

Primary Care Commissioning Committee Terms of Reference

December 2016

Terms of Reference – NHS Barnsley CCG Primary Care Commissioning Committee

Introduction

1. 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.
2. 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 NHS Barnsley CCG. The delegation is set out in Schedule 1.
3. The CCG has established the NHS Barnsley CCG 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.
4. It is a committee comprising representatives of the following organisations:
 - NHS Barnsley CCG;
 - Healthwatch Barnsley (non-voting attendee);
 - Barnsley Metropolitan Borough Council (non-voting attendee).

Statutory Framework

5. 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.
6. 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.

7. 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).
8. 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).
9. The Committee is established as a committee of the Governing Body of NHS Barnsley CCG in accordance with Schedule 1A of the “NHS Act”.
10. 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

11. 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 Barnsley, under delegated authority from NHS England.

12. In performing its role the Committee will exercise its management of the functions in accordance with the agreement entered into between NHS England and NHS Barnsley CCG, which will sit alongside the delegation and terms of reference.
13. 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.
14. 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.
15. The specific obligations of the CCG with respect to the delegated functions are set out in section 6 and schedule 2 of the Delegation Agreement and include:
 - a) Decisions in relation to the commissioning, procurement and management of GMS, PMS and APMS contract including:
 - the design of PMS and APMS contracts, monitoring of contracts, taking contractual action such as issuing breach / remedial notices, and removing a contract);
 - Newly designed enhanced services (“Local Enhanced Services” and “Directed Enhanced Services”);
 - Local incentive schemes as an alternative to the national Quality Outcomes Framework (QOF) (including the design of such schemes);
 - ‘Discretionary’ payments (e.g., returner/retainer schemes);
 - Commissioning urgent care for out of area registered patients.
 - b) Planning the primary medical services provider landscape in Barnsley, including considering and taking decisions in relation to:
 - The establishment of new GP practices (including branch surgeries) in the area, and the closure of GP Practices;
 - Approving practice mergers;
 - Managing GP practices providing inadequate standards of patient care;
 - The procurement of new Primary Medical Services Contracts;
 - Dispersing the lists of GP practices;
 - Agreeing variations to the boundaries of GP practices; and
 - Co-ordinating and carrying out the process of list cleansing in relation to GP practices.
 - c) Decisions in relation to the management of poorly performing GP Practices 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).
 - d) Decisions in relation to the Premises Costs Directions Functions.

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

- a) Planning the Commissioning of Primary Medical Services, including:
 - carrying out needs assessments for primary medical care services in Barnsley;
 - recommending and implementing changes to meet any unmet primary medical services needs; and
 - undertaking regular reviews of primary medical care needs and services in Barnsley.
- b) Co-ordinate a common approach to the commissioning of primary care services generally;
- c) Manage the delegated allocation for commissioning of primary medical care services in Barnsley
- d) Obtain and provide to the Governing Body assurance regarding the quality and safety of primary medical care services in Barnsley (this function to be exercised through the Quality and Patient Safety Committee).

17. The Primary Care Development Workstream will review operational contractual issues impacting on primary care delivery; however decision making will remain the responsibility of the Primary Care Commissioning Committee.

Geographical Coverage

18. The Committee will comprise the NHS Barnsley CCG.

Membership

19. The Committee shall consist of:

Lay / Executive Members:

- Lay Member for Patient and Public Engagement and Primary Care Commissioning (Chair)
- Lay Member for Accountable Care (Vice Chair)
- Governing Body Secondary Care Clinician
- Lay Member for Governance
- Chief Officer
- Head of Governance and Assurance

Elected Practice Representatives (Non-Voting Clinical Advisors):

- Chair of the Governing Body
- Medical Director
- One other elected member of the Governing Body

(The list of members is included as Schedule 3).

20. In addition to the people stated above the Head of Delivery Integrated Primary and Out of Hospital Care, a representative of Healthwatch Barnsley, a Local Authority representative of the Health and Wellbeing Board, and other attendees (as necessary) will be invited to attend meetings and participate in the decision making discussions of the Primary Care Commissioning Committee in a non-voting capacity.
21. The Chair of the Committee shall be the Lay Member for Patient and Public Engagement and Primary Care Commissioning. The holder of this post is appointed for a period of 3 years under a process overseen by the Remuneration Committee in accordance with best guidance.
22. The Vice Chair of the Committee shall be the Lay Member for Accountable Care. The holder of this post is appointed for a period of 3 years under a process overseen by the Remuneration Committee in accordance with best guidance.
23. There will be a standing invitation to a HealthWatch Barnsley representative and a Local Authority representative of the Health and Wellbeing Board to attend the Committee as non-voting attendees.

Meetings and Voting

24. 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 5 working 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.
25. Each voting member of the Committee shall have one vote. The Committee shall reach decisions by a simple majority of voting members present, but with the Chair or Vice 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

26. No meeting of the Committee shall be held without a minimum of three members present (excluding non-voting Clinical Advisors and attendees), including either the Chair or Vice Chair. The Committee may call on additional lay members or CCG members when required, for example where the Committee would not be quorate because of conflicts of interest.
27. An Officer in attendance but without formal acting up status may not count towards the quorum.

Urgent decisions

28. Where urgent decisions are required to be made outside Committee meetings, including where decisions must be taken in accordance with externally-driven timescales, these can be made by a minimum of two voting members of the Committee, including at least one of the Primary Care Commissioning Committee Chair and the Chief Officer. Decisions taken under these provisions will be reported back to the next meeting of the Committee for ratification.

Administration

29. Secretarial support for the Committee will be provided by the CCG's administration function, overseen by the Head of Governance and Assurance.

Frequency and conduct of meetings

30. The Committee will meet at least quarterly with more frequent meetings if required, either by circumstances, the Governing Body or the Committee.
31. Meetings of the Committee shall:
 - a) be held in public, subject to the application of 29(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.

32. 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.
33. 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.
34. The Committee may call additional experts to attend meetings on an ad hoc basis to inform discussions.
35. Members of the Committee shall respect confidentiality requirements as set out in the CCG's Confidentiality Code of Conduct.
36. The Committee will present its minutes to NHS England (North) area team of NHS England after each meeting for information, including the minutes of any sub-committees to which responsibilities are delegated under paragraph 30 above. An assurance report will be presented to the Governing Body of the CCG after each meeting.
37. The CCG will also comply with any reporting requirements set out in its constitution.
38. These Terms of Reference will be reviewed annually, reflecting the 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

39. The Committee will make collective decisions on the review, planning and procurement of primary care services in Barnsley, including functions under delegated authority from NHS England. The Committee will manage the delegated allocation for commissioning of primary care services in Barnsley.

40. The Committee will operate in such a way as to ensure appropriate consultation and engagement takes place with members of the public. For example:
- The Committee will be Chaired by the Lay Member for Patient and Public Engagement
 - It will be attended by a representative of Healthwatch Barnsley
 - Meetings will be held in public (subject to the application of paragraph 28(b) above)
 - The minutes of every meeting will be made publicly available on the website of NHS Barnsley CCG except where those minutes record Committee business conducted in private.

Procurement of Agreed Services

41. The CCG will make procurement decisions as relevant to the exercise of its delegated authority and in accordance with the detailed arrangements regarding procurement set out in the delegation agreement. In doing so the CCG will comply with public procurement regulations and with statutory guidance on conflicts of interest.

Decisions

42. The Committee will make decisions within the bounds of its remit.
43. The decisions of the Committee shall be binding on NHS England and NHS Barnsley CCG.
44. The Committee will produce an executive summary report which will be presented to NHS England (North) area team of NHS England and the governing body of NHS Barnsley CCG at least quarterly for information.
45. As soon as practicable after the end of each Financial Year the CCG must provide to NHS England a report on how the CCG has exercised the Delegated Functions during the previous Financial Year.

Schedule 1 – Delegation

The CCG and NHS England signed the Delegation Agreement on 26 March 2015. The Agreement became effective on 1 April 2015. The Agreement sets out the arrangements that apply in relation to the exercise of the Delegated Functions by the CCG.

Schedule 2 – Delegated functions

NHS England has delegated to NHS Barnsley CCG the following functions relating to the commissioning of primary medical services under section 83 of the NHS Act:

- 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).

Delegated commissioning arrangements will exclude individual GP performance management (medical performers’ list for GPs, appraisal and revalidation). NHS England will also be responsible for the administration of payments and list management.

Schedule 3 - List of Members Lay / executive members:

- Lay Member for Patient and Public Engagement and Primary Care Commissioning (Chair)
- Lay Member for Accountable Care (Vice Chair)
- Governing Body Secondary Care Clinician
- Lay Member for Governance
- Chief Officer
- Head of Governance and Assurance

Elected Governing Body members (Non-voting Clinical Advisors) :

- Chair of the Governing Body

- Medical Director
- One other elected member of the Governing Body

In addition to the people stated above, a representative of Healthwatch Barnsley, a Local Authority representative of the Health and Wellbeing Board, and other attendees (as necessary) will be invited to attend meetings and participate in the decision making discussions of the Primary Care Commissioning Committee in a non-voting capacity.

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