

*High Weald Lewes Havens
Clinical Commissioning Group*

**PRIMARY CARE COMMISSIONING COMMITTEE
Governing Body 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 the Group. The delegation is set out in Schedule 1.
3. The Group has established the 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.

Statutory Framework

4. NHS England has delegated to the Group authority to exercise the primary care commissioning functions set out in Schedule 2 in accordance with section 13Z of the NHS Act.
5. Arrangements made under section 13Z may be on such terms and conditions (including terms as to payment) as may be agreed between the Board and the Group.
6. Arrangements made under section 13Z do not affect the liability of NHS England for the exercise of any of its functions. However, the Group 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).

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7. The Group will also need to specifically, in respect of the delegated functions from NHS England, exercise those set out below:
 - Duty to have regard to impact on services in certain areas (section 13O);
 - Duty as respects variation in provision of health services (section 13P).
8. The Committee is established as a committee of the Governing Body of the CCG in accordance with Schedule 1A of the “NHS Act”.
9. 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

10. 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 Group area, under delegated authority from NHS England.
11. 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 Group, which will sit alongside the delegation and terms of reference.
12. 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.
13. 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.
14. 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).

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15. The Committee shall ensure the effective management of the following activities:
- a) The planning, including needs assessment, for primary [medical] care services in the Group area, including the the development and retention of the primary [medical] care workforce.
 - b) Reviews of primary [medical] care services in the Group area;
 - c) The coordination of a common approach to the commissioning of primary care services generally;
 - d) The management of the budget for commissioning of primary [medical] care services in the Group area

Membership

16. The Committee shall consist of:
- Two Lay Members of the Governing Body
 - The Independent Clinician (Registered Nurse) and/or the Independent Clinician (Secondary Care Doctor) member of the Governing Body
 - Two General Practitioner members of the Governing Body
 - One Practice Manager member of the Governing Body
 - The Chief Officer (or deputy)
 - The Chief Financial Officer (or deputy)
 - The Head of Contracts (or deputy)
 - Director of Delivery and Primary Care (or deputy)
17. The Chair of the Committee shall be the lay member of the Governing body (primary care governance)
18. The Vice Chair of the Committee shall be the lay member of the Governing Body (patient and public involvement).
19. Representatives from HealthWatch, the Health and Wellbeing Board, the Local Medical Committee, and NHS England will attend in a non voting capacity

Meetings and Voting

20. The Committee will operate in accordance with the CCG's Standing Orders. The Head of Corporate Services will be responsible for giving notice of meetings. This will be accompanied by an agenda and supporting papers and sent to e. -90- member representative no later than **5** working days days before the date of meeting. 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.
21. Each member of the Committee shall have one vote, with the exception of the Head of Contracts who will be a non-voting member. The Committee shall reach

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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. Membership of the Committee enables a quorate, non-conflicted voting majority as required by the CCG Conflicts of Interest Policy, and will act in accordance with that policy.

Quorum

22. The quorum will be one lay member, one High Weald Lewes Havens GP, and one High Weald Lewes Havens CCG executive director, subject to the Conflict of Interest Policy requirement of a non-conflicted voting majority.

Frequency of meetings

23. Meetings will be held not less than 5 times per year and more frequently is necessary.
24. Meetings of the Committee shall:
- a) be held in public, subject to the application of 24(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.
25. 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.
26. 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..
27. The Committee may call additional experts to attend meetings on an ad hoc basis to inform discussions.
28. Members of the Committee shall respect confidentiality requirements as set out in the Group's Confidentiality policy.
29. The Committee will present its minutes to NHS England and the Governing Body of the Group every two months for information, including the minutes of any sub-committees to which responsibilities are delegated under paragraph 26 above.

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- 30. The Group will also comply with any reporting requirements set out in its constitution.
- 31. It is envisaged that these Terms of Reference will be reviewed from time to time, reflecting experience of the Committee in fulfilling its functions. NHS England may also issue revised model terms of reference from time to time.

Accountability of the Committee

- 32. The Committee will act within the scope of the Delegation Agreement. In the event of any conflict between the terms of the Delegation Agreement, the Committee Terms of Reference and the Group’s Constitution (inc Standing Orders or Standing Financial Instructions), the Delegation Agreement will prevail. Conflict or inconsistency must be resolved with reference to paragraph 2.3 of the Delegation Agreement.

Procurement of Agreed Services

- 33. The general obligations regarding procurement are set out in Schedule 2 Part 2 of the Delegation Agreement. The Group must comply at all times with Law and any other relevant guidance / protocol issued and updated by NHS E from time to time.

Decisions

- 34. All decisions taken by the Committee will be with consideration of relevant consultation with members of the CCG and / or public and other stakeholders, as appropriate.
- 35. The Committee will make decisions within the bounds of its remit
- 36. The decisions of the Committee shall be binding on NHS England and High Weald Lewes Havens CCG.
- 37. All decisions of made by the Committee shall be recorded and that record presented to the South East Area Team of the NHS England and the Group’s Governing Body for information.

Document control

Version	Status	Date	Owner
1.0	Ratified by Governing Body	27.06.16	
2.0	For website upload	30.08.16	
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Policy Area	Decision	Reserved to the Membership	Reserved or delegated to Governing Body	Chief Officer	Committee or Sub-Committee	Specified Individual
PRIMARY CARE COMMISSIONING	Overseeing functions relating to the commissioning of primary medical services under section 83 of the NHS Act.				✓ Primary Care Commissioning Committee (Appendix 8, para 13)	
PRIMARY CARE COMMISSIONING	Making corporate decisions for the management of those delegated functions set out in Schedule 2 in accordance with section 13Z of the NHS Act				✓ Primary Care Commissioning Committee (Appendix 8, para 10)	
PRIMARY CARE COMMISSIONING	Changes to the delegated baseline GP Primary Care budget (including GMS, Other list based services such as PMS and APMS; all enhanced services currently nationally commissioned; the application of NHS (GMS - Premises Costs) Directions and QOF)	✓			Prime Financial Policies Appendix E, para 5.4	