

MEETING:	Governing Body			AGENDA ITEM:	4
DATE:	13 December 2018				
TITLE:	Formal adoption of amendments to the CCG Constitution				
AUTHOR:	Russell Carpenter, Head of Governance/Board Secretary				
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LINK TO RISKS:	Governing Body Assurance Framework	n/a as paper relates to corporate governance not commissioning	Corporate Risk Register	n/a as paper relates to corporate governance not commissioning	

Reason for presenting this paper:	
For Action	✓
For Approval	✓
For Decision	✓
For Assurance	
For Information	
For Ratification	

Summary of Purpose and Scope of Report:

Governing Body is asked to:

- **APPROVE/ADOPT** proposed amendments to the CCG Constitution.

Background

Date	Undertaking/decision
12 April 2018	Adoption of interim Constitution, effective of 1 April 2018, and aligned to merger. Noted at the time as subject to further revision and adoption at a later date on the back of ongoing reviews of both CCG clinical leadership, and future clinical leadership work within an Integrated Care System (ICS). At the time this remained ongoing so adoption subsequent amendments could not be undertaken.
12 July 2018	Future clinical leadership work remains in progress, meanwhile a number of technical amendments were adopted, including: <ul style="list-style-type: none"> • Names and titles of sub-committees • That the nomination and election process, for the Chair will be supported by the LMC (Local Medical Committee) irrespective of the number of candidates. • One other management director added to governing body quorum to transact decisions
13 September 2018	Revised scheme of reservation and delegation adopted on back of wholesale review of financial governance prompted by financial governance audit undertaken by RSM (internal auditors)

28 September 2018	Inclusion of additional terms of reference into appendices
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November 2018

Further amendments following clinical leadership review are still to be completed, after which point the membership will be asked to adopt what began as an interim Constitution.

Meanwhile a number of amendments to be adopted at this juncture are described overleaf.

New model Constitution

<https://www.england.nhs.uk/publication/nhs-clinical-commissioning-group-constitution/>

Published by NHS England September 2018. However, CCGs are advised that we are not required to wholly re-write to accommodate the new model. Where feasible at this juncture, the new model has been taken into account.

Conflicts of Interest:

None arising in respect of this paper as it does not relate to commissioning decisions.

Authority to make a decision – process and/or commissioning (if relevant)

The current CCG scheme of reservation and delegation stipulates:

“Review the prime financial policies at least annually, and recommend amendments to the audit committee” as delegated to the Chief Finance Officer.

“Review the prime financial policies at least annually, and recommend amendments to the Governing Body” as delegated to the Audit Committee.

“Approve detailed financial policies” as reserved to the Governing Body.

“Prepare an operational scheme of delegation that sets out who has responsibility for operational decisions” as delegated to the Accountable Officer

“Approval of the CCG's overarching scheme of reservation and delegation” as reserved to the Governing Body.

Audit Committee has had oversight and approval on non-financial elements of the scheme of delegation.

Conflicts of Interest: (please tick accordingly)

No conflict identified	✓
Conflict noted, conflicted party can participate in discussion and decision (see below)	
Conflict noted, conflicted party can participate in discussion but not decision (see below)	
Conflict noted, conflicted party can remain but not participate in discussion (see below)	
Conflicted party is excluded from discussion (see below)	
Governance assurance (see below)	✓

CCG Management Directors who possess individual authority within the scheme of delegation are materially conflicted in agreeing to their own financial delegations/authorities. Likewise the Governing Body itself could be seen as being materially conflicted in the decisions it reserves for itself.

Mitigations:

1. A quorate governing body will include sufficient numbers of CCG Management Directors as cover for each other where individuals are conflicted. E.g. The AO will count to quorum for decisions delegated to the CFO where they are conflicted and vice versa.
2. The CCG Constitution is quite clear in providing the Governing Body authority to agree its own scheme of reservation and delegation, with the Constitution itself adopted by the membership. Despite the conflicts which exist, a quorum has a sufficiently broad representation of conflicted and non-conflicted individuals in one or other delegated decision to make this an appropriate means of approval.
3. On this occasion, amendments are largely non-financial and so the above is not applicable.

As regards all other amendments, there are no conflicts as they do not relate to financial authority.

Strategic aims supported by this paper (please tick)

Better Health in Bucks – to commission high quality services that are safe, accessible to all and achieve good patient outcomes for all	✓
Better Care for Bucks – to commission personalised, high value integrated care in the right place at the right time	✓
Better Care for Bucks – to ensure local people and stakeholders have a greater influence on the services we commission	✓
Sustainability within Bucks – to contribute to the delivery of a financially sustainable health and care economy that achieves value for money and encourages innovation	✓
Leadership across Bucks – to promote equity as an employer and as clinical commissioners	✓

Governance requirements: (Please tick each box as is relevant to the paper)

Governance Element	Y	N	N/A	Comments/Summary
Patient & Public Involvement			✓	
Equality			✓	
Quality			✓	
Financial			✓	
Risks	✓			The CCG would be in breach of its statutory duties if it did not ensure its Constitution is appropriate and compliant with legislation and guidance.
Statutory/Legal	✓			
Prior consideration by Committees etc.	✓			As described in background
Membership Involvement	✓	✓		Through member GPs who are voting members of the Governing Body

Supporting Papers:

None

Version	Section	Page	Amendment	Rationale
1.12	Appendix E Standing Orders 2.3.6	53	<p>To ensure a proper mandate for The Clinical Chair appointed to the CCG, an election will be held no matter the number of candidates. All members are expected to vote in elections. Ballots may be held electronically or by post.</p> <p>Principles irrespective of the number of candidates:</p> <ul style="list-style-type: none"> a) All votes are cast using the registered list size practice population square root formula as at 1st January of the current calendar year. b) A majority is defined as “a number or percentage equalling more than half of a total” c) An “abstain” would not count towards the denominator when calculating the candidate’s % support d) In the event that two thirds of practices do not vote (abstain), the Governing Body will review the position and make a recommendation to the membership on how to proceed. <p>Where there is one candidate: Yes/no /abstain options adopted (more than 50% for a majority),</p> <p>Where there are two candidates: The ballot paper to include yes/no/abstain options (or equivalent) (more than 50% for a majority)</p> <p>Where there are three or more candidates:</p> <ul style="list-style-type: none"> a) In accordance with the election principles used by the Royal College of GPs, the election will be run on the Single Transferable Vote system b) Under this scheme a vote ranks the candidates in order of preference (regardless of number). If, in the first round, no candidate received over 50% of the votes cast, the candidate with the fewest votes will be eliminated. The second preference votes of members who chose the eliminated candidates as first preference will then be redistributed to the remaining candidates. Should this result in no candidates receiving at least 50% of the vote, this will be repeated until a candidate with a majority emerges. 	<p>A clearer description of what had already been agreed and included within the Constitution. It was not subject to a member practice vote or formal adoption by Governing Body at the time on this basis, However is noted here for assurance as having been undertaken. We received no comments back from our member practices in relation to their opportunity to comments on clarity regarding our election</p>

Version	Section	Page	Amendment	Rationale
1.11	Appendix D Committees of the Governing Body, group and council of members	48	Removal of CCG programme boards from committee structure following their disbanding	Annual review of terms of reference: approved CCG Executive Committee 26/07/18, ratified Governing Body 11/10/18
1.12	Appendix F Scheme of reservation and delegation	Website only	F1 updated: scheme of reservation and delegation - committees, Chair, AO, Deputy AO and CFO F2: Operational Scheme of Delegation As at 1st September 2018 F3: individual delegations Non-Pay Revenue and Capital Expenditure (excluding leases) Requisitioning/Ordering/Payment of Goods and Services F2 and F3 are new, though published only on the CCG website. F1 removed from the Constitution	Constitution previously included only F1. Given merger and current status of financial recovery, there has been a necessity and opportunity to review our financial management arrangements.
1.13	Appendix I, J, K	Page 142 onwards	Addition of terms of reference <ul style="list-style-type: none"> • Audit Committee • Remuneration Committee • Primary Care Commissioning Committee 	28 September 2018 NHS England led webinar on revised model constitution confirmed these as required to be inserted.
1.14	Appendix E Standing Orders 3.6.2	64	The Director of Transformation will be co-opted as an additional voting member only in circumstances of conflict of interest material to member GPs/Chair which requires them not to count for quorum purposes. In circumstances relating to remuneration decisions, in which one or more members are materially conflicted, a reduced quorum will be deemed acceptable as required at the discretion of the Chair, Lay Vice Chair or Accountable Officer/Deputy Accountable Officer/Chief Finance Officer dependent upon to whom the material conflict relates. Note: further review of Remuneration Committee terms of reference and scheme of delegation to follow	28 September 2018 NHS England led webinar on revised model constitution confirmed governing body cannot legally delegate any decisions on remuneration. Remuneration Committee can only make recommendations back up to Governing Body.

Version	Section	Page	Amendment	Rationale
1.15	Appendix C List of practices	37	Bourne End and Wooburn Green Medical Centre replacing Hawthornden Surgery and Pound House Surgery	The partnership deed was signed 04 May 2018.
1.16	Appendix F2 Scheme of Reservation and delegation	Website only	<p>Ex Gratia Payments Patients and staff for loss of personal effects :</p> <p>i) <£500 (CCG Budget Managers) ii) >£500 and <£5,000 (CFO) iii) >£5,000 and £50,000 (CFO)</p> <p>Any ex Gratia payment relating to termination of employment deemed in excess of or outside of statutory or contractual entitlements would be escalated to the Remuneration Committee for review and recommendation to the Governing Body. It will also be subject to an application with Business Case to NHS England.</p>	<p>Follows query at Audit Committee whether special payments for employment termination would be transacted under this authority. Paragraph added following conclusion that this would be the case, and that NHS England would also need to be involved. Approved by Audit Committee 28/11/18.</p>
1.16	Appendix F3 Scheme of Reservation and delegation	Website only	Updates to role titles to reflect changes within the joint/integrated commissioning team shared with Buckinghamshire County Council	Re-organisation of joint/integrated commissioning team
1.16	Appendix F4	Website only	<p>Added to Constitution following development. Covers a series of non-financial delegations. Subject to approval, the Governing Body will be asked on 13/12/18 to ratify the scheme. It may be subject to further change as the ICS continues to evolve.</p> <p>Now states: <i>APPENDIX F SCHEMES OF RESERVATION AND DELEGATION Published separately as on CCG website.</i></p>	This includes all statutory role appointments in a single published location. Approved by Audit Committee 28/11/18.
1.16	Appendix D	48	Medicines Sub-Committee removed from committee structure, as this has morphed into the ICS Medicines Optimisation Board (with delegation of authority to the Associate Director of Medicines Management et al described in the scheme of reservation and delegation)	ICS development
1.16	Appendices	n/a	Appendices on conflicts of interest and code of conduct stripped out – published separately on website. Terms of Reference for Audit, Remuneration and PCCC re-lettered and page numbers updated	No longer requirements of new model constitution