

## TERMS OF REFERENCE

### COMMISSIONING COLLABORATIVE BOARD (“CCB”)

November 2017

#### Purpose

1. Following changes to the legislation governing Clinical Commissioning Groups (“CCGs”), CCGs are now able to form formal joint committees, which can exercise decision making authority which has been formally delegated from individual statutory governing bodies.
2. The Commissioning Collaborative Board (“CCB”) has been established as a joint committee of NHS Leicester City Clinical Commissioning Group, NHS West Leicestershire Clinical Commissioning Group and NHS East Leicestershire and Rutland Clinical Commissioning Group, collectively referred to as the Leicester, Leicestershire and Rutland Clinical Commissioning Groups (“LLR CCGs”). The CCB will support joint decision making on those matters delegated to it where the Governing Bodies of the CCGs have agreed to undertake collective strategic decision making. The Scheme of Reservation and Delegation sets out those areas where authority has been delegated to the CCB by the three CCGs.
3. The principles of this collaboration are set out in a Memorandum of Understanding, which is attached to these terms of reference as Appendix B.

#### Context

4. There is an increased focus from regulatory bodies and policy makers on bringing together health organisations with partners in local authorities to integrate services. NHS England has provided a clear mandate to CCGs to ‘integrate and work across a larger geographical footprint’
5. The LLR CCGs recognise the importance of collaboration in supporting more effective commissioning, and the need to establish a joint decision making forum to set the governance of this collaboration on a formal and more professional footing.
6. This collaboration builds on the work which has already been undertaken to share specific aspects of commissioning through hosted teams and shared arrangements for assurance regarding provider performance, and supports the aims of the LLR STP.
7. The purpose of the CCB will be to:
  - support CCGs to create a financial sustainable health system in LLR, working beyond organisational boundaries to make best use of the “LLR Pound”
  - ensure clinically led co-design of service models for health services within LLR which are safe, effective and efficient;

- provide a forum where commissioners can agree and align priorities and identify opportunities for further collaboration and consistency.

## **Authority**

8. The CCB is a formal joint committee of the LLR CCGs and shall have the authority to make decisions which are binding upon the CCGs in relation to those matters delegated to it as set out in the Scheme of Reservation and Delegation set out in Appendix A to these Terms of Reference. These areas of authority shall also be reflected in the constitutions of each of the LLR CCGs.

## **Role & Duties**

9. The duties of the CCB will include the following:

### ***Strategy and Planning***

- To discuss and agree the principles for commissioning intentions each year, to inform consideration and approval by individual governing bodies.
- To consider and approve LLR wide commissioner plans, informed by deliberations by individual governing bodies and, if relevant, the System Leadership Team
- Ensure appropriate public engagement and, where necessary, consultation is undertaken and that the views of patients and other stakeholders is appropriately considered and used to inform proposals
- Agree strategy for key enablers, such as IM&T and estates
- Informing LLR engagement with LLR NHS England on Specialised Commissioning

### ***Commissioning***

- Considering options appraisals for services or pathway changes.
- To approve system level service and pathway changes
- Where taking decision ensure these are informed by relevant equality and quality impact assessments.
- Agreement of service specifications for procurement of healthcare services to be procured collaborative across LLR
- To approve business cases for services to be developed or delivered across LLR (for commissioning or decommissioning and/or investment or disinvestment) with a total financial value up to £2,000,000 over the period of the contract (or three years if the investment is not time limited) for an individual CCG.
- To consider business cases for services to be developed or delivered across LLR (for commissioning or decommissioning and/or investment or disinvestment) with a total financial value of £2,000,000 over the period of the contract (or three years if the investment is not time limited) or more for an individual CCG and provide comments to inform the considerations of individual governing bodies.

- To approve business cases for services to be developed or delivered across LLR (commissioning or decommissioning and/or investment or disinvestment) with a financial value of £2,000,000 over the period of the contract (or three years if the investment is not time limited) or more for an individual CCG where all three CCG governing bodies agree to delegate this decision to CCB.

### ***Procurement***

- Following approval of the model or specification for each health care service (as above), consider options for the procurement process through which the provider(s) will be selected. Receive reports from the Competition and Procurement Committee (CPC) as necessary. Acting in accordance with the recommendations of CPC, develop final proposals for the procurement process and approve these proposals.
- Through reports from the CPC as necessary, monitor progress of procurement processes for health care services within the remit of the CCB and provide assurance to the CCGs' Governing Bodies.
- Subject to the Scheme of Reservation and Delegation, make a recommendation to the CCGs' Governing Bodies on the outcome of the procurement evaluation or approve the award of contracts to the preferred bidder, if within the level of authority delegated to them.
- Keep under review the progress made with commissioning and procurement activity, particularly in response to information received from PPAG and other activity which should inform commissioning plans. Where necessary, report to the CCGs' Governing Bodies any such information which they should be aware of, particularly where it suggests that plans should be amended.

### ***Policies***

- For each policy, clinical and/or commissioning, within the remit of the CCB, develop proposals and present them for discussion by the CCGs' Governing Bodies. Acting in accordance with the outcomes of those discussions, develop final drafts for the policies and either approve these or, where required by the Scheme of Reservation and Delegation, present them for approval by the CCGs' Governing bodies.
- Consider the work programme of the East Midlands Affiliated Commissioning Committee.

### ***Finance***

- Consider and approve the use of non-recurrent funding provided nationally to the LLR system outside of core allocation, in line with the level of financial delegation.

### ***Commissioning Support***

- Agreement of the service specification for Commissioning Support services to be procured by the CCGs, in line with the budget set by each CCG Governing Body.

- Oversee the procurement process for any commissioning support service and approve outcome.
- Keep under review the commissioning support arrangements provided to the CCGs, providing the CCGs' Governing Bodies with assurance in respect of the quality of the services.
- Agree any changes to services (in line with the financial envelope agreed by individual governing bodies).

### ***Hosted Functions***

- Oversee the hosted functions which support the CCGs' collaboration, as defined in the Memorandum of Understanding but also to include information management and technology. Ensure that the services are appropriately specified, structured and resourced, and that the services meet the needs of the CCGs.

### ***Provider Contract Management***

- In accordance with the Scheme of Reservation and Delegation receive reports (on provider performance).
  - Where required, approve any variation to contracts for LLR wide services, including any changes funding arrangements, with a value of up to £499,999 for an individual CCG.
  - Within the scheme of reservation and delegation receive reports and escalation of issues from PPAG and determine what action may be required.
  - Within the scheme of reservation and delegation, receive proposals and agree and variations to contracts which may be required.
10. The CCB shall discharge these duties in line with the authority delegated to it by the three CCGs, as set out in the scheme of reservation and delegation at Appendix A.
11. The CCGs will remain independent statutory bodies, and maintain their statutory responsibilities. The following matters will be reserved to the governing body of each CCG:
- The approval of annual operational plan
  - The approval of annual report and accounts
  - Approval of s75 agreements
  - Budgets and operational plans for individual organisations
  - Local consultation
  - Primary Care Commissioning (as delegated by NHS England)
  - Statutory responsibilities for the quality and safety of services

## **Membership**

12. The CCB shall consist of a total of 18 members, with membership being balanced across each CCG. Each CCG shall be represented by 5 core members. The following roles will be represented for each CCG:
- Managing Director
  - Clinical Chair
  - Vice Clinical Chair (or assistant clinical chair, depending on local practice)
  - Independent Lay Member
  - Chief Finance Officer
13. In addition to the five roles set out at paragraph 12 above a further three members shall be appointed to the committee to act as 'functional leads'. These members represent their professional function on behalf of the three CCGs. The roles to be represented are:
- Chief Nurse
  - Director of Strategy (or equivalent)
  - Director of Urgent Care
14. Each CCG shall provide a representative to fill one of the functions, ensuring membership remains balanced with each CCG being represented by 6 members. However, in the event of a functional representative being unable to attend, they may ask a counterpart from another CCG to deputise for them (for example the Chief Nurse of one of the other CCGs). In this instance the membership will not be balanced numerically between CCGs, though the deputy will be representing their function, rather than their organisation.
15. Where a member cannot attend, they can send a suitably and duly nominated deputy may attend in their absence and be considered within the quorum. In the circumstance where a deputy attends for a functional role, that person represents their function, rather than their organisation.

## **Quoracy**

16. For decision making purposes, a quorum shall be 10 members. The following roles must be present from each CCG for the meeting to be quorate: Managing Director (or deputy) and Clinical Chair (or deputy) GP. In addition to these two roles the Chief Nurse representative (on behalf of the three CCGs), one Chief Finance Officer and two lay members must also be present.

## **Role of members**

17. With the exception of the functional representatives, members of the CCB represent their organisations, and the views of their governing body. It is expected that, where necessary, members shall ensure that recommendations to be presented to the CCB for decision are considered by the appropriate body within their own organisation, to

establish the shared view of the organisation which they represent when attending CCB.

18. Members shall also provide visibility within their own organisations of the considerations of the CCB, and ensure that issues and proposed solutions are discussed by the appropriate bodies within member organisations.

## **Chair**

19. The Chair of the CCB shall be one of the clinical chairs of the CCGs. Each Clinical Chair shall serve as chair for four months; the order of rotation shall be determined by CCB.
20. Where the Chair is unable to attend the meeting, the meeting shall be chaired by one of the other Clinical Chairs present.

## **Conduct of Business**

21. The CCB shall meet on the third Thursday of every month. Where an additional meeting is required outside of the established meeting pattern it shall be for the Chair to convene the meeting, with the agreement of the Chairs and Managing Directors of all of the three CCGs.
22. Papers will be circulated one week in advance, to enable organisations to consider the implications for their own organisations in advance of the meeting. Where this is not possible, any later circulation must be agreed with the Chair in advance.
23. Meetings of the CCB shall be held in public, subject to paragraph 26.
24. The CCB 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.
25. Where during the discussion of a matter in public, any member feels that the discussion is addressing matters of a confidential nature, he or she may request that the Chair adjourn the discussion of that item.
26. The conduct of confidential business shall warrant a closed meeting, or closed session of a meeting held in public, and the chair shall require only members of the governing body and any person(s) invited for the purpose of discussing the

confidential matter(s) to be present. The reasons for undertaking a discussion in confidential session shall be documented.

27. Where any member of the CCB has concerns about the way in which the CCB is addressing a matter, or where he/she disagrees with a decision of the CCB, he/she may at any time refer that matter to the Governing Body of the CCG which he/she represents. In such cases the CCGs' will refer to the dispute resolution procedure in the Memorandum of Understanding with the aim of resolving the matter.
28. The CCB shall be supported by a secretary to the committee. The secretary shall advise the Chair of the CCB on the CCB's compliance with these terms of reference and with other relevant governance requirements, and shall generally provide support to the CCB as required.

### **Decision making**

29. When taking decisions members of the CCB will work constructively and pragmatically to reach a consensus position where all agree; voting arrangements will not apply to the decision making of the CCB.
30. Where members don't feel they are in a position to support a decision, either individually or as a professional group, they reserve the right to refer the issue back to the governing body of their organisation for further consideration before the issue comes back to the CCB to take a decision. Members should clearly state their position, and ask that it be recorded in the minutes of the meeting. No decision shall be made by majority. If a consensus cannot be reached, no decision shall be made.
31. Decision making member organisations shall ensure that their own constitutions and schemes of reservation and delegation provide members of CCB with sufficient authority to take decisions on matters presented to the CCB on behalf of their organisations.
32. Where a decision has been made by the CCB, it shall be binding upon the CCGs. All decisions made shall be reported to the governing body of each of the CCGs.

### **Conflicts of Interest**

33. Members are required to state for the record any interest relating to any matter to be considered at each meeting. These conflicts will be recorded in the minutes, and where necessary an individual may be asked to withdraw from the meeting for that part of the agenda.
34. A Conflict of Interest Screening Panel, attended by the corporate affairs leads of each CCG and one or more of the Conflict of Interest Guardians of the three CCGs will review the agendas and papers in advance of the meeting. The panel will be an advisory body to the CCB
35. The Panel (Chair or Member) will make its recommendation to the CCB Chair regarding the management of each conflict in advance of the meeting. Such

recommendations are to be approved by the CCB and such recommendations and approvals shall be recorded in the meeting minutes.

36. It shall be the responsibility of the CoI Screening Panel to ensure that any actual or perceived conflicts of interest are managed effectively in an open and transparent way.
37. Where GP members are conflicted, the CCB has the ability to temporarily amend its quoracy for the duration of the relevant agenda item only. The process for exclusion will be managed under the leadership of the nominated Lay member with responsibility for governance who will also ensure that appropriate clinical advice has been taken to allow for robust decision making. In this circumstance all of the Clinical Nurses and/or a non-conflicted GP will be invited to attend to provide clinical advice.
38. In the circumstance outlined in paragraph 37, should the Chair of the meeting have a conflict of interest which necessitates his or her absence from the meeting, the role of Chair should be undertaken by one of the Lay Members present.

#### **Accountability**

39. The CCB does not usurp or replace any existing statutory accountabilities of member organisations. Individual member organisations retain their statutory accountabilities to their respective regulatory and oversight bodies.
40. The CCB will be accountable to both the governing bodies of its members, and shall provide a report on its work following each meeting. The minutes of CCB shall be circulated to the governing bodies of the three CCGs.

**To be reviewed October 2018**

	Area of responsibility	Decision	Example	Governing Body (or committee as appropriate)	CCB	SLT (to no longer be joint committee)
1	Strategy & Planning	Developing the annual operational plan	The two year operational plan	To approve	Consider prior to approval	None
2	Strategy & Planning	Approval of LLR wide commissioner plans	GPFV The role of commissioners in an ACS	To receive/comment prior to approval	To approve	To comment from system perspective
3	Strategy & Planning	Approval of LLR wide system plans	Revisions of STP ACS	To consider and comment prior to approval	To consider and inform	To comment from system perspective
4	Commissioning	Agreement of service specification for procurement of health care services (informed by any priorities agreed by SLT).	Urgent and Emergency Care NEPTS	To consider implications for local services. To approve financial envelop for individual CCG	To approve	To comment from system perspective
5	Commissioning	Approval of system level service and pathway changes	Cardio-Respiratory OTAS MSK	To consider prior to CCB approval (If necessary)	To approve	To comment from system perspective
6	Commissioning	Approval of business cases (for commissioning or decommissioning and/or investment or disinvestment) for LLR wide services (up to £1,999,999 for an individual CCG)	MSK Cardio-respiratory End of Life	To consider prior to approval	To approve	To inform from a system perspective
7	Commissioning	Approval of business cases (for commissioning or decommissioning and/or investment or disinvestment) for LLR wide services (value £2,000,000 or higher for an individual CCG)	NEPTS	To approve (to note, GBs could chose to delegate this to CCB on a case by case basis)	To consider prior to approval	To inform from a system perspective
8	Commissioning	Approval of Commissioner Requested Services	Detail to be added	To consider prior to CCB approval (If necessary)	To approve	None

	Area of responsibility	Decision	Example	Governing Body (or committee as appropriate)	CCB	SLT
9	Procurement	Monitor Progress of Collaborative Procurement	Urgent Care NEPTS	None	To monitor	None
10	Procurement	Develop options for procurement of LLR wide services	NEPTS Urgent Care	To agree to undertake collaboratively (and therefore approve delegation to CCB for specific procurements)	To approve	None
11	Procurement	Approve preferred bidder and contract award for LLR wide services (up to value of £1,999,999)	Dementia support service Wheel chair and community equipment	To receive outcome	To approve	None
12	Procurement	Approve preferred bidder and contract award for LLR wide services (value to individual CCG £2,000,000 or higher)	NEPTS re-procurement Urgent Care	To approve (unless specifically delegated to CCB)	To receive outcome	None
13	Policies: develop policy proposals for clinical policies, and approve where policies apply to LLR system	Approval of LLR wide commissioning policies – e.g. settings of care, planned care	CHC Settings of Care Planned Care Policies (e.g. low priority treatment)	To discuss and consider implications for own CCG	To approve	None
14	Finance	Investment/use of non-recurrent funding provided nationally outside of core allocation, within limits of delegated authority.	Winter funding Vanguard	To consider prior to CCB approval (If necessary)	To approve	To inform from a system perspective

	Area of responsibility	Decision		Governing Body	CCB	SLT
15	Review Commissioning Support Arrangements	Agreement of Service Specification	Recent CSU procurement	To discuss To agree financial envelope for individual CCG	To approve service specification	None
16	Review Commissioning Support Arrangements	Procurement of provision:  Preferred bidder Award of contract	Recent CSU Procurement	To receive outcome	To approve	None
17	Review Commissioning Support Arrangements	Contract management:  Escalation of issues Agree changes to what is commissioned (e.g. resources)	Recent CSU procurement	To receive	To approve	None
18	Hosted teams	Agreeing scope and specification of work to be undertaken by hosted team	Approve management of change for hosted teams.	To discuss	To approve service specification	None
19	Hosted teams	Agreeing funding arrangements for hosted teams	Approve management of change for hosted teams.	To consider financial envelope for individual CCG	To approve	None
20	Hosted teams	Escalation of issues	Holding individual CCGs to account for performance and delivery of teams they host.	To receive	To approve	None

	Area of responsibility	Decision	Example	Governing Body	CCB	SLT
21	Provider contract management:	Approve any variation to contracts for LLR wide services, including any changed funding arrangement (up to £499,999).	Night nursing Additional resources for EMAS	Consider implications for CCG's own financial position and implications for local services  Where variation value exceeds £500,000 for an individual CCG, this must be approved by the governing body.	Approve (up to £499,999)	None
22	Provider contract management	Escalation of issues	Annual contract negotiation round and issues escalated from hosted teams.	To receive	To receive reports from PPAG on any matters for escalation and determine what action may be required.	None
23	Provider contract management	Assurance regarding provider performance	Where a number of issues concerning same provider are raised, to allow for pooling of intelligence and agreed position.	To receive assurance from PPAG	To receive reports from PPAG on any matters for escalation and determine what action may be required.	None

**Internal Memorandum of Understanding: How West Leicestershire CCG will work with the new Commissioning Collaborative Board**

1. Following changes to the legislation governing Clinical Commissioning Groups (“CCGs”), CCGs are now able to form formal joint committees, which can exercise decision making authority which has been formally delegated from individual statutory governing bodies.
2. The Commissioning Collaborative Board (“CCB”) has been established as a joint committee of NHS Leicester City Clinical Commissioning Group, NHS West Leicestershire Clinical Commissioning Group and NHS East Leicestershire and Rutland Clinical Commissioning Group, collectively referred to as the Leicester, Leicestershire and Rutland Clinical Commissioning Groups (“LLR CCGs”). The CCB will support joint decision making on those matters delegated to it where the Governing Bodies of the CCGs have agreed to undertake collective strategic decision making. The Scheme of Reservation and Delegation sets out those areas where authority has been delegated to the CCB by the three CCGs.
3. This Memorandum sets out how West Leicestershire CCG’s Governing Body will work with the CCB. To ensure that the governing body is confident in both the role of the CCB and the way in which it is exercising the authority delegated to it, the following provisions shall apply:
  - 3.1. The governing body of West Leicestershire CCG reserves the right to revoke any delegation of authority or scheme of delegation it has previously agreed, including the authority delegated to the CCB, in full or in part.
  - 3.2. As specified at paragraph 17 of the CCB Terms of Reference, there is a clear expectation of the members of CCB to act in accordance with the view of the governing body of the organisation they represent. The West Leicestershire CCG members of CCB shall ensure that there is appropriate consultation on, and discussion of, those matters to be considered by the CCB with the governing body in advance of the meeting of the CCB, to ensure that members of the CCB are appropriately informed of the views of the whole governing body.
  - 3.3. Members of CCB shall reflect the views of the governing body, informed by their own professional judgement, the scope of their individual roles and any statutory duties associated with their individual roles.
  - 3.4. If CCB cannot reach a consensus position on a particular subject, or if any member of CCB feels it is no longer appropriate for a specific decision to be taken in a collaborative forum, the decision on that matter shall revert to the individual governing bodies for further consideration and, where appropriate, decision.
  - 3.5. If the governing body is unhappy with the conduct of any West Leicestershire CCG representative at the CCB, they may take the following steps:

- 3.5.1. Seek a formal explanation of the action taken and the reasons for this;
- 3.5.2. Consider whether the individual remain appropriate to represent the CCG at the CCB;
- 3.5.3. Consider whether further action should be taken in terms of performance, in-line with existing HR policy;
- 3.5.4. Should the above steps not prove adequate, the governing body may consider whether it is necessary to take steps to remove the individual from their position on the CCG board, following the relevant process stated in the standing orders.