

## Greater Nottingham CCGs: Integrated Governance Arrangements – Update

### 1. Introduction

- 1.1 The purpose of this paper is to provide an update to the Greater Nottingham CCGs' Governing Bodies in relation to the integration of the CCGs' governance arrangements.
- 1.2 This report builds on the updates provided at the May, July and October 2018 meetings. It provides a brief update from the IGMT Committee, but mainly focusses on the requirements to enable the Primary Care Commissioning Committees to start to meet in common, some required revisions to the Remuneration Committee's terms of reference, and new arrangements regarding the governance for research excess treatment costs.

### 2. Primary Care Commissioning Committees – Meetings in Common Proposal

- 2.1 At the Governing Body meetings in October 2018, members agreed (in principle) with the proposed move to the four CCGs' Primary Care Commissioning Committees meeting in common.
- 2.2 The 'meetings in common' approach is intended to facilitate collaborative working and improved efficiencies between separate organisations; however the guidance is very clear that it is only the place, time and (where appropriate) agenda items that are in common. To continue to operate within the legal framework, each Primary Care Commissioning Committee must:
  - Have its own terms of reference, membership and chair – A meeting 'convenor' will be nominated to ensure the smooth running of the meeting, but the role of the four separate chairs will still be in effect.
  - Be able to make its own decisions – The meeting in common approach will facilitate a single discussion, but there should still be the ability for each committee in the arrangement to reach a different decision (although this should be unlikely).
  - Have clear accountability arrangements – Each CCG retains individual accountability for the decisions taken on behalf of their local populations.
- 2.3 Work has now been undertaken to update each CCG's Primary Care Commissioning Committee's Terms of Reference. This has been completed in discussion with colleagues from NHS England's Regional Operations and Delivery Directorate to ensure continued compliance with the terms of the CCGs' Delegation Agreements.
- 2.4 Members are asked to note the following:
  - The terms of reference have been developed to be more consistent with the wording from the latest version of the [national model terms of reference](#).
  - The proposed membership of the Committee is based on the [national primary care commissioning guidance](#) and [managing conflicts of interest guidance](#).
  - It is proposed that an independent GP member is included within the Committee's membership in line with the statutory guidance recommendation.

This ensures appropriate clinical input, whilst minimising the risk of conflicts of interest, and can be either an out-of-area GP or a recently retired GP. It is proposed that the same individual be appointed to all four committees.

- A GP from the CCG’s locality and a representative from the Nottinghamshire Local Medical Committee will have a standing invitation to attend meetings, along with the other mandated attendees (i.e. HealthWatch, Health and Wellbeing Board).
- The guidance is clear that the arrangements should not preclude GP participation in strategic discussions on primary care issues. The Committee will have a responsibility to ensure that appropriate GP and member practice engagement has been undertaken when necessary and this will be integral to its decision-making.
- The CCG has certain limitations placed on it in relation to its delegated functions, which need to be kept in mind when decisions are being made. Essentially, any decisions that fall into three specific categories can only be taken following the receipt of prior approval from NHS England and with the involvement of either the Accountable Officer or Chief Finance Officer. These categories relate to:
  - Taking any step or action in relation to the settlement of a claim, where the value of the settlement exceeds £100,000.
  - Any matter in relation to the delegated functions which is novel, contentious or repercussive.
  - The entering into any Primary Medical Services Contract, which has, or is capable of having, a term which exceeds five years.

The proposed quorum for the Committee has been determined with this in mind.

2.5 The updated terms of reference for the Primary Care Commissioning Committee are attached at **Appendix A**, and key changes are summarised below:

	<b>Current Terms of Reference</b>	<b>Proposed Terms of Reference</b>
<b>Membership</b>	<ul style="list-style-type: none"> <li>• Two Lay Members</li> <li>• Two GPs</li> <li>• Deputy Chief Officer</li> <li>• Deputy Chief Finance Officer</li> <li>• Head of Quality, Patient Safety and Experience</li> </ul> <p><u>In attendance:</u></p> <ul style="list-style-type: none"> <li>• Healthwatch Nottingham and Nottinghamshire</li> <li>• Nottinghamshire Local Medical Committee Representative</li> <li>• Nottingham County Health and Wellbeing Board Representative</li> </ul>	<ul style="list-style-type: none"> <li>• Two Lay Members</li> <li>• Independent GP Advisor</li> <li>• Accountable Officer</li> <li>• Chief Finance Officer</li> <li>• Chief Operating Officer</li> <li>• Chief Nurse</li> <li>• Director of Primary Care</li> </ul> <p><u>In attendance:</u></p> <ul style="list-style-type: none"> <li>• Locality GP Representative</li> <li>• Healthwatch Nottingham and Nottinghamshire</li> <li>• Nottinghamshire Local Medical Committee Representative</li> <li>• Nottingham County Health and Wellbeing Board Representative</li> </ul>

	<b>Current Terms of Reference</b>	<b>Proposed Terms of Reference</b>
	<ul style="list-style-type: none"> <li>Primary Care Contracting Team of NHS England</li> </ul>	<ul style="list-style-type: none"> <li>Primary Care Contracting Team of NHS England</li> <li>Other CCG officers (as necessary) in line with their expertise/responsibilities</li> </ul>
<b>Quoracy</b>	A minimum of five members, to include two lay members and two executive members	A minimum of five members, to include at least one lay member and either the Accountable Officer or Chief Finance Officer.  Executive members will have the ability to nominate a deputy if unable to attend.
<b>Frequency</b>	At regular intervals and at least quarterly	Meetings to be scheduled on a monthly basis, with a requirement to meet at least bi-monthly.  Ability to make urgent and (if appropriate) virtual decisions has been added.

2.6 As stated above, each Committee is required to retain its own membership, but to facilitate an effective ‘meetings in common’ approach, national guidance recommends that, wherever possible, the membership requirements of each committee be fulfilled by the same individuals.

The table below sets out the extent to which this is will be achieved following approval of the revised terms of reference. Over the coming months, consideration will be given to further aligning lay membership across the four CCGs.

<b>Members</b>	<b>Greater Nottingham CCP</b>	<b>CCG Specific Appointments</b>			
		<b>Nottingham North and East CCG</b>	<b>Nottingham West CCG</b>	<b>Rushcliffe CCG</b>	<b>Nottingham City CCG</b>
Lay Member (Chair)		✓	✓	✓	✓
Lay Member (Vice Chair)		✓	✓	✓	✓
Accountable Officer	✓				
Chief Finance Officer	✓				
Chief Operating Officer	✓				
Chief Nurse	✓				
Director of Primary Care	✓				
Independent GP	✓				
<b>Attendees</b>					
Locality GP Representative		✓	✓	✓	✓

Members	Greater Nottingham CCP	CCG Specific Appointments			
		Nottingham North and East CCG	Nottingham West CCG	Rushcliffe CCG	Nottingham City CCG
Local Medical Committee GP Representative	✓				
Primary Care Contracting Team of NHS England	✓				
Healthwatch Nottingham and Nottinghamshire	✓				
Nottingham City Health and Wellbeing Board					✓
Nottingham County Health and Wellbeing Board		✓			

- 2.7 Whilst the majority of members will be the same for each committee, the agenda will be structured in such a way that members and attendees for individual CCGs are not required to stay longer than necessary.
- 2.8 For the majority of agenda items, joint reports for the four CCGs will be submitted.
- 2.9 Work is ongoing to review the existing operational groups that supported the work associated with the delegation agreement. The output from this work will be considered by the first meeting of the Committees in common.
- 2.10 Following approval of the Terms of Reference, the meeting schedule and work programme for the next year will be agreed with the membership.

### 3. Remuneration and Terms of Service Committee

- 3.1 Recent advice from NHS England has necessitated changes to the CCG's Remuneration Committee Terms of Reference. This advice follows it being highlighted nationally that the majority of CCGs have continued to operate their Remuneration Committees in line with the predecessor Primary Care Trust requirements: which enabled the committees to make decisions regarding the remuneration, fees and other allowances (including pension schemes) for employees and other individuals who provide services to the CCGs. This is not consistent with the National Health Service Act 2006 (as amended) in that Governing Bodies should retain decision-making responsibilities related to remuneration and that the Remuneration Committee should act in an advisory capacity.
- 3.2 In addition, the latest guidance on constitutional arrangements has advised that whilst Audit Committee Chairs can continue to be members of Remuneration Committees; in order to protect their specific lay responsibilities around the organisation's statutory financial duties, they should not act as the Chair of Remuneration Committee meetings.
- 3.3 Whilst updating the Remuneration Committee Terms of Reference, the opportunity has been taken to make other amendments to the Committee's duties in line with the

evolving developments of the Greater Nottingham Clinical Commissioning Partnership. It is therefore proposed that the Terms of Reference also be updated to:

- Include responsibility for approving the CCG's human resource policies; and
- Oversee compliance with the requirements set out in the Equality Act 2010 (Gender Pay Gap Regulations) 2017, as necessary.

3.4 In light of the broadened scope of the committee, it is also proposed that the committee be re-named the Remuneration and Terms of Service Committee. The proposed terms of reference are attached at **Appendix B**.

#### **4. New national system for funding and managing research excess treatment costs – Lead CCG and delegation arrangements**

4.1 On 1 October 2018 NHS England implemented new national arrangements for funding and managing research excess treatment costs (ETCs) to replace previous local arrangements. A key part of the new system is that all CCGs contribute financially to a national ETC pool to fund the reimbursement of ETCs incurred by CCG commissioned provider services. The national pool is being managed via the National Institute for Health Research Clinical Research Network (NIHR CRN) and their 15 Local Clinical Research Networks (LCRNs). A separate system is being implemented by NHS England for Specialised Commissioning.

4.2 Each CCG in England will make a contribution of 5.2p per capita per annum (2.6p per capita for the initial six month pilot period, which commenced on 1 October 2018). The ETC revenue transfers for the Greater Nottingham CCGs for 1 October 2018 to 31 March 2019 total £19,000 (Nottingham City CCG: £10,000, Nottingham North and East CCG: £4,000, Nottingham West CCG: £2,000 and Rushcliffe CCG: £3,000).

4.3 A provider threshold has also been introduced under which ETCs now have to be absorbed by provider organisations participating in research studies before they can access the national ETC funding pool. The threshold is set at 0.01% of annual operating income or a minimum of £10,000 per year, whichever is higher. GP practices are excluded from the requirement to meet a threshold. ETCs will be paid retrospectively on a quarterly basis to providers relating to the number of participants recruited to a study incurring ETCs. Payment will be on a 'per patient ETC cost' basis and paid via the LCRN.

4.4 Part of the legal framework for this new arrangement is a requirement for one CCG in each LCRN region to act as Lead CCG and for all other CCGs in that region to delegate their responsibilities for ETCs to the Lead CCG. The Lead CCG will then enter into an agreement with the LCRN who will manage ETCs in accordance with a national commissioning policy. The Lead CCG will be responsible for decisions relating to ETCs that fall out with the national policy.

4.5 In the East Midlands, Nottingham City CCG has been approached by NHS England to take on this lead role due to having a Head of Research and Evidence and a previously well regarded local ETC process. This was agreed in discussion with Gary Thompson, Chief Operating Officer and Jonathan Bemrose, Chief Finance Officer, for a six month trial basis.

4.6 The Governing Bodies of NHS Nottingham North and East, NHS Nottingham West and NHS Rushcliffe CCGs are requested to delegate their ETC responsibilities to Nottingham City CCG. As the four Greater Nottingham CCG Governing Bodies have previously delegated their statutory duties relating to research (including ETCs) to the Greater Nottingham Joint Commissioning Committee as part of the Delegation Agreement, ETCs can no longer be part of this Delegation Agreement as double delegation is not allowed. At their meeting on 28 November 2018, the Greater Nottingham Joint Commissioning Committee acknowledged this direction of travel and the required change to its Delegation Agreement.

4.7 The following appendices are attached:

- **Appendix C** – Letter from NHS England’s Director for Innovation and Life Sciences to CCG Accountable Officers
- **Appendix D** – NHS England Delegation Agreement for ETCs
- **Appendix E** – NHS England Draft ETC Commissioning Policy

## 5. Information Governance, Management and Technology Committee

5.1 At the October 2018 Governing Body meeting it was agreed that the revised Information Governance, Management and Technology Committee’s terms of reference would be circulated for virtual approval. These were circulated to all Governing Body members on 2 November and approved on 16 November 2018, having not received any feedback on required changes.

5.2 At its first meeting on 4 December, under its updated terms of reference, the IGMT Committee agreed that it would be beneficial to increase the lay input to the Committee even further to facilitate the independent scrutiny and oversight of its work. As such, a recommendation is being presented to the Governing Body to amend the Committee’s lay members from two to three, with the third lay member coming from Greater Nottingham.

5.3 As reported in May 2018, the CCG is required to appoint a Data Protection Officer (DPO). At that time, it was agreed that the Greater Nottingham CCGs’ Head of Information Governance would fulfil the DPO role requirements for an initial six month period. This was an interim measure while further work was completed to fully assess workload requirements and to complete a benchmarking exercise to determine approaches being taken by CCGs in relation to this role across the country. This review has now been completed and considered by the IGMT Committee at its 4 December meeting. As a result, it is now proposed to permanently allocate the DPO role to the Head of Information Governance. This approach is also being taken forward for the Mid-Nottinghamshire CCGs.

## 6. Recommendations

6.1 The Governing Body is requested to:

- a) **APPROVE:** the proposed terms of reference for the Primary Care Commissioning Committees and the associated ‘meeting in common’ arrangements.

- b) **APPROVE:** the proposed terms of reference for the Remuneration and Terms of Service Committee.
- c) **APPROVE:** the delegation of the CCG's responsibilities for ETCs to Nottingham City CCG and the required change to the Delegation Agreement for the Greater Nottingham Joint Commissioning Committee.
- d) **APPROVE:** the proposed minor change to the IGMT Committee's terms of reference.
- e) **APPROVE:** the DPO role assignment to the Head of Information Governance.

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