

## Surrey Heartlands' CCGs

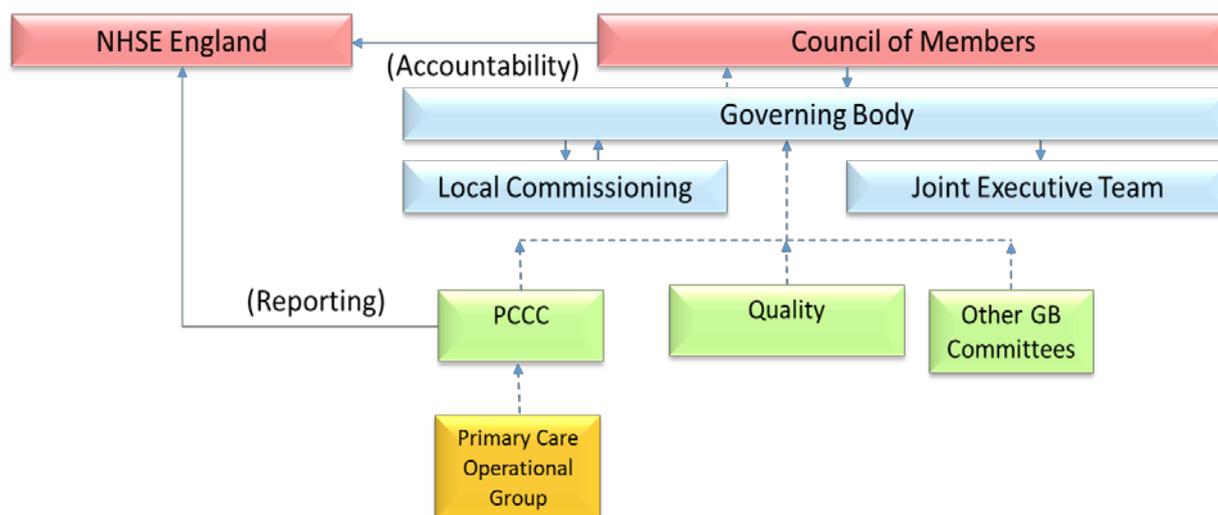
### Primary Care Commissioning Committee

#### Terms of Reference

NHS Guildford and Waverley CCG	✓
NHS North West Surrey CCG	✓
NHS Surrey Downs CCG	✓

**Last approved:** March 2019

**Next review due:** March 2020



## 1. Context

### Introduction

- 1.1. Each of the three Surrey Heartlands' Clinical Commissioning Groups' (NHS Guildford & Waverley CCG, NHS North West Surrey CCG and Surrey Downs CCG) Governing Body has resolved to establish a committee of the Governing Body known as the Primary Care Commissioning Committee (known as the PCCC or 'the Committee') in accordance with Schedule 1A of the National Health Service Act 2006 (as amended) ("the NHS Act").
- 1.2. The Committee is established in accordance with each of the CCG's constitution and, where agreed the delegation by NHS England (also known as 'the NHS

### Working together as the Surrey Heartlands Clinical Commissioning Groups

Guildford and Waverley CCG | North West Surrey CCG | Surrey Downs CCG

Commissioning Board' or the 'Board' under section 13Z of the NHS Act (set out in Schedule 1 to these terms of reference). These terms of reference set out the membership, remit, responsibilities and reporting arrangements of the Committee and shall have effect as if incorporated into the CCG's constitution.

- 1.3. The Committee will meet "in common" with one or more of the other Surrey Heartlands' CCGs. (The Committee may meet individually where there is a matter that is only relevant to the CCG.). See also Paragraph 14.

### **Statutory Framework**

- 1.4. NHS England has delegated to the CCG authority to exercise the primary care commissioning functions set out in Schedule 2 to these terms of reference 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 the Board (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:
  - management of conflicts of interest (section 140);
  - duty to promote the NHS Constitution (section 14P);
  - duty to exercise its functions effectively, efficiently and economically (section 140);
  - duty as to improvement in quality of services (section 14R);
  - duty in relation to quality of primary medical services (section 14S);
  - duties as to reducing inequalities (section 14T);
  - duty to promote the involvement of each patient (section 14U);
  - duty as to patient choice (section 14V);
  - duty as to promoting integration (section 14Z1); and
  - 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:
  - duty to have regard to impact on services in certain areas (section 130); and
  - duty as respects variation in provision of health services (section 13P).

## **2. Purpose & Objectives**

- 2.1. 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 care services in the CCG area including those provided under delegated authority from NHS England.

- 2.2. In performing its role, the Committee will, where appropriate, 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.
- 2.3. The Committee function (as a corporate decision-making body for the management of the delegated functions and the exercise of the delegated functions set out in Schedule 2 in accordance with section 13Z of the NHS Act) shall be to carry out the functions relating to the commissioning of primary medical services under section 83 of the NHS Act.
- 2.4. The Committee is subject to any directions made by NHS England or by the Secretary of State.

### **3. Accountability/ Delegated Authority**

- 3.1. The 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 from any member, officer or employee who are directed to co-operate with any request made by the Committee. The Committee is authorised by the Governing Body to obtain outside legal or other independent professional advice and to secure the attendance of other individuals with relevant experience and expertise if it considers necessary.
- 3.2. The Committee is responsible for decision-making, where agreed, of the delegated NHSE Primary Medical Services Commissioning Functions.
- 3.3. The Committee is responsible for decision-making of CCG primary care functions where delegated by the Governing Body in the Scheme of Reservation & Delegation.
- 3.4. The Committee is responsible for making recommendations to the Governing Body on CCG primary care functions reserved to the Governing Body.

### **4. Sub Committees & Delegation**

- 4.1. 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.
- 4.2. The Committee has established the following sub-committees and approved their Terms of Reference, with a remit to report and make recommendations to the Committee. These sub-committees may also meet "in common" with one or more of the Surrey Heartlands' CCGs.
  - Primary Care Operational Group

## 5. Responsibilities

5.1. The Committee will make collective decisions on the review, planning and procurement of primary care services in the CCG area including, where applicable: CCG Primary Care Commissioning functions; those services or functions that are managed under delegated authority from NHS England; and / or liaising with NHS England where these are not delegated. This includes the following activities:

- a) General Medical Services (GMS), Personal Medical Services (PMS) and Alternative Provider Medical Services (APMS) contracts (including the design of PMS and APMS contracts, monitoring of contracts, taking contractual action such as issuing breach/remedial notices, and removing contract);
- b) newly designed Locally Commissioned Services (This could include Locally Commissioned Services (LCS) offered by the CCG as an alternative/addendum to Directly Enhanced Services (DESs). By definition this would be optional; it remains a practice's right to participate in a DES and to opt to do so with or without local amendments.);
- c) design of local incentive schemes as appropriate, including the management and administration of the Quality Outcomes Framework (QOF);
- d) responsibility for the quality management of primary medical services and other locally commissioned primary care services (working closely with the Quality Committee);
- e) decision making on whether to establish new GP practices in an area, including approval and management of list dispersal;
- f) approving practice mergers; and
- g) making decisions on 'discretionary' payment (e.g. returner/retainer schemes).

5.2. The Committee will also carry out the following activities:

- a) ensuring alignment with initiatives carried out under the GP Forward View – including investment decisions and having oversight of the primary care development programme, including commissioning functions;
- b) ensuring alignment of its commissioning functions with other primary care commissioners;
- c) ensuring that the work of the Committee aligns with and enables delivery of the CCG's Strategic Commissioning Plan;
- d) planning, including needs assessment, primary medical care services in the CCG area;
- e) responsibility for engaging in the development and delivery of the CCG's

- primary care strategy;
- f) undertaking reviews of primary medical care services in CCG area;
  - g) co-ordinating a common approach to the commissioning of primary care services generally and integration with the wider health agenda;
  - h) providing oversight of the financial planning and budget management for the commissioning of primary medical care services in the CCG area;
  - i) providing an overview of the primary care workforce;
  - j) providing oversight of the management of primary care estate in line with the CCG Estates Strategy; and
  - k) providing oversight of the GP IT Steering Group in line with the Surrey-wide Digital Roadmap.
  - l) reviewing those risks on the Corporate Risk Register and Governing Body Assurance Framework which have been assigned to it and ensure that appropriate and effective mitigating actions are in place, including giving assurance to the Governing Body on risks associated with the Committee's purpose.

## 6. Membership

6.1. The membership of the committee shall consist of:

### 6.1.1. Voting Members (with nominated deputies)

The joint governance arrangements of "Meeting in Common" mean that most voting members will be members of all three Surrey Heartlands' CCGs PCCCs, as shown in the table below:

Guildford and Waverley PCCC	North West Surrey PCCC	Surrey Downs PCCC
Chair – Lay Member General		
Vice Chair – Deputy Lay Member General (PCCC)		
Lay Member Audit		
Joint Accountable Officer (nominated deputy, one of the MDs)		
Chief Finance Officer		
Director of Quality (nominated nurse deputy)		
Independent GP (x2)		
Managing Director	Managing Director	Managing Director
Patient/ Lay representative	Patient/ Lay representative	Patient/ Lay representative
Director of Public Health		
Surrey and Sussex Local Medical Committee Chief Executive		

### 6.1.2. Non-Voting Members:

The joint governance arrangements of “Meeting in Common” mean that some non-voting members will be non-voting members of all three Surrey Heartlands’ CCGs PCCCs, as shown in the table below:

<b>Guildford and Waverley PCCC</b>	<b>North West Surrey PCCC</b>	<b>Surrey Downs PCCC</b>
GP Locality Representatives	GP Locality Representatives	GP Locality Representatives
Operational Practice Manager	Operational Practice Manager	Operational Practice Manager
Representative of Surrey Healthwatch		
County Council Chair of the Health and Wellbeing Board		
NHS England representative		
Chair of the PCOG	Chair of the PCOG	Chair of the PCOG

### 6.2. Meeting Attendance

Members of the Committee should aim to attend all scheduled meetings. The Chair of the Committee will review with the Chair of the Governing Body any circumstances in which a Member’s attendance falls below 75% attendance.

## 7. Co-opted members / deputies / attendees

7.1. The Committee may not co-opt additional members.

7.2. A committee member may nominate a suitable deputy when necessary and subject to the approval of the Chair. All deputies should be fully briefed and the secretariat informed of any agreement to deputise so that quoracy can be maintained.

7.3. No person attending in one role can additionally act on behalf of another member of the Committee as their deputy.

7.4. People from a range of areas may be invited to attend based on the needs of the agenda.

7.5. Officer Attendees (or representatives) at all meetings:

- Associate Director of Primary Care Commissioning; and
- Head of Primary Care Contracts; and
- Deputy Chief Finance Officer.

7.6. Other representatives will be invited where required to support specific agenda items as follows:

- Officers of NHS England
- Officers of the Clinical Commissioning Group
- Individuals supporting the work of the Surrey Heartlands Partnership
- Other stakeholders as required

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

## **8. The Convener – (Committees in Common)**

- 8.1. Where the Committee is using the “Committees in Common” meeting approach, the participating Chairs will select from themselves a “Convener” for the meeting. All the participating committees will then agree to allow the Convener to chair the committees in common meeting<sup>1</sup>.
- 8.2. The Convener will rotate amongst the participating chairs, although there may be occasions when the business will indicate which of the chairs would be most appropriate to be the Convener.

## **9. Quorum**

- 9.1. A quorum shall be 5 voting members, to include one independent member<sup>2</sup>, one clinician<sup>3</sup>, the Joint Accountable Officer or Chief Finance Officer, and two other voting members.
- 9.2. Nominated deputies attending committee meetings, on behalf of substantive members, will count towards quorum.
- 9.3. The Convener will ask each of the participating Chairs to decide if the meeting is quorate after any actions have been taken to manage any declared conflicts of interest.
- 9.4. If a meeting is not quorate, the Convener may adjourn the meeting to permit the appointment of additional members if necessary, by exception in order to make a decision. The Committee Chair will have the final decision as to their suitability. Or the decision may be referred for Chairs’ Action (refer Para. 14.2).

## **10. Meetings**

- 10.1. Meetings shall be held not less than six times a year and have an annual rolling programme of meeting dates and agenda items.
- 10.2. The Committee will operate in accordance with the CCG's Standing Orders. The Corporate Office will be responsible for ensuring administrative support to the Committee. This will include:
- Giving notice of meetings (including, when the Chair of the Committee deems it necessary in light of the urgent circumstances, calling a meeting at short notice);

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<sup>1</sup> The position of the Chair for each Committee may be held by the same individual. Paragraph 8.1 is still applied but the outcome is obvious.

<sup>2</sup> The “Independent Member” may be a lay or independent member, the independent GP member or the LMC representative.

<sup>3</sup> The “Clinician” may be an independent GP member, the Executive Director of Quality or the LMC representative (doctor).

- Issuing an agenda and supporting papers (electronic unless paper copies have been specified) to each member and attendee no later than 5 working days before the date of the meeting;
  - Ensuring an accurate record (minutes) of the meeting.
- 10.3. The Committee will meet in public and agendas and papers will be published at least five working days in advance of the meeting except where confidential or sensitive information is likely to be disclosed. This may include:
- information given to any of the partners in confidence;
  - information about an individual that it would be a breach of the Data Protection Act to disclose; or
  - information, the disclosure of which could prejudice the commercial interests of any of the partners or third parties.
- 10.4. With the agreement of the Chair and, by exception, one or more Members of the Committee may participate in meetings virtually by using video or telephone or web link or other live and uninterrupted conferencing facilities, so long as the technology provides live and uninterrupted conferencing facilities.
- 10.5. An extra meeting of the Committee can be called at the request of the Chair.
- 10.6. Where an extra meeting needs to be scheduled, every endeavor will be made to give at least 10 working days' notice. Notification will be given by email.
- 10.7. 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
- 10.8. Bodies (Admission to Meetings) Act 1960 as amended or succeeded from time to time.
- 10.9. Non-voting people may be required to withdraw from the confidential part of the meeting
- 10.10. 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 consensus view.

## **11. Agenda Preparation**

- 11.1. The Committee will develop a forward-looking rolling Agenda programme, maintained by the Secretary.
- 11.2. The Convener will work with the Secretary on the preparation of the next meeting agenda and consult with the other participating Chairs.

## **12. Managing Conflicts of Interest**

- 12.1. The members of the Committee must comply fully with NHS England Guidance and CCG Policy regarding Conflict of Interest<sup>4</sup>.
- 12.2. The Convener is responsible for managing conflicts of interest at a meeting of the committee. If the Convener has a conflict of interest, then one of the other participating Chairs or another member of the committee is responsible for deciding the appropriate course of action.
- 12.3. At the start of the meeting, the Convener will invite members to declare if they have any conflicts of interest with the business to be conducted, including previously declared interests.
- 12.4. The Convener will decide any necessary course of action to manage a declared conflict of interest as advised by the CCG Conflict of Interest Policy.
- 12.5. Any declared conflicts of interest will be recorded in the minutes along with any action taken, in a form as advised by the CCG Conflict of Interest Policy. In summary the information recorded is
  - the name of the person noting the interest;
  - the nature of the interest and why it gives rise to the conflict;
  - the item of the agenda to which the interest related;
  - how it was agreed that the conflict should be managed; and
  - evidence that the conflict was managed as intended.

## **13. Decision-making (Committees in Common)**

- 13.1. The aim of the Committee is to achieve consensus decision-making wherever possible.
- 13.2. The Committee will normally meet using the “Committees in Common” arrangement with the other Surrey Heartlands’ CCGs. When the Convener determines a consensus has been achieved by the members present then the decision will be considered to have been made by the Committee.
- 13.3. Each voting member of the Committee shall have one vote.
- 13.4. If the Convener determines that there is no consensus or one member disputes that consensus has been achieved, a vote will be taken by the Committee members. (The other CCG Committees meeting at the same time will likewise take a vote.) The vote will be passed with a simple majority the votes of members present. In the case of an equal vote, the Chair shall have a second and casting vote.
- 13.5. The result of the vote will be recorded in the minutes and a record will also be made of the outcome of the voting for the other CCG committees.

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<sup>4</sup> The management of Conflicts of Interest is included in the Standards of Business Conduct Policy.

- 13.6. The Committee will make decisions within the bounds of its remit and such decisions shall be binding on NHS England and the CCG.
- 13.7. All decisions taken in good faith at a meeting of the Committee shall be valid even if there is any vacancy in its membership or, it is discovered subsequently, that there was a defect in the calling of the meeting, or the appointment of a member attending the meeting.
- 13.8. If a Member Practice<sup>5</sup> considers that the Committee has not followed due procedure in its decision, it may appeal against the decision to NHS England in accordance with such procedures as NHS England may set out.

#### **14. Decision-making (Single CCG Issue)**

- 14.1. On occasions, an agenda item at a CIC meeting will be considered that is pertinent to only one CCG. All members may contribute to the discussion. When a decision needs to be made, the Convener will invite committees not affected by the item to abstain from the decision-making.
- 14.2. A record of the discussion and decision need only be included in the minutes of the CCG Committee involved in the item.

#### **15. Emergency/ Chair's action**

- 15.1. The Committee will delegate responsibility for emergency powers and urgent decisions to the Chair and Vice Chair of the Committee.
- 15.2. In an emergency or for an urgent decision, the Chair (or in their absence the Vice Chair) may take action in agreement with the Accountable Officer or the Chief Finance Officer (or their deputies), together with one clinical member of the committee (i.e. three members of the Committee representing a majority of a quorate committee). This action will be reported as soon as possible to the full Committee along with the reason for Chair's action. The action and the reasons for the action will be formally reported to the next formal meeting of the Committee and recorded in the minutes.

#### **16. Accountability and Reporting**

- 16.1. The Committee is accountable to the Governing Body for the delegation detailed in Paragraphs 3.3 and 3.4.
- 16.2. The minutes of Committee meetings shall be formally recorded and submitted to the Governing Body. The Chair shall draw to the attention of the Governing Body any issues that require consideration by the full Governing Body. The minutes shall be received by the next meeting in public of the full Governing Body and published in accordance with the CCGs scheme of publication.

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<sup>5</sup> A "Member Practice" is one of the CCG Practices that is a member of the CCG as listed in the CCG Constitution.

Minutes or sections of minutes which are of a confidential nature which would not be disclosed under the Freedom of Information Act will not be made available.

- 16.3. The Committee will present its minutes to NHS England South (South East) for information, including the minutes of any sub-committees to which responsibilities are delegated.
- 16.4. Where a “Committees in Common” meeting arrangement is used, the minutes will be written as if only the Committee met. <sup>6</sup>

## **17. Secretariat**

- 17.1. The Corporate Office will ensure the provision of a Secretary to the meeting who shall attend to take minutes of the meetings and provide appropriate administrative support to the Convener, Committee Chair and Committee members.
- 17.2. The Corporate Office will be responsible for supporting the Convener in the management of the Committee’s business and for drawing the Committee’s attention to best practice, national guidance and other relevant documents as appropriate.
- 17.3. The Secretary will ensure minutes of the Committee will be formally signed off by the Committee at their next meeting and made available on the Group’s website (by inclusion in Governing Body papers), subject to FOIA exemption referred in Para. 15.2 above. Where possible, draft Minutes will be shared within 10 working days of the meeting, subject to initial approval by the Chair.

## **18. Policy and Best Practice**

- 18.1. The Committee will apply best corporate governance practice in its decision-making processes, covering a clear ethical basis to the business being considered; aligned business goals; an effective strategy incorporating stakeholder values; a well governed organisation and reporting systems to provide transparency and accountability.

## **19. Conduct of the Committee**

- 19.1. The CCG has a Standards of Business Conduct in place which defines required standards of behaviour for individuals working within this organisation, and those performing or authorising activities or advisory duties on our behalf. The Committee and its membership will conduct itself in accordance with these standards and principles.

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<sup>6</sup> The minutes will be usually written generically e.g. “The Committee agreed that” and therefore identical for all the committees meeting in common. The start of the minutes will have a Header denoting the name of each committee participating in the meeting in common.

19.2. The CCG code of conduct specifically covers an employee/member's responsibility in relation to hospitality and gifts, and has regard to:

- Professional Standards Authority: Standards for Members of NHS Boards and Clinical Commissioning Group Governing Bodies in England,
- NHS Business Services Authority: Standards of Business Conduct Procedure, and
- Nolan seven principles of public life.

## 20. Review of Terms of Reference

20.1. The Committee will self-assess its performance on an annual basis, normally starting each January, referencing its work plan to ensure that the business transacted in meetings has effectively discharged the duties as set out in the Terms of Reference.

20.2. These terms of reference will be reviewed annually by the Committee membership. Any proposed significant changes to the ToR and responsibilities will be presented to the CCG Governing Body for approval.

20.3. These Terms of Reference are based on the three CCGs that make up Surrey Heartlands. For simplicity, each CCG will use identical Terms of Reference and the numbering has been re-started.

Date	Version no.	Reviewed by	Status	Comments/ Changes since last version
06/07/18	0.1	Chairs PCCC and MDs	DRAFT	
13/07/18	0.2	NWS and GW PCCC Committee members	DRAFT	
27/07/18	1.0	Governing Bodies x3	FINAL	Approved delegated authority to work up ToR with Chair/ Executive Lead
30/8/18	1.1	PCCC Chair	DRAFT	
14/09/18	1.2	PCCC in Common	DRAFT	Approved with minor amendments noted in Minutes
26/09/18	1.2	Governing Bodies x3	DRAFT	Ratification
September 2018	2.0	Governing Bodies	FINAL	Approved
March 2018	3.0	PCCC Chair	FINAL	Minor changes following SD delegation vote
26/03/19	3.1	Governing Bodies	FINAL	Approved. Inclusion of risk in remit (5.2.1).

## 21. Schedule 1

21.1. Full Delegation Agreement (available as separate PDF).