NHS Eastern Cheshire CCG
Primary (General Medical) Care Services
Commissioning Committee
Terms of Reference

Responsible Person: Matthew Cunningham – Head of Corporate Services

Date approved and Approval Committee: 30 March 2016
NHS ECCCG Governing Body
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1.0 Introduction

1.1 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 Schedule 2 to these Terms of Reference to NHS Eastern Cheshire Clinical Commissioning Group (CCG). The delegation is set out in Schedule 1. In exercising its functions (including those delegated to it) the CCG will comply with the statutory duties set out in the NHS Act and/or any directions made by NHS England or by the Secretary of State, and will enable and assist NHS England to meet its corresponding duties.

1.2 The CCG has established the Eastern Cheshire Primary (General Medical) Care Commissioning Committee (“Committee”). It has been established in accordance with Schedule 1A of the “NHS Act”, NHS Eastern Cheshire CCG’s Constitution, Standing Orders and Scheme of Delegation. The Committee will function as a corporate decision-making body for the management of the delegated functions and the exercise of the delegated powers.

1.3 The Committee will comprise of representatives from NHS Eastern Cheshire CCG and representatives from other organisations where appropriate.

1.4 These Terms of Reference set out the membership, remit, responsibilities and reporting arrangements of the Committee and which meet the requirements of the Constitution of NHS Eastern Cheshire CCG and Managing Conflicts of Interest: Statutory Guidance for CCGs.¹

2.0 Membership

2.1 The Committee core membership will consist of:

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<td>Lay Member (Chair)</td>
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<td>Lay Member (Vice-Chair)</td>
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<tr>
<td>NHS ECCCG Accountable Officer</td>
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<td>NHS ECCCG Chief Finance Officer</td>
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<td>NHS ECCCG Commissioning Director</td>
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<td>NHS ECCCG Executive Nurse and Director of Quality</td>
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<td>General Practice representatives from member practices of NHS ECCCG (minimum of 3, maximum of 5)</td>
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2.2 Representatives from NHS England, Healthwatch Cheshire East, Cheshire East Health and Wellbeing Board, Cheshire East Public Health and Cheshire Local Medical Committee will have a standing invite to attend each meeting of the Committee as observers in attendance. Whilst these representatives will be encouraged to take an active part in the discussions of the Committee and bring their respective viewpoints and experience to the deliberations, the attendance

of these representatives will not be considered as part of the quoracy requirements of the Committee business, in terms of voting or attaining a non-GP Practice Representative majority.

2.3 The Committee may call additional experts and representatives from other organisations to attend meetings on an ad hoc basis to inform discussions.

2.4 The Committee may call additional Lay Members, Governing Body or CCG Executive Committee Members to attend meetings as and when required so as to mitigate any possibility of decision making being unable to take place due to arising conflict of interests.

3.0 Remit and Responsibilities of the Committee

3.1 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. Under delegated arrangements, NHS England retains the legal liability and accountability for the performance of primary care services commissioning.
3.2 Arrangements made under section 13Z may be on such terms and conditions (including terms as to payment) as may be agreed between the Board (NHS England) and the CCG.

3.3 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:

- Management of conflicts of interest (section 14O);
- Duty to promote the NHS Constitution (section 14P);
- Duty to exercise its functions effectively, efficiently and economically (section 14Q);
- Duty as to improvement in quality of services (section 14R);
- Duty in relation to quality of primary medical services (section 14S);
- Duties as to reducing inequalities (section 14T);
- Duty to promote the involvement of each patient (section 14U);
- Duty as to patient choice (section 14V);
- Duty as to promoting integration (section 14Z1);
- Public involvement and consultation (section 14Z2).

3.4 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).

3.5 The members acknowledge that the Committee is subject to any directions made by NHS England or by the Secretary of State.

3.6 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 (general medical) care services in Eastern Cheshire under delegated authority from NHS England.

3.7 In performing its role the Committee will exercise its management of the functions in accordance with the delegation agreement entered into between NHS England and NHS Eastern Cheshire CCG, which will sit alongside the terms of reference.

3.8 The functions of the Committee are undertaken in the context of a desire to increase quality, efficiency, productivity and value for money and to remove administrative barriers.

3.9 The role of the Committee shall be to carry out the functions relating to the commissioning, procurement and management of primary general medical services under section 83 of the NHS Act except those relating to the Reserved Functions of NHS England. This includes but not limited to the following activities:
• GMS, PMS and APMS contracts. This includes decisions on the design of PMS and APMS contracts, monitoring of contracts, taking contractual action such as issuing branch/remedial notices, and removing a contract
• decisions on newly designed enhanced services (“Local Enhanced Services” and “Directed Enhanced Services”)
• decisions on design of local incentive schemes as an alternative to the Quality Outcomes Framework (QOF)
• decisions about commissioning urgent care (including home visits as required) for out of area registered patients
• commissioning of primary care services delivered by non-GMS / PMS / APMS contracts
• decision making responsibility on whether to establish new GP practices (including branch surgeries) and closure of GP Practices in an area
• approving practice mergers
• 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)
• making decisions on ‘discretionary’ payment (e.g., returner/retainer schemes)
• manage the delegated budget for primary (general medical) care commissioning in Eastern Cheshire, which can include other budgets the CCG Governing Body determines as appropriate
• working collectively on Primary Care Education and Training
• overseeing the undertaking of Primary Medical Care needs assessment when and where appropriate
• deciding on whether to pool budgets with other commissioners of Primary Care
• consider, decide and ensure that the commissioning of primary general medical care is done within agreed available resources
• premises costs directions functions
• co-ordinate a common approach to the commissioning of primary general medical care services generally across Eastern Cheshire
• decisions on investment in Primary Care IT
• instruct and delegate actions to and receive reports from the CCG Primary (General Medical) Care Commissioning Operational Group (PCCOG)
• receive minutes of meetings, reports and updates on the monitoring of primary care quality from the CCG Clinical Quality and Performance Committee
• such ancillary activities as are necessary in order to exercise the delegated functions.

3.10 In making its recommendations and decisions within the bounds of its remit the Committee will take into account:
• provisions of any national guidance arrangements
• relevant legislation
• best practice and affordability
• the CCG Primary Care Strategy
• findings and recommendations from the PCCOG
• reports from the CCG Clinical Quality and Performance Committee.
3.11 The decisions of the Committee shall be binding on NHS Eastern Cheshire CCG and NHS England.

3.12 Decisions will be published by NHS Eastern Cheshire CCG.

4.0 Meeting Arrangements

4.1 The Committee shall adopt the Standing Orders of NHS Eastern Cheshire CCG insofar as they relate to the:

- notice of meetings
- handling of meetings
- agendas
- circulation of papers; and
- Conflicts of Interest.

4.2 Meetings of the Committee:

- shall, subject to the application of 7(b), be held in public
- 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.

4.3 Leadership. The Chair of the Committee shall be a Lay Member. The Vice-Chair of the Committee shall also be a Lay Member.

4.4 To ensure appropriate oversight and assurance of the primary (general medical) care commissioning committee the role of Chair cannot be undertaken by the Lay Member Chair of the CCG Governance and Audit Committee. They can, however, undertake any other Lay Member position on the primary care commissioning committee.

4.5 In the position of Chair, the post holder will:

- encourage contributions from all members/attendees
- promote a culture of openness, transparency, constructive challenge and honesty
- facilitate discussion to ensure the outcomes are concise and focussed and that the meetings run to time.

4.6 Secretariat support. Identified secretariat support will be responsible for supporting the Chair in the organisation of the Committee meeting and the preparation and circulation of agendas, papers and minutes. The Secretariat will:

- circulate the agenda and accompanying papers to committee members at least five working days in advance of the meeting date
- ensure declarations of interest are noted and correct minutes are taken. Once agreed by the Chair, circulate minutes and action notes within ten working days of the meeting to all committee members.
• ensure that decisions made and the discussions around the decision making ae clearly noted and logged
• ensure an action log is produced following each meeting and any outstanding actions are carried forward until complete
• ensure the Committee risk log and decision log is kept up to date
• provide appropriate support to the Chair and Committee members
• ensure the papers of the Committee are filed in accordance with the CCGs policies and procedures
• present the minutes and action notes to the Governing Body of NHS Eastern Cheshire CCG and Commissioning and Performance Committee of NHS England Cheshire and Merseyside
• support the Chair and Accountable Officer in the production of written reports and an annual report to the Governing Body.

4.7 **Quoracy.** A quorum shall be four members, three of which must be non-GP Practice Representative members

4.8 If it has been identified that a planned committee meeting would not be quorate, owing to the absence of certain members which may result in the Committee not having either a Lay/Executive majority or no GP Peer Group Representative in attendance, any other Governing Body member or Executive Committee member of an equivalent role (i.e. GP Peer Group Representative, Lay Member, Secondary Care Doctor, Registered Nurse or CCG Executive Committee Member) may be called upon to attend that meeting of the committee to bring the meeting up to quoracy and enable the business of the committee to be transacted. Where it is not possible for a quorum to be convened the Chair of the Committee shall consult with the CCG Accountable Officer on the action to be taken.

4.9 **Decision making.** The aim of the Committee will be to achieve consensus decision-making wherever possible. However, on occasions where voting is required each member of the Committee shall have one vote and shall reach a decision by a simple majority of members present, but with the Chair having a second and deciding vote, if necessary. Where it has been identified that a member or members of the Committee have a significant conflict of interest in relation to a particular agenda item where a decision is required, that member or members will be excluded from the decision making, in terms of expressing their preference towards a particular decision or by casting a vote.

4.10 **Meeting frequency.** The Committee shall meet quarterly during the financial year. When required, additional meetings may be called by the Chair of the Committee.

4.11 All agenda items will be subject to approval by the Committee Chair and CCG Accountable Officer and will be required at least ten working days prior to the meeting date.

4.13 Members shall be notified at least ten working days in advance that a meeting is due to take place.
4.14 Agendas and reports shall be distributed to Committee members at least five working days in advance of the meeting date. However, in some circumstances and so as to ensure confidentiality of proceedings it may be necessary for reports to only be made available on the day of the meeting. This will be at the determination of the Committee Chair. Committee members will be notified in advance if this is to occur.

4.15 Following a Committee meeting the draft minutes will be sent to all Committee members within ten working days of the meeting and ratified by a quorate number of Committee members within five working days of the draft minutes being sent out. No decisions or actions will be enacted until the Chair signals approval of the ratified minutes.

4.16 The Committee is authorised to investigate any activity within its Terms of Reference. It is authorised to seek any relevant information it requires from any employee.

4.17 The Committee is authorised to obtain outside legal or other independent professional advice and to secure the attendance of advisers with relevant experience and expertise if it considers this necessary.

4.18 Matters for consideration by the Committee may be nominated by any member of the Committee.

4.19 The Committee shall have the delegated authority to commission, review and authorise policies that are linked to its key duties.

4.20 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 CCG’s Scheme of Delegation, are governed by terms of reference as appropriate and reflect appropriate arrangements for the management of conflicts of interest.

4.21 **Reporting.** The Governing Body of the CCG requires, that in all delegated commissioning arrangements, that the Accountable Officer of the CCG make a quarterly written report to the Governing Body, hold annual engagement events to review aims, objectives, strategy and progress, and publish within the CCG annual report progress made against objectives.

4.22 Minutes, action notes and decisions made by the Committee will be reported to the Governing Body of NHS Eastern Cheshire CCG.

4.23 **Review of Terms of Reference.** These Terms of Reference will be formally reviewed each year. The Terms of Reference may be amended at any time to reflect changes in circumstances which may arise.

5.0 **Conduct**

5.1 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.
5.2 Members of the Committee shall respect confidentiality requirements as set out in the Standing Orders unless separate confidentiality requirements are set out for the Committee in which event these shall be observed.

5.3 Individuals appointed to the Committee will comply with the group’s standard of business conduct policy including the requirements for declaring conflicts of interest. All members are required to make open and honest declarations of the interest at the commencement of each meeting or to notify the Committee Chair of any actual, potential or perceived conflict of interest in advance of the meeting.

5.4 In order to facilitate this process, “Declaration of interests” will be a standing item on all agendas and copies of the ratified minutes will be sent to the Corporate Programmes and Governance Manager for the purposes of maintaining the CCG register of interests.

5.5 All members are required to uphold the Nolan Principles and all other Code of Conduct requirements relevant to the NHS.

5.6 Attend meetings, having read all papers beforehand.

5.7 Identify agenda items to the Committee Secretariat at least ten working days before the meeting.

5.8 Submit papers for agreed agenda items at least seven working days before the meeting.

6.0 Assurance Framework

6.1 The Governing Body of NHS Eastern Cheshire CCG gains assurance that the organisation is operating within its defined parameters through the Governing Body Assurance Framework. This provides information on significant strategic risks that may affect the organisation and information on how those risks are being managed.

6.2 In order to facilitate this process, a “Risk Register” will be a standing item on the Committee agenda, where risks are identified within the Committee and evaluated and where appropriate, recorded or amended on the Committees risk register.

6.3 An updated copy of the risk register will be sent to the CCG Programme Management Office within 10 working days of a Committee meeting having been held. This will then be added to the “Corporate Risk Register” and form part of the Governing Body Assurance Framework process.
Amendment History:

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| V1.2    | 1 July 2016 | Following feedback from June 2016 Primary Care Committee, the following amendment has been made:  
- Section 3.9, bullet point 12- inclusion of Primary Medical Care in sentence ‘overseeing the undertaking of Primary Medical Care needs assessment when and where appropriate’ |