

**Report to the Somerset Primary Care Commissioning Committee Meeting on
17 September 2020**

Title: Annual Review of the Terms of Reference	Enclosure D
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Summary and Purpose of Paper –

The Terms of Reference (ToR) for the Somerset Primary Care Commissioning Committee are required to be formally reviewed annually. There have been no further internal Governance Reviews and no change of membership. There are no significant changes, only minor changes to improve accuracy and reflect job titles.

Recommendations and next steps

The Primary Care Commissioning Committee is asked to:

- **Review and agree** the Terms of Reference changes,
- **Approve** the Terms of Reference for review in another year.

Impact Assessments – key issues identified

Equality	An open and transparent approach to ensure the public and patients are sighted on topics to support a culture that promotes and encourages equality and fairness in the conduct of all CCG business.			
Quality	N/A			
Privacy	Part A meetings of the Somerset Primary Care Joint Committee are to be held in public with publication of papers beforehand. Part B of the Somerset Primary Care Joint Committee is to be held in private.			
Engagement	Any changes to the Terms of Reference will be mutually agreed between members of the Committee.			
Financial / Resource	N/A			
Governance or Legal	The CCG is required to demonstrate that appropriate recommendations are implemented and inform other Committees where appropriate of the decisions made in the Somerset Primary Care Commissioning Committee.			
Risk Description	N/A			
Risk Rating	Consequence	Likelihood	RAG Rating	GBAF Ref

Somerset Clinical Commissioning Group

Primary Care Commissioning Committee

Terms of Reference

Introduction

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.
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 specified in Schedule 2 to these Terms of Reference to Somerset CCG. The delegation is set out in Schedule 1.
3. The CCG has established the Somerset 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.
4. It is a committee comprising representatives of the following organisations:
 - Somerset CCG
 - Somerset County Council
 - Healthwatch Somerset (observer)
 - NHS England (observer)
 - Somerset Local Medical Committee (observer)

Statutory Framework

5. 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.

6. Arrangements made under section 13Z may be on such terms and conditions (including terms as to payment) as may be agreed between the Board (NHS England) and the CCG.
7. 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).
8. 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.
9. The Committee is established as a committee of the Governing Body of Somerset CCG in accordance with Schedule 1A of the "NHS Act".
10. The members acknowledge that the Committee is subject to any directions made by NHS England or by the Secretary of State.

Role of the Committee

11. The Committee is a sub-committee of the Somerset CCG's Governing Body and 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 Somerset, under delegated authority from NHS England.
12. In performing its role the Committee will exercise its management of the functions in accordance with the agreement entered into between NHS England and Somerset CCG, which will sit alongside the delegation agreement and terms of reference.
13. 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.
14. 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:
 - GMS, PMS and APMS contracts (including the design of PMS and APMS contracts, monitoring of contracts, taking contractual action such as issuing branch/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).
15. The committee will also carry out the following activities:
 - Plan, commission and deliver primary medical services for the population of Somerset

- Make primary care commissioning decisions; contribute to the development of the primary care strategy, ensuring recommendations are in line with the CCG Governing Body's Health and Care Strategy,
- Oversee the implementation and delivery of the primary care strategy and work plan
- To secure the provision of comprehensive and high quality primary medical service in Somerset
- To co-ordinate a common approach to the commissioning of primary care services generally
- To make decisions on investment on the infrastructure of primary medical services, to ensure adequate and high quality provision as well as value for money for the public.
- Undertake reviews of primary medical services in Somerset, including primary care and quality performance
- To manage the commissioning budget for primary medical services in Somerset
- Provide oversight across a number of functions, including but not limited to: Primary Care Workforce; Primary Care Premises; Primary Care Information Management and Technology (IM&T); Primary Care Networks
- Escalating issues to the CCG's Governing Body which need further discussion or decision making.

Geographical Coverage

16. The Committee will comprise of Somerset CCG, Somerset County Council with representatives from the Somerset Local Medical Committee, Healthwatch and NHS England who will undertake the function of commissioning primary medical services for Somerset.

Comment [MS1]: Addition of all organisations to reflect membersh

Membership

17. The Committee shall consist of:

Somerset CCG

- Non-Executive Director (Chair) (V)
- Non- Executive Director (Vice Chair) (V)
- Director of Finance, Performance and Contracting (V)
- Chief Operating Officer (V)
- Deputy Director of Contracts (V)
- Associate Director of Primary Care (V)
- Director of Quality and Nursing or Associate Director of Safety and Quality Improvement (V)

- GP Clinical Lead Primary Care
- GP Representative from a neighbouring CCG (V)
- Patient Representative (PPG Chairs) (V)

Somerset County Council

- Representative for Public Health (V)

In Attendance

- NHS England Head of Primary Care or nominated representative
- Somerset Local Medical Committee representative
- Somerset Healthwatch representative

18. The Chair and Vice Chair of the Committee shall be CCG Non-Executive Directors.

19. The non-voting attendees of the Committee will include a standing invitation to representatives from NHS England, the Local Medical Committee, Healthwatch and the Health and Wellbeing Board. The nominated representatives are invited to stay for the private session of the meeting, but the Chair reserves the right to exclude attendance for individual items when considered appropriate.

Meetings and Voting

20. The Committee shall adopt the relevant Standing Orders of Somerset CCG including the following:

- a) Notice of meetings;
- b) Handling of meetings;
- c) Agendas;
- d) Circulation of papers; and
- e) Management of conflicts of interest as set out in the Somerset CCG Constitution and the associated policies and procedures

21. All members or attendees at the Committee are required to declare potential or actual conflicts of interest before items are discussed. There will be a standing agenda item at the beginning of each meeting for this purpose. Even if an interest has been recorded in the register of interests, it must still be declared in meetings where matters relating to that interest are discussed. Declarations of interest will be recorded in minutes of meetings.

22. Each voting member (V) of the Committee shall have one vote. The Committee shall reach decisions by a simple majority of members present, but with the Chair having a second and deciding vote, if necessary. However, the aim of the Committee will be to achieve consensus decision-making wherever possible.

23. The Chair of the Primary Care Commissioning Committee will request the setup of panels on an ad-hoc basis to consider items which are time bound or require an urgent decision before the next scheduled committee meeting. This includes but is not limited to:

- List closure applications
- Branch Surgery Closure applications
- Breach Notices
- Contract Handbacks
- Practice Merger

24. Membership of the panel will include:

- Chair or Vice Chair of the Primary Care Commissioning Committee
- Director of Finance, Performance and Contracting or the Chief Operating Officer (or nominated representative)
- Director of Quality and Nursing (or nominated representative)
- Clinical Lead
- Deputy Director of Contracting (or nominated representative)
- Associate Director of Primary Care (or nominated representative)
- Patient Representative

Comment [MS2]: Updated to reflect title

A minimum of 5 representatives are required in order for the Panel to be quorate. This includes the Chair/Vice Chair, Deputy Director of Contracting (or nominated representative), Associate Director of Primary Care (or nominated representative) and the clinical lead.

The following organisations will be invited as an observer:

- Somerset Local Medical Committee
- Healthwatch
- NHS England
- Health and Wellbeing Board

25. The outcome and the reasons for the panel meeting will be formally reported to the next meeting of the Committee and recorded in the minutes.

Quorum

26. The Primary Care Commissioning Committee is quorate when at least five members are present, including the Chair or Vice Chair of the Primary Care Committee. There is also a minimum requirement that either the Director of Finance, Performance and Contracting, Chief Operating Officer, or the Director of Quality and Nursing is present.

Comment [MS3]: Updated to reflect job title

Frequency of meetings

27. The Committee will meet at least four times a year and may meet more frequently as required to conduct its business.

28. Meetings of the Committee shall:

a) be held in public, subject to the application of 28(b);

Comment [MS4]: Updated

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.

29. 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.

30. 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.

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

32. Members of the Committee shall respect confidentiality requirements as set out in the CCG's Standing Orders, unless separate confidentiality requirements are set out for the Committee in which event these shall be observed.

Primary Care Operational Group

33. The Primary Care Operational Group (PCOG) will act as a sub-group to this committee with Terms of Reference agreed by the Primary Care Commissioning Committee.

34. Functions undertaken by the PCOG include;

- Identifying and agreeing a work programme for recommendation to the Primary Care Commissioning Committee to aid planning, commissioning and delivery of primary medical services for the population of Somerset.
- Developing papers for the Primary Care Commissioning Committee, including options appraisals. Where appropriate, recommendations will be detailed in the papers for the Primary Care Commissioning Committee to consider.
- The group will take forward any necessary recommendations agreed by the Primary Care Commissioning Committee.
- Implementing and management of the agreed actions of the Primary Care Commissioning Committee.
- Identifying any areas of risk or difference of opinion and resolving them wherever possible.
- Ensuring that members of the Primary Care Commissioning Committee are fully briefed on issues before meetings.
- Oversight of the Assurance Framework and ensuring actions implemented as appropriate.
- Oversight of quality issues arising from primary care to ensure delivery of high quality primary care.

- Establish any Task and Finish Groups as required to progress work streams.
- The group will make decisions within the bounds of its remit. Decisions made during the meetings will be reported on through the Primary Care Update report at the Primary Care Commissioning Committee.
- Identify and discuss any areas of potential financial pressure.
- Receive, interpret and discuss primary care data, highlighting any areas of concern.

Reporting Arrangements

35. The Committee will produce executive summary report to South (South West) DCO Team of NHS England and the next appropriate Governing Body of Somerset CCG after each Committee meeting for information, including the minutes of any sub-committees to which responsibilities are delegated under paragraph 29 above.
36. There may be groups that will form part of the overall full delegation governance structure and will support the Commissioning Committee deliver its responsibilities. Terms of reference for each group will be in place and the groups will operate in accordance with existing CCG policies e.g. Conflicts of Interest.
37. The Committee will receive reports relevant to its responsibilities from any other group or working group as appropriate.
38. The CCG will also comply with any reporting requirements set out in its constitution.
39. These Terms of Reference will be reviewed on an annual basis, reflecting experience of the Committee in fulfilling its functions and the wider experience of NHS England and CCGs in primary medical services co-commissioning.

Comment [MS5]: Amended from 'present its minutes' to accurately reflect agreed arrangements

Accountability of the Committee

40. The Committee is authorised to determine matters within its remit where those matters involve expenditure up to the limit delegated to the Accountable Officer under the Scheme of Delegation, relating to expenditure within the NHS. Where the expenditure involved exceeds these sums the Committee is authorised to make representations to the Governing Body in respect of those matters. For the avoidance of doubt, in the event of any conflict between the terms of the Delegation and Terms of Reference and the Standing Orders of Standing Financial Instructions of any of the members, the Delegation will prevail.

Procurement of Agreed Services

41. The detailed arrangements regarding procurement will be set out in the delegation agreement.

Decisions

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

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

44. The Committee will produce an executive summary report which will be presented to South (South West) DCO Team of NHS England and the Governing Body of Somerset of the CCG after each meeting for information.

[Signature provisions]