NHS North Yorkshire Clinical Commissioning Group

PRIMARY CARE COMMISSIONING COMMITTEE

TERMS OF REFERENCE V1.0

A review of the Terms of Reference will take place at least annually. Any amendments will be noted in the Corporate Governance Handbook and a new amendment history will be issued with each change.

1.0 Introduction

1.1 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.

1.2 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 to the CCG.

1.3 The CCG has established the NHS North Yorkshire 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.

2.0 Statutory Framework

2.1. NHS England has delegated to the CCG authority to exercise the primary care commissioning functions set out in **Schedule 1** in accordance with section 13Z of the NHS Act.

2.2 Arrangements made under section 13Z may be on such terms and conditions (including terms as to payment) as may be agreed between NHS England and the CCG.

2.3 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).

2.4 The CCG 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.

2.5 The Committee is established as a committee of the Governing Body of the CCG in accordance with Schedule 1A of the "NHS Act".

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

3.0 Role of the Committee

3.1 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 the CCG locality, under delegated authority from NHS England.

3.2 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.

3.3 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.

3.4 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. This includes the following:

i. 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, and removing a contract);
ii. Newly designed enhanced services ("Local Enhanced Services" and "Directed Enhanced Services");
iii. Design of local incentive schemes as an alternative to the Quality Outcomes Framework (QOF);
iv. Decision making on whether to establish new GP practices in an area;
v. Approving practice mergers;

vi. Making decisions on ‘discretionary’ payment; these decisions will be in line with The General Medical Services Statement of Financial Entitlements (Amendment) Directions 2019
vii. Currently commissioned extended primary care medical services;
viii. Newly designed services to be commissioned from primary care;
ix. Approving and supporting the development of Primary Care Networks in line with NHS England Guidance;
x. The Network DES including Network Agreement, DES specifications, Network funding including Network Engagement Funding, Network Administration Payment, Workforce Reimbursement and Clinical Lead funding.

3.5 The Committee will also:

i. Plan primary [medical] care services in the CCG area (including needs assessment);
ii. Undertake reviews of primary [medical] care services in the CCG area;
iii. Maintain an overview of a common approach to the commissioning of primary care services generally. This includes having due regard to the work of the Planning and Commissioning Committee;
iv. Help manage the budget for commissioning of primary [medical] care services in the CCG area;
v. Support development of the primary care workforce.

3.6 The Committee will seek an opinion prior to reaching a decision, where appropriate, from the Finance, Performance, Contracting and Commissioning Committee on items of mutual interest to both committees and where decision making responsibility rests with the Committee.

3.7 The Committee will provide an opinion where appropriate to the Finance, Performance, Contracting and Commissioning Committee on items of mutual interest to both committees where decision making responsibility rest with the Finance, Performance, Contracting and Commissioning Committee. Examples include services commissioned from community pharmacy and community optometrists.

3.8 The Committee will receive regular assurance from various committees, sub committees and groups regarding the quality and performance of primary [medical] care services.

4.0 Geographical Coverage

4.1 The Committee will cover the area served by NHS North Yorkshire CCG.

5.0 Membership

5.1 The membership will meet the requirements of NHS North Yorkshire CCG Constitution.

5.2 The Chair of the Committee shall be a Lay member of the CCG's Governing Body.

5.3 The Vice Chair of the Committee shall be a Lay member of the CCG's Governing Body.

5.4 Membership of the Committee is determined and approved by the CCG's Governing Body and will comprise:

Voting Members

- Lay Member for Finance (Chair)
- Lay Member for Patient and Public Involvement (Vice-Chair)
- Chief Finance Officer – North Yorkshire CCGs*
- Director of Strategy and Integration – North Yorkshire CCGs*
- Chief Nurse – North Yorkshire CCGs*
- 2 Governing Body GP representatives

*nominated deputies are permitted but only with prior agreement of the Chair

In Attendance

- NHS England / NHS Improvement Representative – North East and Yorkshire
- Health Watch Representative
- Health and Wellbeing Board / Public Health Representative
- North Yorkshire Local Medical Committee Representative
- Commissioning Support Representatives
- Other Officers of the CCG

5.2 Members are required to attend scheduled meetings. Attendance will be monitored throughout the year and will be published in the Committee Annual Report. Any concerns raised with the Chair and relevant Member.

5.3 Any changes to the membership of the Committee must be approved by the CCG Governing Body.

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

6.0 Calling and Supporting Meetings

6.1 The Committee shall meet not less than 4 times per uear and on other such occasions as agreed between the Chair of the Committee and the Chair of the CCG Governing Body. The frequency of meeting should be such as to ensure

the Committee achieves its annual work-plan. A calendar of meetings will be set at the start of each business cycle for the year.

6.2 Ordinary meetings shall be held at such times and places as the CCG may determine.

6.3 The Chair may call an additional / extraordinary meeting at any time.

6.4 No business shall be transacted at the meeting other than that specified on the agenda, unless at the discretion of the Chair.

6.5 A secretariat will be identified from within the CCG and they will be responsible for supporting the Chair. This will include preparing formal minutes and archiving all reports and documentation associated with the Committee business.

6.6 Items of business for inclusion on the agenda of a meeting need to be notified to the Chair at least 10 working days before the meeting takes place.

6.7 Agendas will be agreed between the Chair and the relevant Executive Lead.

6.8 Supporting papers for agenda items must be accompanied by an agreed cover-sheet and submitted to the committee secretariat at least six working days before the meeting takes place.

6.9 The agenda and supporting papers will be circulated to all members of a meeting and agreed circulation list at least five working days before the date of the meeting.

6.10 The Strategic Lead - Primary Care will work with the secretariat to ensure the Committee is supported administratively, and will ensure the adherence to the CCG's Standing Orders, specifically in relation to:

i. Notice of Committee meetings;
ii. Operation of Committee meetings;
iii. Preparation of Committee agendas;
iv. Circulation of Committee papers; and
v. Management of conflicts of interest.

6.11 The Committee shall meet in public, save for when they resolve to exclude the public from a meeting (whether for the whole or part of the proceedings) as they determine 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.

6.12 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.

6.13 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.

7.0 Voting

7.1 Members will work collaboratively to reach decisions by consensus and agreement wherever possible. Where exceptionally this is not possible, the following arrangements will apply.

- Each Member shall have one vote.
- The Committee shall reach decisions by a simple majority of Members present, but with the Chair having a second and casting vote if necessary.

8.0 Quorum / Decision-making

8.1 The Quorum shall be five members including a minimum of one lay member present. GP members should not exceed that of Executive Directors and Lay Members combined.

8.2 If a quorum has not been reached, then the meeting may proceed if those attending agree but any record of the meeting should be clearly indicated as notes rather than formal minutes, and no decisions may be taken by the non-quorate meeting of the Committee. Matters requiring a decision in such circumstances can either be referred to the next CCG Governing Body meeting (where it is possible for the Governing Body to remain quorate for the issue to be considered) or subsequent quorate meeting of the Committee.

9.0 Reporting Arrangements

9.1 All meetings shall be formally minuted and a record kept of all reports/documents considered.

9.2 The reporting arrangements to the CCG Governing Body shall be through the submission of a written Chair's Report on the progress made and opinion of confidence provided to the next CCG Governing Body meeting. The report shall, where necessary, include details of any recommendations requiring ratification by the CCG Governing Body. The Chair's Report shall also be sent to NHS England / NHS Improvement – Yorkshire and the Humber by the NHS England representative.

9.3 Copies of the Minutes are a standing item on the CCG Governing Body and shall also be sent to NHS England and NHS Improvement – North East and Yorkshire. The Committee will provide an Annual Report to the CCG Governing Body for assurance.

9.4 The Committee will undertake a review of its own effectiveness annually.

10.0 Links and Interdependencies

10.1 The Primary Care Commissioning Committee will link, in particular, to the following forums:

- NY CCG Governing Body
- NY CCG Finance, Performance, Contracting and Commissioning Committee
- NY CCG Quality and Clinical Governance Committee
- Any Sub Committee established.

11.0 Confidentiality and Conflicts of Interest / Standards of Business Conduct

11.1 All Members are expected to adhere to the CCG Constitution and Standards of Business Conduct and Conflicts of Interest Policy.

11.2 In circumstances where a potential conflict is identified the Chair of the Committee will determine the appropriate steps to take in accordance with the CCG's Conflicts of Interest decision-making matrix. This action may include, but is not restricted to, withdrawal from the meeting for the conflicted item or remaining in the meeting but not voting on the conflicted item.

11.3 All Members shall respect confidentiality requirements as set out in the CCG Constitution.

12.0 Other provisions

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

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

12.3 These terms of reference will be formally reviewed not less than annually. NHS England may also issue revised model terms of reference from time to time.

Publications Gateway Reference 000449

Delegation by NHS England

1 April 2020

Delegation by NHS England to NHS North Yorkshire Clinical Commissioning Group

Delegation

1. In accordance with its statutory powers under section 13Z of the National Health Service Act 2006 (as amended) ("NHS Act"), NHS England has delegated the exercise of the functions specified in this Delegation to NHS North Yorkshire CCG to empower NHS North Yorkshire CCG to commission primary medical services for the people of North Yorkshire.

2. NHS England and the CCG have entered into the Delegation Agreement that sets out the detailed arrangements for how the CCG will exercise its delegated authority.

3. Even though the exercise of the functions passes to the CCG the liability for the exercise of any of its functions remains with NHS England.

4. In exercising its functions (including those delegated to it) the CCG must 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 must enable and assist NHS England to meet its corresponding duties.

Commencement

5. This Delegation, and any terms and conditions associated with the Delegation, take effect from 1 April 2020.

6. NHS England may by notice in writing delegate additional functions in respect of primary medical services to the CCG. At midnight on such date as the notice will specify, such functions will be Delegated Functions and will no longer be Reserved Functions.

Role of the CCG

7. The CCG will exercise the primary medical care commissioning functions of NHS England as set out in Schedule 1 to this Delegation and on which further detail is contained in the Delegation Agreement.

8. NHS England will exercise its functions relating to primary medical services other than the Delegated Functions set out in Schedule 1 including but not limited to those set out in Schedule 2 to this Delegation and as set out in the Delegation Agreement.

Exercise of delegated authority

9. The CCG must establish a committee to exercise its delegated functions in accordance with the CCG's constitution and the committee's terms of reference. The structure and operation of the committee must take into account guidance issued by NHS England. This committee will make the decisions on the exercise of the delegated functions.

10. The CCG may otherwise determine the arrangements for the exercise of its delegated functions, provided that they are in accordance with the statutory framework (including Schedule 1A of the NHS Act) and with the CCG's Constitution.

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

Accountability

12. The CCG must comply with the financial provisions in the Delegation Agreement and must comply with its statutory financial duties, including those under sections 223H and 223I of the NHS Act. It must also enable and assist NHS England to meet its duties under sections 223C, 223D and 223E of the NHS Act.

13. The CCG will comply with the reporting and audit requirements set out in the Delegation Agreement and the NHS Act.

14. NHS England may, at its discretion, waive non-compliance with the terms of the Delegation and/or the Delegation Agreement.

15. NHS England may, at its discretion, ratify any decision made by the CCG Committee that is outside the scope of this delegation and which it is not authorised to make. Such ratification will take the form of NHS England considering the issue and decision made by the CCG and then making its own decision. This ratification process will then make the said decision one which NHS England has made. In any event ratification shall not extend to those actions or decisions that are of themselves not capable of being delegated by NHS England to the CCG.

Variation, Revocation and Termination

16. NHS England may vary this Delegation at any time, including by revoking the existing Delegation and re-issuing by way of an amended Delegation.

17. This Delegation may be revoked at any time by NHS England. The details about revocation are set out in the Delegation Agreement.

18. The parties may terminate the Delegation in accordance with the process set out in the Delegation Agreement.

Signed by .....
Richard Barker
NHS England Regional Director, North East
for and on behalf of **NHS England**

Schedule 1 –Delegated Functions

a) decisions in relation to the commissioning, procurement and management of Primary Medical Services Contracts, including but not limited to the following activities: i) decisions in relation to Enhanced Services;
   ii) decisions in relation to Local Incentive Schemes (including the design of such schemes);
   iii) decisions in relation to the establishment of new GP practices (including branch surgeries) and closure of GP practices;
   iv) decisions about 'discretionary' payments;
   v) decisions about commissioning urgent care (including home visits as required) for out of area registered patients;

b) the approval of practice mergers;

c) planning primary medical care services in the Area, including carrying out needs assessments;

d) undertaking reviews of primary medical care services in the Area;

e) 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);

f) management of the Delegated Funds in the Area;

g) Premises Costs Directions functions;

h) co-ordinating a common approach to the commissioning of primary care services with other commissioners in the Area where appropriate; and

i) such other ancillary activities as are necessary in order to exercise the Delegated Functions.

Schedule 2- Reserved Functions

a) management of the national performers list;

b) management of the revalidation and appraisal process;

c) administration of payments in circumstances where a performer is suspended and related performers list management activities;

d) Capital Expenditure functions;

e) section 7A functions under the NHS Act;

f) functions in relation to complaints management;

g) decisions in relation to the GP Access Fund; and

h) such other ancillary activities that are necessary in order to exercise the Reserved Functions;