

Commissioning Primary Medical Services Committee

Terms of Reference

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Approved by:	Governing Body
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Responsible Senior Officer:	Chief Operating Officer
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Contents

1. Constitution and Purpose
2. Authority
3. Membership
4. Arrangements for the conduct of business
5. Duties/responsibilities of the Committee
6. Reporting arrangements
7. Conduct of the Committee

NHS Calderdale Clinical Commissioning Group

Commissioning Primary Medical Services Committee

1.0 Constitution and Purpose

- 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 Calderdale CCG.
- 1.2 The Commissioning Primary Medical Services Committee (“Committee”) is established in accordance with Schedule 1A of the “NHS Act” and with NHS Calderdale Clinical Commissioning Group’s (CCG) Constitution, Standing Orders and Scheme of Reservation and Delegation.
- 1.3 The Governing Body has determined that the CPMS Committee will function as a corporate decision-making body for the management of the delegated functions and the exercise of the delegated powers.

Statutory Framework

- 1.4 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.
- 1.5 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.
- 1.6 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).

1.7 The CCG will also need to specifically, in respect of the delegated functions from NHS England, exercise those set out below:

- a) Duty to have regard to impact on services in certain areas (section 13O);
- b) Duty as respects variation in provision of health services (section 13P).

1.8 The Committee will be subject to any directions made by NHS England or by the Secretary of State.

2.0 Authority

2.1 The Committee has been established in accordance with the above statutory provisions and under delegated authority from the Governing Body to enable the members to make collective decisions on the review, planning and procurement of primary medical care services in Calderdale, under delegated authority from NHS England.

2.2 The Primary Medical Care Commissioning Committee has authority from the Governing Body to make decisions within the bounds of its remit. Specifically:

- a) Financial Plans in respect of primary medical services
- b) Procurement of primary medical services
- c) Practice payments and reimbursement
- d) Investment in practice development
- e) Contractual compliance and sanctions

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

2.4 The Commissioning Primary Medical Services Committee is authorised by the Governing Body to investigate any activity within its terms of reference. It is authorised to seek any information it requires within its remit, from any employee of Calderdale CCG or member of the Governing Body and they are directed to co-operate with any reasonable request made by the Committee.

2.5 The Committee is authorised to delegate tasks to such individuals, sub-groups, working groups or individual members as are necessary to fulfil its responsibilities within its terms of reference. The Committee may not delegate executive powers delegated to it within these terms of reference (unless expressly authorised by the Governing Body) and remains accountable for the work of any such group.

- 2.6 In order to ensure that any conflicts of interest are appropriately managed within CPMSC sub-groups, the minutes of those meetings will be submitted to the Committee detailing any conflicts and how they have been managed.
- 2.7 The Committee is authorised by the Governing Body to commission reports or surveys it deems necessary to help fulfil its obligations. In doing so, the committee must operate within the requirements of the CCG's Standing Financial Instructions and Standing Orders.
- 2.8 In exceptional cases, the Committee is authorised to obtain legal or other independent professional advice and secure the attendance of advisors with relevant expertise if it considers this is necessary. In doing so the committee must follow any procedures put in place by the Governing Body for obtaining legal or professional advice. The Governing Body is to be informed of any issues relating to such action.
- 2.9 Any such arrangements shall reflect appropriate arrangements for the management of conflicts of interest.

3.0 Membership

- 3.1 The Committee shall be established as a committee of the Governing Body and consist of:

Members

- Lay Member to the Governing Body (Chair of the Committee)
- Lay Member (Patient and Public Involvement) (Deputy Chair of the Committee)
- Chief Operating Officer
- Director of Finance
- The Secondary Care Specialist or the Registered Nurse
- Two GP Members of the Governing Body

Attendees

- A representative of Calderdale Health and Wellbeing Board as nominated by that organisation
 - A representative of Healthwatch as nominated by that organisation
 - Representative of NHS England
 - Head of Primary Care Quality and Improvement
 - Head of Contracting and Procurement
 - Chief Quality & Nursing Officer
 - Administrative support
- 3.2 Other officers may be invited to attend any or part of any meeting as and when appropriate.

4.0 Arrangements for the Conduct of Business

4.1 Meetings of the Committee shall:

- a) Be held in public, subject to the application of 23(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.

4.2 Chairing the Committee

The Chair of the Committee shall always be a lay member of the Committee. In the event of the chair of the Committee being unable to attend for all or part of the meeting, the Deputy Chair will chair the meeting/that part of the meeting.

4.3 The Deputy Chair of the Committee shall always be a lay member of the Committee.

4.4 Quoracy

4.4.1 Meetings shall be considered quorate when the following are present:

- A Lay Member
- Either the Chief Operating Officer or the Director of Finance
- Either the Secondary Care Specialist or the Registered Nurse

4.4.2 Members of the Committee may participate in meetings by telephone or by the use of video conferencing facilities where they are available and with prior approval by the Chair of the meeting or if the Chair of the meeting is not present, by the Deputy Chair of the meeting. Participation in a meeting by any of these means shall be deemed to constitute presence in person at the meeting.

4.5 Voting

Should a vote need to be taken, only the members of the committee shall be allowed to vote. In the event of a tied vote, the Chair shall have a second and casting vote.

4.6 Frequency of meetings

4.6.1 The Committee shall meet as business dictates and at least once per year.

4.6.2 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.

4.7 Urgent Decision Making

4.7.1 From time to time, **exceptional circumstances may arise, such as in the context of emergency or crisis**, which require urgent decisions to be made by the Committee that cannot wait until the next scheduled committee meeting or for a further meeting to be arranged and justify the use of emergency powers.

4.7.2 In such cases, the decision making authority delegated to the Committee may be exercised by:

- the Committee Chair **OR** Deputy Chair
and
- the Chief Operating Officer **OR** Director Finance

4.7.3 Prior to making the decision, the above will have consulted with the CCG Clinical Lead for Primary Care and/or a Calderdale Local Medical Committee representative.

4.7.4 Any decision made will be notified to the Committee within 24 hours and reported to the next Committee meeting in public.

4.8 Declarations of interest

4.8.1 Members of the Committee shall abide by the requirements of the CCG's Constitution, Standing Orders, Standing Financial Instructions and Management of Conflicts of Interest Policy.

4.8.2 Any conflicts of interest (real or potential) shall be managed in line with the CCG's Policy and Statutory Guidance on the Management of Conflicts of Interest.

4.8.3 All declarations of interest will be minuted and recorded in line with the CCG's policy on the Management of Conflicts of Interest

4.8.4 The interests of all the members of the Committee including those required attendees shall be recorded on the CCG's register(s) of interests and publicised on the CCG's website.

4.9 Administrative Support

Administrative support for the Commissioning Primary Medical Services Committee will be provided by a member of the Governance Team.

- Agreement of the agenda with the Chair and Head of Primary Care Quality and Improvement
- Circulation of agendas and supporting papers to Committee members at least ten calendar days prior to the meeting.
- Drafting of minutes for approval by the Chair within seven working days of the meeting and circulation to members of the committee and attendees for approval electronically within 21 working days of the meeting.

- Submission of the approved minutes to the Governing Body for information.
- Keeping an accurate record of attendance
- Keeping an accurate record of the management of conflicts of interest
- Matters arising and issues to be carried forward
- Maintain an on-going list of actions, specifying members responsible, due dates and keeping track of these actions
- Maintaining the annual work-plan for the Committee
- Following each committee meeting or meetings of any sub-groups to which responsibilities are delegated under paragraph 2.5, forward the approved minutes to NHS England and NHS Improvement – (NE and Yorkshire).

5.0 Duties/responsibilities of the Committee

- 5.1 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 medical care services in Calderdale, under delegated authority from NHS England.
- 5.2 In performing its role the Committee will exercise its management of the functions in accordance with the agreement entered into between NHS England and NHS Calderdale CCG, which will sit alongside the delegation and terms of reference.
- 5.3 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.
- 5.4 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.
- 5.5 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 breach/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).

5.6 The CCG will also carry out the following activities:

- a) Plan, including needs assessment, primary medical care services in Calderdale;
- b) Undertake reviews of primary medical care services in Calderdale;
- c) Co-ordinate a common approach to the commissioning of primary care services generally;
- d) Have oversight and review the financial plans for primary medical care services in Calderdale;
- e) Taking procurement decisions in respect of primary medical services. These shall be in line with statutory requirements and guidance, the CCG's Constitution and Standing Orders and the Delegation Agreement between NHS England and the CCG.

5.7 The Committee has the authority to approve policies in respect of all areas of its responsibilities.

5.8 **Governing Body Assurance Framework and Risk Management**

5.8.1 The Committee shall oversee the continued development of the Governing Body Assurance Framework in respect of the principal risks relating to those functions, responsibilities and powers delegated to the CPMS Committee.

5.8.2 The CPMS Committee has responsibility for operational risks relating to those functions, responsibilities and powers delegated to the CPMS Committee. The Committee shall:

- Review and monitor the corporate risk register in respect of the risks identified above, requesting action by accountable individuals to manage risks, as required.
- Recommend to the Governing Body, the content of the corporate risk register which relates to those risks that fall within the responsibility of the CPMSC, and are rated at 15 or above, as a true reflection of the current risk position.
- Provide the Audit Committee with assurance that risks associated with Commissioning Primary Medical Services Committee are being managed in line with the Integrated Risk Management Framework.

6.0 **Reporting**

6.1 The Committee shall receive the minutes of any sub group or working group established under paragraph 2.5.

- 6.2 The Governing Body shall receive the minutes of the Committee's formal meetings.
- 6.3 Following each committee meeting or meetings of any sub-groups to which responsibilities are delegated under paragraph 2.5, forward the approved minutes to NHS England and NHS Improvement – (NE and Yorkshire for its information).
- 6.4 Following each meeting, the Chair of the Committee shall draw to the Governing Body alongside the minutes any key decisions or issues.

7.0 Conduct of the Committee

- 7.1 All members shall have due regard to and operate within the Constitution of the CCG, standing orders, standing financial instructions and other financial procedures.
- 7.2 Members of the committee shall abide by the 'Principles of Public Life' (The Nolan Principles) and the NHS Code of Conduct.
- 7.3 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.
- 7.4 The Committee shall agree an Annual Work Plan with the Governing Body and in line with the Governing Body's Assurance Framework.
- 7.5 The Committee shall undertake an annual self-assessment of its own performance against the annual plan, membership and terms of reference. This self-assessment shall form the basis of the annual report from the Commissioning Primary Services Committee to the Audit Committee
- 7.6 The review of the terms of reference should also take account of any Directions issued by the Department of Health or NHS England and any revised model terms of reference issued by NHS England.
- 7.7 Any resulting changes to the terms of reference shall be submitted for approval by the Governing Body.

ENDS 28.01.21

Change History

V. no.	Changes applied	By	Date	Circulation
0.1	Amendment of NHS England model terms of reference to apply to Calderdale CCG	Corporate and Governance Manager	20.01.15	Chief Officer, Chair of Audit Committee, Chair, Chief Finance Officer Head of Primary Care Quality NHSE
0.2	Proposed amendment to add NHS England to 'in attendance' to allow NHSE to attend if necessary to 'advise on any technical matters'. To clarify para 8.3 '..after each meeting'.	Alison Knowles, NHSE	21.01.15	Chief Officer, Head of Primary Care Quality.
0.2	No additional changes		29.01.15	Lay Advisor
0.3	Proposed amendments, Lay Advisor to the Governing Body	Incorporated for review	04.02.15	Governing Body and SMT
1.0	FINAL	Governing Body	05.02.15	Governing Body, NHS England, website
1.1	Proposed amendments	John Mallalieu	25.03.16	
1.2	Proposed amendments	Judith Salter	12.04.16	
1.3	Proposed amendments	Judith Salter/John Mallalieu	13.04.16	CPMS Committee (21 st April 2016)
2.0	FINAL	Governing Body	09.06.16	Governing Body, website
2.1	Proposed amendment – to amend deadline for sending papers out, incorporate authority to approve policies, update responsibilities to incorporate GBAF and risk register, update requirements regarding sub-groups in line with the revised statutory guidance on management of conflicts of interest.	Judith Salter	20.01.17	CPMSC Committee
2.2	Amend 4.8 to read 10 'calendar days' Remove 6.3 – requirement to produce an 'executive summary' as the committee is meeting sufficiently regularly to have timely minutes.	CPMSC	02.2.2017	Submitted to Governing Body 6 April 2017

3.0	FINAL	Governing Body	06.04.17	Governing Body, website
3.1	Submitted to the CPMSC (development) for review	JS	01.02.18	CPMSC
3.2	Additional amendments from CPMSC and Audit Yorkshire	JS	07.03.18	CPMSC
4.0	FINAL	Governing Body	12.04.17	Governing Body, website
4.1	Proposed amendment following CPMSC review on 24.01.19	CPMSC	11.04.19	Submitted to Governing Body
5.0	FINAL	Governing Body	11.04.19	Website
5.1	Reviewed and amended	CPMSC	13.02.20	Submitted to Governing Body
6.0	FINAL	Governing Body	22.10.20	Submitted to NHSE Website
6.1	Reviewed and amended	CPMSC	21.01.21	Submitted to Governing Body
7.0	FINAL	Governing Body	28.01.20	Website