

## HEALTH AND WELLBEING BOARD

3 NOVEMBER 2016

### ATTENDANCE BY A REPRESENTATIVE OF THE HWB AT MEETINGS OF THE NHS MEDWAY CCG PRIMARY CARE COMMISSIONING COMMITTEE

Report from: Neil Davies, Chief Executive

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#### Summary

This report invites the HWB to nominate a member to represent the Board at meetings of the NHS Medway CCG Primary Care Commissioning Committee, in a non-voting capacity. Under his delegated authority from full Council the Chief Executive will then formally arrange the appointment of the nominated Board member to attend meetings of the Committee.

#### 1. Budget and Policy Framework

1.1 The Council has been invited to appoint a member of the Health and Wellbeing Board to attend the NHS Medway CCG Primary Care Commissioning Committee in an advisory capacity. It has been suggested that the Director of Children and Adults could effectively fulfil this role on behalf of the Board.

1.2 The Chief Executive has a delegation to arrange the appointment of officers to outside bodies. (The appointment of Councillors to outside bodies is generally a matter for full Council, although the Chief Executive has a delegation to arrange the appointment of Councillors to outside bodies, in consultation with Group Whips, to fill casual vacancies and make new appointments during the year).

#### 2. Invitation from NHS Medway CCG to the HWB to attend meetings of the Primary Care Commissioning Committee

2.1 NHS England gave CCGs the opportunity to assume greater power and influence over the commissioning of primary medical care from April 2015. Primary care co-commissioning is one of a series of changes set out in the NHS Five Year Forward View. Each CCG may choose between the following three models of co-commissioning:

- Delegated commissioning arrangements where the CCG takes full responsibility for commissioning GP services, including budgets, contractual performance management and complaints.

- Joint commissioning where a CCG or group of CCGs form a committee with their NHS England team to make joint decisions about GP services.
- Greater involvement in primary care commissioning but with no decision-making functions.

2.2 NHS Medway CCG has not yet taken on co-commissioning in any of the model forms. It is however establishing a Primary Care Commissioning Committee as a demonstration of its commitment to openness and transparency in commissioning those aspects of primary care that fall within its current remit and in demonstrating compliance with the statutory guidance on managing conflicts of interest. The proposed terms of reference of the Committee are set out at Appendix 1.

The proposed membership of, and attendance at, the NHS Medway CCG Primary Care Commissioning Committee is set out in paragraphs 3 and 4 of Appendix 1 and includes an invitation for a representative of the Medway HWB to attend meetings of the Committee. It has been suggested that the Director of Children and Adults could most effectively fulfil this role given the purpose and terms of reference of the Commissioning Committee.

2.3 The HWB is asked to note that NHS England guidance, “Next Steps towards primary care co-commissioning”, published in November 2014, says that it is a matter for area teams and CCGs to agree the full membership of their Joint Committees. The guidance says that in the interests of transparency and the mitigation of conflicts of interest, a local HealthWatch representative and a local authority representative from the local HWB will have the right to attend the Joint Committee as non-voting attendees. This guidance was echoed in a letter from NHS England to local authority Chief Executives and HWB Chairmen, dated 18 December 2014. This stated that CCGs must issue a standing invitation to the local HWB to appoint representatives to attend Primary Care Commissioning Committee meetings, including where appropriate, for items where the public is excluded from a particular item or meeting for reasons of confidentiality. The letter advised that those representatives would not form part of the membership of the Committee and that whilst HWBs are under no obligation to nominate a representative, it is considered there would be significant mutual benefits from their involvement. For example, it would support alignment in decision-making across the local health and social care system.

2.4 On this basis, in order to have local arrangements that are consistent with national guidance, the HWB is advised to nominate a member of the Board to attend meetings of the Medway Primary Care Commissioning Committee as a non-voting participant. The HWB representative will need to be aware of the potential for conflicts of interest to arise and take appropriate action in each case. For example, where the CCG and NHS England are proposing any reconfigurations of primary care arrangements which might give rise to a counter-view from the local authority.

2.5 It is also recommended that the Board requests an annual report on the activities and decisions of the Primary Care Commissioning Committee to ensure that appropriate lines of accountability between the Committee and the HWB representative are in place.

### 3. Risk management

- 3.1 Risk management is an integral part of good governance. The Council has a responsibility to identify and manage threats and risks to achieve its strategic objectives and enhance the value of services it provides to the community.

| <b>Risk</b>   | <b>Description</b>  | <b>Action to avoid or mitigate risk</b>   |
|---|---|---|
| Conflicts of interest arising for the HWB representative attending the CCG Primary Care Commissioning (PCC) Committee | Conflicts of interest may arise between the role of the HWB representative attending PCC Committee meetings and their role as an elected Councillor or paid officer of the Council. For example where the Council may disagree with proposed changes to primary care provision. | The HWB representative who attends PCC Committee will be non-voting and will ensure they identify and declare any conflicts of interest arising and take appropriate action in each case. |

### 4. Financial and legal implications

- 4.1 There are no financial implications arising from this report.
- 4.2 Section 13Z of the National Health Service Act 2006 provides that NHS England's functions may be exercised jointly with a CCG and also provides that arrangements made under that section may be on such terms and conditions as may be agreed between NHS England and the CCG. NHS England South East and NHS Medway CCG have not yet formally entered into co-commissioning arrangements. However NHS Medway CCG is establishing a Commissioning Committee for those aspects of primary care that fall within its current remit.
- 4.3 Participation by a representative of the HWB, who is a Councillor, at meetings of the CCG Primary Care Commissioning Committee will not extend to committing the Council to any course of action unless this falls within the terms of reference of the HWB and has been authorised by the Board in advance. If the representative of the HWB is an officer of the Council they will be able to make commitments on behalf of the local authority only insofar as these fall within the terms of reference of the Board and any delegated authority they have from the Council and from the Leader/Cabinet.

### 5. Recommendations

- 5.1 To agree to a request for a representative of the Medway HWB to be appointed to attend meetings of the NHS Medway CCG Primary Care Commissioning Committee on a non-voting basis.
- 5.2 Subject to recommendation in 5.1 above being approved, to agree that the HWB representative nominated to attend meetings of the Committee should be the Director of Children and Adults at this stage and recommend that the Chief Executive arranges his appointment under his delegated authority to appoint officers to represent the Council at meetings of outside bodies.

5.3 To request an annual report to the Board on the activities and decisions of the Primary Care Commissioning Committee to ensure that appropriate lines of accountability between the Committee and the HWB representative are in place.

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**Appendices**

Appendix 1 - The NHS Medway CCG Primary Care Commissioning Committee  
Terms of Reference

**Background papers**

Next steps towards primary care co-commissioning – published by NHS England in  
November 2014



## Primary Care Commissioning Committee Committee of the Governing body Terms of Reference

### 1. Introduction

The Primary Care Commissioning Committee (the Committee) is established in accordance with Medway Clinical Commissioning Group's (CCG) constitution, standing orders and scheme of delegation. 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 clinical commissioning group's constitution and standing orders.

Simon Stevens, the Chief Executive of NHS England, announced on 1 May 2014 that NHS England was inviting Clinical Commissioning Groups (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. The CCG has not yet taken on co-commissioning in any of the model forms. It is however committed to openness and transparency in commissioning those aspects of primary care that fall within its current remit and in demonstrating compliance with the statutory guidance on managing conflicts of interest.

### 2. Role and Function of the Committee

The role of the Committee shall be to carry out CCG commissioning functions transparently where a potential provider of services is a Member practice

This currently includes the following activities:

- Locally Commissioned services (formerly "Local Enhanced Services");
- Community based services where local practices are a potential provider of services

CCG activities do not include the commissioning of GMS, PMS or APMS, although where NHS England is seeking a view from the CCG regarding NHS England commissioning decisions the committee will provide the forum to agree that view.

The Committee will have regard to the CCG agreed strategic plan and commissioning intentions in making any commissioning decisions.

The Committee will co-ordinate a common approach to primary care commissioning as appropriate.

### 3. Membership

The Committee will have a majority of lay and independent members and will be made up as below.

The Chair of the Committee will normally be the Lay member Patient and Public Involvement. The lay member for Governance may not be the Chair of the committee.

The 8 voting members)

- GB Lay member for PPE (to be Chair or Vice Chair);
- GB Lay member for Audit;
- One additional lay member (to be Chair or Vice Chair) – **note this post has not been established at time of writing;**
- Chief Finance Officer or deputy
- GB independent Nurse Member
- CCG Chief Nurse
- CCG Accountable Officer
- CCG Chief Operating Officer

(2 non voting members)

- GP Member of the Governing Body or their nominated deputy (non voting);
- Two Other CCG member representatives which may include a Practice Manager (non voting)

### 4. In attendance:

A standing invitation to attend will be offered to;

- A member of Local Healthwatch
- A representative of Medway Health and Wellbeing Board
- A representative from NHS England – as commissioner of primary medical services
- The Local Medical Committee

### 5. Meetings and Voting

5.1 The Committee shall adopt the Standing Orders of the CCG insofar as they relate to the:

- a) Notice of meetings;
- b) Handling of meetings;
- c) Agendas;

- d) Circulation of papers; and
- e) Handling of Conflicts of interest

Each member of the Committee shall have one vote, with the exception of GP or practice members. The Committee shall reach decisions by a simple majority of members present, but with the Chair having a second and deciding vote, if necessary.

### 5.2 Quorum

Quorum for the meeting will be at least five (5) out of eight (8) members present with a majority of lay and independent members.

### 5.3 Frequency of meetings

Frequency of meetings will be monthly.

Additional meetings may be called by the Chair of the Committee, or in the absence of the Chair by a minimum of two other members.

To call an extra meeting to those already scheduled, a minimum of 10 working days' notice must be given to the other members.

### 5.4 Meetings of the Committee:

- a) Shall, subject to the application of 4.4(b), be held in public.
- 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.

### 5.5 Operation of the Committee

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.

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

Members of the Committee shall respect confidentiality requirements as set out in the Standing Orders referred to above unless separate confidentiality requirements are set out for the joint committee in which event these shall be observed.

The secretariat to the Committee will:-

circulate the minutes and action notes of the committee within 10 working days of the meeting to all members. The minutes and action notes will be presented to the governing body of the CCG..

The Committee is empowered to set up appropriate working groups, which need not meet in public, to prepare in detail materials for the future consideration of the Committee, with the proviso that all decisions must be made in public at a full Committee meeting.

### **6. Relationship with the Governing Body**

- 6.1 The Committee will report to the Governing Body after every meeting on matters that were discussed at the Committee meetings, in private session and which relate to the duties of the Governing Body.
- 6.2 The Minutes of primary care commissioning Committee meetings will be presented at the Governing Body
- 6.3 Where the Committee minutes have not been formally signed off then the Chair of the Committee will provide a verbal update at the Governing Body and the Body will formally receive the minutes at the next Body meeting.

### **7. Policy and best practice**

- 7.1 The Committee has no executive powers other than those specified within these terms of reference or otherwise within the CCG Scheme of Delegation.
- 7.2 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 officer or employee of the CCG and all are directed to co-operate with any request made by the Committee
- 7.3 The Committee will apply best practice in making such decisions as outlined above and ensure that decisions are based on clear and transparent criteria.
- 7.4 The Committee is authorised by the Governing Body to obtain legal or other independent professional advice and to secure the attendance of persons with relevant experience and expertise from within or without the CCG as it considers necessary.

### **8. Conduct of the committee**

- 8.1 The Committee is required by statute and regulations conduct its business in accordance with national guidance, relevant codes of conduct/ good governance practice for example Nolan's seven principles of public life.
- 8.2 The Committee will undertake an annual assessment to



- Review its own performance
  - Determine whether its planned activities and responsibilities for the previous year have been sufficiently discharged
  - Recommend any changes and/or actions it considers necessary in respect of the above.
- 8.3 The Committee has been established as a means of managing potential conflicts of interest. All Committee members' declarations will be made publically available and members will be required to confirm their declaration at each meeting. Where an issue affects a specific practice, rather than all practices equally, then a conflicted member will be required to withdraw for that item.
- 8.4 Any changes required to the membership or terms of reference will be approved by the Governing Body.

**These Terms of Reference will be reviewed annually, reflecting experience of the Committee in fulfilling its functions. In the event of the CCG adopting delegated commissioning these terms of reference will require revision.**