

**NHS Tees Valley CCG**  
**Primary Care Commissioning Committee**  
**Terms of Reference**  
**Effective from 1 April 2020**

**1. Statutory Framework**

- 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 these Terms of Reference to NHS Tees Valley CCG. The delegation is set out in Schedule 1
- 1.2 NHS England has delegated to the CCG authority to exercise the primary care commissioning functions in accordance with section 13Z of the NHS Act. Section 13Z of the NHS Act further provides that arrangements made under that section may be on such terms and conditions as may be agreed between NHS England and the CCG.
- 1.3 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:
- 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).
- 1.4 The CCG will also exercise the delegated functions from NHS England, in accordance with:
- Duty to have regard to impact on services in certain areas (section 13O);
  - Duty as respects variation in provision of health services (section 13P).

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

## **2. Constitution**

- 2.1 The Primary Care Commissioning Committee (the Committee) is established in accordance with the Tees Valley CCG constitution. The Committee is established as a Committee of the Governing Body. These terms of reference set out the membership, remit, responsibilities and reporting arrangements of the committee and shall have effect as if incorporated into the constitution.

## **3. Membership**

- 3.1 In line with Statutory Guidance, the Committee must be constituted to have a lay and executive majority, where lay refers to non-clinical.

The Committee shall consist of the following members:-

2 Lay Members (not the Audit Chair)  
Chief Finance Officer  
Accountable Officer  
CCG Director responsible for primary care commissioning

Registered Nurse of the Governing Body  
Secondary Care Specialist of the Governing Body

- 3.2 The roles of Committee Chair and Committee Vice-Chair must be undertaken by a lay member.
- 3.3 The following will be invited to attend meetings of the Committee. For the avoidance of doubt, these will be in-attendance and not be entitled to vote.
  - (a) Member Practice healthcare professional representative
  - (b) Representatives from Local Authorities/Health and Wellbeing Boards
  - (c) Representatives from Local HealthWatch
  - (d) One representative from Local Medical Committees
  - (e) One representative from NHS England
  - (f) Medical Director
- 3.4 The Committee may call additional experts to attend meetings on an ad hoc basis to inform discussions, and may serve in an advisory capacity only.

## **4. Voting**

- 4.1 All members of the Committee will have one vote. The Chair will have the casting vote.

## **5. Meetings**

- 5.1 The Committee shall adopt the Standing Orders of the CCG insofar as they relate to the:-
  - (a) Notice of meetings;

- (b) Handling of meetings;
- (c) Agendas;
- (d) Circulation of papers; and
- (e) Conflicts of interest

5.2 Meetings of the Committee shall, subject to the application of 5.3, be held in public.

5.3 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.

5.4 Agendas and papers for the in-Public Committee Meetings – including details about meeting dates, times and venues - will be published on the CCG's website at [www.teesvalleyccg.nhs.uk](http://www.teesvalleyccg.nhs.uk)

#### 5.5. Quorum

5.5.1 The quorum must have a lay and executive majority. No business shall be transacted at a meeting unless at least the following are present:-

- (a) Chair or Vice-Chair
- (b) CCG Accountable Officer or Chief Finance Officer
- (c) Clinical member (Registered Nurse or Secondary Care Specialist)

#### 5.6. Frequency and notice of meetings

5.6.1 The committee must consider the frequency and timing of meetings needed to allow it to discharge all of its responsibilities. A benchmark of six meetings per annum at appropriate times is suggested.

#### 5.7 Decision-making

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

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

5.7.3 Decisions will be published by the CCG.

### **6. Remit and Role of the Committee**

6.1 The Committee has been established in accordance with the statutory provisions set out in section 1 to make collective decisions on the review, planning and procurement of primary care services within the area covered by NHS Tees Valley CCG, under delegated authority from NHS England.

- 6.2 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.
- 6.3 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, except those relating to individual GP performance management, which have been reserved to NHS England. This includes the following activities:
- (a) GMS, PMS and APMS contracts, including:-
    - the design of PMS and APMS contracts;
    - monitoring of contracts;
    - taking contractual action such as issuing breach/remedial notices;
    - removing a contract;
  - (b) Directed Enhanced Services;
  - (c) Design of GP services as alternatives to the Quality Outcomes Framework [QOF];
  - (d) Approving practice mergers, boundary changes and list closures;
  - (e) Decision making on whether to establish new GP practices in an area;
  - (f) Making decisions on “discretionary” payment [eg returner/retainer schemes]
- 6.4 In addition, the Committee may also carry out the following functions:
- (a) Plan primary medical care services, including carrying out needs assessments.
  - (b) Undertake reviews of primary medical care services
  - (c) Co-ordinate a common approach to the commissioning of primary care services generally
  - (d) Manage the budget for commissioning of primary medical care services
  - (e) Premises Costs Directions Functions.
- 6.5 In performing its role the Committee will exercise its management of the functions in accordance with the agreement entered into between NHS England and the CCG, which will sit alongside the delegation and terms of reference.

## **7. Relationships and accountability**

- 7.1 The Committee is accountable to the CCG Governing Body and to NHS England.
- 7.2 The minutes of the committee meetings shall be formally recorded by the secretary and submitted to the Governing Body and to NHS England, including the minutes of any sub-committees. The Chair of the Committee shall draw to the attention of the Governing Body any issues that require disclosure to the relevant statutory body, or require executive action and will highlight any key risks and assurances.
- 7.3 The Committee will provide an executive summary report of decisions made to the Governing Body and to NHS England at the next meeting of the Governing

Body. It shall ensure through its engagement activities that the annual aims, objectives, strategy and progress are reviewed. Publish an annual report of the Committee's performance, membership and terms of reference to be submitted to the Governing Body.

## **8. Conduct of the committee**

- 8.1 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.
- 8.2 Members of the Committee shall respect confidentiality requirements as set out in the CCGs Standing Orders, unless separate confidentiality requirements are set out for the Committee, in which event these should be observed.
- 8.3 The Committee shall conduct its business in accordance with national guidance, relevant codes of practice including the Nolan Principles and the Declarations of Interest and Management of Conflict of Interest policy.
- 8.4 These Terms of Reference will be reviewed annually and may be amended at any time to reflect changes in circumstances which may arise.
- 8.5 Those individuals identified at 3.3 above may contribute to the discussion in the meeting and receive papers, unless the Chair determines that there is a conflict of interest and this would be managed in accordance with the CCG's Standards of Business Conduct and Management of Conflicts of Interest Policy.

## **9. Managing Conflicts of Interest**

- 9.1 As required by section 14O of the National Health Service Act 2006, as inserted by section 25 of the Health and Social Care Act 2012, and set out in the Group's Constitution the CCG will make arrangements to manage conflicts and potential conflicts of interest to ensure that decisions made will be taken and seen to be taken without any possibility of the influence of external or private interest.
- 9.2 Where a member or invited attendee of the Committee has an interest, or becomes aware of an interest which could lead to a conflict of interests in the event of the Committee considering an action or decision in relation to that interest, that must be considered as a potential conflict, and is subject to the provisions of the CCG processes for Standards of Business Conduct and Managing Conflicts of Interest.
- 9.3 A conflict of interest will include:
  - (a) a direct pecuniary interest: where an individual may financially benefit from the consequences of a decision;
  - (b) an indirect pecuniary interest: for example, where an individual is a partner, member or shareholder in an organisation that will benefit financially from the consequences of a decision;

- (c) a non-financial interest: where an individual holds a non-remunerative or not-for profit interest in an organisation, that will benefit from the consequences of a commissioning decision;
- (d) a non-financial personal benefit: where an individual may enjoy a qualitative benefit from the consequence of a decision which cannot be given a monetary value;
- (e) where an individual is closely related to, or in a relationship, including friendship, with an individual in the above categories.

9.4 If in doubt, the individual concerned should assume that a potential conflict of interest exists and consult the CCG's Standards of Business Conduct and Managing Conflicts of Interest Policy.

9.5. All Primary Care Commissioning Committee members are required to undertake the NHS England 'Managing Conflicts of Interest' online training.

Schedule 1: Delegation agreement

Effective from 1 April 2020

Review period - annual