporting

- 42.** The committee will produce an executive summary report which will be presented to central midlands local team of NHS England and the board of Herts Valleys CCG every two months for information.
- 43.** The committee will receive reports and minutes from its working groups. All papers will state whether or not a working group has been consulted.

Review

- 44.** The committee will make an assessment of its effectiveness at least once every 12 months.
- 45.** Terms of Reference for the committee will be reviewed at least every 12 months

Terms of Reference V1.4 approved by the Primary Care Commissioning Committee on 25 March 2019 following amendments post the 21 March 2019 committee meeting being approved virtually.

Approved by the CCG board on 25 April 2019

Date of next review March 2020

Schedule 1 – Delegation

The CCG and NHS England signed the Delegation Agreement on 16 March 2017. The Agreement became effective on 1 April 2017. The Agreement sets out the arrangements that apply in relation to the exercise of the Delegated Functions by the CCG.

Schedule 2 – Delegated functions

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 non-compliance 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.