

Next steps towards primary care co-commissioning: Annex D

Model terms of reference for joint commissioning arrangements including scheme of delegation

November 2014



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Introduction

1. 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. One option available was that NHS England and CCGs would jointly commission primary medical services.
2. The NHS England and Slough CCG joint commissioning committee is a joint committee with the primary purpose of jointly commissioning primary medical services for the people of Slough.

Statutory Framework

3. 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.
4. As permitted by section 14Z9 of the NHS Act 2006 (as amended) Slough CCG will delegate the following statutory functions to the joint committee:
 - Management of Locally Commissioned Services (formally known as LESS)
 - a. Value: 14/15 budget of £151,000
 - Management of any PMS Premium funds released through the PMS review
 - a. Value: tbc

Role of the Joint Committee

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5. The role of the Joint Committee shall be to carry out the functions relating to the commissioning of primary medical services under section 83 of the NHS Act except those relating to individual GP performance management, which have been reserved to NHS England.
6. This includes the following activities:
 - 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).
7. In performing its role the Joint Committee will exercise its management of the functions in accordance with the agreement entered into between NHS England and Slough CCG, which will sit alongside the delegation and terms of reference.
8. There is a requirement for the CCG Governing Body to engage with the Primary Care Commissioning Joint Committee on all key strategic areas that have an impact on Primary Care

Geographical coverage

9. The Joint Committee will comprise NHS England Thames Valley Area Team, and the Slough CCG. It will undertake the function of jointly commissioning primary medical services for Slough CCG.

Membership

10. The Joint Committee shall consist of:
 - a) Voting Membership

Area Team

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- NHSE Local Team Director (or Deputy)
- NHSE Head of Primary Care / Primary Care Programme Manager (or Deputy)

CCG

- Accountable Officer (can be deputised by Executive Director)
- Lay Representative for Governance (or deputy: lay representative for patient engagement) from CCG Board

b) The membership will meet the requirements of Slough CCG's constitution.

11. The Chair of the Joint Committee shall be the **CCG Accountable Officer** of the Slough

12. The Vice Chair of the Joint Committee shall be the Director (or Deputy) of the **NHSE Local Team**.

13. Non voting attendees will be:

- Representative from the local HealthWatch
- Representative from the local Health and Wellbeing Board
- 2 x CCG GP Director
- Patient Representative
- Director of Finance (or Deputy)
- CCG Head of Operations (or Deputy)
- CCG Governing Body Executive Nurse or Deputy

The Chair will indicate when attendees are required to leave the room at decision points.

14. Other attendees will be invited to support discussions as defined by the items on the agenda including finance support, LMC representation and other subject matter experts

Meetings and Voting

15. The Joint Committee shall adopt the Standing Orders of Slough CCG insofar as they relate to the:

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

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d) Circulation of papers; and

e) Conflicts of interest

16. Each member of the Joint Committee shall have one vote. The Joint Committee shall reach decisions by a simple majority of members present; however

- NHS England has a casting vote for any functions within NHS England's statutory obligations.
- CCG members have a casting vote on any of the CCG's statutory functions that are included within the scope of the joint committee's responsibilities.

17. For the Committee to be quorate, there must be at least 3 voting members of the committee in attendance; to include the Chair or Vice Chair of the Committee and the lay representative (or deputy).

18. The meeting frequency is monthly.

19. Meetings of the Joint Committee:

- a. Shall, subject to the application of 7(b), be held in public.
- b. The Joint 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.

20. Members of the Joint Committee have a collective responsibility for the operation of the Joint 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.

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

22. Members of the Joint 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.
23. Slough CCG will provide the secretarial support for the meetings of the Joint Committee.
24. The secretariat to the Joint Committee will:
 - a) Circulate the minutes and action notes of the committee with 1 week of the meeting to all members.
 - b) Present the minutes and action notes to Thames Valley Area Team of NHS England and the governing body of Slough CCG.
25. These Terms of Reference will be reviewed from time to time, reflecting experience of the Joint Committee in fulfilling its functions and the wider experience of NHS England and CCGs in primary medical services co-commissioning.

Decisions

26. The Joint Committee will make decisions within the bounds of its remit.
27. NHS England retains accountability for the discharge of its statutory duties in relation to primary care commissioning
28. The decisions of the Joint Committee shall be binding on NHS England and Slough CCG.
29. Decisions will be published by both NHS England and Slough CCG.
30. The secretariat will produce an executive summary report which will be presented to Thames Valley Area Team of NHS England and the governing body of Slough CCG each month for information.

Key Responsibilities

The key responsibilities of this committee are to work together to:

- a) plan, including needs assessment, primary medical care services in the Slough CCG area;
- b) undertake reviews of primary medical care services in the Slough CCG area
- c) co-ordinate a common approach to the commissioning of primary care services generally;
- d) manage the budget for commissioning of primary [medical] care services in Slough CCG area.

Review of Terms of Reference

31. These terms of reference will be formally reviewed by Thames Valley Area Team of NHS England and Slough CCG in April of each year, following the year in which the joint committee is created, and may be amended by mutual agreement between Thames Valley Area Team of NHS England and Slough CCG at any time to reflect changes in circumstances which may arise.

[Signature provisions]

Schedule 1 – Delegation by CCG to joint committee – CCG functions

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Schedule 2 - List of Members – populate once membership agreed]