

## ***Annex A – Appendix C – Primary Care Commissioning Committee***

# **Ashford and Canterbury CCG Primary Care Commissioning Committee-in-common terms of reference**

## **Introduction**

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 Canterbury & Coastal CCG. The delegation is set out in Schedule 1.

The CCG has established the NHS Ashford CCG Primary Care Commissioning Committee (“the 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.

These terms of reference provide specific guidance on how to ensure potential conflicts arising from GP participation in strategic discussions on primary care issues can be managed. These are in addition to the clauses within the CCG constitution and Standards of Business Conduct and Conflicts of Interest Policy.

NHS Ashford CCG and NHS Canterbury & Coastal CCG have agreed to establish a committee (“committee-in-common”) with the same membership and the same terms of reference as the committee established by the CCG. The two committees shall be known together as the Ashford and Canterbury Primary Care Commissioning Committee-in-Common.

Notwithstanding that the Committee shall also operate as a committee-in-common, where it does so, it shall always do so in recognition of the CCG’s own duties to the patients and population of the Ashford CCG area.

## **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 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 in common with NHS Ashford CCG on the review, planning and procurement of primary care services within the Ashford and Canterbury & Coastal areas, 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 Canterbury & Coastal 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. 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’ payment (e.g., returner/retainer schemes).

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

- a. To plan, including needs assessment, primary medical care services in the Canterbury & Coastal area;
- b. To undertake reviews of primary medical care services in the Canterbury & Coastal 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 medical care services in the Canterbury & Coastal area.

## **Membership**

The voting membership of the committee shall consist of:

- Three (3) Lay Members from the NHS Ashford CCG Governing Body, one of whom will be Chair
- The Secondary Care Doctor (independent member) from the NHS Ashford CCG
- One (1) General Practitioner members from the NHS Ashford Governing Body
- The Managing Director (East Kent CCGs)
- The Chief Financial Officer (Ashford and Canterbury & Coastal CCGs)
- The Chief Nurse (Ashford and Canterbury & Coastal CCGs)
- The Interim Local Care Director for Ashford (Ashford and Canterbury & Coastal CCGs)
- The Interim Local Care Director for Canterbury (Ashford and Canterbury & Coastal CCGs)
- The Interim Director of Urgent Care (Ashford and Canterbury & Coastal CCGs)

In addition, the following non-voting members of the Committee-in-Common shall be in attendance:

- Clinical Chair, Ashford CCG
- Clinical Chair, Canterbury & Coastal CCG

The following shall be in attendance as members of the Committee-in-Common, but shall be non-voting with regards to matters that affect Ashford CCG only:

- Secondary Care Doctor (independent member) from Canterbury and Coastal CCG
- Two (2) Lay Members from Canterbury and Coastal CCG
- One (1) General Practitioner members from Canterbury and Coastal CCG

The Committee Chair and Vice Chair shall be selected from amongst the lay membership of the Committee-in-Common (across Ashford and Canterbury & Coastal), but shall not be the lay member for Audit.

If a member is not able to attend, then they must nominate an appropriate deputy, who may attend on their behalf, subject to the agreement of the Committee Chair.

The following will be invited to all meetings of the Committee-in-Common, but shall not be members and shall not be entitled to vote:

- A representative from the local Health and Wellbeing Board
- A representative from Healthwatch
- A representative from the Kent Local Medical Committee
- The Head of Primary Care Commissioning/Contracting
- A representative from NHS England

## **Meetings and Voting**

22. 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 seven 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.

23. 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.

## **Quorum**

A quorum shall be five voting members which must include at least two lay members, one executive member and one clinical member of the CCG who is not a GP.

To ensure effective management of potential conflicts of interest, the membership of the committee shall be constituted so as to ensure that the majority is held by lay and executive members at all times. If these members themselves have a conflict of interest, then the committee may call on expertise from neighbouring CCGs to act as deputies, therefore allowing decisions to be made and avoid conflict.

For the avoidance of doubt, in order for the meeting to be quorate, the non GP membership must always be in the majority.

If the committee cannot be quorate for the purposes of any business, the committee shall have the power to co-opt one or more lay members or secondary care clinicians from another CCG's Governing Body onto the committee

### **Frequency of meetings**

24. The Committee will meet at least monthly and more frequently if required. The frequency of meetings shall be reviewed on a quarterly basis.

25. Meetings of the Committee shall:

a) be held in public, subject to the application of 25(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.

26. 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.

27. 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.

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

29. Members of the Committee shall respect confidentiality requirements as set out in the CCG's Constitution.

30. The Committee will present its minutes to **NHS England South (South East) area team** of NHS England and the governing body of **Ashford** CCG quarterly for information, including the minutes of any sub-committees to which responsibilities are delegated under paragraph 27 above.

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

32. It is envisaged that these Terms of Reference will be reviewed from time to time, reflecting experience of the Committee in fulfilling its functions.

## **Accountability of the Committee**

The CCG has Prime Financial Policies, and this Committee shall act in accordance with these.

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

The Committee will have regard to the CCG's duties to make arrangements to secure that individuals to whom the services are being or may be provided are involved in the planning of the commissioning arrangements by the group, and in the development and consideration of proposals by the CCG for changes in the commissioning arrangements where the implementation of the proposals would have an impact on the manner in which the services are delivered to the individuals or the range of health services available to them, and in decisions of the CCG affecting the operation of the commissioning arrangements where the implementation of the decisions would (if made) have such an impact.

## **Procurement of Agreed Services**

**The detailed arrangements regarding procurement will be set out in the delegation agreement, but for the avoidance of doubt, the Committee will consider the CCG's procurement law duties as set out in the following:**

- The Public Contracts Regulations 2006 (as amended from time to time);
- Overarching principles enshrined in the treaty on the Functioning of the European Union; and
- The National Health Service (Procurement, patient Choice and Competition) No.2 Regulations 1023 ("the S75 Regulations" ) and Monitor's substantive and enforcement guidance on the S75 Regulations or any such additional/replacement guidance and/or regulations from time to time in force.

## **Decisions**

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

The Committee will ensure that any conflicts of interest are dealt with in accordance with the CCG's constitution and Standards of Business Conduct and Conflicts of Interest Policy

The decisions of the Committee shall be binding on NHS England and **NHS Ashford CCG**.

The Committee will produce an executive summary report which will be presented to **NHS England South (South East) area team** of NHS England and the governing body of **NHS Ashford CCG** on at least a quarterly basis.