

# **Mid Essex CCG**

## **Primary Care Commissioning Committee**

### **Terms of Reference**

#### **1. Introduction**

- 1.1 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.
- 1.2 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 NHS Castle Point and Rochford CCG. The delegation is set out in Schedule 1.
- 1.3 The CCG has established the NHS Mid Essex CCG 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.

#### **2. Statutory Framework**

- 2.1 NHS England has delegated to the CCG authority to exercise the primary care commissioning functions set out in Schedule 2 in accordance with section 13Z of the NHS Act.
- 2.2 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.
- 2.3 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).

2.4 The CCG will also need to specifically, in respect of the delegated functions from NHS England, exercise these in accordance with the relevant provisions of section 13 of the NHS Act.

2.5 The Committee is established as a committee of the Governing Body in accordance with Schedule 1A of the "NHS Act".

2.6 The members acknowledge that the Committee is subject to any directions made by NHS England or by the Secretary of State.

### **3. Role of the Committee**

3.1 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 mid Essex, under delegated authority from NHS England.

3.2 In performing its role the Committee will exercise its management of the functions in accordance with the agreement entered into between NHS England and mid Essex CCG, which will sit alongside the delegation and terms of reference.

3.3 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.

3.4 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.

3.5 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' payments (e.g., returner/retainer schemes).

3.6 The CCG will also carry out the following activities:

- Delivery of the local Primary Care Strategy, Implementation and Investment Plan. Monitoring will be undertaken via this Committee;
- Undertaking reviews of primary medical care services in mid Essex;
- Managing the budget for the commissioning of primary medical care services in mid Essex.

#### **4. Geographical Coverage**

4.1 The Committee will comprise the mid Essex CCG area.

#### **5. Membership**

5.1 The Committee's membership shall consist of:

- Lay Member, Patient and Public Involvement (Chair)
- Second Lay Member (Deputy Chair)
- Senior Responsible Officer for Primary Care or nominated deputy
- NHS Alliance Director or nominated deputy
- Chief Finance Officer or nominated deputy
- Chief Nurse or nominated deputy

5.2 In addition, the following individuals may be in attendance:

- NHS England Representative
- Essex Health and Wellbeing Board Representative
- Essex Healthwatch Representative
- North Essex Local Medical Committee Representative
- Up to 2 GP Governing Body Members (subject to provisions of conflicts of interest)

5.3 The Chair of the Committee shall be the Lay Member for Patient and Public Involvement, who will have been appointed following the CCG appointment process.

5.4 The Deputy Chair of the Committee shall be Lay member for Governance, who will have been appointed following the CCG appointment process.

#### **6. Meetings and Voting**

6.1 The Committee will operate in accordance with the CCG's Standing Orders. The Clerk 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 7 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 such as s/he shall specify.

6.2 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.

## **7. Emergency Decisions**

7.1 Should there be a requirement to make decisions between meetings the following process should be followed:

- Full details of the decision required will be set out in a clear proposal with rationale as to why an urgent decision is needed
- Proposal will be submitted via e-mail to Committee members
- Minimum support required from a majority of members of the Committee including the Chair (or alternative lay member should the Chair not be available). If there is a financial implication, support will be needed from the Chief Finance Officer (or senior finance manager should the Chief Finance Officer not be available)
- Report of the decision made presented to next scheduled meeting for endorsement.

## **8. Quorum**

8.1 The Committee will be quorate with four members present, at least one of which must be the Chair or Deputy Chair.

8.2 In the event that a scheduled meeting is not quorate then the meeting shall stand adjourned until a future date but any urgent matters may, with the agreement of the chair, be referred to the procedure for emergency decisions set out above.

8.3 The aim of the committee will be to reach decisions by discussion and agreement. But where necessary the chair may determine that a vote should be taken. 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 of the meeting having a second and deciding vote, if necessary.

## **9. Frequency of meetings**

9.1 The Committee will meet at least six times a year on dates to be agreed by the Committee.

9.2 Meetings of the Committee shall:

- a) be held in public, subject to the application of 29(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.

- 9.3 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.
- 9.4 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.
- 9.5 The Committee may call additional experts to attend meetings on an ad hoc basis to inform discussions.
- 9.6 Members of the Committee shall respect confidentiality requirements as set out in the CCG's Standing Orders referred to above unless separate confidentiality requirements are set out for the committee in which event these shall be observed.
- 9.7 The Committee will present its minutes to NHS England/NHS Improvement - East and the governing body of Mid Essex CCG each month for information, including the minutes of any sub-committees to which responsibilities are delegated under paragraph 9.4 above.
- 9.8 The CCG will also comply with any reporting requirements set out in its constitution.
- 9.9 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.

## **10. Management of Conflicts of Interest**

- 10.1 Members of the Committee will be required to declare any relevant interests to the CCG in accordance with the CCG's Conflicts of Interest Policy.
- 10.2 A register of Committee members' interests and CCG staff and staff from other organisations/Auditors who regularly attend Committee meetings will be produced for each meeting. Committee members will be required to declare interests relevant to agenda items as soon as they are aware of an actual or potential conflict so that the Committee Chair can decide on the necessary action to manage the interest in accordance with the Conflicts of Interest Policy

## **11. Accountability of the Committee**

- 11.1 The Committee has delegated authority to approve primary care spend within the parameters of the Primary Care allocation as agreed by the governing body in line with the CCG Scheme of Delegation.
- 11.2 For the avoidance of doubt, in the event of any conflict between the terms of the Scheme of Delegation and Terms of Reference and the Standing Orders or Standing Financial Instructions of any of the members, the Scheme of Delegation will prevail.

## **12. Procurement of Agreed Services**

- 12.1 The CCG will make procurement decisions relevant to the exercise of the Delegated Functions and in accordance with the procurement protocol issued and updated by NHS England from time to time.

## **13. Decisions**

- 13.1 The Committee will make decisions within the bounds of its remit.
- 13.2 The decisions of the Committee shall be binding on NHS England and NHS Mid Essex CCG.
- 13.3 The Committee will produce an executive summary report which will be presented to NHS England/NHS Improvement - East and the governing body of NHS Mid Essex CCG annually for information.

## **14 Review of Terms of Reference**

- 14.1 These terms of reference were approved for use from April 1<sup>st</sup> 2021 and will be formally reviewed by the committee on an annual basis, but may be amended at any time.
- 14.2 Any proposed amendments to the terms of reference will be submitted to the Governing Body for approval. Changes will not be implemented until after an application to NHS England to vary the constitution has been agreed.
- 14.3 A record of the date and outcome of reviews is kept in the CCG governance handbook.