

NHS Kernow and NHS England Joint primary care commissioning committee Terms of reference

Version no.	Status	Issue date	Notes
DV0.1	Initial draft terms of reference	07/03/19	Reviewed by AA and KL with main amendments made to governance and membership
DV0.2	Second draft	12/03/19	Paragraph 14 added following the development of the primary care joint commissioning committee terms of reference
DV0.3	Third draft	19/03/19	Governance review by GS from NHSE and JJ from NHS Kernow – included advice on accountability, membership, quorum and review
DV0.4	Fourth draft	19/03/19	Paragraph 16 amended two bullet points relating to quality from GD.
DV0.5	Fifth draft	27/3/19	Cross ref with NHSE template ToR for joint primary care committees and policy notes on joint committees for co-commissioning.
DV0.6	Sixth draft	28/3/19	Reviewed and amended by JJ head of corporate governance.
DV0.7	Seventh draft	26/04/19	Incorporating feedback from JPCCC meeting on 4/4/19
DV0.8	Eight draft	26/4/19	Incorporating feedback from L Pennington, NHS England
DV0.9	Final draft	14/05/19	Incorporating proposed final amends from 4/5/19 joint primary care commissioning committee
V1	Final	14/5/19	Final version 1 for circulation.

1. Introduction and statutory framework

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.

‘Next steps toward primary care co-commissioning’ (NHS England, 2014d) was published in November 2014 and invited CCGs to take on a greater role in commissioning primary care services. One option available was that NHS England and CCGs would jointly commission primary medical services.

The NHS England and NHS Kernow joint primary care commissioning committee is being established to enable this policy direction. The committee has the primary purpose of jointly commissioning primary medical services for the people of Cornwall and Isles of Scilly.

2. Accountability

The joint primary care commissioning committee (JPCCC) is a decision making committee and has the ability to execute the powers assigned to it under the schemes of delegation by NHS England Board and NHS Kernow Governing Body, and as specifically delegated in these terms of reference.

Whilst the responsibility for jointly commissioning primary medical services has been delegated to this committee, the ultimate contractual accountability for primary medical services remains with NHS England.

This committee will be accountable to the NHS Kernow Governing Body and the NHS England leadership meeting (or suitable successor forum). The committee will discharge this accountability by way of reporting committee minutes and through a chair’s report to the NHS Kernow Governing Body.

The committee will receive reports from the NHS Kernow primary care joint operational group, and primary care development group, both of which will meet monthly and report into the joint committee. Other sub-groups may be established as necessary to support specific work-streams.

3. Role of the joint committee

The role of the JPCCC 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.

This includes the following activities:

- GMS, PMS and APMS contracts (including the design of PMS and APMS contracts, monitoring of contracts, involvement in contractual action such as issuing remedial notices or removing a contract).
- Decision making on when to bring in new providers, managing procurements and whether to establish new GP practices in an area.
- Management of financial resources.
- Approving practice mergers, boundary changes and list closure applications.
- Making decisions on 'discretionary' payments (e.g. returner/retainer schemes and premises reimbursements).
- Overseeing the implementation and ongoing monitoring of enhanced services (local enhanced services and directed enhanced services).
- Design of local incentive schemes as an alternative to the quality outcomes framework (QOF).
- Primary care medical estates development, as overseen by the strategic estates group and primary care premises sub-group.

In performing its role this committee will be informed by a transitional memorandum of understanding (MoU) entered into between NHS England and NHS Kernow, which will sit alongside these terms of reference, and set out how the two organisations will work together to discharge their joint responsibilities.

The committee will:

- Receive information, recommendations and regular updates from the NHS Kernow primary care development group including; implementation of the GP Forward View; development of local enhanced services and local incentive schemes for primary medical services and; deployment of the five year GP contract framework from 2019 to 2024.
- Take accountability for oversight of the MoU between NHS England and NHS Kernow with respect to the delivery of the GP Forward View. The JPCCC reserves the right to approve recommendations by the primary care development group (PCDG) under this MoU, and will ratify decisions made by the PCDG only where these have been made in line with organisational schemes of delegation.
- Receive and review triangulated 'quality' related intelligence in order to seek assurances on the quality of primary care medical services.
- Review the risks contained within the corporate risk register relevant to primary medical services, monitoring mitigation and existing controls.
- Receive information and assurance on the deployment of the NHS Kernow primary care digital programme to ensure that the programme is discharging its delegated duties.
- Receive information and assurance on the medicines optimisation programme, and the minutes from the Cornwall area prescribing committee.

- Seek an understanding of the strategy and developments in respect of the practitioner contracts pertaining to pharmacy, dental and optometry services in order to ensure strategic alignment with primary medical care services commissioning.

4. Membership

The JPCCC shall consist of the following voting members (deputies to be named and consistent):

- NHS Kernow GB lay member (chair) (this may not be the chair of the NHS Kernow audit committee).
- NHS Kernow GB lay member (vice chair).
- NHS Kernow chief officer (or nominated deputy).
- NHS Kernow chief finance officer (or nominated deputy).
- NHS Kernow chief nursing officer (or nominated deputy).
- Governing Body GP representatives.
- An out of area GP representative or managing partner representative.
- NHS Kernow director for primary care (or nominated deputy).
- NHS England representatives (anticipated to cover primary care commissioning and finance functions).

Members of the JPCCC have a collective responsibility for the operation of the committee. They will participate in discussion, review evidence and provide objective input to the best of their knowledge and ability and endeavour to reach a collective view.

5. Quoracy

The committee shall be considered quorate in the presence of:

- The chair or vice chair.
- One NHS England member.
- One NHS Kernow executive director or appropriate deputy.

The following shall be invited to attend each meeting of the JPCCC:

- NHS Kernow citizens advisory panel (CAP) representative (or deputy).
- Cornwall Council director of public health (or representative).
- Healthwatch Cornwall representative.
- Healthwatch Isles of Scilly representative.
- Cornwall Health and Wellbeing Board representative.
- Isles of Scilly Health and Wellbeing Board representative.
- Kernow local medical committee (LMC) representative.
- GP representatives from each integrated care area.
- Strategic manager/practice manager/practice nursing representatives.

The JPCCC may call additional experts to attend meetings on an ad hoc basis to inform discussions. Members and those attending/invited to the JPCCC shall respect the confidentiality requirements of the committee.

6. Decision making

The committee will aim to make decisions collaboratively and reach decisions through discussion and agreement, in line with members' individual delegated authority. Where, exceptionally, consensus agreement cannot be reached, voting shall take place. In these circumstances NHS England and NHS Kernow shall have an equal vote. Where decisions are outside of members' individual delegated authority, the committee will seek to make a recommendation for escalation as required to the appropriate body within NHS England and/or NHS Kernow.

As set out above, NHS England retain contractual accountability for primary medical services, and as such, decisions by the committee which impact the contractual agreement between NHS England and primary medical services providers aren't binding until they have been ratified by NHS England.

The committee will seek to apply best practice in the decision making processes and will comply with (this list is not exhaustive):

- NICE guidance and CQC reports.
- NHS England planning guidance.
- The Nolan Principles.
- Conflicts of interest guidance.
- Data Protection Act.
- Freedom of Information Act.

7. Meeting arrangements

The JPCCC shall be held in public but shall not be a public meeting. It will meet monthly or at a frequency the JPCCC determines is appropriate to fulfil its duties. This will be not less than six times a year.

Additional meetings may be requested through the chair to address particular issues arising judged sufficiently urgent that waiting for the next scheduled meeting would potentially compromise the time constraints required for particular decisions to be made. If, for any reason, it is not considered necessary to call a full meeting to consider such urgent issues, the committee may choose to convene a telephone conference or other virtual meeting or to review and take decisions via email. These will be recorded by the committee secretariat and confirmed at the next available committee meeting.

At least once during the year the chair of the committee will be expected to produce and present a report to the NHS Kernow audit committee. The chair is responsible for drawing up the agenda for the committee meetings with support from NHS Kernow and NHS England responsible officers.

An agenda will be issued seven calendar days prior to the meeting. Requests for items to be included on the agenda should be sent to the committee secretariat at least ten days before the meeting. Papers will normally be issued a minimum of seven days before the meeting.

8. Conflicts of Interest

Conflicts of Interest will be managed in accordance with current NHS England guidance and the NHS Kernow policy on conflicts of interest. The committee secretariat will administer a register of perceived or actual declarations of interest, which will be a standing agenda item for each committee meeting, and be updated at the start of each meeting.

All members of the committee will be required to identify, declare and review any interests and complete the NHS England conflicts of interest e-training annually. Declarations which are considered a conflict of interest will be managed by the chair, who will decide if the individual can participate in the agenda item or is required to leave the meeting for that item.

9. Confidentiality

The committee may resolve to exclude the public from the whole or a 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.

If an agenda item or meeting discussion indicates the requirement for a private and confidential session of the meeting (part two), then separate minutes will be produced. The chair of the committee will establish a part two as required, and will determine whether any invitees to the meeting may remain in attendance for the part two. Any planned part two discussions will have a separate agenda and meeting invite.

Part of the justification for establishing a private and confidential agenda will be the identification of an appropriate freedom of information exemption together with, where required, an assessment of the public interest test; this to be recorded on the agenda item(s) frontispiece.

10. Secretariat

NHS Kernow will provide secretariat services through the director of primary care's personal assistant. Administrative support will include agenda preparation and distribution, minutes of meetings and management of actions. Minutes, along with supporting action grids, will be circulated within five working days of the committee taking place.

11. Review

These terms of reference will be formally reviewed by NHS England and NHS Kernow during September 2019, and thereafter annually, along with an annual review of committee effectiveness. Any suggested changes to the terms of reference shall be represented to Governing Body and NHS England for formal approval.

12. Supporting documents relied upon

- **Primary medical services transitional memorandum of understanding:** This has been entered into by NHS England and NHS Kernow, and sets out how the two organisations will work together to discharge their joint responsibilities, and progress the delegation of commissioning of primary medical services.
- **GP Forward View (GPFV) funding methodology:** This is a MoU between NHS England and NHS Kernow which identifies the expected deliverables regards the GPFV in 2019/20, and the roles and responsibilities of each party in ensuring the deliverables are achieved.
- **Primary care development group terms of reference:** The purpose of the primary care development group (PCDG) is to oversee the continued delivery of the GPFV and the new five year GP contract framework.

Approved:

NHS Kernow Governing Body
June 2019

Review:

September 2019