

**NHS Northern, Eastern and Western and South Devon and Torbay  
Clinical Commissioning Groups  
Primary Care Committee  
Terms of Reference (September 2017)**

## **Constitutional Obligations**

The Clinical Commissioning Group's Governing Body/ Board hereby resolve to establish a Committee of the Governing Body/Board known as the Primary Care Committee which will meet as a Committees in Common with South Devon and Torbay CCG. The Committees in common is established in accordance with Northern, Eastern and Western Clinical Commissioning Group's Constitution, Standing Orders and Scheme of Delegation and South Devon and Torbay Clinical Commissioning Group's Constitution, Standing Orders and Scheme of Delegation.

ii. These terms of reference set out the membership, remit, responsibilities and reporting arrangements of the Primary Care Committee for NEW Devon CCG.

iii. As per the CCG's constitution, in the interest of partnership working, this Committee will operate as a 'Committees in common' with representatives from both CCG's as per each CCG constitution, the accountability and decision making of the Committee shall remain the responsibility of the individual CCG and its Governing Body.

The Primary Care Committee is a decision making committee of the NEW Devon CCG Governing Body and has the ability to execute any powers assigned to them by the Governing Body and those specifically delegated in these terms of reference and/or through 'the CCGs' constitutional scheme of delegations.

The Primary Care Committee is formally constituted by the Governing Body to make commissioning decisions, which are safe, timely, personalised, recovery focused and sustainable, which meet the needs for and on behalf of the local population within available resource.

The Primary Care Committee will:

- Act as the forum for discussion and approval for its specific functions e.g. primary care commissioning for the population of Northern, Eastern and Western (NEW) Devon CCG.
- Maintain communications and engagement with the Member Practices, Local Medical Committee and other stakeholders via the relevant CCG Locality Boards.

### **NHS organisations involved:**

Northern, Eastern and Western Devon Clinical Commissioning Group  
South Devon and Torbay Clinical Commissioning Group  
Version 1.1 September 2017

## Purpose

The National Health Service Act 2006 (as amended) (“NHS Act”) provides, at section 13Z, that NHS England’s functions may be exercised jointly with a CCG, and that functions exercised jointly in accordance with that section may be exercised by a joint committee of NHS England and the CCG. Section 13Z of the NHS Act further provides that arrangements made under that section may be on such terms and conditions as may be agreed between NHS England and the CCG.

A Joint Committee would therefore have delegated authority from the CCG Governing Body to exercise CCG functions as permitted by section 14Z9 of the NHS Act 2006 (as amended), and CCG constitution (revised June 2015).

Section 14Z9 of the NHS Act was amended by Legislative Reform Order (2014/2436) (“LRO”) to enable the joint exercise by NHS England and a CCG of any of the CCGs commissioning functions and any other functions of the CCG which are related to the exercise of those functions. Where such arrangements are made, the LRO enabled them to be exercised by a joint committee established between the parties.

It is the responsibility of the primary care committee to make recommendations to the Governing Body of each CCG on determinations about the assurances received surrounding primary care issues for each CCG

It shall support the objectives of NEWD CCG Governing Body as outlined in its Operational Plans, and provide assurances to the Governing Body and Audit and Assurance Committee that these are being met and considered.

It will promote a whole system culture of continuous improvement, ensuring that primary care commissioning sits at the heart of health and social care locally, whether provided by NHS or non-NHS providers

It will seek assurance that the CCG is fulfilling its statutory duties under the relevant Acts, and current national guidance

It will seek assurance that the commissioning strategy for the CCG fully reflects all elements of primary care commissioning, keeping in mind that the strategy and response may need to change and adapt.

It will review regular reports in public (as per forward planner) on:

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- Risk register
- Change manager(s) report
- Infrastructure report (eg. IT, Estates, MIG etc)
- NHS England Medical Contracting Overview Report
- Financial reports – NHS England & CCG
- Outcomes LMC Negotiation Meetings

It will review regular reports in private (as per forward planner) on:

- Resilience
- Contractual matters

## Responsibilities

Principal responsibilities of the Primary Care Committee include, but are not limited to:

- Determine the appropriate mechanism to commission primary care services;
- Make commissioning, de-commissioning and service change decisions in relation to Primary Care for and on behalf of the local population and in line with the CCG commissioning strategy and scheme of delegation e.g. PMS Premium reinvestment;
- Make arrangements to secure public involvement in the planning, development and consideration of proposals for changes and decisions affecting the operation of commissioning arrangements;
- Authority to establish working groups;

For clarity the scope of the Primary Care Committee is limited to the commissioning of services from primary care for areas where NEW Devon CCG alone have responsibility and authority where NHS England as the commissioner of primary care has.

## Membership

The membership of the Primary Care Committee shall be:

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**Voting Members:**

Chair: Secondary Care Doctor  
 Vice Chair: Voting member of Primary Care Committee (*\*Audit Committee Chair*)  
 Lay Member  
 Director of Assurance and Delivery NHS England  
 External Primary Care Clinician from neighbouring CCG  
 Director Public Health DCC  
 Director Public Health PCC  
 CCG Joint Director of Primary Care  
 CCG Executive  
 CCG Chief Nursing Officer

*\*NB: Where there may be occasion that the Vice Chair is the Audit Committee Chair and is required to stand as Chair, an assessment will be made by governance to ensure that there are no conflicts of interest. If there are any conflicts of interest the lay member present will be asked to Chair – this is in line with the policy guidance on joint committees for primary care co-commissioning.*  
<https://www.england.nhs.uk/commissioning/wp-content/uploads/sites/12/2015/03/policy-note-pccc.pdf>

**Non voting members:**

Finance representative CCG  
 Associate Director of Primary Care  
 GP from Governing Body  
 Healthwatch representative (Plymouth and/or Devon)

NB: Healthwatch and Health and Wellbeing Boards are under no obligation to nominate a representative, but 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.

Lay Members may request that one of the additional CCG Governing Body Lay Members or Locality Lay Members may represent them in their absence

The Committee may co-opt any non-voting Lead Clinicians, Executive or Managing Directors, nominated deputies and lead managers as appropriate.

The Committee is empowered to request any other officer employed by the CCG to attend meetings for the purpose of providing advice, clarification, recommendation or explanation in respect of any matter that falls within the responsibilities of the Committee. In this instance attendance shall be by invitation for part of the agenda where relevant to their area of accountability.

As necessary, the Committee may also require the production of any document if it relates to the business of the Committee.

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Nominated Deputies must attend on behalf of absent members.

Note: When a committee member is unable to attend, a nominated formal deputy with sufficient authority must attend in their place. Deputies will have the decision making and voting rights of the person he/she is representing.

## Quorum

A decision put to a vote at the meeting shall be determined by a majority of the votes of members present. In the case of an equal vote, the Chair of the committee shall have a second and casting vote.

If the committee Chair is absent then the members of the committee will select a chair for that meeting from the Members present – advice will be sought from the Director of Corporate Affairs or Head of Governance as the Chair needs to be representative of ‘the CCGs’ when committees are held in common and abide with NHSE Policy guidance.

A quorum shall be three of the following, one of which must be a lay member;

- The Chair or Vice Chair of the Primary Care Committee
- NEW Devon CCG Executive Lead for Primary Care
- External Primary Care Clinician from neighbouring CCG
- Either Director from Public Health (from DCC or PCC)
- Representative with appropriate authority from NHS England

When there is not an identified deputy for the External Primary Care Clinician, the External Primary Care Clinician will be requested to either send comments in writing and/or discuss with the Chair in advance of the meeting they are unable to attend.

Where agreed with the Chair, members of the Committee may participate in meetings by telephone, by the use of video conferencing facilities and/or webcam where such facilities are available. Participation in a meeting using these methods shall be deemed to constitute presence in person at the meeting.

Invited members, or those in attendance to the committee do not have the right to vote.

## Frequency of Meetings

Meetings will occur no less than six times a year and/or in line with the corporate calendar.

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The committee has agreed that in the interest of expediency or when there are few items to be discussed that business of the committee can be conducted by e-mail and the actions/decision will be recorded by the Administrator for purposes of transparency and recording. Where a discussion is required, all members must respond, and the administrator will oversee this to ensure that all members are accounted for.

Members are required to attend a minimum of four out of six meetings other than absence due to sickness Nominated Deputies must attend on behalf of absent members.

## Reporting arrangements

The Chair of the primary care committee shall report formally to the Governing Body on its proceedings after each meeting on all matters within its duties and responsibilities. The report shall be presented to the public meeting of the Governing Body. A private report will be presented in the private section of the governing body. The committee shall make recommendations to the Governing Body on any area within its remit where action or improvement is needed.

The Primary Care Committee are required to provide a quarterly report to the Audit and assurance committee for assurance monitoring.

Minutes and reports of the meetings will be produced and held by the Administrator of the Committees in Common, accessible to the Chair and the Director of Corporate Affairs. Extracts from Minutes will be made public as appropriate under the freedom of information act.

## Conduct of the Primary Care Committee Committees in Common

The primary care committee shall conduct its business in accordance with national guidance, relevant codes of practice including the Nolan Principles.

Members of the Committees in common will review their declaration of interest as presented in the papers, and the administrator will record any conflicts or updates in the minutes. Should any conflicts be presented on the day of the committee, it will be for the Chair to make a formal decision as to whether that committee member or attendee can participate in discussion, but not vote, or whether they leave the meeting for that item. If a member feels compromised by any agenda item they should declare a conflict of interest and leave for that agenda item.

The membership shall observe the highest standards of propriety involving impartiality, integrity and objectivity in relation to the stewardship of public funds and the management of the bodies concerned.

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The membership shall maximise value for money through ensuring that services are delivered in the most efficient and economical way, within available resources, and with independent validation of performance achieved wherever practicable.

The Primary Care Committee is authorised by the CCG Governing Body to obtain outside legal or other independent professional advice in line with the CCG's legal framework, and to secure the attendance of external professionals with relevant experience and expertise if it considers this necessary.

## Risk Reporting

Where timeliness is of the essence in managing a significant risk or issue, the Chair of the primary care committee will be informed of an issue by the quickest possible means (e.g. verbally) and this will be acted upon in accordance with the risk management strategy and risk escalation processes of the CCG.

The Primary Care Committee will view their risk register, in full, at least 4 times each year, and more frequently where they need to be collectively informed of progress against plans for specific risk areas. The Primary Care Committee risk register will be informed by review and escalation of risks from decision making Boards and Committees of the Governing Body through the relevant CCG Executive

## Statutory Functions, Committee Oversight and KPIs (Internal Monitoring)

The Primary Care Committee shall act in accordance with the CCGs scheme of delegation to ensure constitutional compliance, any deviation from this must be brought to the attention of the Director of Corporate Affairs.

The Committee shall report to the Governing Body on how it discharges its responsibilities.

As per NEW Devon CCG constitution, section 6 Joint Arrangements and agreements *'The CCG may enter into the following types of joint arrangements with approval by the Governing Body:*

- a) joint (collaborative) arrangements with other CCGs*
- b) joint committees in respect of designated functions as defined in an agreement under section 75 of the 2006 Act with one or more local authorities;*
- c) such other joint arrangements as may be authorised or required by statute from time to time. The CCG may enter into joint arrangements with NHS England to deliver co-commissioning of services for which NHS England – or the CCG remains*

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accountable. Examples include specialised services and primary care co-commissioning of services. [...]

The Committee will be directed by NEW Devon CCG commissioning strategies and priorities when discharging its responsibilities.

The Committee will report to the Governing Body at least annually on its work in support of the annual governance statement, this annual report should also describe how the Committee has fulfilled its duties outlined in these terms of reference.

## Administration

The Committee will be formally minuted. Agendas and papers will be available five working days before the meeting is scheduled to take place. A formal attendance and action and decisions log will be held and reported to each meeting. The Chair of the Committee shall draw to the attention of the Governing Body any issues that require disclosure to the full Governing Body, or require executive action.

### Process for Monitoring Compliance with Terms of Reference

Administrators report (attendance and action log) e.g. quoracy / frequency of meetings/review and effectiveness of meetings to be submitted to the Head of Governance following each meeting.

Five days prior to each meeting, the Administrator for the Primary Care Committee meeting will ensure that the meeting is quorate. If the meeting is not quorate the Chair must be contacted.

The Chair will escalate any urgent or critical issues, which may put at risk the people who use our service or the reputation of NHS NEW Devon CCG, to the CCG Chief Officer or CCG Clinical Chair with immediate effect. Recommendations or action plans will be reported to the appropriate forum; in the case of urgent, critical issues recommendations and action plans will be reported to the CCG Executives.

The Primary Care Committee will review the Terms of Reference annually and confirm to the Head of Governance that the Terms of Reference remain the same or that a change needs to be considered by the Governing Body.

The committee shall be supported by its Administrator – his or her duties in this respect will include:

- Agreement of agendas with the Chair and attendees;

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- Preparation, collation and circulation of papers in good time;
- Ensuring meetings are quorate five days prior to the meeting
- Taking the minutes and helping the Chair to prepare reports to the Governing Body.
- Keeping a record of matters arising and issues to be carried forward.
- Maintaining records of members appointments and renewal dates.
- Maintaining records of members register of interests
- Advising the committee on pertinent issues/areas of interest/policy developments.
- Ensuring that action points are taken forward between meetings.
- Ensuring that committee members receive the development and training they need.

Following each meeting, the Administrator will:

- Maintain an attendance log and follow up as appropriate after each meeting to ensure the Committee adheres to the required frequency of attendance by members.
- Maintain a decisions log of reporting arrangements into each formal meeting of the Committee and follow up with actions as appropriate.
- Maintain a log of summary written reports provided to Governing Body from formal meetings.

## Review

An annual effectiveness review will be undertaken by the Head of Governance as good governance practice and to ensure compliance with the annual governance statement of internal control.

**END**

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