

# South East Staffordshire and Seisdon Peninsula CCG Primary Care Commissioning Committee Meeting in Common Terms of Reference

## INTRODUCTION

- a) 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.
- b) 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 South East Staffordshire and Seisdon Peninsula Clinical Commissioning Group meeting in common with Cannock Chase Clinical Commissioning Group and Stafford and Surrounds Clinical Commissioning Group (The CCGs). The delegation is set out in Schedule 1.
- c) The CCG has established the CCG's 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.
- d) It is a committee meeting in common comprising representatives of the following organisations:
  - Chase Clinical Commissioning Group
  - South East Staffordshire and Seisdon Peninsula Clinical Commissioning Group
  - Stafford and Surrounds Clinical Commissioning Group

## STATUTORY FRAMEWORK

- e) NHS England has delegated to the CCGs authority to exercise the primary care commissioning functions set out in Schedule 2 in accordance with section 13Z of the NHS Act.
- f) 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 CCG.
- g) 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).

- h) 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
- Duty to have regard to impact on services in certain areas (section 13O)
  - Duty as respects variation in provision of health services (section 13P)
- i) The Committee is established as a committee of the **Governing Body** of each named CCG in accordance with Schedule 1A of the “NHS Act”.
- j) 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**

- k) 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 South East Staffordshire and Seisdon Peninsula, under delegated authority from NHS England.
- l) 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 CCG, which will sit alongside the delegation and terms of reference.
- m) 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.
- n) 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.
- o) 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).
- p) The CCG will also carry out the following activities:
- a) To plan, including needs assessment, primary medical care services in South East Staffordshire and Seisdon Peninsula:
  - b) To undertake reviews of primary medical care services in South East Staffordshire and Seisdon Peninsula;
  - c) To co-ordinate a common approach to the commissioning of primary care services generally;
  - d) To manage the budget for commissioning of primary medical care services in South East Staffordshire and Seisdon Peninsula;

## **GEOGRAPHICAL COVERAGE**

- q) The Committee will comprise the South East Staffordshire and Seisdon Peninsula Clinical Commissioning Group meeting in common with Cannock Chase Clinical Commissioning Group and Stafford and Surrounds Clinical Commissioning Group (The CCGs)

## **MEMBERSHIP**

- r) The Committee shall consist of:
- Two Lay Members – South East Staffordshire and Seisdon Peninsula (SESSP) CCG
- s) As this is a meeting in common with Cannock Chase CCG and Stafford and Surrounds CCG, the Chair of the Committee shall be **Lay Member for Governance for one of the three CCGs**
- t) The Vice Chair of the Committee shall be **a Lay Member for Governance for one of the other three CCGs**
- u) **Non-voting attendees.**  
Clinical Chair - SAS CCG (or deputy)  
Clinical Chair - SESSP CCG (or deputy)  
Clinical Chair - CC CCG (or deputy)  
Chief Finance Officer (or deputy)  
Director of Primary Care (or deputy)  
Director of Corporate Governance Communications and Engagement (or deputy)  
Director of Quality and Safety (or deputy)  
Director of Transformation (or deputy)  
Representative from Local Medical Committee (LMC)  
Representative from NHS England  
HealthWatch representative  
Health and Wellbeing Board representative

All other senior managers may be invited to attend by exception, particularly when the Committee is discussing areas of risk or operation within their area of responsibility.

## **MEETINGS AND VOTING**

- v) The Committee will operate in accordance with the CCG's Standing Orders. The Secretary [**a member of the administration team**] to the Committee will be responsible for giving notice of meetings. This will be accompanied by an agenda and supporting papers and sent to each member representative no later than **five** working days before the date of the 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 as specified.
- w) Each member 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.

## **QUORUM**

The meeting shall be deemed quorate when two members are present.

## **FREQUENCY OF MEETINGS**

- x) Meetings shall be held on a monthly basis not less than ten times a year.
- y) 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.
- z) 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.
- aa) 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.
- bb) The Committee may call additional experts to attend meetings on an ad hoc basis to inform discussions.
- cc) Members of the Committee shall respect confidentiality requirements as set out in the CCG's **Constitution**.
- dd) The Committee will present its approved minutes to **North Midlands office** of NHS England and the governing body of **the** CCG each month for information, including the minutes of any sub-committees to which responsibilities are delegated under paragraph 27 above.
- ee) The CCG will also comply with any reporting requirements set out in its Constitution.
- ff) These terms of reference shall be reviewed annually

**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**

- gg) The Primary Care Commissioning Committee is a Committee of the Governing Body and is accountable for making decisions on review, planning and procurement of primary care services in South East Staffordshire and Seisdon Peninsula, under delegated authority to the CCG from NHS England.
- hh) For the avoidance of doubt, in the event of any conflict between the terms of this Scheme of Delegation (Terms of Reference) and the CCG's Standing Orders or Prime Financial Policies, the latter will prevail.

#### **PROCUREMENT OF AGREED SERVICES**

- ii) The CCG will make procurement decisions as relevant to the exercise of its delegated authority and in accordance with the detailed arrangements regarding procurement set out in the Delegation Agreement.

#### **DECISIONS**

- jj) The Committee will make decisions within the bounds of its remit.

- kk) The decisions of the Committee shall be binding on NHS England and South East Staffordshire and Seisdon Peninsula Clinical Commissioning Group.
- ll) The Committee will produce an executive summary report which will be presented to **North Midlands office** of NHS England and the governing body of South East Staffordshire and Seisdon Peninsula Clinical Commissioning Group, of the CCG each month [could be longer period] for information.

**[Signature provisions]**

## **Schedule 1 – Delegation**

1. In accordance with its statutory powers under section 13Z of the National Health Service Act 2006 (as amended) (“NHS Act”), NHS England has delegated the exercise of the functions specified in this Delegation to South East Staffordshire and Seisdon Peninsula Clinical Commissioning Group, to empower South East Staffordshire and Seisdon Peninsula Clinical Commissioning Group, to commission primary medical services for the people of **South East Staffordshire and Seisdon Peninsula**.
2. NHS England and the CCG have entered into the Delegation Agreement that sets out the detailed arrangements for how the CCG will exercise its delegated authority.
3. Even though the exercise of the functions passes to the CCG the liability for the exercise of any of its functions remains with NHS England.
4. In exercising its functions (including those delegated to it) the CCG must comply with the statutory duties set out in the NHS Act and/or any directions made by NHS England or by the Secretary of State, and must enable and assist NHS England to meet its corresponding duties.

### **Commencement**

5. This Delegation, and any terms and conditions associated with the Delegation, take effect from 1 April 2015.
6. NHS England may by notice in writing delegate additional functions in respect of primary medical services to the CCG. At midnight on such date as the notice will specify, such functions will be Delegated Functions and will no longer be Reserved Functions

### **Role of the CCG**

7. The CCG will exercise the primary medical care commissioning functions of NHS England as set out in Schedule 1 to this Delegation and on which further detail is contained in the Delegation Agreement.
8. NHS England will exercise its functions relating to primary medical services other than the Delegated Functions set out in Schedule 1 including but not limited to those set out in Schedule 2 to this Delegation and as set out in the Delegation Agreement.

### **Exercise of delegated authority**

9. The CCG must establish a committee to exercise its delegated functions in accordance with the CCG’s constitution and the committee’s terms of reference. The structure and operation of the committee must take into account guidance issued by NHS England. This committee will make the decisions on the exercise of the delegated functions.
10. The CCG may otherwise determine the arrangements for the exercise of its delegated functions, provided that they are in accordance with the statutory framework (including Schedule 1A of the NHS Act) and with the CCG’s Constitution.
11. The decisions of the CCG Committee shall be binding on NHS England and South East Staffordshire and Seisdon Peninsula Clinical Commissioning Group.

### **Accountability**

12. The CCG must comply with the financial provisions in the Delegation Agreement and must comply with its statutory financial duties, including those under sections 223H and 223I of the NHS Act. It must also enable and assist NHS England to meet its duties under sections 223C, 223D and 223E of the NHS Act.

The CCG will comply with the reporting and audit requirements set out in the Delegation Agreement and the NHS Act.

13. NHS England may, at its discretion, waive non-compliance with the terms of the Delegation and/or the Delegation Agreement.
14. NHS England may, at its discretion, ratify any decision made by the CCG Committee that is outside the scope of this delegation and which it is not authorised to make. Such ratification will take the form of NHS England considering the issue and decision made by the CCG and then making its own decision. This ratification process will then make the said decision one which NHS England has made. In any event ratification shall not extend to those actions or decisions that are of themselves not capable of being delegated by NHS England to the CCG.

**Variation, Revocation and Termination**

15. NHS England may vary this Delegation at any time, including by revoking the existing Delegation and re-issuing by way of an amended Delegation.
16. This Delegation may be revoked at any time by NHS England. The details about revocation are set out in the Delegation Agreement.
17. The parties may terminate the Delegation in accordance with the process set out in the Delegation Agreement.

**Signed by** Paul Baumann

Chief Financial Officer

for and on behalf of **NHS England**

## **Schedule 1 –Delegated Functions**

- 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 as 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 that are necessary in order to exercise the Reserved Functions;

### **Schedule 2 - List of Members as the meeting is a meeting in common we have included the full membership.**

- Lay Member for Governance (Chair) (Stafford and Surrounds CCG)
- Lay Member for Governance (Vice Chair) (Cannock Chase CCG)
- Lay Member (Cannock Chase CCG)
- Lay Member for Governance (South East Staffordshire and Seisdon Peninsula CCG)
- Lay Member for PPI (Stafford and Surrounds CCG)
- Lay Member for Finance & Performance and PPI (South East Staffordshire and Seisdon Peninsula CCG)