NHS Kernow
Primary Care Commissioning Committee
Terms of Reference

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.

From April 2019 to March 2020 NHS England & NHS Improvement and NHS Kernow worked as joint commissioners. However, following the approval by NHS England & NHS Improvement of NHS Kernow’s application for delegated commissioning the previously established joint primary care commissioning committee will become a fully delegated Primary Care Commissioning Committee from 1 April 2020. The committee has the primary purpose of commissioning primary medical services for the people of Cornwall and Isles of Scilly.

Accountability

The Primary Care Commissioning Committee (PCCC) is a decision making committee and has the ability to execute the powers assigned to it under the NHS England Board scheme of delegation and NHS Kernow’s scheme of reservation and delegation as well as its scheme of delegation agreed by its governing body (GB), and, as specifically outlined in these terms of reference.

Whilst the responsibility for 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 NHS Kernow’s governing body. 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 operational group and primary care premises and estates group (or their successor groups) all of which will
meet at least six times a year. Each group will reconsider its terms of reference annually which the committee will review and approve. Other sub-groups may be established as necessary to support specific work-streams.

Role of the committee

The role of the primary care commissioning 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.

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, LES, and directed enhanced services, DES)
- 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 memorandum of understanding entered into between NHS England and NHS Kernow, which will sit alongside these terms of reference.

The committee will:-

- receive information, recommendations and regular updates from the NHS Kernow primary care operational 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 memorandum of understanding (MoU) between NHS England & NHS Improvement and NHS Kernow with respect to the delivery of the GP forward view. The PCCC reserves the right to approve recommendations by the primary care operational group under this MoU, and will ratify decisions made by the PCOG, or other working groups, 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 NHS Kernow’s 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 delivery of the medicines optimisation strategy and 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.

Membership

The committee shall have a lay and executive majority, and consist of the following members who will be voting unless specified otherwise (deputies to be named and consistent):

- NHS Kernow GB lay member (chair) *(this may not be the chair of the NHS Kernow audit committee)*
- additional non-conflicted lay member (vice chair) *(who may or may not be GB lay member)*
- NHS Kernow chief officer (or nominated deputy)
- NHS Kernow chief finance officer (or nominated deputy)
- NHS Kernow chief nursing officer (or nominated deputy)
- A non conflicted GP or managing partner representative
- NHS Kernow director for primary care (or nominated deputy)

Members of the committee 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.

The following shall be invited to attend each meeting of the committee, but shall not have a vote:

- governing body GP representative
- NHS Kernow deputy director for primary care
- NHS Kernow citizens advisory panel 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 representative
- GP representatives from each integrated care area
• Strategic manager/practice manager/ practice nursing representatives
• NHS England & NHS Improvement representatives

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

**Quoracy**

The committee shall be considered quorate in the presence of at least four committee members including:

- the chair or vice chair, and,
- one NHS Kernow executive director or appropriate deputy.

**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 with decisions by simple majority. The chair shall have a second and deciding vote if required. 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 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 primary medical service contract holders and NHS England must be notified to NHS England & NHS Improvement for information.

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

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

**Meeting arrangements**

The committee shall be ‘held in public’ but shall not be a public meeting. It will meet monthly or at a frequency the Primary Care Commissioning Committee 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. The Chair is responsible for drawing up the agenda for the committee meetings with support from NHS Kernow responsible officers, and will produce a Chair’s report after each meeting for reporting to the subsequent meeting of the NHS Kernow Governing Body, which will include as a minimum ratified minutes from previous meetings, and a summary of the discussions, decisions and implications from the most recent 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. As part of NHS Kernow’s governance arrangements the chair of the audit committee is expected to attend the committee as least once a year. The audit committee chair will not be considered a voting member of the primary care commissioning committee on these occasions.

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.

**Conflicts of Interest**

Conflicts of Interest will be managed in accordance with current NHS England & NHS Improvement guidance and the NHS Kernow policy on conflicts of interest.

Conflicts of interest are a standing agenda item with an extract from the declarations of interest register provided to each meeting. The chair of the committee will ensure committee members are asked to declare any updates to their interests which are yet to be reflected on the register as well as any ‘incidental’ interests arising as a result of agenda items, for example if they happen to be registered as a patient at a particular practice under discussion, and will consider appropriate actions to mitigate any actual or perceived conflicts.

All members of the committee will be required to complete the NHS England & NHS Improvement 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.

**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 2), then separate minutes will be produced. The chair of the committee will establish a part 2 as required, and will determine whether any invitees to the meeting may remain in attendance for the part 2. Any planned part 2 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.

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 internally within five working days of the committee taking place.

Review

The Committee’s terms of reference form part of NHS Kernow’s constitution. They will be formally reviewed by NHS Kernow 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 and NHS Improvement for formal approval.

Status of these terms of reference

Approved: Governing Body December 2020

Review: December 2021