

**Clinical Commissioning Group  
Governing Body**

**Paper Summary Sheet**

**Date of Meeting: 25 July 2017**

For: PUBLIC session  PRIVATE Session

For: Decision  Discussion  Noting

<b>Agenda Item and title:</b>	GOV/17/07/17e Item as Approved at the Primary Care Commissioning Committee
<b>Author:</b>	Tracey Strachan - Deputy Director of Primary Care Victoria Stanley - Primary Care Commissioning Manager
<b>Lead Director/GP from CCG:</b>	Jo Cullen – Director of Primary and Urgent Care
<b>Executive summary:</b>	<p>The Primary Care Commissioning Committee is a standing sub-committee of the Governing Body, with delegated authority to oversee the commissioning of primary care services.</p> <p>The following item was approved at the Primary Care Commissioning Committee meeting held on 27 June 2017 and is brought to the Governing Body for ratification:</p> <ul style="list-style-type: none"> <li>Primary Care Commissioning Committee Terms of Reference</li> </ul> <p>The meeting was quorate and at least 3 Governing Body Members were present.</p>
<b>Evidence in support of arguments:</b>	
<b>Who has been involved/contributed:</b>	Primary Care Commissioning Committee Members.
<b>Cross Reference to Strategic Objectives:</b>	
<b>Engagement and Involvement:</b>	
<b>Communications Issues:</b>	These documents should be treated as public documents and would be available for release under the FOI Act.
<b>Financial Implications:</b>	
<b>Review arrangements:</b>	The Primary Care Commissioning Committee adheres to its annual work plan, which contains review details for all documents to be approved.

<b>Risk Management:</b>	
<b>National Policy/ Legislation:</b>	The CCG is required to show that these documents have been approved by the Primary Care Commissioning Committee and then ratified by the Governing Body.
<b>Public Health Implications:</b>	
<b>Equality &amp; Diversity:</b>	
<b>Other External Assessment:</b>	
<b>What specific action re. the paper do you wish the Governing Body to take at the meeting?</b>	It is recommended that the Governing Body ratify the items as approved by the Primary Care Commissioning Committee.

## Primary Care Commissioning Committee

### Terms of Reference

**Date Approved by Primary Care Commissioning Committee: 27 June 2017**

**Date Approved by Governing Body:**

### Introduction

1. NHS England (NHSE) has delegated authority to the Wiltshire Clinical Commissioning Group (CCG) for the commissioning of primary care 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 Wiltshire CCG. The delegation is set out in Schedule 1.
2. The CCG has established the Wiltshire CCG Primary Care Commissioning Committee (“Committee”) as a Committee of the Wiltshire CCG Governing Body. The Committee will function as a corporate decision-making body for the management of the delegated functions and the exercise of the delegated powers.
3. It is a committee comprising representatives of the following organisations:
  - Lay Chair
  - Lay member
  - Wiltshire CCG
  - Healthwatch
  - Wessex Local Medical Committee (LMC)
  - NHS England
  - Health and Wellbeing/Wiltshire Council

### 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 (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. Wiltshire 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
  - To assist and support NHSE in discharging its duty under Section 13E of the NHS Act 2006 (as amended by the Health and Social Care Act 2012) so far as relating to securing continuous improvement in the quality of primary medical services
8. The Committee is established as a committee of the Wiltshire CCG Governing Body 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 Wiltshire CCG, 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 Wiltshire CCG, which will sit alongside the delegation and terms of reference.
12. 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.
13. 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.
14. This includes the following:
  - GMS, PMS and 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 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; and
  - Making decisions on ‘discretionary’ payment (e.g., returner/retainer schemes).
15. Wiltshire CCG will also carry out the following activities:
  - a) To plan, including needs assessment, primary medical care services in Wiltshire CCG;
  - b) To undertake reviews of primary medical care services in Wiltshire;
  - 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 Wiltshire.
- e) To undertake and deliver a primary medical care strategy for Wiltshire CCG
- f) To undertake and deliver an estates strategy across Wiltshire CCG
- g) To manage and continuously review the Wiltshire CCG 'Primary Care Offer'

## Geographical Coverage

16. The Committee will comprise of Wiltshire CCG. It will undertake the function of commissioning primary medical services for Wiltshire CCG

## Membership

17. The Committee shall consist of the following list of members as included within Schedule 3

<b>VOTING MEMBERS</b>
The Chair of the Committee shall be Lay member, Wiltshire CCG
The Vice Chair of the Committee shall be Lay member, Wiltshire CCG
Accountable Officer, Wiltshire CCG
Chief Finance Officer, Wiltshire CCG
Director of Primary and Urgent Care, Wiltshire CCG
Director of Quality, Wiltshire CCG
Governing Body GP, Wiltshire CCG
Governing Body GP, Wiltshire CCG
Governing Body GP, Wiltshire CCG <sup>1</sup>
<b>OTHER NON-VOTING ATTENDEES</b>
Standing invitation Healthwatch representative
Standing invitation Health and Wellbeing representative
Local Medical Committee representative
Director of Commissioning, NHS England South Central
Head of Primary Care, NHS England South Central

The Committee may invite any person to attend meetings to provide advice and/or expertise as required.

<sup>1</sup> GP's hold voting rights on the committee unless in the instance of decisions on procurement issues and the deliberations leading up to the decision and, where the potential provider for services is a GP. Wiltshire CCG, 'Standards of Business Conduct Policy, 2016; NHS England, 'Managing Conflicts of Interest: Revised Statutory Guidance for CCG's', 2016

## Meetings and Voting

18. 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 five 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.
19. Each voting 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

20. Four members of the Committee must be present for the meeting to be quorate:
  - at least one lay member; and
  - at least two CCG members including the Accountable Officer or the Chief Finance Officer (or their nominated representatives); and
  - at least one Governing Body GP

## Frequency of meetings

21. Meetings will take place on a quarterly basis and at such other times as required through invoking the approved decision making framework.
22. Meetings of the Committee shall:
  - a) be held in public, subject to the application of 23(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.

23. 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.
24. 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..
25. The Committee may call additional experts to attend meetings on an ad hoc basis to inform discussions.
26. Members of the Committee shall respect confidentiality requirements as set out in the CCG's Constitution.
27. The Committee will present its minutes to South Central Area Team of NHS England and the governing body of Wiltshire CCG each quarter for information, including the minutes of any sub-committees to which responsibilities are delegated under paragraph 24 above.
28. The CCG will also comply with any reporting requirements set out in its constitution.
29. The Terms of Reference will be reviewed at least annually with final approval being sought from Wiltshire CCG. Amendments will be made, where appropriate, to reflect any updated national model terms of reference and local need.

### **Accountability of the Committee**

30. The Committee to have delegated authority from Wiltshire CCG Governing Body:
  - To carry out the functions relating to the commissioning of primary medical services under section 83 of the NHS Act
  - To assist and support NHS England in discharging its duty under section 13E of the NHS Act 2006 (as amended by the Health and Social Care Act 2012) so far as relating to securing continuous improvement in the quality of primary medical services.

- To work with NHS England to agree rules for areas such as the collection of data for national data sets, equivalent of what is collected under QOF, and IT intra-operability.
- To comply with public procurement regulations and with statutory guidance on conflicts of interest
- To consult with Local Medical Committee and demonstrate improved outcomes reduced inequalities and value for money when developing a local QOF scheme or DES.
- To approve the arrangements for discharging the group's statutory duties associated with its GP practice commissioning functions, including but not limited to promoting the involvement of each patient, patient choice, reducing inequalities, improvement in the quality of services, obtaining appropriate advice and public engagement and consultation.

## Procurement of Agreed Services

*The below is taken from the Next Steps in primary care co-commissioning document for further guidance on this please see link below.*

<https://www.england.nhs.uk/commissioning/wp-content/uploads/sites/12/2014/11/nxt-steps-pc-cocomms.pdf>

31. The committee must comply with public procurement regulations and with statutory guidance on conflicts of interest. The committee may vary or renew existing contracts for primary care provision or award new ones, depending on local circumstances. If the committee fails to secure an adequate supply of high quality primary medical care, NHS England may direct the CCG to act.
32. If the Committee are found to have breached public procurement regulations and/or statutory guidance on conflicts of interest, NHS Improvement may direct the CCG or NHSE to act. NHS England may, ultimately, revoke the CCG's delegation. Any proposed new incentive schemes should be subject to consultation with the Local Medical Committee and be able to demonstrate improved outcomes, reduced inequalities and value for money.

*Consistent with the NHS Five Year Forward View and working with CCGs, NHS England reserves the right to establish new national approaches and rules on expanding primary care provision – for example to tackle health inequalities.*

## Decisions

33. The Committee will make decisions within the bounds of its remit.
34. The decisions of the Committee shall be binding on NHS England and Wiltshire CCG.
35. The Committee will produce an executive summary report which will be presented to South Central Area Team of NHS England and the governing body of Wiltshire CCG each year for information.