

---

**TERMS OF REFERENCE  
PRIMARY CARE COMMISSIONING COMMITTEE**

---

## Terms of Reference Document Control Sheet

MEETING	Primary Care Commissioning Committee
ESTABLISHED BY REPORTING TO:	CCG Membership
AUTHOR	Lisa Featherstone
REVIEW	July 2017
ASSOCIATED DOCUMENTS	CCG Constitution
RELATED COMMITTEES/GROUPS	Governing Body Finance, Contracting and Procurement Committee Quality and Performance Committee Clinical Cabinet Senior Management Team

Document Control	
Document Name	Primary Care Commissioning Committee Terms of Reference
File Name	
Version/Revision Number	v1.0

### Version Control

Version Ref	Amendment	Date Approved
v0.1	Draft prepared using the model Terms of reference issued by NHS England	Nov 2015
v0.2	Updated to reflect feedback from Primary Care Co-Commissioning Committee and NHS England	Jan 2016
v0.3	Amended to remove membership and in attendance terminology and updated to reflect voting and non-voting responsibilities	March 2016
v0.4	Delegation agreement added	April 2016
v0.5	submitted to Primary Care Commissioning Committee for review	May 2016
v0.6	Issued for review and approval by the CCG membership	June 2016
v1.0	Ratified by the CCG Membership through virtual consultation	June 2016

## **1.0 Introduction**

- 1.1 The Primary Care Commissioning Committee (hereafter referred to as ‘the Committee’) is established as a committee of NHS Bury CCG, in accordance with the Clinical Commissioning Group’s (CCG) Constitution, to discharge those duties delegated from NHS England in respect to the commissioning of primary [medical] care services.
- 1.2 The Committee will function as a corporate decision making body for the management of delegated functions and the exercise of delegated powers.
- 1.3 These Terms of Reference set out the Committee’s membership, its role, responsibilities and reporting arrangements and shall have effect as if incorporated into the Clinical Commissioning Group’s Constitution and Standing Orders.
- 1.4 The Committee will operate under the guiding principles of being a clinically led committee, ensuring clinical input is central to informing all discussions and decisions made by the Committee, whilst also balancing the requirements to manage conflicts of interest, which naturally occur as a consequence of the membership and remit of the Committee.

## **2.0 Constitution**

- 2.1 NHS England has delegated to the CCG authority to exercise the primary [medical] care commissioning functions set out in schedule 1, in accordance with section 13Z of the NHS Act.
- 2.2 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, 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).
- 2.3 The CCG will 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, as follows:
  - Duty to have regard to impact on services in certain areas (section 13O);
  - Duty as respects variation in provision of health services (section 13P).

- 2.4 The Committee is established as a Committee of NHS Bury CCG in accordance with Schedule 1A of the NHS Act.
- 2.5 The members acknowledge that the Committee is subject to any directions made by NHS England or by the Secretary of State.

### **3.0 Membership**

- 3.1 The Committee shall be appointed by the Governing Body of the CCG, operate in accordance with the CCG's standing orders and shall consist the following members:
- CCG Lay Member (Chair) (voting);
  - CCG Lay Member (vice chair) (voting);
  - CCG Chief Officer(voting);
  - CCG Chief Finance Officer(voting);
  - CCG Director of Commissioning and Business Delivery (voting);
  - Director of Public Health (voting);
  - CCG Nurse Lay Member – Primary Care Quality (voting);
  - Deputy Director of Primary Care (voting);
  - CCG Chair (non-voting);
  - CCG Clinical Director responsible for leading on Primary Care (non-voting);
  - NHS England operational representative (non-voting);
  - Patient Cabinet Representation(non-voting);
  - A representative from Healthwatch (non-voting); and
  - A representative from the Health and Wellbeing Board (non-voting);
  - A representative from the LMC (non-conflicted) (non-voting);
  - A representative from the LPC (non-conflicted) (non-voting);
  - A representative from the LOC (non-conflicted) (non-voting);
  - A representative from the LDC (non-conflicted) (non-voting);
- 3.2 The Chair of the Committee shall be the Lay Member with responsibility for Quality and Risk.
- 3.3 The Vice Chair of the Committee shall be the Lay Member with responsibility for Patient and Public Involvement.
- 3.4 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.
- 3.5 Each voting member of the Committee shall have one vote.
- 3.6 Deputies are permitted to attend the meeting and act on behalf of a member. This includes carrying the voting rights and counting towards the quorum of the meeting.

- 3.7 The Committee shall reach decisions by a simple majority of members present, but with the Chair of the Committee having a second and deciding vote, if necessary.
- 3.8 The Committee may call additional experts to attend meetings on an ad-hoc basis to inform discussions.
- 3.9 All members are required to act in accordance with the Nolan Principles and are expected to respect confidentiality requirements as set out in the Standing Orders of the CCG.
- 3.10 Where any member is conflicted on a particular item of business they will be required to declare the details of the conflict in advance of the meeting, or as a minimum, at the start of the meeting and in advance of the item being discussed.
- 3.11 For all conflicts of interest declared, the Chair of the Committee shall determine, in accordance with the CCG's Conflicts of Interest Policy, the management arrangements that will apply to each declaration. These management arrangements may include, but are not limited to:
- whether or not the conflicted member or colleague in attendance shall contribute to the discussion;
  - the requirement for the conflicted member or colleague in attendance to absent the meeting at the point of decision making on that item of business, even where the Committee is meeting in public;
  - with prior agreement from the Committee Chair, identification of an appropriate non-conflicted representative to attend the Committee on behalf of the conflicted member for that particular item of business.

#### **4.0 Attendance**

- 4.1 Members would normally attend meetings and it is expected that members will attend a minimum of 75% of meetings per annum barring any exceptional circumstances.
- 4.2 Should a member not be able to attend a Committee meeting, apologies in advance of the meeting must be provided to the Committee administrator and notified to the Committee Chair.
- 4.3 Deputising arrangements must be agreed in advance with the Committee Chair, and will count towards the quorum, where formal representative status is confirmed. This will be reflected within the minutes.

#### **5.0 Quorum**

- 5.1 The Committee must have a lay and executive majority.
- 5.2 The meeting will be quorate where a minimum of 9 members are present, of which 5 must be voting members, and must also include:
- the chair or vice chair of the committee;

- the Chief Officer or Chief Finance Officer; and
- the Clinical Director with responsibility for leading on Primary Care or the CCG Chair (as a representative of primary care to inform discussions).

5.3 The Chair of the Committee shall determine, in accordance with the CCG's Conflicts of Interest Policy, the management arrangements that will apply in respect of any conflicted member of the Committee as outlined at 3.11 above.

## **6.0 Governance**

6.1 The Committee shall adopt the Standing Orders of NHS Bury CCG insofar as they relate to:

- notice of meetings;
- handling of meetings;
- agendas;
- circulation of papers;
- conflicts of interest; and
- standards of business conduct.

6.2 In accordance with the arrangements set out in the CCG Constitution, and detailed at clause 8.6 of these terms of reference, the Committee is authorised to establish sub-committees and / or task and finish groups to support it in discharging its duties. Notes of any such sub-committees or groups will be presented to the meeting for information.

6.3 Where an emergency or urgent decision needs to be executed in the period between the scheduled meetings, in agreement with the chair (or in their absence the vice chair) the following will be circulated to the committee:

- the details in respect of the decision required;
- the response required and associated timescales; and
- communicate the outcome with the committee members;

6.4 Where a simple majority is not achieved through the process, the casting vote will be as 3.7 above.

6.5 All decisions will be reported to the Committee at its next meeting by the Chair (or vice chair) with a full explanation, regarding:

- what the decision was;
- why it was deemed an emergency or urgent decision (required to be made in the period between the scheduled meetings) ;
- what was the majority view of the members of the Committee; and
- how the decision was implemented.

6.6 A record of the above will form part of the minutes of the next scheduled meeting, following the emergency powers/urgent decision being made.

6.7 Secretariat support will be provided by NHS Bury CCG and will:

- give notice of the meeting;
- circulate the agenda and supporting papers to the members of the Committee in accordance with the CCG Constitution;

- ensure papers are publically available;
- circulate to all members the draft minutes and summary of actions within 10 working days of the meeting; and
- produce an executive summary report for submission to the Governing Body and NHS England for information on a bi-monthly basis.

6.8 Individual members of the Committee are responsible for ensuring minutes, actions and decisions are presented to their relevant organisation, as appropriate.

## **7.0 Frequency**

7.1 The Committee shall meet on a monthly basis initially, with a view to moving to bi-monthly meetings in the longer term.

7.2 The Chair of the Committee may arrange extraordinary meetings at their discretion.

7.3 Meetings of the Committee will, subject to the application of clause 7.4 of these Terms of Reference, be held in public.

7.4 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) in the following circumstances:

- 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 superseded from time-to-time.

7.5 The Committee may also hold a meeting in private, convened by the Chair of the Committee or as requested by one of the Committee members and supported by the Chair of the Committee, to enable matters of a confidential nature need to be discussed.

7.6 Where a private meeting is required, this will take place before the meeting in public.

## **8.0 Duties and Responsibilities**

8.1 The Committee has been established in accordance with statutory provisions as outlined within these Terms of Reference to enable the Committee to make collective decisions on the review, planning and procurement of primary [medical] care services in NHS Bury CCG, under delegated authority from NHS England.

8.2 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 Bury CCG, which will sit alongside the delegation and these terms of reference.

- 8.3 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.
- 8.4 The role of the Committee shall be to carry out the functions relating to the commissioning of primary [medical] care services under section 83 of the NHS Act, except those relating to individual GP performance management which have been reserved to NHS England, and includes:
- oversight of GMS, PMS and APMS contracts (including the design of PMS and APMS contracts, monitoring of contracts, taking contractual action such as issuing breach and / or remedial notices, and removing a contract);
  - authorisation of implementation of new enhanced services (“Local Enhanced Services”);
  - oversight of Directed Enhanced Services” applications;
  - 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;
  - decision making on approving practice mergers, retirements, resignations etc.; and
  - making decisions on ‘discretionary’ payment (e.g., returner/retainer schemes).
- 8.5 The CCG will also carry out the following activities:
- agree an annual work programme and determining priorities to inform budget and resource planning;
  - setting the strategic direction for primary [medical] care services, ensuring alignment with the Five Year Forward View, Locality Plan and the Health and Well Being Board Strategy;
  - carry out needs assessment to support and inform the development of primary [medical] care;
  - co-ordinate a common approach to the commissioning of primary [medical] care services generally;
  - oversee the implementation of a single co-ordinated strategy for primary [medical] care services in Bury;
  - strategic development and utilisation of primary care estate;
  - provide oversight of activity associated with the Prime Ministers Challenge Fund within Bury, and any Primary Care initiatives including those co-ordinated via the GP Federation;
  - manage relevant budgets and resources associated with the responsibilities of the Committee for commissioning of primary [medical] care services in NHS Bury CCG;
  - review outcomes from reviews undertaken of primary [medical] care services in NHS Bury CCG;
  - support the reduction on inequalities across primary [medical] care services to improve services for patients;
  - streamline processes, building on best practice locally and from the wider health economy where appropriate;

- in collaboration with NHS England, establish links between primary care medical services and other primary care contractor services to ensure co-ordinated primary care delivery of the CCG's strategic intentions; and
- any other matters as relevant to the remit of the Committee.

8.6 The Committee may delegate tasks to such individuals, sub-committees or individual members as it shall see fit, provided any such delegations are consistent with the parties' relevant governance arrangements, are recorded in the scheme of delegation, are governed by these term of reference as appropriate, and reflect appropriate arrangements for the management of conflicts of interest.

## **9.0 Accountabilities and Decision Making**

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

9.2 The decisions of the Committee will be binding on NHS England and NHS Bury CCG.

9.3 Decisions will be published by both NHS England and NHS Bury CCG.

9.4 For the avoidance of doubt, in the event of any conflict between the terms of the Delegation and the Terms of Reference, Standing Orders and Standing Financial Instructions of any of the members, the Delegation will prevail.

## **10.0 Reporting**

10.1 The minutes of Committee shall be formally recorded and submitted, along with a summary report of the decisions made to each formal Governing Body and to the Lancashire and Greater Manchester Area Team of NHS England.

10.2 The Committee will report to the Governing Body annually on its work programme.

10.3 The Primary Care Quality Improvement Group will report to the Primary Care Commissioning Committee.

10.4 This Committee will receive minutes and notes for any sub-committees and task and finish groups to which responsibilities are delegated under clause 8.6 above and will assure itself that conflicts of interest have been appropriately managed by these sub-committees.

## **11.0 Monitoring Compliance**

11.1 Meetings of the Committee shall be conducted in accordance with the provisions of the Constitution, Standing Orders, Scheme of Reservation and Delegation and Standing Financial Instructions as approved by the Governing Body.

11.2 The Committee shall submit an annual report to the Governing Body, incorporating progress, reporting arrangements, frequency of meetings and membership attendance.

- 11.3 The Committee will develop an annual calendar of business, and a work plan with specific objectives which will be reviewed regularly and formally on an annual basis.
- 11.4 The Committee will also review its performance on an annual basis.

## **12.0 Reviewing Terms of Reference**

- 12.1 The Terms of Reference of the Committee (including membership) shall be reviewed from time-to-time and as a minimum annually, to reflect the experience of the Committee in fulfilling its functions and the wider experiences of NHS England and CCGs in respect of primary [medical] care services co-commissioning, in accordance with the CCG's Governance arrangements and submitted to NHS England for information.

## **Schedule 1: Delegation**

- 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 that 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 Prime Minister's Challenge Fund; and
- h) such other ancillary activities as are necessary in order to exercise the Reserved Functions.