

Date: 14.05.16
Meeting: Joint Commissioning Committee
Item No. 6.0 Public

REPORT TITLE: Review of Terms of Reference
DECISIONS TO BE MADE: To approve

Author: Ian Reekie, Chair
GB Lead:

| | | | |
|---|--|---|---|
| Continue to improve the quality of services | | Improve patient experience | |
| Reduced unwarranted variations in services | | Reduce the inequalities gap in North Lincolnshire | |
| Deliver the best outcomes for every patient | | Statutory/Regulatory | ✓ |

Executive Summary (Question, Options, Recommendations):

Paragraph 28 of the existing Joint Commissioning Committee terms of reference requires the CCG and NHS England to formally review the terms of reference in April each year. Draft revised terms of reference are therefore attached for the consideration of members with proposed changes highlighted in yellow.

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|-----------------|-----|--|
| Equality Impact | Y/N | |
| Sustainability | Y/N | |
| Risk | Y/N | |
| Legal | Y/N | |
| Finance | Y/N | |

| <i>Patient, Public, Clinical and Stakeholder Engagement to date</i> | | | | | | | | | |
|---|-----|---|---|------|-----------|-----|---|---|------|
| | N/A | Y | N | DATE | | N/A | Y | N | DATE |
| Patient: | | | | | Clinical: | | | | |
| Public: | | | | | Other: | | | | |

Review of Terms of Reference

1. Paragraph 28 of the existing Joint Commissioning Committee terms of reference requires the CCG and NHS England to formally review the committee's terms of reference in April each year. Draft revised terms of reference are therefore attached as Appendix 1 for the consideration of members with proposed changes highlighted in yellow. These changes reflect experience from the committee's first year of operation and anticipate the introduction of revised statutory conflicts of interest guidance which is due to be introduced by NHS England in June 2016 following a recent consultation exercise.
2. The proposed changes mostly relate to membership of the committee. Specifically:
 - **CCG Lay Members** – The current terms of reference identify as committee members the two existing lay members of the CCG Governing Body. As the revised statutory conflicts of interest guidance is expected to require CCGs to appoint a third lay member who would also need to be a member of the Joint Commissioning Committee the proposed revised wording states that the committee membership should include 'all lay members of the CCG Governing Body'.
 - **CCG Director of Commissioning** – When the original terms of reference were compiled those executives who are full voting members of the CCG Governing Body were included as members of the Joint Commissioning Committee. In order to maintain a clinical majority on the Governing Body the Director of Commissioning is not a full voting member. However as the Joint Commissioning Committee is required to have a non-clinical majority it is clearly appropriate for the CCG's Director of Commissioning to be a member.
 - **CCG Medical Director** – As the Medical Director chairs the CCG's Primary Care Development Committee and is also taking the lead on the development of multi-speciality community provider care networks, it is clearly appropriate that he should be in membership of the Joint Commissioning Committee.
 - **Humberside Local Medical Committee (LMC)** – Representatives of the LMC were invited to become non-voting attendees at meetings of the joint commissioning committees of the three other Humber CCGs during 2015 and at a recent presentation to lay members by NHS England such involvement was recognised as being useful and common throughout the country.
3. As the designations of the CCG lay members are likely to change if/when a third lay member is appointed to comply with revised conflicts of interest guidance, it is proposed to state in the revised terms of reference that both the chair and vice chair of the Joint Commissioning Committee should be lay members without mentioning specific designations.

Terms of reference - Joint Commissioning Committee including scheme of delegation NHS England and North Lincolnshire CCG

April 2016

Terms of reference for Joint Commissioning Committee including scheme of delegation

Introduction

1. The NHS England and North Lincolnshire CCG (NLCCG) joint commissioning committee is a joint committee with the primary purpose of jointly commissioning primary medical services for the people of North Lincolnshire.

Statutory Framework

2. The National Health Service Act 2006 (as amended) ("**NHS Act**") provides, at section 13Z, that NHS England's functions may be exercised jointly with a CCG, and that functions exercised jointly in accordance with that section may be exercised by a joint committee of NHS England and the CCG. Section 13Z of the NHS Act further provides that arrangements made under that section may be on such terms and conditions as may be agreed between NHS England and the CCG.
3. Section 14Z9 of the NHS Act 2006 (as amended) provides the statutory provisions used to jointly exercise CCG functions, and which may be delegated by the CCG to the joint committee. The draft delegation is set out as Schedule 1 to this document.
4. Section 14Z9 of the NHS Act was amended by Legislative Reform Order (2014/2436) ("LRO") to enable the joint exercise by NHS England and a CCG of any of the CCGs commissioning functions and any other functions of the CCG which are related to the exercise of those functions. Where such arrangements are made, the LRO enabled them to be exercised by a joint committee established between the parties.

Role of the Joint Committee

5. The role of the Joint Committee shall be to carry out the functions relating to the commissioning of primary medical services under section 83 of the NHS Act.

This excludes:

- Those relating to individual GP performance management, which have been reserved to NHS England.

This includes the following activities:

- 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).
6. In performing its role the Joint Committee will exercise its management of the functions in accordance with the agreement entered into between NHS England and North Lincolnshire CCG, which will sit alongside the delegation and terms of reference. This agreement may include but not be limited to such matters as information sharing, resource sharing, contractual mechanisms for service delivery (and ownership) and interplay between contractual and performance list management.

Geographical coverage

7. The Joint Committee will comprise NHS England Yorkshire and the Humber sub region and the North Lincolnshire CCG. It will undertake the function of jointly commissioning primary medical services for North Lincolnshire CCG.

Membership

8. The Joint Committee shall consist of:
- a) From North Lincolnshire CCG Governing Body
 - All lay members of the CCG Governing Body

- CCG Accountable Officer/Chief Officer
- CCG Chief Financial Officer
- CCG Director of Commissioning
- CCG Executive Nurse/Director of Quality & Risk
- CCG Medical Director
- Secondary Care Doctor CCG Governing body
- 2 x GPs i.e. Lead for Primary Care and the Chair of Council of Members

b) NHS England regional representative

9. The membership will meet the requirements of North Lincolnshire CCG's constitution.

10. The Chair of the Joint Committee shall be a lay member of the CCG Governing Body.

11. The Vice Chair of the Joint Committee shall be a lay member of the CCG Governing Body.

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12. Non-voting attendees:

- A representative of Healthwatch North Lincolnshire
- Director of Public Health as a member of North Lincolnshire Health and Wellbeing Board
- A representative of Humberside Local Medical Committee

Meetings and Voting

13. The Joint Committee shall adopt the Standing Orders of North Lincolnshire CCG insofar as they relate to the:

- Notice of meetings;
- Handling of meetings;
- Agendas;
- Circulation of papers; and
- Conflicts of interest

14. In voting matters, NHS England and NLCCG will have equal voting rights. Where a casting vote is required, NLCCG will have the casting vote on any decision pertaining to one of the CCG's statutory functions. NHS

England will have the casting vote on any decision pertaining to one of NHS England's statutory functions.

15. A meeting will be quorate when a minimum of four members are present. There must be one member from NHS England present and one member from NLCCG. The member from NLCCG must be one of the two lay members of the committee.

16. The frequency of the meeting will be as necessary but a minimum of four times a year.

17. Meetings of the Joint Committee:

- a. Shall, subject to the application of 7(b), be held in public.
- b. The Joint 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.

18. Members of the Joint Committee have a collective responsibility for the operation of the Joint 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.

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

20. Members of the Joint Committee shall respect confidentiality requirements as set out in the Standing Orders referred to above unless separate confidentiality requirements are set out for the joint committee in which event these shall be observed.

21. Secretariat to be provided by North Lincolnshire CCG

22. The secretariat to the Joint Committee will:

- a) Circulate the minutes and action notes of the committee with 3 working days of the meeting to all members.
- b) Present the minutes and action notes to Yorkshire and the Humber sub region of NHS England and the governing body of North Lincolnshire CCG.

23. These Terms of Reference will be reviewed from time to time, reflecting experience of the Joint Committee in fulfilling its functions and the wider experience of NHS England and CCGs in primary medical services co-commissioning.

Decisions

24. The Joint Committee will make decisions within the bounds of its remit.

25. The decisions of the Joint Committee shall be binding on NHS England and North Lincolnshire CCG.

26. Decisions will be published by both NHS England and North Lincolnshire CCG(s), including via the CCG Intranet and Internet sites.

27. The secretariat will produce an executive summary report which will be presented to the Yorkshire and Humber sub region of NHS England and the governing body of North Lincolnshire CCG each quarter for information.

Key Responsibilities

The key responsibilities of the joint committee include:

- Coordinating needs assessment
- Setting the strategic direction and annual priorities for primary medical services in North Lincolnshire
- Providing oversight of the effective utilisation of the total North Lincolnshire primary medical services commissioned resource through the „aligned“ budgets including priorities for investment, disinvestment and reinvestment.

- Existing and newly designed enhanced services (“Local Enhanced Services” and “Directed Enhanced Services”)
- Local incentive and quality improvement schemes, potentially as an alternative to the Quality Outcomes Framework (QOF)
 - Market management, including decision making on whether to establish new GP practices in an area and approving practice mergers;
- Decisions on „discretionary” payments (e.g., returner/retainer schemes);

Review of Terms of Reference

28. These terms of reference will be formally reviewed by the Yorkshire and the Humber sub region of NHS England and North Lincolnshire CCG in April of each year, following the year in which the joint committee is created, and may be amended by mutual agreement between Yorkshire and the Humber sub region of NHS England and North Lincolnshire CCG at any time to reflect changes in circumstances which may arise.

[Signature provisions]

**[Schedule 1 – Delegation by CCG to joint committee – CCG functions
[include if relevant]**

Schedule 2 - List of Members – populate once membership