

| <b>Title of Meeting:</b>   | <b>Governing Body</b>   |   |                   | <b>Agenda Item: 8.3</b>   |                  |                |  |        |   |         |  |          |  |
|--|---|---|-------------------|---|------------------|----------------|--|--------|---|---------|--|----------|--|
| <b>Date of Meeting:</b>  | 29 October 2020   |   |                   | <table border="1"> <thead> <tr> <th colspan="2">Session (Tick)</th> </tr> </thead> <tbody> <tr> <td>Public</td> <td>X</td> </tr> <tr> <td>Private</td> <td></td> </tr> <tr> <td>Workshop</td> <td></td> </tr> </tbody> </table> |                  | Session (Tick) |  | Public | X | Private |  | Workshop |  |
| Session (Tick)   |   |   |                   |   |                  |                |  |        |   |         |  |          |  |
| Public   | X   |   |                   |   |                  |                |  |        |   |         |  |          |  |
| Private  |   |   |                   |   |                  |                |  |        |   |         |  |          |  |
| Workshop   |   |   |                   |   |                  |                |  |        |   |         |  |          |  |
| <b>Paper Title:</b>  | <b>Joint Committee of NHS County Durham, NHS North Yorkshire and NHS Tees Valley Clinical Commissioning Groups Terms of Reference</b> |   |                   |   |                  |                |  |        |   |         |  |          |  |
| <b>Responsible Governing Body Member Lead</b><br>Amanda Bloor, Accountable Officer<br>Dr Charles Parker, Clinical Chair  |   | <b>Report Author and Job Title</b><br>Dr Charles Parker, Clinical Chair<br>Sasha Sencier, Board Secretary |                   |   |                  |                |  |        |   |         |  |          |  |
| <b>Purpose (this paper if for)</b>   | <b>Decision</b>   |   | <b>Discussion</b> |   | <b>Assurance</b> |                |  |        |   |         |  |          |  |
|  | X   |   |                   |   |                  |                |  |        |   |         |  |          |  |
| <p><b>Has the report (or variation of it) been presented to another Committee / Meeting?</b><br/> <b>If yes, state the Committee / Meeting:</b> Yes, the terms of reference have been reviewed by the Members of the Southern CCG Joint Committee and have previously been to the Governing Body in July 2020.</p>   |   |   |                   |   |                  |                |  |        |   |         |  |          |  |
| <p><b>Executive Summary</b><br/> The draft Joint Committee of NHS County Durham, NHS North Yorkshire and NHS Tees Valley Clinical Commissioning Groups Terms of Reference were previously brought to the Governing Body for approval, however Members agreed that further detail should be included around possible financial implications.</p> <p>The Accountable Officer and Chief Finance Officer made a recommendation to the Governing Body by email for the following to be included in the terms of reference:</p> <p><i>Members of the joint committee will have early notice of any financial implications of service change and transformation of the agreed work programme areas. Enough time should be given to enable the Governing Bodies to be informed and an appropriate decision made to be bought back to the Joint Committee in a timely manner.</i></p> <p><i>The committee will need to make clear in the work plan which areas/decisions are to be delegated to it. Individual CCGs need to evaluate the financial and service impact of any decision on their population and organisation.</i></p> <p>The Governing Body agreed the above by email and the updated draft terms of reference are being presented to the Governing Body for ratification.</p> <p>The updated draft terms of reference with highlighted changes can be found at Appendix A.</p> |   |   |                   |   |                  |                |  |        |   |         |  |          |  |
| <p><b>Recommendations</b><br/> The Governing Body is asked to:</p> <ul style="list-style-type: none"> <li>• Approve the updated terms of reference for the Joint Committee.</li> <li>• Approve for the Accountable Officer to make any further minor amendments following the outcome of the other Governing Body meetings.</li> </ul>   |   |   |                   |   |                  |                |  |        |   |         |  |          |  |

|   |   |
|---|---|
| <b>Monitoring</b>   |   |
| In line with the Constitution, the Governing Body shall require, in all joint commissioning arrangements, that the lead Governing Body Member for the joint arrangements: |   |
| a) make a quarterly written report to the Governing Body;   |   |
| b) hold at least one annual engagement event to review the aims, objectives, strategy and progress of the joint commissioning arrangements; and                           |   |
| c) publish an annual report on progress made against objectives.  |   |
| <b>Any statutory / regulatory / legal / NHS Constitution implications</b>   | As detailed within the Constitution, the CCG delegates its powers to enter into joint commissioning arrangements with other CCGs to the Governing Body. |
| <b>Management of Conflicts of Interest</b>  | No conflicts of interest have been identified prior to the meeting.   |
| <b>Communication / Public &amp; Patient Engagement</b>  | Not applicable.   |
| <b>Financial / resource implications</b>  | No resource implications have been identified.  |
| <b>Significant Risks to Consider</b>  | Not applicable  |
| <b>Outcome of Impact Assessments completed</b>  | No conflicts of interest have been identified prior to the meeting.   |

**Dr Charles Parker, Clinical Chair**  
**Sasha Sencier, Board Secretary**

**Joint Committee of NHS County Durham, NHS  
North Yorkshire and NHS Tees Valley Clinical  
Commissioning Groups**

**Terms of Reference**

**1. Introduction**

The NHS Act 2006 (as amended) (“the NHS Act”) was amended in 2014 to allow Clinical Commissioning Groups (CCGs) to form joint committees. This means that two or more CCGs exercising commissioning functions jointly may form a Joint Committee. The Legislative Reform Order (“LRO”), which amended section 14Z3 (CCGs working together) of the NHS Act, was passed by Parliament and the reforms took effect from 1 October 2014. The reforms mean that CCGs will no longer find it necessary to operate work-around arrangements such as committees in common, encouraging integration and co-working.

Joint committees are a statutory mechanism, which give CCGs an additional option for undertaking collective strategic decision making.

Individual CCGs will still remain accountable for meeting their statutory duties. The aim of the LRO is to encourage the development of strong collaborative and integrated relationships and decision making between partners.

In the context of a changing NHS architecture the CCGs wish to retain a collaborative approach in the strategic commissioning of services where this impacts on a shared population base. The Joint Committee provides an appropriate governance mechanism to make shared commissioning decisions on behalf of the relevant CCGs.

**2. Purpose**

The Committee is a Joint Committee of:

- NHS County Durham CCG
- NHS North Yorkshire CCG
- NHS Tees Valley CCG

constituted for the purpose of making decisions normally delegated to the Governing Bodies where those decisions must be made together to ensure a consistent and efficient approach to the commissioning of services that meet the needs of the populations we serve. This will include arranging formal public consultation in relation to substantial service change or service reconfiguration.

There is no legal definition for a substantial service change, however, this would normally include where there is a change in the way front line services are delivered either in the range of services or geographical location. This would therefore include where a service is decommissioned.

Whilst the three CCGs remain full members of the committee, decisions that have no impact on the population served by that CCG will be reserved for the other CCG members only.

To facilitate this each report will include a cover sheet that identifies the required decision makers.

The health leaders across County Durham, North Yorkshire and Tees Valley have collectively committed to change the way certain elements of health care is provided to the local population to deliver the highest quality of care possible within the resources available. The work is designed to consistently deliver the appropriate clinical standards across the geography represented by the membership so that all people receive the highest possible care and best outcomes with more care provided within a community setting.

In undertaking such duties, the Joint Committee will also ensure compliance with the key tests for service change as established by the Department for Health:

- Strong public and patient engagement.
- Consistency with current and prospective need for patient choice.
- Clear, clinical evidence base.
- Support for proposals from commissioners.

<sup>i</sup> In addition where plans are to significantly reduce hospital beds, commissioners are required to demonstrate they can meet one of the 3 following conditions:

- Demonstrate that sufficient alternative provision, such as increased GP or community services, is being put in place alongside or ahead of bed closures, and the new workforce will be there to deliver it; and/or
- Show that specific new treatments or therapies, such as new anti-coagulation drugs used to treat strokes, will reduce specific categories of admissions; or
- Where a hospital has been using beds less efficiently than the national average, that it has a credible plan to improve performance without affecting patient care (for example in line with the Getting it Right First Time programme).

**It should be noted that where decisions impact on the populations of North Cumbria and the North East, the CCGs are party to the North East and North Cumbria Northern CCG Joint Committee, where such decisions shall be made.**

In addition, the Joint Committee will meet collaboratively with those exercising the Specialised Commissioning function of NHS England (NHS England committee or nominated individual) to ensure that integrated decisions are made in respect of the commissioning of Specialised Services and connected health services commissioned by CCGs.

### 3. Guiding principles:

- The committee membership will reflect the needs of people and place in Darlington, County Durham, Tees, Hambleton, Richmondshire and Whitby
- We will continue to develop a partnership with the people of Darlington, County Durham, Tees, Hambleton, Richmondshire and Whitby, the workforce,

voluntary, community and faith based organisations, NHS organisations and Local Authorities and as such will make all key decisions in public.

- Our health and social care system is made up of many independent and inter-dependent parts which can positively or adversely affect each other. We will develop strong working relationships with clear aims and a shared vision putting the needs of the people we serve first.
- Waste will be reduced, duplication avoided and activities stopped which have limited value in relation to services and CCG process.
- The CCGs will work collaboratively and urgently on system reform and transformation including the delivery of system efficiency.
- Costs will be reduced by better co-ordinated proactive care which keeps people well enough to need less acute, long term and institutional care. Patients who are no longer acutely unwell will be discharged promptly from hospital and cared for in their own home or an appropriate local facility.
- It is recognised that each CCG will continue to keep a strong focus on local placed based care and this will require engagement of key stakeholders such as Local Authorities and the clinical membership of the CCG.
- Proposed service changes will endeavor to fulfill the key requirements for successful delivery of service change described in NHS England's clinical services transformation guidance "Planning, assuring and delivering service change for patients" (2018), i.e. well led, well managed evidenced and patient centric.

#### 4. Role of the Joint Committee

The role of the Joint Committee is to make decisions normally delegated to the Governing Bodies where those decisions must be made together to ensure a consistent and efficient approach to the commissioning of services that meet the needs of the populations we serve. **The committee's work plan will make clear which areas/decisions are to be delegated to it.**

This may include the collaborative aspects of:

- Financial planning
- Strategic planning for the broader geography
- The commissioning, contracting and performance management of:
  - Local hospital services
  - Community Services
  - Primary care services
  - Mental Health and Learning Disability services
- Continuing Health Care, Funded Nursing Care, and other individual level commissioning arrangements e.g. S117 and other associated responsibilities.

The work of the Joint Committee will include any new delivery arrangements for acute services changes that address service vulnerabilities and issues of efficiency.

The Joint Committee will therefore continue to carry out the functions relating to making decisions about future acute service configuration and service change, undertaking formal public consultation and making decisions on the issues which are the subject of the consultation in relation to the work of the integrated care partnerships (ICPs) as they impact on the collaborating CCGs.

This includes the following key responsibilities:

- Determine the options appraisal process, including agreeing the evaluation criteria and weighting of the criteria
- Determine the method and scope of the engagement and consultation process
- Act as the formal body in relation to the public consultation with the Joint Overview and Scrutiny Committees established for it by the relevant Local Authorities
- Make any necessary decisions arising from a Pre-Consultation Business Case (and the decision to run a formal consultation process)
- Approve the Consultation Plan
- Approve the text and issues on which the views of the public are sought in the Consultation Document
- Take or arrange for all necessary steps to be taken to enable the CCGs to comply with their public sector equality duties
- Approve the formal report on the outcome of any consultation that incorporates all of the representations received in response to the consultation document in order to reach a decision
- Make decisions about future service configuration and service change, taking into account all of the information collated and representations received in relation to the consultation process. This should include consideration of any recommendations made by the relevant Programme Board(s) associated with such transformation or views expressed by the Joint Health Overview and Scrutiny Committee or any other relevant organisations. It should also include consideration of the implications of the decisions in relation to potential risk to the sustainability and viability of the Foundation Trusts.

**NB:**

In taking forward the agreed work programme areas, members of the joint committee will have early involvement with, and notice of, any proposals including financial implications of service change and transformation. This will allow for individual Governing Bodies to evaluate the financial and service impact of any decision on their population and organisation so they are able to form a view on the proposals, which their Committee representative will feed into the Joint Committee decision making discussions.

It is the responsibility of each member CCG to ensure that their Governing Body is appropriately briefed and clear on what is delegated to the Joint Committee (as per the annual work plan) and is provided with regular updates on the business of the Joint Committee so that they are clear on the implications and are able to provide a view before decisions are made. Implementation of the decisions will be the remit of each member CCG.

## 5. Membership

The Joint Committee will comprise:

- NHS County Durham CCG
- NHS North Yorkshire CCG
- NHS Tees Valley CCG

NHS England Specialised Commissioning North East and Cumbria will also participate in decisions where this is relevant through a collaborative commissioning arrangement.

## **Members**

- CCG Governing Body Chairs for the three CCGs or alternative senior clinical representative
- Accountable Officers of each of the three CCGs (or nominated deputy)
- One Lay Member representative from each of the CCGs, to cover audit, finance and patient and public involvement (total of 3 lay members))
- Executive CFO x 1
- Executive Nurse x 1
- Secondary Care Doctor x 1

## **Chairmanship**

- The Chair and Vice Chair, who will be drawn from the Chairs or Lay Members, will be elected by the members of the Joint Committee. The Chair and Vice Chair must come from the member CCGs, but both roles cannot be undertaken by members of the same CCG.

## **6. Meetings and Voting**

The Joint Committee shall adopt the standing orders of NHS Tees Valley CCG insofar as they relate to the:

- Notice of meetings
- Handling of meetings
- Agendas
- Circulation of papers
- Conflicts of interest (together with complying with the statutory guidance issued by NHS England)

### **6.1 Voting**

All decisions of the Joint Committee must be unanimous.

### **6.2 Quoracy**

A total of six members made up from the Accountable Officer (or deputy) from each CCG, together with one other full voting member from each CCG that results in at least one clinician and one Lay Member attending the meeting

### **6.3 Frequency of meetings**

The meetings will be held as required, but the aim will be to meet 2 times per year.

### **6.4 Meetings of the Joint Committee**

Meetings of the Joint Committee shall be held in public unless the Joint Committee considers that it would not be in the public interest to permit members of the public to attend a meeting or part of a meeting. Therefore, the

Joint 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.

- 6.5** Members of the Joint Committee have a collective responsibility for the operation of the Joint Committee. They will participate in discussion, review evidence and provide objective expert input to the best of their knowledge and ability, and endeavor to reach a collective view.
- 6.6** The Joint Committee may call additional experts to attend meetings on an ad-hoc basis to inform discussions.
- 6.7** The Joint Committee has the power to establish sub groups and working groups and any such groups will be accountable to the Joint Committee.
- 6.8** Members of the Joint Committee shall respect confidentiality requirements as set out in the Standing Orders referred to above unless separate confidentiality requirements are set out for the Joint Committee in which event these shall be observed.

The secretariat to the Joint Committee will:

- 6.8.1 Circulate agenda and associated documents in line with the Standing Orders of NHS Tees Valley CCG
- 6.8.2 Work in collaboration with communication and engagement leads to publicise the meeting/agenda and documents on all CCG websites
- 6.8.3 Circulate the minutes and action notes of the Joint Committee within two weeks of the meeting to all members,
- 6.8.4 Present the minutes and action notes to the Governing Bodies of the CCGs set out in Section 4 above.

## **7. Reporting to CCGs and NHS England**

The Joint Committee will make written reports to the member Governing Bodies and where necessary NHS England, and review the aims, objectives, strategy and progress. A summary of its work will be included in the CCGs' Annual Reports.

## **8. Withdrawal from the Joint Committee**

Should this joint commissioning arrangement prove to be unsatisfactory, the Governing Body of any of the member CCGs can decide to withdraw from the arrangement. This withdrawal to be on such terms as are agreed between the other CCG members of the Joint Committee and the withdrawing CCG member.

## **9. Decisions**

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

**11.2** The decisions of the Joint Committee shall be binding on all member CCGs.



**11.3** Decisions will be published by NHS County Durham CCG, NHS North Yorkshire CCG and NHS Tees Valley CCG.

**10. Conduct of the Committee and declarations of interest**

**10.1** The Committee shall conduct its business in accordance with national guidance, relevant codes of practice including the Nolan Principles and the Standards of Business Conduct and Declarations of Interest Policies of each CCG.

**10.2** If a member feels compromised by any agenda item they should declare a conflict of interest as soon as they are aware of it, ideally before the meeting. The conflict will then be considered by the Chair either prior to the meeting or at the meeting. The Chair would then determine whether the person who declared the interest should leave the meeting for the discussion and decision making, take part in the discussion but not the decision making or take part in both the discussion and the decision making of that particular agenda item. A detailed record of any declarations of interest made in relation to the items on the agenda will be recorded in the minutes of the meeting and on the declaration of interest form which will be signed by the Chair.

**10.3** A conflict of interest will include actual, perceived or potential interests of a financial, non-financial, personal and indirect nature.

**10.4** If in doubt, the individual concerned should assume that a potential conflict of interest exists and bring it to the attention of the Chair.

**11. Review of Terms of Reference**

These terms of reference will be formally reviewed by the CCGs named above on an annual basis, and may be amended by mutual agreement between the CCGs at any time to reflect changes in circumstances as they may arise.

**Approved by CCG Governing Bodies:**

**Signed** .....

**Chair:**

**Document Management:**

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<sup>i</sup> Planning, assuring and delivering service change for patients NHS England March 2018