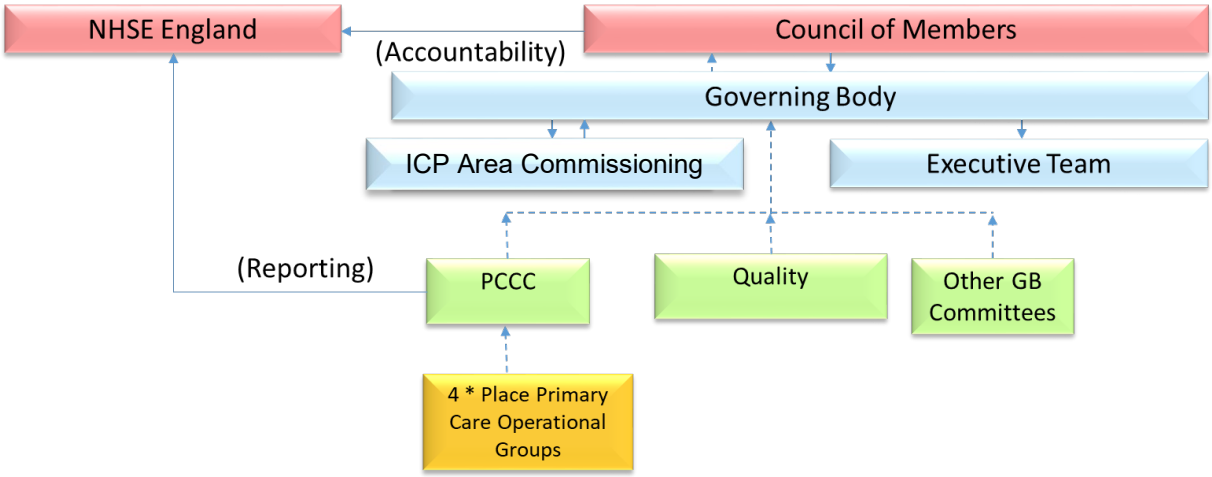
NHS
Surrey Heartlands
Clinical Commissioning Group

Surrey Heartlands Clinical Commissioning Group

Primary Care Commissioning Committee

Terms of Reference

Approved: 1st April 2020



1. Context

Introduction

1.1. The Surrey Heartlands Clinical Commissioning Group has established a committee of the Governing Body known as the Primary Care Commissioning Committee ("PCCC" or 'the Committee') in accordance with Schedule 1A of the National Health Service Act 2006 (as amended) ("the NHS Act").

1.2. The Committee has been established in accordance with the CCG's constitution and, where agreed the delegation by the NHS Commissioning Board (also known as 'NHS England') under section 13Z of the NHS Act (set out in Schedule 1 to these terms of reference). 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.

Statutory Framework

1.3. NHS England has delegated to the CCG authority to exercise the primary care commissioning functions set out in Schedule 2 to these terms of reference in accordance with section 13Z of the NHS Act.

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

1.5. 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:

- management of conflicts of interest (section 14O);
- duty to promote the NHS Constitution (section 14P);
- duty to exercise its functions effectively, efficiently and economically (section 14Q);
- duty as to improvement in quality of services (section 14R);
- duty in relation to quality of primary medical services (section 14S);
- duties as to reducing inequalities (section 14T);
- duty to promote the involvement of each patient (section 14U);
- duty as to patient choice (section 14V);
- duty as to promoting integration (section 14Z1); and
- public involvement and consultation (section 14Z2).

1.6. 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 130); and
- duty as respects variation in provision of health services (section 13P).

2. Purpose & Objectives

2.1. 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 the CCG area including those provided under delegated authority from NHS England.

2.2. 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 terms of reference.

2.3. 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 Schedule 2 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.

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

3. Accountability/ Delegated Authority

3.1. The Committee is accountable to the Governing Body and to NHS England via the Governing Body, as set out in the Delegation Agreement.

3.2. The Committee is authorised by the Governing Body to investigate any activity within its terms of reference. It is authorised to seek any information it requires from any member, officer or employee who are directed to co- operate with any request made by the Committee. The Committee is authorised by the Governing Body to obtain outside legal or other independent professional advice and to secure the attendance of other individuals with relevant experience and expertise if it considers necessary.

3.3. The Committee is responsible for decision-making, where agreed, of the delegated NHS England Primary Medical Services Commissioning Functions.

3.4. The Committee is responsible for decision-making of CCG primary care functions where delegated by the Governing Body in the Scheme of Reservation & Delegation.

3.5. The Committee is responsible for making recommendations to the Governing Body on CCG primary care functions reserved to the Governing Body.

4. Sub Committees & Delegation

4.1. 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.

4.2. The Committee has established the following sub-committees and approved their Terms of Reference, with a remit to report and make recommendations to the Committee.

- One (or more) Primary Care Operational Groups

5. Responsibilities

5.1. The Committee will make collective decisions on the review, planning and procurement of primary care services in the CCG area including, where applicable: CCG Primary Care Commissioning functions; those services or

functions that are managed under delegated authority from NHS England; and / or liaising with NHS England where these are not delegated. This includes the following activities:

a) 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 breach/remedial notices, and removing contract);

b) newly designed Locally Commissioned Services (This could include Locally Commissioned Services (LCS) offered by the CCG as an alternative/addendum to Directly 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.);

c) design of local incentive schemes as appropriate, including the management and administration of the Quality Outcomes Framework (QOF);

d) responsibility for the quality management of primary medical services and other locally commissioned primary care services (working closely with the Quality & Performance Board);

e) decision making on whether to establish new GP practices in an area, including approval and management of list dispersal;

f) approving practice mergers; and

g) making decisions on 'discretionary' payment (e.g. returner/retainer schemes).

5.2. The Committee will also carry out the following activities:

a) ensuring alignment with initiatives carried out under the GP Forward View – including investment decisions and having oversight of the primary care development programme, including commissioning functions;

b) ensuring alignment of its commissioning functions with other primary care commissioners;

c) ensuring that the work of the Committee aligns with and enables delivery of the CCG's Strategic Commissioning Plan;

d) planning, including needs assessment, primary medical care services in the CCG area;

e) responsibility for engaging in the development and delivery of the CCG's primary care strategy;

f) undertaking reviews of primary medical care services in CCG area;

g) co-ordinating a common approach to the commissioning of primary care services generally and integration with the wider health agenda;

h) providing oversight of the financial planning and budget management for the commissioning of primary medical care services in the CCG area;

i) providing an overview of the primary care workforce;

j) providing oversight of the management of primary care estate in line with the CCG Estates Strategy; and

k) providing oversight of the GP IT Steering Group in line with the Surrey-wide Digital Roadmap.

l) reviewing those risks on the Corporate Risk Register and Governing Body Assurance Framework which have been assigned to it and ensure that appropriate and effective mitigating actions are in place, including giving assurance to the Governing Body on risks associated with the Committee's purpose.

6. Membership

6.1. The membership of the committee shall consist of:

6.1.1. Members

- Three Lay Members of whom one will be the chair and a second the vice-chair
- Accountable Officer
- Chief Finance Officer
- Director of Quality
- Two GPs who are not on the CCG performers list
- ICP Director with Lead for Primary Care
- Patient / Lay Representative
- Director of Public Health for Surrey County Council
- Surrey and Sussex Local Medical Committee Chief Executive

6.2. **Meeting Attendance** - Members of the Committee should aim to attend all scheduled meetings. The Chair will review with the Chair of the Governing Body any circumstances in which a Member's attendance falls below 75% attendance.

6.3. **Chair / Vice Chair Appointments –** The CCG Clinical Chair will appoint three lay members from the Governing Body to be the Committee Chair and the Committee Vice-chair. If the Audit Chair is appointed to the Committee they will not act in these positions.

6.4. Member Appointments

- Most individual members are appointed as a result of the office they hold.
- The Patient/Lay Representative is appointed by advertisement and selection by the Chair and advisers, whom the Chair chooses.
- The GP who is not on the CCG performers list, will have been on the GMC register within the last 10 years at appointment are appointed by advertisement and selection by the chair and advisers, whom the Chair chooses.

7. Co-opted members / deputies / attendees

7.1. The Committee may not co-opt additional members.

7.2. A committee member may nominate a suitable[1] deputy when necessary and subject to the approval of the Chair. All deputies should be fully briefed and the Corporate Office informed of any agreement to deputise so that quoracy can be maintained.

7.3. No person attending in one role can additionally act on behalf of another member of the Committee as their deputy.

7.4. People with different specialist expertise may be invited to attend based on the needs of the agenda and to contribute to the discussion.

7.5. Expert Advisers:

- GP Locality Representatives (ICP geographical areas)
- Operational Practice Managers (ICP geographical areas)
- Surrey Healthwatch Representative
- Surrey County Council Chair of Health & Wellbeing Board
- NHS England Representative
- 4 Chairs of Primary Care Operating Groups (Integrated Care Partnership geographical areas)
- Associate Director of Primary Care Commissioning; and
- Head of Primary Care Contracts.

[1] "Suitable" means an individual who fulfils the characteristics of 6.1 and who is not disqualified.

8. Quorum

8.1. A quorum shall be 5 members, to include:

- one Non-clinical member2,
- One clinician3,
- Accountable Officer or Chief Finance Officer,
- Two other members;
- a majority of members, who are either Non-Clinical Members or CCG Executives.

8.2. Nominated deputies attending committee meetings, on behalf of substantive members, will count towards quorum.

8.3. The Chair will decide if the meeting is quorate after any actions have been taken to manage any declared conflicts of interest.

8.4. If a meeting is not quorate, the Chair may adjourn the meeting to permit the appointment of additional members if necessary, by exception in order to make a decision. The Chair will have the final decision as to their suitability. Or the decision may be referred for Chair's Action (refer Para. 14.2).

9. Meetings

9.1. Meetings shall be held not less than six times a year and have an annual rolling programme of meeting dates and agenda items.

9.2. The Committee will operate in accordance with the CCG's Standing Orders. The Corporate Office will be responsible for ensuring administrative support to the Committee. This will include:

- Giving notice of meetings (including, when the Chair deems it necessary in light of the urgent circumstances, calling a meeting at short notice);
- Issuing an agenda and supporting papers (electronic unless paper copies have been specified) to each member and attendee no later than 5 working days before the date of the meeting;
- Ensuring an accurate record (minutes) of the meeting.
- Advising the Committee when the Terms of the NHS England Delegation Agreement overrides the CCG's Standing Orders.

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[2] The "Non-Clinical Member" may be a Lay Member, Patient Representative, LMC Representative (if non-clinical), Director of Public Health (if non-clinical).

[3] The "Clinician" may be a GP member, the Executive Director of Quality, LMC Representative (if clinical) or the Director of Public Health (if clinical).

9.3. The Committee will meet in public and agendas and papers will be published at least five working days in advance of the meeting.

9.4. 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.

9.5. With the agreement of the Chair and, by exception, one or more Members of the Committee may participate in meetings virtually by using video or telephone or web link or other live and uninterrupted conferencing facilities, so long as the technology provides live and uninterrupted conferencing facilities.

9.6. An extra meeting of the Committee can be called at the request of the Chair.

9.7. Where an extra meeting needs to be scheduled, every endeavour will be made to give at least 10 working days' notice. Notification will be given by email.

9.8. Non-members may be required to withdraw from the confidential part of the meeting

9.9. 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 consensus view.

10. Agenda Preparation

10.1. The Committee will develop a forward-looking rolling Agenda programme, maintained by the Secretary.

10.2. The Chair will prepare the next meeting's agenda with the support from the Corporate Office.

11. Managing Conflicts of Interest

11.1. The members of the Committee must comply fully with NHS England Guidance and CCG Policy regarding Conflict of Interest[4].

11.2. The Chair is responsible for managing conflicts of interest at a meeting of the committee. If the Chair has a conflict of interest, then another non-conflicted member of the committee is responsible for deciding the appropriate course of action.

[4] The management of Conflicts of Interest is included in the Standards of Business Conduct Policy.

11.3. At the start of the meeting, the Chair will invite members to declare if they have any conflicts of interest with the business to be conducted, including previously declared interests.

11.4. The Chair will decide any necessary course of action to manage a declared conflict of interest as advised by the CCG Conflict of Interest Policy.

11.5. Any declared conflicts of interest will be recorded in the minutes along with any action taken, in a form as advised by the CCG Conflict of Interest Policy. In summary the information recorded is

- 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; and
- evidence that the conflict was managed as intended.

12. Decision-making

12.1. The aim of the Committee is to achieve consensus decision-making wherever possible. When the Chair determines a consensus has been achieved by the members present then the decision will be considered to have been made by the Committee.

12.2. Each member of the Committee shall have one vote.

12.3. If the Chair determines that there is no consensus or one member disputes that consensus has been achieved, a vote will be taken by the Committee members. The vote will be passed with a simple majority the votes of members present. In the case of an equal vote, the Chair shall have a second and casting vote.

12.4. The result of the vote will be recorded in the minutes.

12.5. All decisions taken in good faith at a meeting of the Committee shall be valid even if there is any vacancy in its membership or, it is discovered subsequently, that there was a defect in the calling of the meeting, or the appointment of a member attending the meeting

13. Emergency/ Chair's action

13.1. In an emergency or for an urgent decision, the Chair (or in their absence the Vice Chair) may take action in agreement with the Accountable Officer or the Chief Finance Officer (or their deputies), together with one clinical member of the committee (i.e. three members of the Committee representing a majority of a quorate committee). This action will be reported as soon as possible to the full Committee along with the reason for Chair's action. The action and the reasons

for the action will be formally reported to the next formal meeting of the Committee and recorded in the minutes.

14. Accountability and Reporting

14.1. The Committee is accountable to the Governing Body and NHS England via the Governing Body for the delegation of functions detailed in Paragraphs 3.3 and 3.4.

14.2. The decisions, within the bounds of its remit, of the Committee are binding on the CCG and the NHS England.

14.3. The minutes of Committee meetings shall be formally recorded and submitted to the Governing Body. The Chair shall draw to the attention of the Governing Body any issues that require consideration by the full Governing Body. The minutes shall be received by the next meeting in public of the full Governing Body and published in accordance with the CCGs scheme of publication. Minutes or sections of minutes which are of a confidential nature which would not be disclosed under the Freedom of Information Act will not be made available.

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

15. Corporate Office

15.1. The Corporate Office will ensure the provision of a Secretary to the meeting who shall attend to take minutes of the meetings and provide appropriate administrative support to the Chair and Committee members.

15.2. The Corporate Office will be responsible for supporting the Chair in the management of the Committee's business and for drawing the Committee's attention to best practice, national guidance and other relevant documents as appropriate.

15.3. The Secretary will ensure minutes of the Committee will be formally signed off by the Committee at their next meeting and made available on the CCG's website (by inclusion in Governing Body papers), subject to FOIA exemption referred in Para. 15.2 above. Where possible, draft Minutes will be shared within 10 working days of the meeting, subject to initial approval by the Chair.

16. Policy and Best Practice

16.1. The Committee will apply best corporate governance practice in its decision-making processes, covering a clear ethical basis to the business being considered; aligned business goals; an effective strategy incorporating

stakeholder values; a well governed organisation and reporting systems to provide transparency and accountability.

17. Conduct of the Committee

17.1. The CCG has a Standards of Business Conduct in place which defines required standards of behaviour for individuals working within this organisation, and those performing or authorising activities or advisory duties on our behalf. The Committee and its membership will conduct itself in accordance with these standards and principles.

17.2. The CCG code of conduct specifically covers an employee/member's responsibility in relation to hospitality and gifts, and has regard to:

- Professional Standards Authority: Standards for Members of NHS Boards and Clinical Commissioning Group Governing Bodies in England,
- NHS Business Services Authority: Standards of Business Conduct Procedure, and
- Nolan seven principles of public life.

18. Review of Terms of Reference

18.1. The Committee will self-assess its performance on an annual basis, normally starting each January, referencing its work plan to ensure that the business transacted in meetings has effectively discharged the duties as set out in the Terms of Reference.

18.2. These terms of reference will be reviewed annually by the Committee membership. Any proposed changes to the ToR and responsibilities will be presented to the CCG Governing Body for approval and cannot be implemented until approved by NHS England.

18.3. A log of all reviews since the Approval Date is maintained in the Governance Handbook.

19. Primary Care Commissioning Delegation Letter from NHSE

19.1. Please see following pages.

NHS
Surrey Heartlands
Clinical Commissioning Group

Delegation by NHS England

1 April 2020

Delegation by NHS England to NHS Surrey Heartlands CCG

Delegation

1. In accordance with its statutory powers under section 13Z of the National Health Service
   Act 2006 (as amended) ("NHS Act"), NHS England has delegated the exercise of the functions specified in this Delegation to NHS Surrey Heartlands CCG to empower NHS Surrey Heartlands CCG to commission primary medical services for the people of the footprint of Surrey Heartlands.

2. NHS England and the CCG have entered into the Delegation Agreement that sets out the detailed arrangements for how the CCG will exercise its delegated authority.

3. Even though the exercise of the functions passes to the CCG the liability for the exercise of any of its functions remains with NHS England.

4. In exercising its functions (including those delegated to it) the CCG must comply with the statutory duties set out in the NHS Act and/or any directions made by NHS England or by the Secretary of State and must enable and assist NHS England to meet its corresponding duties.

Commencement

5. This Delegation, and any terms and conditions associated with the Delegation, take effect from 1 April 2020.

6. NHS England may by notice in writing delegate additional functions in respect of primary medical services to the CCG. At midnight on such date as the notice will

specify, such functions will be Delegated Functions and will no longer be Reserved Functions.

Role of the CCG

7. The CCG will exercise the primary medical care commissioning functions of NHS England as set out in Schedule 1 to this Delegation and on which further detail is contained in the Delegation Agreement.

8. NHS England will exercise its functions relating to primary medical services other than the Delegated Functions set out in Schedule 1 including but not limited to those set out in Schedule 2 to this Delegation and as set out in the Delegation Agreement.

Exercise of delegated authority

9. The CCG must establish a committee to exercise its delegated functions in accordance with the CCG's constitution and the committee's terms of reference. The structure and operation of the committee must take into account guidance issued by NHS England. This committee will make the decisions on the exercise of the delegated functions.

10. The CCG may otherwise determine the arrangements for the exercise of its delegated functions, provided that they are in accordance with the statutory framework (including Schedule 1A of the NHS Act) and with the CCG's Constitution.

11. The decisions of the CCG Committee shall be binding on NHS England and NHS Surrey Heartlands CCG.

Accountability

12. The CCG must comply with the financial provisions in the Delegation Agreement and must comply with its statutory financial duties, including those under sections 223H and 223I of the NHS Act. It must also enable and assist NHS England to meet its duties under sections 223C, 223D and 223E of the NHS Act.

13. The CCG will comply with the reporting and audit requirements set out in the Delegation Agreement and the NHS Act.

14. NHS England may, at its discretion, waive non-compliance with the terms of the Delegation and/or the Delegation Agreement.

15. NHS England may, at its discretion, ratify any decision made by the CCG Committee that is outside the scope of this delegation and which it is not authorised to make. Such ratification will take the form of NHS England considering the issue and decision made by the CCG and then making its own decision. This ratification process will then make the said decision one which NHS England has made. In any event ratification shall not extend to those actions or decisions that are of themselves not capable of being delegated by NHS England to the CCG.

Variation, Revocation and Termination

16. NHS England may vary this Delegation at any time, including by revoking the existing Delegation and re-issuing by way of an amended Delegation.

17. This Delegation may be revoked at any time by NHS England. The details about revocation are set out in the Delegation Agreement.

18. The parties may terminate the Delegation in accordance with the process set out in the Delegation Agreement.

See CCG Constitution for signed version

NHS England Regional Director
for and on behalf of **NHS England**

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 GP Access Fund; and

h) such other ancillary activities that are necessary in order to exercise the Reserved Functions;