

## Terms of reference

### **NHS Buckinghamshire, Oxfordshire and Berkshire West CCGs Primary Care Commissioning Committees in Common**

#### Introduction

- Simon Stevens, the Chief Executive of NHS England, announced on 1 May 2014 that NHS England was inviting 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.
- 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 to these Terms of Reference to **NHS Buckinghamshire, Oxfordshire and Berkshire West (BOB) CCGs**.
- The CCGs have each established a Primary Care Commissioning Committee and will hold meetings in common ("Committees"). The Committees will function as corporate decision-making bodies for the management of the delegated functions and the exercise of the delegated powers.
- The three committees have a common membership comprising representatives of the following organisations:
  - NHS Buckinghamshire CCG
  - NHS Oxfordshire CCG
  - NHS Berkshire West CCG

#### Statutory Framework

- NHS England has delegated to each CCG the authority to exercise the primary care commissioning functions set out in the delegation agreements in accordance with section 13Z of the NHS Act.
- 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 CCGs
- Arrangements made under section 13Z do not affect the liability of NHS England for the exercise of any of its functions. However, the CCGs acknowledge 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).
- The CCGs 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
  - Each Committee is established as a committee of the **Governing Body** of each named CCG. Individual agreements should include appropriate provisions consistent with overriding governance arrangements in accordance with Schedule 1A of the “NHS Act”.
  - The members acknowledge that the Committee is subject to any directions made by NHS England or by the Secretary of State.

### Role of the Committees

- The Committees have been established in accordance with the above statutory provisions to enable the members to make decisions on the review, planning and procurement of primary care services in **Buckinghamshire, Oxfordshire and Berkshire West**, under delegated authority from NHS England.
- In performing their roles the Committees will exercise their management of the functions in accordance with the agreement entered into between NHS England and NHS Buckinghamshire, Oxfordshire and Berkshire West CCGs, which will sit alongside the delegation and terms of reference.
- The functions of the Committees 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.
- The role of the Committees shall be to carry out the functions relating to the commissioning of primary medical services under section 83 of the NHS Act.
- This includes the following:
  - a) GMS, PMS and APMS contracts (including the design of PMS and APMS contracts, monitoring of contracts, contract variations, taking contractual action such as issuing bench/remedial notices, and removing a contract);

Newly designed enhanced services (Enhanced Services including Directed enhanced Services and Newly designed locally Commissioned Services and

**Buckinghamshire**

**Oxfordshire**

**Berkshire West**

Clinical Commissioning Group

Clinical Commissioning Group

Clinical Commissioning Group

- b) Design of local incentive schemes as an alternative to the Quality Outcomes Framework (QOF);
  - c) Decision making on whether to establish new GP practices in an area;
  - d) Approving practice mergers; and
  - e) Making decisions on 'discretionary' payment (e.g., returner/retainer schemes).
- The CCGs will also carry out the following activities:
    - a) To plan, including needs assessment, primary [medical] care services across the Buckinghamshire, Oxfordshire and Berkshire West (BOB) area
    - b) To undertake reviews of primary [medical] care services across BOB;
    - c) To co-ordinate a common approach to the commissioning of primary care services generally;
    - d) To manage the delegated budget for commissioning of primary [medical] care services across the ICS.
  - The Committees will also hold workshops from time to time on matters associated with its duties.

### **Geographical Coverage**

- The Committees will comprise the **Buckinghamshire, Oxfordshire and Berkshire West** CCGs

### **Membership**

- Each Committee shall consist of:

#### Voting members:

One lay member from each place

One executive member from each place –to include the accountable director for primary care and one Chief Finance Officer

Clinical Chairs x3

CCGs AO

CCG GP lead from each place x3 (to include quality input)

#### In attendance

CCG Head of Primary Care x 3

Healthwatch representatives from each area

Health and Wellbeing Board representative

LMC representative x3

Finance Lead x1

NHS England representative

- The Chair and Vice Chair of the Committees shall be one of the three lay members.

- Members of the Committees have a collective responsibility for the operation. The voting members shall nominate a deputy if they are not able to attend a meeting to ensure quoracy at all times.
- Committees. 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.

### Meetings and Voting

- The Committees will operate in accordance with the CCGs' Standing Orders. The Secretary to the Committees 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 seven days before the date of the meeting. When the Chair of the Committee deems it necessary in light of urgent circumstances to call a meeting either in person or virtually at short notice, the notice period shall be such as s/he shall specify.
- Each member of the Committees shall have one vote. Each voting member will be a member of each of the three place Committees. The Committees 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 Committees will be to achieve consensus decision-making wherever possible. There will also be members in attendance who will support the committees
- The Committees shall have a Lay/Executive majority at all times. The quorum shall be a minimum of six members to include
  - one Lay member, one CCG officer and one clinician.
  - at least two voting members from each CCG.
- The Committees may call additional experts to attend meetings on an ad hoc basis to inform discussions.
- Members of the Committees shall respect confidentiality requirements as set out in the CCGs' **Constitution or Standing Orders**.

### Frequency of meetings

- The Committees will meet on a quarterly basis either in person or virtually as agreed with the Chair.
- Meetings of the Committees shall:
  - a) be held in public, subject to the application of 23(b);
  - b) the Committees 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.

The Committees will present their minutes to **South East Regional team** of NHEngland and the governing bodies of **Buckinghamshire, Oxfordshire and Berkshire West** CCGs each quarter for information.

- The CCGs will also comply with any reporting requirements set out in the constitutions.
- It is envisaged that these Terms of Reference will be reviewed from time to time, reflecting experience of the Committee in fulfilling its functions. NHS England may also issue revised model terms of reference from time to time.

### **Accountability of the Committee**

- The Committees are established in line with the terms of delegation and in line with the constitutions of the three CCGs.
- There may be incidents where the decision only affects one CCG, however as all voting members are members of all CCG Primary Care Commissioning Committees all will be able to partake in any vote.
- The Committees 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 agreement entered into between NHS England and whichever is the relevant CCG – Buckinghamshire, Oxfordshire or Berkshire West CCG, are recorded in a scheme of delegation, are governed by appropriate terms of reference and reflect appropriate arrangements for the management of conflicts of interest.
- The Committees will have oversight of all its subcommittees which will include the place based primary care operational groups (PCOG). The Committees will be responsible for approving terms of reference of all subcommittees
- The Committees will produce an annual report each year.
- The Committees will oversee the delegated co-commissioning budgets of each of the three CCGs. This will be a standing agenda item.

The Committees will maintain oversight of all Primary care estates developments but where there is budgetary implications then, in line with the scheme(s) of delegation, business cases will need to be approved by the Finance Committees in Common first

- For the avoidance of doubt, in the event of any conflict between the terms of the Delegation and Terms of Reference and the Standing Orders of Standing Financial Instructions of any of the members, the Delegation will prevail.

### **Decisions**

- The Committees will make decisions within the bounds of its remit.
- The decisions of the Committees shall be binding on NHS England and **Buckinghamshire, Oxfordshire and Berkshire West** CCGs.

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