NHS
Bury
Clinical Commissioning Group

Meeting: Primary Care Commissioning Committee			
Meeting Date	27 May 2020	**Action**	Recommend
Item No.	8	**Confidential**	No
Title	Primary Care Commissioning Committee Terms of Reference (ToR)		
Presented By	Lisa Featherstone, Deputy Director		
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Clinical Lead	-		

Executive Summary

In July 2019, the CCG updated its governance arrangement, including the CCG's Constitution, Standing Orders and Scheme of Reservation and Delegation to reflect the establishment of the Strategic Commissioning Board.

A review of the Primary Care Commissioning Committee Terms of Reference was also completed at that time, and following feedback from the CCG Membership, further changes were incorporated, approved and submitted within the CCG Constitution for overall approval of the revised governance. NHS England approved the CCG's overarching Governance in October 2019.

As part of the continued development of the joint leadership team across the Council and CCG, changes to the Executive and Director management structure have been agreed, following due consultation process. These changes impact on the membership of the Primary Care Commissioning Committee.

The changes are reflected as follows:

- Additions highlighted in yellow
- Deletions are shown as ~~Red Text~~

The Terms of Reference will be included as an Appendix to the CCG Constitution, which is also currently being refreshed to reflect the wider impact of the organisational changes in respect to the development of the single structure across the CCG and Council.

The changes to the Terms of Reference will require approval by the CCG Membership. There is no requirement to submit the Terms of Reference to NHS England for approval.

It is proposed that subject to approval by the CCG Membership, the changes proposed to the Primary Care Commissioning Committee will become effective immediately.

Recommendations

It is recommended that the Primary Care Commissioning Committee:

- Review the updated Terms of Reference presented;
- Recommend to the Governing Body, the Terms of Reference for oneard approval by the CCG Membership and inclusion within the CCG Constitution.

Links to CCG Strategic Objectives	
SO1 People and Place To enable the people of Bury to live in a place where they can co-create their own good health and well-being and to provide good quality care when it is needed to help people return to the best possible quality of life	☐
SO2 Inclusive Growth To increase the productivity of Bury's economy by enabling all Bury people to contribute to and benefit from growth by accessing good jobs with good career prospects and through commissioning for social value	☐
SO3 Budget To deliver a balanced budget for 2019/20	☐
SO4 Staff Wellbeing To increase the involvement and wellbeing of all staff in scope of the OCO.	☐
Does this report seek to address any of the risks included on the Governing Body Assurance Framework? If yes, state which risk below:	
GBAF – N/A	

Implications						
Are there any quality, safeguarding or patient experience implications?	Yes	☐	No	☒	N/A	☐
Has any engagement (clinical, stakeholder or public/patient) been undertaken in relation to this report?	Yes	☐	No	☒	N/A	☐
Have any departments/organisations who will be affected been consulted ?	Yes	☒	No	☐	N/A	☐
Are there any conflicts of interest arising from the proposal or decision being requested?	Yes	☐	No	☒	N/A	☐
The update to the Terms of Reference reflects the changes in the organisational structure. Two members of the PCCC are impacted by the organisational changes. These colleagues are aware that changes to the governance need to be progressed.						
Are there any financial Implications?	Yes	☐	No	☒	N/A	☐
Has a Equality, Privacy or Quality Impact Assessment been completed?	Yes	☐	No	☒	N/A	☐
Is a Equality, Privacy or Quality Impact Assessment required?	Yes	☐	No	☒	N/A	☐
Are there any associated risks including Conflicts of Interest?	Yes	☐	No	☒	N/A	☐
Are the risks on the CCG's risk register?	Yes	☐	No	☐	N/A	☒

TERMS OF REFERENCE

PRIMARY CARE COMMISSIONING COMMITTEE

Document Control	
Document Name	Primary Care Commissioning Committee Terms of Reference
Version/Revision Number	V2.1

Version Control

Version Ref	Amendment	Date Approved
v0.1	Draft prepared using the model Terms of reference issued by NHS England	Nov 2015
v0.2	Updated to reflect feedback from Primary Care Co-Commissioning Committee and NHS England	Jan 2016
v0.3	Amended to remove membership and in attendance terminology and updated to reflect voting and non-voting responsibilities	March 2016
v0.4	Delegation agreement added	April 2016
v0.5	submitted to Primary Care Commissioning Committee for review	May 2016
v0.6	Issued for review and approval by the CCG membership	June 2016
v1.0	Ratified by the CCG Membership through virtual consultation	June 2016
V1.1	Refreshed for inclusion in updated Constitution	July 2019
V1.2	Incorporated feedback from CCG Chair and Director of Commissioning and Business Delivery	August 2019
V2.0	Approved	October 2019
V2.1	Updated Membership	

1.0 Introduction

1.1 The Primary Care Commissioning Committee (hereafter referred to as 'the Committee') is established as a committee of NHS Bury CCG, in accordance with the Clinical Commissioning Group's (CCG) Constitution, to discharge those duties delegated from NHS England in respect to the commissioning of primary [medical] care services.

1.2 The Committee will function as a corporate decision-making body for the management of delegated functions and the exercise of delegated powers.

1.3 These Terms of Reference set out the Committee's membership, its role, responsibilities and reporting arrangements and shall have effect as if incorporated into the Clinical Commissioning Group's Constitution and Standing Orders.

1.4 The Committee will operate under the guiding principles of being a clinically led committee, ensuring clinical input is central to informing all discussions and decisions made by the Committee, whilst also balancing the requirements to manage conflicts of interest, which naturally occur as a consequence of the membership and remit of the Committee.

1.5 It is a committee comprising representatives of the following organisations or boards:

- NHS Bury CCG
- NHS England;
- Bury Metropolitan Borough Council;
- Healthwatch; and
- Bury Health and Well-Being Board.

2.0 Constitution

2.1 NHS England has delegated to the CCG authority to exercise the primary [medical] care commissioning functions set out in schedule 1, in accordance with section 13Z of the NHS Act.

2.2 Arrangements made under section 13Z may be on such terms and conditions (including as to payment) as may be agreed between NHS England 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, 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 specifically, in respect of the delegated functions from NHS England, exercise those in accordance with the relevant provisions of section 13 of the NHS Act, as follows:

- Duty to have regard to impact on services in certain areas (section 13O); and
- Duty as respects variation in provision of health services (section 13P).

2.5 In the work of this Committee, it will also exercise the CCG additional general duties to:

- Obtain appropriate advice from persons who, taken together, have a broad range of professional expertise in healthcare and public health;
- Promote innovation; and
- Promote research and the use of research.

2.6 The Committee is established as a Committee of NHS Bury CCG in accordance with Schedule 1A of the NHS Act.

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

3.0 Membership

3.1 The Committee shall have a lay and executive majority shall consist the following:

- Lay Member for Performance and Quality (Chair) (voting);
- Lay Member for Patient and Public Involvement (vice chair) (voting);
- Joint CCG Accountable Officer / Council Chief Executive (voting);
- Joint Chief Finance Officer(voting);
- ~~Director of Commissioning and Business Delivery (voting);~~
- Joint Executive Director of Strategic Commissioning (voting);
- Director of Community Commissioning (voting);
- Director of Public Health (voting);
- Registered Nurse of the Governing Body (voting);
- Deputy Director of Primary Care (voting);
- CCG Chair (non-voting);
- CCG Clinical Director (non-voting);
- NHS England operational representative (non-voting);
- Patient Representative (non-voting);

- A representative from the LMC (non-voting);
- A representative from the LPC (non-voting);
- A representative from the LOC (non-voting);
- A representative from the LDC (non-voting);
- A representative from Healthwatch (non-voting); and
- A representative from the Health and Wellbeing Board (non-voting).

3.2 The Chair of the Committee shall be the Lay Member with responsibility for Quality and Performance.

3.3 The Vice Chair of the Committee shall be the Lay Member with responsibility for Patient and Public Involvement.

3.4 The Chair of the Committee may call additional experts to attend meetings on an ad-hoc basis to inform discussions.

4 Quoracy

4.1 The Committee must have a lay and executive majority.

4.2 The meeting will be quorate where a minimum of 9 members are present, of which 5 must be voting members, and must also include:

- the chair or vice chair of the committee;
- the Accountable Officer or Chief Finance Officer; and
- the Clinical Director with responsibility for leading on Primary Care or the CCG Chair (as a representative of primary care to inform discussions).

4.3 A duly convened meeting of the Primary Care Commissioning Committee at which the quorum is present shall be competent to exercise all of any of the authorities, powers and discretions delegated to it.

4.4 Members should normally attend meetings, and it is expected that members will normally attend a minimum of 75% of meetings held per annum.

5 Deputising Arrangements

5.1 In respect to the Chair and Vice-Chair of the PCCC, deputising can only be undertaken by another Lay Member.

5.2 Should a member**,** whether voting or non-voting**,** not be able to attend a Committee meeting, apologies in advance must be provided to the Chair. Deputies can attend on behalf of other members of the Committee and must be agreed in advance with the Chair of the Committee.

5.3 Deputising arrangements will count towards the quorum, where formal representative status is confirmed, and this will be reflected within the

minutes.

6 Voting

6.1 Each voting member of the Committee shall have one vote.

6.2 The Committee shall reach decisions by a simple majority of members present, but with the Chair of the Committee having a second and deciding vote, if necessary, however the aim of the Committee will be to achieve consensus decision-making wherever possible.

7 Frequency

7.1 The Committee shall meet not less than 4 times per year in public, with provision for 2 development sessions in addition.

7.2 The Chair of the Committee may arrange extraordinary meetings at their discretion.

7.3 Meetings of the Committee will, subject to the application of clause 7.4 of these Terms of Reference, be held in public.

7.4 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) in the following circumstances:

- 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 superseded from time-to-time.

7.5 The Committee may also hold a meeting in private, convened by the Chair of the Committee or as requested by one of the Committee members and supported by the Chair of the Committee, to enable matters of a confidential nature need to be discussed.

7.6 Where a private meeting is required, this will take place before the meeting in public.

8 Conduct of Meetings

8.1 The Committee will operate in accordance with the CCG's Standing Orders, Scheme of Reservation and Delegation and Standing Financial Instructions.

8.2 The agenda and supporting papers will be issued at least 5 days in advance of the meeting. Authors of papers presented must use the required template. Papers must be received by the Committee Secretary in line with the published deadlines unless, in exceptional circumstances, explicit agreement has been reached with the Committee Chair.

8.3 The Committee Secretary is responsible for the production of minutes, action and decision tracking and the maintenance of the formal record and documentation of the business of the Primary Care Commissioning Committee and will ensure that committee standards are upheld.

8.4 Minutes of the meetings, action tracker and decision tracker will be circulated promptly to all members as soon as reasonably practicable.

8.5 Presenters of papers can expect all committee members to have read the papers and should keep to a summary that outlines the purpose of their paper / report and key issues. Committee members may question the presenter.

8.6 Members of the Committee shall respect confidentiality requirements as set out in the CCG's Constitution.

8.7 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.

8.8 In accordance with the arrangements set out in the CCG Constitution and detailed at clause 10.6 of these terms of reference, the Committee is authorised to establish sub-committees and / or task and finish groups to support it in discharging its duties. Notes of any such sub-committees or groups will be presented to the meeting for information.

8.9 Where an emergency or urgent decision needs to be executed in the period between the scheduled meetings, in agreement with the Chair (or in their absence the vice chair) the following will be circulated to the committee:

- the details in respect of the decision required;
- the response required and associated timescales; and
- the outcome will be communicated with the committee members.

8.10 Where a simple majority is not achieved through the emergency and urgent decision process, the casting vote will be as 6.2 above.

8.11 All emergency and urgent decisions will be reported to the Committee at its next meeting by the Chair (or vice chair) with a full explanation, regarding:

- what the decision was;
- why it was deemed and emergency or urgent decision (required to be made in the period between the scheduled meetings);
- what was the majority view of the members of the Committee; and

- how the decision was implemented.

8.12 A record of the above will form part of the minutes of the next scheduled meeting, following the emergency powers/urgent decision being made.

9 Conflicts of Interest

9.1 A register of the Declarations of Interest of Primary Care Committee Members will be provided at every meeting, and Committee members will be required to notify of any new interests relating to the business of the meeting at the start of the meeting.

9.2 Any existing or new interests will be considered in order that assurance is provided on the arrangements that are in place and have been implemented to manage the conflict of interests or potential conflict of interests, to ensure the integrity of the Primary care Commissioning Committee's decision-making processes.

9.3 The Chair of the Committee shall determine, in accordance with the CCG's Conflicts of Interest Policy, the management arrangements that will apply in respect of any conflicted member of the Committee. These management arrangements may include, but are not limited to:

- whether or not the conflicted member or colleague in attendance shall contribute to the discussion;
- the requirement for the conflicted member or colleague in attendance to absent the meeting at the point of decision making on that item of business, even where the Committee is meeting in public;
- with prior agreement from the Committee Chair, identification of an appropriate non- conflicted representative to attend the Committee on behalf of the conflicted member for that particular item of business.

10 Duties and Responsibilities

10.1 The Committee has been established in accordance with statutory provisions as outlined within these Terms of Reference to enable the Committee to make collective decisions on the review, planning and procurement of primary [medical] care services in NHS Bury CCG, under delegated authority from NHS England.

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

10.3 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.

10.4 The role of the Committee shall be to carry out the functions relating to the commissioning of primary [medical] care services under section 83 of the NHS Act, except those relating to individual GP performance management which have been reserved to NHS England, and includes:

- oversight of GMS, PMS and APMS contracts (including the design of PMS and APMS contracts, monitoring of contracts, taking contractual action such as issuing breach and / or remedial notices, and removing a contract);
- authorisation of implementation of new enhanced services ("Local Enhanced Services");
- oversight of Directed Enhanced Services" applications;
- 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;
- decision making on approving practice mergers, retirements, resignations etc.; and
- making decisions on 'discretionary' payment (e.g., returner/retainer schemes).

10.5 The PCCC will also carry out the following activities:

- agree an annual work programme and determining priorities to inform budget and resource planning;
- setting the strategic direction for primary [medical] care services, ensuring alignment with the Five Year Forward View, Locality Plan, NHS 10 Year Plan and the Health and Well-Being Board Strategy;
- carry out needs assessment to support and inform the development of primary [medical] care;
- co-ordinate a common approach to the commissioning of primary [medical] care services generally;
- oversee the implementation of a single coordinated strategy for primary [medical] care services in Bury;
- strategic development and utilisation of primary care estate;
- provide oversight of activity associated with the Primary Care Reform Programme within Bury, and any Primary Care initiatives including those coordinated other bodies;
- manage relevant budgets and resources associated with the responsibilities of the Committee for commissioning of primary [medical] care services in NHS Bury CCG;
- review outcomes from reviews undertaken of primary [medical] care services in NHS Bury CCG;
- support the reduction on inequalities across primary [medical] care services to improve services for patients;

- streamline processes, building on best practice locally and from the wider health economy where appropriate;
- ensure Primary Care is enabled to fully undertake its pivotal role within integrated neighbourhood teams;
- undertake reviews of Primary [medical] Services in Bury;
- keep abreast of and respond to other specific matters or developments in respect to Primary Care, for example in respect to Primary Care workforce or IT;
- in collaboration with NHS England, establish links between primary care medical services and other primary care contractor services to ensure coordinated primary care delivery of the CCG's strategic intentions; and
- any other matters as relevant to the remit of the Committee.

10.6 The Committee may delegate tasks to such individuals, sub-committees or individual members as it shall see fit, provided any such delegations are consistent with the parties' relevant governance arrangements, are recorded in the Scheme of Reservation and Delegation, are governed by these terms of reference as appropriate, and reflect appropriate arrangements for the management of conflicts of interest.

11 Accountabilities and Decision Making

11.1 The Committee will make decisions within the bounds of its remit.

11.2 The decisions of the Committee will be binding on NHS England and NHS Bury CCG.

11.3 Decisions will be published by both NHS England and NHS Bury CCG.

11.4 For the avoidance of doubt, in the event of any conflict between the terms of the Delegation and the Terms of Reference, Standing Orders and Standing Financial Instructions of any of the members, the Delegation will prevail.

12 Reporting

12.1 The minutes of Committee shall be formally recorded and submitted, along with a summary report of the decisions made to Governing Body and Greater Manchester Health and Social Care Partnership on behalf of NHS England following the meeting for information. This will include the minutes of any sub-committees to which responsibilities are delegated under clause 10.6 and will assure itself that conflicts of interest have been appropriately managed by these sub-committees.

12.2 The Committee will report annually to the Governing Body through inclusion of an overview in the Annual Governance Statement which will include as a minimum a summary of the annual self-assessment undertaken, a report of progress during the reporting period, including frequency of meetings and membership attendance.

13 Monitoring Compliance

13.1 The Committee will develop an annual calendar of business, and a work plan with specific objectives which will be reviewed regularly and formally on an annual basis.

13.2 The Committee shall undertake an annual self-assessment of its performance.

14 Reviewing Terms of Reference

14.1 The Terms of Reference of the Committee (including membership) shall be reviewed annually, to reflect the experience of the Committee in fulfilling its functions and the wider experiences of NHS England and CCGs in respect of primary [medical] care services co-commissioning and submitted for approval in accordance with the Scheme of Reservation and Delegation.

Schedule 1: Delegation

- decisions in relation to the commissioning, procurement and management of Primary Medical Services Contracts, including but not limited to the following activities:
    - decisions in relation to Enhanced Services;
    - decisions in relation to Local Incentive Schemes (including the design of such schemes);
    - decisions in relation to the establishment of new GP practices (including branch surgeries) and closure of GP practices;
    - decisions about 'discretionary' payments;
    - decisions about commissioning urgent care (including home visits as required) for out of area registered patients;
- the approval of practice mergers;
- planning primary medical care services in the Area, including carrying out needs assessments;
- undertaking reviews of primary medical care services in the Area;
- decisions in relation to the management of poorly performing GP practices and including, without limitation, decisions and liaison with the CQC where the CQC has reported non- compliance with standards (but excluding any decisions in relation to the performers list);
- management of the Delegated Funds in the Area;
- Premises Costs Directions functions;
- coordinating a common approach to the commissioning of primary care services with other commissioners in the Area where appropriate; and
- such other ancillary activities that are necessary in order to exercise the Delegated Functions.

Schedule 2: Reserved Functions

a) management of the national performers list;
b) management of the revalidation and appraisal process;
c) administration of payments in circumstances where a performer is suspended and related performers list management activities;
d) Capital Expenditure functions;
e) section 7A functions under the NHS Act;
f) functions in relation to complaints management;
g) decisions in relation to the Prime Minister's Challenge Fund; and
h) such other ancillary activities as are necessary in order to exercise the Reserved Functions.