NHS
Buckinghamshire
Clinical Commissioning Group

Terms of Reference for Delegated Commissioning Arrangements including Scheme of Delegation and Primary Care Commissioning Committee

Document Version

Date	Version Number	Description of Changes	Edited by
10.03.15	2.1	Watermark added Change to paragraph 13 regarding number of votes	Louise Smith
11.03.15	2.2	Reference to Thames Valley area team removed and replaced with NHS England. Full Acronyms explained Change to secretariat from NHSE to AVCCG Change to membership section to read Chief Officer or Chief Finance Officer	Louise Smith Elaine Baldwin
11.03.15	NOTE	Sent to Graham Jackson for Chairs action and full Governing Body for approval of sign off. Sent to NHS England (South) as final version.	
04.03.16	3.0	Document updated to delegated commissioning arrangements including scheme of delegation and Primary Care Commissioning Committee.	Elaine Baldwin
22.06.16	4.0	Document updated to take account of joint working arrangements between Aylesbury Vale and Chiltern CCGs.	Helen Delaitre
30.8.16	5.0	Document amended to include draft scheme of delegation at Schedule 4	Helen Delaitre
7.11.16	6.0	Document amended to include list of voting members, their deputies and deputising rights.	Helen Delaitre
11.2.17	7.0	Document amended to reflect Committee in Common arrangements starting April 2017.	Helen Delaitre
03.05.17	8.0	Document amended to reflect changes to membership of PCCC and to include 2017/18 MOU for Primary Medical Services Support for Delegated CCGs. ToRs reflect arrangements to make a CCG specific decision.	Wendy Newton/ Helen Delaitre/ Russell Carpenter
21.02.18	9.0	Document amended to reflect the formal merger of NHS Aylesbury Vale CCG and NHS Chiltern CCG and the name of the newly merged organisation (NHS Buckinghamshire CCG) with effect from 1 April 2018. NHS Buckinghamshire will have a sole PCCC and therefore PCCC will no longer be “meeting in common”.	Wendy Newton

		Membership of PCCC updated to reflect change in roles. Named individuals removed with membership only identifiable via designation. Removal of Schedule 1 – MOU without Appendices – which details the transitional arrangements for delegated commissioning between NHS England and the CCG – the transitional year end on 31 March 2018.	
2.3.18	10.0	Clarification of voting member job titles in Section 1.7, further correction of job titles	Helen Delaitre
22.02.19	11.0	Associate Director of Digital and IM&T to become a standing invitee. Clear instruction that quoracy relates to delegated decision making only. Statement regarding quoracy in the event of voting members being unable to attend the meeting. Removal of *"if GP members need to withdraw from decision making for conflicts of interest reasons; the Committee would still need to be quorate with a Lay and executive"* This is on the basis that those members are standing invitees and have no voting rights for delegated decisions. Scheme of delegation: direct awards becomes locally commissioned services Schedule 1: clear distinction between voting members and standing invitees.	Wendy Newton
06.09.19	12.0	Amended to include Associate Director of Primary Care as an interim member of the Committee	Helen Delaitre
21.10.19	13.0	Amended to include Interim Director, Primary Care and Transformation as voting member on the Committee. The Associate Director of Primary Care will act as deputy.	Helen Delaitre
19.02.20	14.0	The Senior Primary Care Manager will now act as deputy to Interim Director, Primary Care and Transformation as voting member on the Committee. Associate Director of Quality of safeguarding becomes Deputy Director of Quality following title change	Russell Carpenter
05.03.20	15.0	PCCC approved version; includes typo correction: quorum also adjusted to replace Associate Director of Nursing and Quality with Deputy Director of Quality	Russell Carpenter

Introduction

Simon Stevens, the Chief Executive of NHS England, announced on 1 May 2014 that NHS England was inviting Clinical Commissioning Groups (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 commissioning functions to a CCG.

1. 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 these Terms of Reference.

2. The CCG has established the Primary Care Commissioning Committee ("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.

3. The Committee comprises representatives of the following bodies:
   - The CCG
   - NHS England
   - Healthwatch Bucks
   - LMC
   - Health and Well Being Board

Statutory Framework

4. NHS England has delegated to the CCG authority to exercise the primary care commissioning functions set out in 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. 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 13O);
- Duty as respects variation in provision of health services (section 13P).

8. The Committee is established as a committee of the Governing Body of the 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 is 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 under delegated authority from NHS England.

11. In performing its role, the Committee will exercise 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.

12. The functions of the Committee are undertaken in the context of a desire to promote increased 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' payments (e.g., returner/retainer schemes).

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

a) To plan, including needs assessment, for primary care services in the CCG's geographical area.

b) To undertake reviews of primary care services in the CCG's geographical area.

c) To co-ordinate a common approach to the commissioning of primary care services generally.

d) To manage the budget for commissioning of primary care services in the CCG's geographical area.

e) To assist and support NHS England in discharging its duty under section13E 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.

f) To undertake and deliver an estates strategy across the CCG's geographical area.

Geographical coverage

16. The Committee will comprise NHS Buckinghamshire CCG. It will undertake the function of NHS Buckinghamshire CCG commissioning primary medical services for the Buckinghamshire area, as defined within the Constitution.

Membership

The Chair of the PCCC should not also chair the Audit Committee.

The Chair of the Committee shall be a Lay member of the CCG Governing Body.

The Vice Chair of the Committee shall be a lay member of the CCG Governing Body and agreed by the Governing Body.

17. **Voting Members of the Primary Care Commissioning Committee** shall consist of:
    - Lay member (PCCC Chair)
    - Lay member (Deputy PCCC Chair)
    - Accountable Officer (Deputy is Deputy Accountable Officer)
    - Chief Finance Officer (Deputy is Deputy Chief Finance Office)
    - Interim Director, Primary Care and Transformation (Deputy is Senior Primary Care Manager)
    - Deputy Director of Quality (Deputy is Head of Quality)

Standing Invitees

- Invitation to a Healthwatch Bucks representative
- Invitation to a Health and Wellbeing Board representative
- Local Medical Committee representative
- NHS England (South East) representative
- NHS Buckinghamshire CCG Clinical Director(s)
- NHS Buckinghamshire CCG Clinical Chair
- NHS Buckinghamshire CCG Associate Director of Primary Care
- NHS Buckinghamshire CCG Associate Director of Digital and IM&T
- Non-conflicted GPs from other CCGs
- Additional Lay Members
- Subject Matter experts (e.g. premises, workforce).

Provision will be made for the Committee to have the ability to call on additional lay members or CCG members when required, for example where the Committee would not be quorate because of a conflict of interest. It could also include GP representatives from other CCG areas and non-GP clinical representatives (such as the CCG secondary care specialist).

Meetings and Voting

18. The Committee will operate in accordance with the CCG's Constitution, Standing Orders and Prime Financial Policies. 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 5 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 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**.**

20. The Committee has delegated authority to take decisions in accordance with standing orders and schemes of delegation (Schedule 4).

Quorum

21. Five members of the Committee must be present for the quorum to be established including:
    - At least two lay members or one lay member and the Deputy Director of Quality; and
    - Either the Accountable Officer (AO) / Deputy Accountable Officer or the Chief Finance Officer (CFO).

Quorum only relates to delegated authority for decision making.

The Primary Care Commissioning Committee retains a right to co-opt additional clinical representation, with suitable skills and experience, either voting membership or standing invitee, to provide objective input and ensure its delegated authority for decision making is

effective. Alternative independent clinical opinion may be sought (especially where conflicts of interest are identified) and will be specified in papers accordingly.

Member GPs as standing invitees have a valued role in their clinical opinion of proposals prior to decisions. Appropriateness of their input to be judged on a case by case basis by the Committee Chair depending on whether they are materially conflicted in the outcome of a commissioning decision.

Where quorum may be affected by availability of voting members a pre-decision in advance is preferable in order to minimise potential delay in decision making.

Frequency of Meetings

22. Meetings will take place in public on a quarterly basis.

23. 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.

24. 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.

25. 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.

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

27. Members of the Committee shall respect confidentiality requirements as set out in the CCG's Constitution and relevant policies.

28. The Committee will present its minutes to NHS England and to the Governing Body of the CCG each quarter for information.

29. The CCG will also comply with any reporting requirements set out in its constitution.

30. The terms of reference will be reviewed at least annually with final approval being sought from the Governing Body. Amendments will be made, where appropriate, to reflect any updated national model terms of reference and local need.

Accountability of the Committee

31. The Committee to have delegated authority from the 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 inter-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

32. 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.

33. If the Committee is found to have breached public procurement regulations and/or statutory guidance on conflicts of interest, NHS England/NHS Improvement may direct the CCG or NHS England 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.

Review of Terms of Reference

34. These terms of reference will be formally reviewed by the CCG in April of each year, following the year in which the Committee is created, and may be amended by mutual agreement at any time to reflect changes in circumstances which may arise.

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

36. The decisions of the Committee shall be binding on NHS England, and the CCG within the scope of these TOR and the CCG's Standing Orders.

Schedule 1 – List of Committee Members with voting rights & standing invitees without voting rights
Schedule 2 – Primary Care Commissioning Committee Guidance
Schedule 3 – Extract from Scheme of Delegation relating to Primary Care

Schedule 1

List of Committee Members with voting rights

ROLE	Lay	CCG	NHS England
CCG Accountable Officer (Deputy Accountable Officer)		X	
Interim Director of Primary Care and Transformation (Deputy Associate Director of Primary Care)		X	
Lay Member - PCCC Chair (Deputy Chair - Lay Member)	X		
Lay Member (not including PCCC Chair)	X		
Associate Director of Quality and Safeguarding (Deputy – Head of Quality)		X	
Chief Finance Officer (Deputy – Deputy Chief Finance Officer)		X	

List of standing invitees without voting rights

ROLE	Lay	CCG	NHS England
Chief Executive Officer Local Medical Committee			
CCG Clinical Chair		X	
Clinical Director/s		X	
Health & Wellbeing Board Representative			
Healthwatch Bucks Representative	X		
Assistant Head of Primary Care - NHS England (South East)			X
Assistant Head of Finance - NHS England (South East)			X
Assistant Director of Digitalisation and IM&T			X
Non-conflicted GP's from other CCG's			
Additional Lay Members	X		
Subject Matter experts (e.g. premises, workforce)			
Additional input ad hoc (e.g. data analyst, contracting etc.)			

Schedule 2 – Primary Care Commissioning Committee Guidance

"It is for CCGs to agree the full membership of their primary care commissioning committee. CCGs will be required to ensure that it is chaired by a lay member and have a lay and executive majority. Furthermore, in the interest of transparency and the mitigation of conflicts of interest, a local Health Watch representative and a local authority representative from the local Health and Wellbeing Board will have the right to join the delegated committee as standing invitees. Health Watch and Health and Wellbeing Boards are under no obligation to nominate a representative, but there would be significant mutual benefits from their involvement. For example, it would support alignment in decision making across the local health and social care system. CCGs will want to ensure that membership (including standing invitees) enables appropriate contribution from the range of stakeholders with whom they are required to work. Furthermore, it will be important to retain clinical involvement in a delegated committee arrangement to ensure the unique benefits of clinical commissioning are retained."

Schedule 3 – Extract from Scheme of Delegation

Points to note:

- This set of reservations and delegations was approved by the Primary Care Commissioning Committee on 5 March 2020. This set of reservations applies equally to Primary Care Commissioning Committee and Primary Care Operational Group. The one exception is P10 for which authority is also delegated to the Community Transformation Group.
- Approval is limited to £100k for all decisions listed and delegated except where stated otherwise. Any decision above that threshold would need to be escalated to the Governing Body with a recommendation from the Primary Care Commissioning Committee.
- Where a decision relates to either an individual practice or award, or more than one practice or award, a separate decision would otherwise need to be taken and managed accordingly on when the delegated limit of £100k comes into effect. E.g. a decision to approve/award affecting 3 practices at £50k each is under the delegated limit individually, but over the delegated limit as a collective at £150,000k.
- However, for the avoidance of doubt, the approval limit of £100k will apply irrespective of the number of contracts or awards underneath.
- In relation to P8 below, most QOF payments are likely to routinely fall above the stated threshold, though this delegation gives a flexibility and opportunity for primary care commissioning committee decisions where it is deemed to be relevant.

No	Policy Area	Decision
P1	PRIMARY CARE COMMISSIONING	Approve arrangements for the review, planning, and procurement of primary care services under delegated authority from NHS England. (up to £100k only)
P2	PRIMARY CARE COMMISSIONING	Approval of the arrangements for discharging the CCG's responsibilities and duties associated with its primary care 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, obtain advice from persons who taken together have a broad range of professional expertise and acting effectively, efficiently and economically. (up to £100k only).
P3	PRIMARY CARE COMMISSIONING	Day to day decisions on provider performance management and risk management associated with Primary Care to provide robust assurance to the Governing Body and NHS England. (up to £100k only)
P4	PRIMARY CARE COMMISSIONING	Approve and ratify Locally Commissioned Services (up to annual composite value per annum except where brand new which needs to be approved by Governing Body)
P5	STRATEGY AND PLANNING	Approve and ratify practice improvement schemes, having regard to guidance by the Secretary of State. Monitor and review any such schemes. Monitor and review any such schemes. (up to £1m per annum except where brand new which needs to be approved by Governing Body) New schemes e.g. Primary Care Development Scheme (value £1.5m) would need to be approved and ratified by GB.
P6	PRIMARY CARE COMMISSIONING	Approve the following primary care services: a. Primary medical care strategy; (up to £100k only) b. Planning primary medical care services (including needs assessment); (up to £100k only) c. Primary Care Estates Strategy; (up to £100k only) d. Premises improvement grants and capital developments; (up to £100k only) e. Practice mergers (up to £100k only)

No	Policy Area	Decision
P7	PRIMARY CARE COMMISSIONING	Approve and ratify proposals for the procurement of primary care services under co-commissioning arrangements: a. Procurement of new practice provision; (up to £100k only per annum) b. Discretionary payment (e.g. returner/retainer schemes); (up to £100k only per annum) c. 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); (up to £100k only per annum) d. Premises Costs Directions functions. (up to £100k only per annum)
P7a	PRIMARY CARE COMMISSIONING	Approve and ratify proposals for the procurement of primary care services under co-commissioning arrangements: a. The award of GMS, PMS and APMS contracts for primary care services to some or all of the CCG population where they are within CCG budgets (excluding GP contracts for which core contract approval/monitoring and appraisal sits with NHS England Area Team; This includes: the design of PMS and APMS contracts; and monitoring of contracts; taking contractual action such as issuing branch/remedial notices, and removing a contract); (over £50k per annum change +-)
P8	PRIMARY CARE COMMISSIONING	Advise on or approve matters relating to primary care contracting within agreed levels, specifically in relation to commissioning Locally Commissioned Services, Quality Outcomes Framework (QOF - subject to allowances within NHS England's legal framework), Out of Hour services, Walk-in Centres (including home visits as required and for out of area registered patients); (up to £100k only)
P9	PRIMARY CARE COMMISSIONING	Approval proposals for primary care support and development and any associated plans in connection with commissioning and performance monitoring and development within the remit of the CCG. (up to £100k only) Costs associated with allocating a nurse to support a practice on a particular improvement scheme to be signed off by PCOG. Costs associated with new permanent post or service and below £100k signed off by PCCC.
P10	PRIMARY CARE COMMISSIONING	Assure deployment of funding associated with Primary Care Network Direct Enhanced Services