

Primary Care Commissioning Committee

Date: 24th November 2020

Time: 9:00am – 11:05

Location: Microsoft Teams

Agenda Number :	5
Title:	Review of Committee Terms of Reference November 2020
Purpose: approval	
Key Points for Discussion:	
<p>The terms of reference have been amended to reflect the change to the chairing arrangements as requested by NHS England and to include, in the committees remit and responsibilities, reference to its role relating to the management of risk. The amendment follows a recent Internal Audit of risk management highlighting the scrutiny of individual risks at Governing Body and Committees and recommending revisiting the terms of reference for relevant Committees.</p> <p>The change in chairing arrangements will require the Committee to nominate a new vice chair and it is suggested that the representative Director of Public Health is considered for this role. Amendments to the terms of reference are highlighted in yellow for amendments proposed in October and blue for amendments proposed in November.</p>	
Recommendations:	The Committee is asked to approve the amendments to the terms of reference and to nominate a vice chair
Previously Considered By and feedback :	The Risk Management Audit report was received by the Audit, Governance and Risk Committee. The Committee was asked to confirm a review of its terms of reference in September 2020.
Management of Declared Interest:	The Primary Care Commissioning Committee receives a register of its members declared interests as a standing item. There are no declared interests relating to the amendment of the terms of reference.
Risk and Assurance:	<p>As a result of the committee terms of reference failing to complying with statutory requirements there is a risk to the CCG's governance arrangements, which may result in legal challenge.</p> <p>As a result of the committee terms of reference, not reflecting its role in the management of risk there is a risk of limited effective challenge of risks to objectives, which may result in the CCG failing to manage risk appropriately.</p>
Financial / Resource Implications:	All resource implications are funded within the CCG's running costs.



Legal, Policy and Regulatory Requirements:	The terms of reference reflect legal advice given in 2019 and the model terms reference
How does this reduce Health Inequalities:	The GGC Governing Body and Committees seek assurance that the CCG is working to reduce health inequalities in line with its statutory duties as set out in the CCG's commissioning plans, as they relate to primary care
How does this impact on Equality & diversity	The GGC Governing Body and Committees seek assurance that the CCG is working to reduce inequalities in line with its statutory duties as set out in the CCG's commissioning plans and organisational development plans, as they relate to primary care
Patient and Public Involvement:	Not applicable to this report
Communications and Engagement:	The Terms of Reference are available on the CCG website
Author(s):	Sarah Carr, Corporate Secretary
Sponsoring Director / Clinical Lead / Lay Member:	Sarah Truelove, Chief Financial Officer

**Bristol, North Somerset and South Gloucestershire
Clinical Commissioning Group
Primary Care Commissioning Committee
Terms of Reference**

Version Control		
Version	Date	Consultation
Version 2	26/03/19	Primary Care Commissioning Committee
Version 2	07/05/19	Governing Body for information
Version 2	26/05/20	Primary Care Commissioning Committee
Version 2	07/0720	Governing Body for Information
Version 3	15/10/20	Primary Care Commissioning Committee
Version 4	13/11/20	Primary Care Commissioning Committee

Bristol, North Somerset and South Gloucestershire Clinical Commissioning Group

Primary Care Commissioning Committee

Terms of Reference

1. Introduction

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 1 to these Terms of Reference to NHS Bristol, North Somerset and South Gloucestershire (BNSSG) Clinical Commissioning Group (CCG).

The CCG has established the Primary Care 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.

These terms of reference set out the membership, remit, responsibilities and reporting arrangements of the Committee and shall have effect as if incorporated into the CCG's constitution.

The Committee will function as a corporate decision making body for the management of the delegated functions and the exercise of the delegated powers.

The Committee is authorised by the Governing Body to act within its terms of reference. All members and employees of the CCG are directed to co-operate with any request made by the Committee.

2. Statutory Framework

NHS England has delegated to the CCG authority to exercise the primary care commissioning functions set out in appendix 1 of these terms of reference 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 Board (NHS England) 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 140);
- 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); and
- j) public involvement and consultation (section 14Z2).

The CCG will also need, in respect of the delegated functions from NHS England, to pay due regard to the following duties:

- duty to have regard to impact on services in certain areas (section 130);
- duty as respects variation in provision of health services (section 13P).

3. Purpose of the Committee

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 BNSSG, 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 the CCG, which will sit alongside the delegation and these terms of reference.

The Committee function (as a corporate decision-making body for the management of the delegated functions and the exercise of the delegated functions set out in appendix 1 in accordance with section 13Z of the NHS Act) shall be to carry out the functions relating to the commissioning of primary medical services under section 83 of the NHS Act.

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

4. Remit and Responsibilities of the Committee

The Committee will make collective decisions on the review, planning and procurement of primary care services in BNSSG, under delegated authority from NHS England. This includes the following activities:

- General Medical Services (GMS), Personal Medical Services (PMS) and Alternative Provider Medical Services (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 Locally Commissioned Services (This could include Locally Commissioned Services (LCSs) offered by the CCG as

an alternative/addendum to Directed Enhanced Services (DESS). By definition this would be optional; it remains a practice's right to participate in a DES and to opt to do so with or without local amendments);

- design of local incentive schemes as appropriate, including the management and administration of the Quality Outcomes Framework (QOF);
- decision making on whether to establish new GP practices in an area, including approval and management of list dispersal;
- approving practice mergers;
- making decisions on 'discretionary' payment (e.g., returner/retainer schemes).

The Committee will also carry out the following activities:

- ensuring that the work of the Committee aligns with and enables delivery of the primary care element of the CCGs Commissioning Plan;
- planning, including needs assessment, primary medical care services in BNSSG;
- responsibility for engaging in the development and delivery of the CCG's primary care strategy;
- undertaking reviews of primary medical care services in BNSSG;
- coordinating a common approach to the commissioning of primary care services generally;
- providing oversight of the financial planning and budget management for the commissioning of primary medical care services in BNSSG;
- providing oversight across a number of functions, including but not limited to: Primary Care Quality; Primary Care Workforce; Primary Care Premises; Primary Care Information Management and Technology (IM&T)
- **oversee and seeks assurance risk relating to Primary Care. This includes risks concerning contracting, planning and strategy, financial planning and management and primary care quality, workforce, premises, and IT. The Committee is responsible for reviewing those risks that are relevant to its business and ensuring that appropriate and effective mitigating actions are in place. Risks assigned to the Committee for review are indicated on both the Corporate Risk Register and Governing Body Assurance Framework GBAF**

5. Membership

The **voting** membership of the committee shall comprise:

- **Independent Lay Member – Patient and Public Engagement (Chair)**
- Independent Clinical Member - Registered Nurse
- Independent Lay Member - Audit, Governance and Risk
- Chief Executive

- Deputy Director of Financial
- Director of Commissioning
- Director of Nursing and Quality
- Medical Director, Primary Care and Commissioning
- ~~Two Independent out of area GPs~~
- An Area Director who shall also be the Chair of the CCG's Primary Care Operational Group (PCOG)
- A representative Director of Public Health to be identified by the Local Authorities

6. Chair

The meeting will be chaired by Independent Lay Member – Patient and Public Involvement or in their absence by the representative Director of Public Health

7. Attendance at Meetings

The following members may be in attendance at meetings:

- NHS England representative
- A Clinical Commissioning Locality Lead from each of the BNSSG Areas (3)
- A BNSSG Practice Manager
- A BNSSG Healthwatch representative
- A representative of the BNSSG Health and Wellbeing Boards (to be nominated by the three local authorities)
- LMC Chair or Chief Executive

Other persons may be invited to attend, as appropriate, to enable the Committee to discharge its functions effectively. The Committee may also invite guests to attend to present information and/or provide the expertise necessary for the Committee to fulfil its responsibilities.

The Corporate Secretary or their deputy will be in attendance at all meetings to advise the Committee on governance matters.

8. Quorum

A quorum shall be 4 voting members, to include an independent member, a clinical member and an executive member.

9. Meetings and Voting

The Committee will operate in accordance with the CCG's Standing Orders. The Corporate Secretary or a nominated deputy will give notice of meetings. Except in the event of urgent meetings, a minimum of ten days' notice of a meeting of the Committee will be provided confirming the venue, time and date together with an agenda of items to be discussed.

All members or attendees at the Committee are required to declare potential or actual conflicts of interest before items are discussed. There will be a standing

agenda item at the beginning of each meeting for this purpose. Even if an interest has been recorded in the register of interests, it must still be declared in meetings where matters relating to that interest are discussed. Declarations of interest will be recorded in minutes of meetings

The Chair of the meeting, with support of the Corporate Secretary and, if required, the Conflicts of Interest Guardian, will proactively consider ahead of meetings what conflicts are likely to arise and how they should be managed, including taking steps to ensure that supporting papers for particular agenda items of private sessions/meetings are not sent to conflicted individuals in advance of the meeting where relevant.

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

The aim will be to reach consensus without the need to resort to a vote. A decision put to a vote at the meeting shall be determined by a majority of the votes of members present. In the case of an equal vote, the Chair of the Committee shall have a second and deciding vote.

In an emergency or for an urgent decision, the Chair (or in their absence the Vice Chair) may take action in agreement with the Chief Executive or the Chief Financial Officer, together with one other member of the Committee. The actions and the reasons for the action will be formally reported to the next meeting of the Committee and recorded in the minutes.

10. Conduct of the Committee

The Committee shall conduct its business in public in accordance with national guidance and relevant codes of practice including the Nolan Principles and the CCG's Conflict of Interests Policy. Members of the Committee shall respect confidentiality where specified as set out in the BNSSG CCG constitution and relevant policies.

All members of the Committee or attendees must undertake conflict of interest training and have declared their interest on the CCGs register of interests. In respect of potential conflicts of interest, the minutes of the meeting will record:

- the name of the person noting the interest;
- the nature of the interest and why it gives rise to the conflict;
- the item of the agenda to which the interest related;
- how it was agreed that the conflict should be managed;
- evidence that the conflict was managed as intended.

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.

Non-voting members may be asked to withdraw from the confidential part 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.

Where there are dissenting views, Committee members can request to have their dissenting view recorded in the minutes. All Committee members are expected then to support the majority decision following the meeting.

The Committee may delegate tasks to operational working groups or individual members as it shall see fit, provided that any such delegations are consistent with relevant governance arrangements, are consistent with the CCG's scheme of delegation, are governed by terms of reference as appropriate and reflect appropriate arrangements for the management of conflicts of interest.

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

11. Administration

A named administrator will be responsible for the provision of administrative support to the Committee and they will ensure that minutes of the meeting are accurately produced and agreed with members.

The Director of Commissioning will be responsible for supporting the Chair in the management of the Committee and in drafting agendas, forward planner which details the annual cycle of business for the Committee and specifying content of reports.

Except in the event of urgent meetings, a minimum of ten days' notice of a meeting of the Committee will normally be provided confirming the venue, time and date together with an agenda of items to be discussed. Supporting papers will normally be issued 5 working days before the meeting.

The Committee is authorised by the Governing Body to investigate any activity within its terms of reference.

12. Frequency of Meetings

The Committee shall meet at least 4 times per year and may meet more frequently if required.

Any two members of the Committee can request an additional meeting which should be convened within 21 days.

13. Reporting arrangements

The minutes of the Committee shall be formally recorded and submitted to the CCGs Governing Body. These minutes should be supported by a summary of decisions made and recommendations from the Committee. The Chair of the Committee shall draw to the attention of the Governing Body issues that require disclosure or which require Executive action.

Approved minutes of public meetings will be made available on the CCGs website. Minutes or sections of minutes which are of a confidential nature will not be disclosed.

The Committee will present its minutes to NHS England for information, including the minutes of any sub-committees to which responsibilities are delegated.

The Primary Care Operational Group will report to the Committee.

The Committee will receive reports relevant to its responsibilities from any other group or working group as appropriate.

14. Review of the Committee's Performance

The Committee will undertake a review of its effectiveness on an annual basis and report this to the Governing Body. It will use this exercise to inform the review of its Terms of Reference.

15. Approval and Review

These Terms of Reference will be reviewed on an annual basis or sooner if required with recommendations made to the Governing Body for approval.

Appendix 1

Schedule 1 –Delegated Functions

- a) decisions in relation to the commissioning, procurement and management of Primary Medical Services Contracts, including but not limited to the following activities:
- i) decisions in relation to Enhanced Services;
 - ii) decisions in relation to Local Incentive Schemes (including the design of such schemes);
 - iii) decisions in relation to the establishment of new GP practices (including branch surgeries) and closure of GP practices;
 - iv) decisions about 'discretionary' payments;
 - v) decisions about commissioning urgent care (including home visits as required) for out of area registered patients;
- b) the approval of practice mergers;
- c) planning primary medical care services in the Area, including carrying out needs assessments;
- d) undertaking reviews of primary medical care services in the Area;
- e) 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);
- f) management of the Delegated Funds in the Area;
- g) Premises Costs Directions functions;
- h) co-ordinating a common approach to the commissioning of primary care services with other commissioners in the Area where appropriate; and
- i) such other ancillary activities as are necessary in order to exercise the Delegated Functions.

Schedule 2- Reserved Functions

a) management of the national performers list;

b) management of the revalidation and appraisal process;

c) administration of payments in circumstances where a performer is suspended and related performers list management activities;

- d) Capital Expenditure functions;
- e) section 7A functions under the NHS Act;
- f) functions in relation to complaints management;
- g) decisions in relation to the Prime Minister's Challenge Fund; and
- h) such other ancillary activities that are necessary in order to exercise the Reserved Functions;