

**NHS Berkshire West**  
**Clinical Commissioning Group**  
**Constitution**  
**Part I**

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## **INTRODUCTION AND COMMENCEMENT**

### **NAME**

- 1 The name of this clinical commissioning group is NHS Berkshire West Clinical Commissioning Group (“the CCG”).

### **PARTIES TO THIS CONSTITUTION**

- 2 The Primary Care Practices (the “Members”) whose names and addresses are set out in Appendix 1 (the “Register of Members”) agree this Constitution by a vote at a meeting of the Council of Member Practices.

### **CONTEXT AND PURPOSE**

- 3 The Health and Social Care Act 2012 (‘HSCA’) establishes clinical commissioning groups made up of general practices.

- 4 The Members have agreed to work together as the CCG in accordance with this Constitution.

- 5 This Constitution sets out how the CCG will work with and on behalf of the local clinical community to enhance the health and wellbeing of the local population, and how it will fulfil its statutory duties. Such duties include, in particular:

- Commissioning certain health services to meet the reasonable needs of all those for whom the CCG has statutory responsibility; and
- Commissioning of emergency care for anyone present in the Geography

consistent with the discharge by the Secretary of State and NHS England of their duty to promote a comprehensive health service, and with the objectives and requirements placed on NHS England through the mandate published by the Secretary of State before the start of each financial year.

- 6 The Members will keep under review the effectiveness of this Constitution and will amend it as necessary, with the approval of NHS England, to ensure it is designed to improve the health and wellbeing of the population and health workers and enhance the delivery of health care in the area, and to reflect Department of Health policy, relevant Regulations, Directions of the Secretary of State for Health and/or NHS England, and any guidance and requirements of authorisation stipulated by NHS England.

## **GEOGRAPHICAL AREA**

- 7 The geographical area covered by the CCG will be the Lower Layer Super Output Areas as set out in Part III Appendix I.

## **COMMENCEMENT**

- 8 This Constitution has effect from 1 April 2018.

## **NATURE AND ORGANISATION OF THE CCG**

- 9 The CCG is a clinically led membership organisation and a fully authorised statutory public body.
- 10 The CCG will establish a governing body (the "Governing Body") which shall have statutory responsibilities as set out in in the National Health Service Act 2006 (as amended by the HSCA) (the "2006 Act") and in paragraph 27 below, and such other functions as are lawfully delegated to it by the CCG.
- 11 Members will participate in the CCG and fulfil their statutory responsibilities through a Council of Members. Each Member will appoint an appropriately qualified and competent member of its practice to be its representative on the Council of Members (a "Member Representative").
- 12 The Council of Members will appoint, through selection and election, members of the Governing Body and will have the power to amend this Constitution pursuant to paragraph 4 above (subject to the authorisation of NHS England). A complete list of matters reserved for the Council of Members is set out in paragraph 23 below and in the Scheme of Reservation and Delegation in Part III Appendix 8 (Scheme of Reservation and Delegation).
- 13 In accordance with Regulation 11 of the NHS (Clinical Commissioning Groups) Regulations 2012 (SI 2012/1631)., the Governing Body will comprise:
- At least four GPs (with designated deputies from the same locality), including one from each locality, and of whom one will be the chair;
  - At least one registered nurse who is does not fall within Regulation 12(1) of SI 2012/1631;

- At least one secondary care specialist who is does not fall within Regulation 12(1) of SI 2012/1631;
- At least three lay members (at least one of whom will be responsible for governance matters, at least one of whom will have qualifications, expertise or experience to express informed views about financial management and audit matters at least one of whom will be responsible for championing patient and public participation matters; and of whom one will be the deputy chair);
- The Chief Officer;
- The Chief Finance Officer;

None of whom shall fall within categories exempt from appointment by law or regulations.

Their method of appointment, terms of office and roles will be as set out in Appendix 7 (the Standing Orders).

The Director of Strategy, one Operations Director from each locality (as defined in Part III Appendix 1) and the Director of Joint Commissioning will be non-voting members of the Governing Body.

- 14 The Governing Body will appoint an Operational Leadership Team (the "OLT") to manage the day to day operations of the CCG, which will include the procurement of management support and other matters set out in paragraph 30 below.

- 15 The CCG shall establish the following Committees:

- The Audit Committee,
- The Remuneration Committee
- The Primary Care Commissioning Committee

And any other Committees it deems necessary, as set out in Part II of this Constitution.

The Terms of Reference for all Committees formed are set out in Part II of this Constitution.

## **VISION, VALUES AND PURPOSE**

- 16 The CCG's vision is to ensure the continuation of a high quality of care for the local population, and to encourage innovation and different ways of working, within the Geography. This will require a fully-engaged CCG membership and the development of a responsive, open and dynamic CCG organisation with excellent systems of communication to deliver good healthcare and the

innovative commissioning of a range of patient centred services. Public views and feedback will be a key part of the commissioning process. There will be a need to maintain financially viable primary and secondary care sectors capable of providing new services in an inventive and flexible way. This will all require excellent working relationships and integration between the various health stakeholders as well as the Local Authority.

17 The CCG's values are:

**Openness, transparency and responsiveness**

**Clinical leadership:** We believe that commissioning is more effective and can make a real difference to patients when it is clinically led.

**Patients:** We believe that involving the people who use services is essential to successful commissioning.

**Localism:** We believe that local GPs and clinicians working with local communities will bring about the biggest improvements in care and outcomes for those communities.

**New ideas:** We believe in being innovative and challenging the established norms, being open to new ideas and giving people freedom to develop them.

**Collectivism:** We believe that every member of the Council of Members and the Governing Body holds collective and individual responsibility for ensuring successful commissioning by each practice, locality and the CCG as a whole, regardless of their role.

**Partnerships:** We believe in developing strong partnerships based on mutual respect and shared responsibility which delivers real and continuous improvements for local communities.

**Sustainability:** We accept that we have a responsibility to live within our means.

**Communications:** We are committed to excellent two-way communication and to keeping all stakeholders well informed.

**Accountability:** The CCG will demonstrate its commitment to accountability by:

- (a) publishing all commissioning decisions and consultation exercises on its website
- (b) holding a number of events each year with local people and organisations to explain the progress and work of the CCG.

- (c) publicising meetings of the Governing Body in advance on the CCG's Website, in the local press and other public places.

18 The purpose of the CCG is to improve population and patient health and healthcare through the work of the Members, the work of the wider local community stakeholders and through effective commissioning of health and other services for the population in its Geography and for patients registered with Member practices. The CCG will fulfil its purpose and strives to achieve its vision by:

- Securing effective and relevant clinical engagement in decision-making processes used to procure services through robust communication and systems agreed with its Members;
- Being responsible for good and effective communication with its Members to keep them informed of the decisions and developments that affect them;
- Promoting involvement of the Members in all that it does and by ensuring that each Member appoints a Member Representative to participate in the work of the Council of Members;
- By recognising that the effective delivery of improved health care and good commissioning requires healthy, engaged and motivated Members with good interrelations;
- Discharging its statutory obligations, adhering to Department of Health policy and assisting and supporting NHS England in relation to its duty to improve the quality of primary medical services, obtaining advice as appropriate;
- Adopting a collaborative approach within the local health system with patients, the public and other stakeholders;
- Playing a full role in the local Health and Wellbeing Board, including cooperating in the preparation of the joint strategic needs assessment and agreeing a joint Health and Wellbeing Strategy;
- Promoting integration of both health services with other health services and health services with health-related and social care services where the CCG considers that this would improve the quality of services or reduce inequalities;
- Promoting equality and patient empowerment through a comprehensive and effective patient (including carers and representatives) and public engagement strategy;
- By recognising and engaging with the important work of other stakeholders such as charities and voluntary organisations;
- Enabling patients to make choices;
- Promoting the NHS Constitution and awareness of it among patients, staff and members of the public;
- Promoting education, training, innovation and use of research among its Members and current and prospective members of staff;

- Coordinating and planning for demand, financial and investment needs of the CCG;
- Keeping proper accounts and records and submitting to audit;
- Preparing and publishing an annual report;
- Setting strategic goals that require the CCG to strive continuously for improvements in patient outcomes;
- Planning the commissioning of improving healthcare services for its population;
- Creating and implementing operational plans to deliver the strategic goals set by the CCG;
- Celebrating and rewarding success in delivery of strategic objectives at every level;
- Holding Members to account;
- Leading CCG-wide projects, pilots and development of certain key areas that are approved by the governing body on behalf of the council of members;
- Establishing links and sharing ideas, resource and expertise with partners including other clinical commissioning groups, where appropriate;
- 
- Adopting and upholding the CCG's values.

19 In accordance with section 14L(2)(b) of the 2006 Act, the CCG will at all times observe generally accepted principles of good governance in the way it conducts business. These include but are not limited to:

- The highest standards of propriety involving impartiality, integrity and objectivity in relation to the stewardship of public funds, the management of the organisation and the conduct of its business;
- The Good Governance Standard for Public Services;
- The standards of behaviour published by the Committee on Standards in Public Life (1995) known as the 'Nolan Principles (summarised at Appendix 6);
- The seven key principles of the NHS Constitution; and
- Meeting its public sector equality duty under the Equality Act 2010, and
- NHS England – Managing Conflicts of Interests Statutory Guidance December 2017

20 The CCG will demonstrate its accountability to its Members, local people, stakeholders and the NHS Commissioning Board in a number of further ways, including by:

- Publishing this Constitution;
- Appointing independent lay members and non GP clinicians to its Governing Body;

- Holding meetings of its Governing Body in public (except where the Governing Body considers that it would not be in the public interest in relation to all or part of a meeting);
- Publishing papers considered by the Governing Body (except where the Governing Body considers that it would not be in the public interest in relation to all or part of a paper);
- Publishing annually a commissioning plan;
- Complying with local authority health overview and scrutiny requirements.
- Endeavouring to work with as wide as possible a cross-section of the people who use or who may use the services provided, and the groups which may represent such people, to provide them with information about the services provided by the CCG in a variety of ways, tailored to the needs of the local community.
- Consulting as widely as it can on planning and development of services, and taking into account the views expressed when making decisions;
- Taking all reasonable steps it can to ensure that engagement is adapted to meet the needs of various groups and service users.
- Providing information about the CCG's key communications on the CCG Website, in public places and on request by email to local organisations and individuals.

## **THE COUNCIL OF MEMBERS**

21 Pursuant to paragraph 10 above, each Member will appoint an appropriately qualified and competent Member Representative to the Council of Members. Each Member may change its Member Representative from time to time, on prior written notice to the Operational Leadership Team. Each Member Representative may appoint an appropriately qualified and competent proxy to attend meetings of the Council of Members on their behalf.

22 In participating in the Council of Members, each Member Representative will:

*Promote the success of the CCG for the benefit of the membership as a whole by:*

- Acting within the powers set out in this Constitution;
- Exercising independent judgment and reasonable care, skill and diligence;
- Declaring any interest of his/her Member in any proposed transaction or arrangement being considered by the CCG;
- Avoiding conflicts of interest;

- Being open and transparent and operating transparently in accordance with the Conflict of Interests Policy implemented by the CCG;
- Not accepting benefits or gratuities from third parties;
- Co-operating in the reasonable provision of information to support the CCG's functions;
- Ensuring compliance with the confidentiality obligations as set out in paragraphs 65-68 below;
- Participating productively in working towards an agreed constitution and/or such variations thereto as may be appropriate from time to time, and ensuring the publication of the constitution and any amended constitutions as required by law;

*Actively participate in and contribute to the productive, effective and efficient operation of the CCG by:*

- Ensuring effective participation in developing and sustaining high quality commissioning arrangements including but not limited to investing appropriate clinician and manager time to commissioning;
- Sharing such knowledge and information as is appropriate from time to time including referral data and prescribing data;
- Sharing specialist knowledge and skills as required and as appropriate;
- Agreeing to review activity and budgets as specified from time to time and agree on and implement any action required;
- Agreeing to work with other clinical commissioning groups as appropriate;
- Abiding with agreements made between the Members on delivery of quality and activity, particularly in line with any proposed 'quality premium';
- Assisting in hospital data validation;
- Assisting in the identification of areas of appropriate reductions in hospital referrals, within the context of service re-design and care pathways;

*Assist in the analysis, development and implementation of patient pathways within the local health system with a view to improving services in a cost effective manner, sensitive to the implications for existing services including:*

- Proactively engaging in the exploration of alternative models of healthcare provision;
- Agreeing to and implementing new pathways;
- Assisting in defining new systems of working and local commissioning structures in line with emerging policy.

## **MATTERS RESERVED TO THE COUNCIL OF MEMBERS**

23 The following matters require the prior approval by at least 75% of the votes cast at a meeting of the Council of Members, and no action may be taken by the Governing Body without such approval (except calling a meeting of the Council of Members or circulating a written resolution requesting such approval for Members to vote on):

- Applying to NHS England to:
  - amend this Constitution, except to the extent that such amendments are required by law or Regulations;
  - change the vision or values of the CCG or doing anything that is inconsistent with them;
  - change the Geography;
  - change the name of the CCG;
  - merge with any other clinical commissioning group;
  - remove any Member for any reason other than those set out in paragraph 37 below (for example a Member breaching the policy for managing conflicts of interests, for failing to comply with decisions of the Governing Body or for consistent and/or flagrant breaches of this Constitution)].
- Approval of the annual operating plan, the commissioning strategy/plan and the Annual Report which are recommended by the Governing Body;
- Entering into certified externally financed development agreements;
- Extension of terms of members of Governing Body in exceptional circumstances;
- Removal of a Governing Body member subject to the requirements detailed in Appendix 4.

## **MEETINGS OF THE COUNCIL OF MEMBERS**

The Council will meet throughout the year as locality Councils, with devolved responsibilities for local decision making and devolved budgets.

The locality Councils will come together at least once a year to share good practice, provide input to the planning process and formally take those decisions that are reserved to them as the CCG Council, such as signing off the Operational and Strategic Plan and the Annual Report and Accounts.

## **ANNUAL GENERAL MEETING**

- 24 The CCG will hold an annual general meeting (an “AGM”) once a year, apart from Year 1. The AGM will be held in public and be a matter of public record. The CCG Chair or Vice Chair will chair the AGM.
- 25 The matters to be considered at the AGM will be sent out in the notice, but will include:
- Consideration and (if thought appropriate) approval of the CCG’s annual report, accounts, annual operating plan and commissioning strategy;
  - Consideration of an annual report describing all public consultations undertaken by the CCG, the findings and the actions it has taken as a result;
  - Election of members of the Governing Body;
  - Ratifying members of the OLT;
  - The transaction of any other business included in the notice.

## **THE GOVERNING BODY**

- 26 In pursuit of the purpose in paragraph 19, the CCG will establish the Governing Body and delegate to it the power to develop the strategic direction of the CCG and to conduct the overall management of the CCG, on such terms as the Council of Members will determine (having taken account of all relevant statutory requirements and Department of Health guidance).
- 27 The Governing Body will exercise the statutory powers and discharge the statutory duties and functions delegated to it by:
- Leading the CCG and secure effective clinical engagement in its business and decision making in accordance with statutory obligations;
  - Commissioning support services from appropriately qualified and experienced professionals to enable the CCG to fulfil its statutory duties;
  - Recommending to the Council of Members a commissioning strategy/plan (setting the strategic direction of the CCG) and an annual operating plan (to meet statutory obligations and implement the commissioning strategy);
  - Ensuring that the Members are communicated with thoroughly and in such a timely manner as to allow feedback from the members on key clinical and other CCG matters;
  - Publishing annually the Commissioning Plan approved by the Council of Members and submitting a copy to NHS England and to the relevant Health and Wellbeing Board;
  - Preparing, in consultation with the relevant Health and Wellbeing Board and, in accordance with such Directions given

by NHS England, recommending to the Council of Members and publishing an Annual Report in every financial year except its first financial year setting out how the CCG discharged its functions in the previous financial year;

- Publishing and submitting a copy of the Annual Report to NHS England and holding a meeting for the purpose of presenting the report to members of the public;
- Overseeing the delivery of the annual operating plan and commissioning strategy, once they have been approved by the Council of Members;
- Holding each member of the Governing Body and each Member of the CCG to account for the delivery of the annual operating plan and commissioning strategy;
- Ensuring that its capital resource use in a financial year does not exceed the amount specified by Direction of NHS England;
- Ensuring that its revenue resource use in a financial year does not exceed the amount specified by Direction of NHS England;
- Promoting the dynamic and proactive involvement of Members to secure improvements in commissioning of healthcare and other services and in the business of the CCG;
- Taking into account the views of Members when making decisions;
- Promoting the NHS Constitution (which is summarised at Appendix 6);
- Engaging in a collaborative approach within the local health system with patients, the public and other stakeholders through forming a public reference group, which at least one member of the Governing Body will meet to hear concerns, discuss plans, seek and act on feedback and reflect on strategy;
- Engaging with the relevant Health and Wellbeing Board/s and nominate a member of the Governing Body to act as the CCG's representative on it;
- Proactively engaging with the local HealthWatch;
- Appointing and ensuring the effectiveness of an Audit Committee; a Remuneration Committee; a Primary Care Commissioning Committee; and any other Committees it deems necessary
- Ensuring that the CCG achieves its statutory financial duties;
- Publishing an explanation of how it has spent any quality payments made to it;
- Appointing and ensuring the effectiveness of an Operational Leadership Team;
- Monitoring and ensuring that the CCG meets all statutory, financial and quality requirements imposed upon it whether by law, Regulations, official guidance, policy provisions or otherwise;
- Establishing systems and processes to implement effective corporate, clinical, financial, information and research

- governance and for the management of conflicts and probity issues;
  - Establishing systems and processes to ensure public assets are secure;
  - Discharging such functions as are imposed by the Secretary of State in Regulations from time to time;
  - Overseeing the development, implementation and ongoing review of all policies required to underpin all of the above in this paragraph 27;
  - Publishing the CCG Prospectus approved by the Council of Members and the Local Health and Wellbeing Board.
- 28 The Governing Body may delegate any of its functions to any Member, employee, committee or subcommittee, provided the terms of any such delegation are set out clearly in a scheme of reservation and delegation that includes standing orders and standing financial instructions which are made available publicly. (Part IV of this constitution)
- 29 Any committee and subcommittee established by the Governing Body will have terms of reference and have at least one member of the Governing Body in attendance to be quorate.

#### **THE OPERATIONAL LEADERSHIP TEAM**

- 30 The CCG will have an Operational Leadership Team (the “OLT”) which will be appointed by the Governing Body and will comprise a core membership of:
- The CCG Chair;
  - The Chief Finance Officer or Deputy;
  - The Chief Officer;
  - Any other individual invited to join by the OLT.
- 31 The OLT will have the power to manage the day to day business of the CCG and will be accountable to the Governing Body in respect of this. In particular, the OLT will be responsible for:
- Recommending to the Governing Body the annual operating plan that has been designed to implement the commissioning strategy recommended by the Governing Body and approved by the Council of Members;
  - Implementing the annual Commissioning Plan once approved;
  - Implementing the annual operating plan once approved;
  - Maintaining a close working relationship with the Governing Body and the Members by keeping them regularly and appropriately updated on the development of CCG business;

- Negotiating, entering into and managing contracts with third parties;
- Monitoring performance of third party contractors and carry out regular reviews of contracts entered into with third parties;
- Ensuring the CCG obtains best value from those contracts entered into with third parties;
- Securing and aligning the necessary managerial and clinical resources to bring about reform and improve quality in line with the commissioning strategy;
- Securing clinical engagement in its work;
- Managing day to day risks;
- Managing relationship with provider(s) of commissioning support services;
- Ensuring that it secures sufficient commissioning support to be able to fulfil the CCG's statutory functions;
- Publishing information about health services on the CCG website and through other media;
- Ensuring the CCG operates in a manner that is safe and legally compliant, including taking appropriate professional advice where necessary.

## **THE CCG's EMPLOYMENT RESPONSIBILITIES**

- 32 The CCG recognises that its most valuable assets are its people. It will seek to enhance their skills and experience, is committed to their development in all ways relevant to the work of the CCG, and will seek to set an example of best practice as an employer.
- 33 The CCG will adopt HR policies and procedures for employees, which will be approved in accordance with the Scheme of Reservation and Delegation and will be made available to staff.
- 34 The CCG will maintain and promote effective whistle-blowing procedures to ensure that concerned members of staff have the means through which their concerns can be voiced. The CCG recognises and confirms that nothing in or referred to in this constitution will prevent or inhibit the making of any protected disclosure (as defined in the Employment Rights Act 1996, as amended by the Public Interest Disclosure Act 1998) by any member of the CCG, any member of its governing body, any member of any of its committees or subcommittees or the committees or subcommittees of its governing body, or any employee of the CCG or of any of its members, nor will it affect the rights of any worker (as defined in that Act) under that Act.

## **MEMBERS JOINING AND LEAVING THE CCG**

- 35 Any provider of primary medical services, as defined in the Act at Chapter A2, Section 14A(4), within the Geography is eligible to become a Member and if such body wishes to become a Member it will make a written application to the Governing Body, confirming that it is willing to enter into and abide by this Constitution. The decision of the Governing Body to vary the CCG's list of members is subject to NHS England approval.
- 36 Membership of the CCG is not transferable.
- 37 Nobody will become a Member unless:
- It is eligible and has made a written application in accordance with paragraph 34;
  - Its application has been approved by the Governing Body and a vote of at least 75% of the Council of Members;
  - It has signed its adherence to this Constitution; and
  - It has been entered on to the Register of Members; or
  - Its membership is required by order of NHS England.
- 38 A Member will cease to be a Member:
- If ordered by NHS England;
  - If the Member gives at least twelve months prior written notice to the Governing Body of its intention to cease being a Member, such notice period to expire of necessity at the end of the relevant financial year;
  - Is a company limited by shares and:
    - The conditions in section 86(3) of the NHS Act 2006 are no longer satisfied, or
    - Suffers an insolvency event including the passing of a resolution for voluntary winding up for reason of insolvency, a winding up order being granted, the passing of a resolution to apply for an administration order; an administrator being appointed, statutory demand being issued or that it is unable to pay its debts as they fall due, all under the Insolvency Act 1986;
  - The Member ceases to be eligible for membership under the 2006 Act; or
  - The Member merges with another Member, such that they become one Member.
- 39 The CCG and any Member wishing to challenge a decision under paragraph 37 by the CCG undertake to use their best endeavours to resolve conflicts at a local level under local NHS dispute resolution arrangements, with escalation to NHS England only taking place as

a last resort and only after all relevant local dispute resolution arrangements have been exhausted in the first instance.

## **STANDARDS OF BUSINESS CONDUCT AND MANAGING CONFLICTS OF INTEREST**

- 40 Employees, Members, Member Representatives on the Council of Members and members of the Governing Body (and its committees and subcommittees) will at all times comply with this Constitution and be aware of their responsibilities as outlined in it. They should act in good faith and in the interests of the CCG and should follow the Seven Principles of Public Life, set out by the Committee on Standards in Public Life (the Nolan Principles) as set out in Part III, Appendix 4, and other good governance materials as listed in para. 19 above. They must comply with the CCG's policy on business conduct, including the requirements set out in the policy for managing conflicts of interest. This policy will be available on the CCG's website and is appended to this Constitution in Part III Appendix 4 (Managing Conflicts of Interest).
- 41 Individuals contracted to work on behalf of the CCG or otherwise providing services or facilities to the CCG will be made aware of their obligation with regard to declaring conflicts or potential conflicts of interest. This requirement will be written into their contract for services.

## **EMPLOYMENT, REMUNERATION AND EXPENSES**

- 42 The Remuneration Committee will set and review the salaries, sessional rates, fees, allowances (including pension allowances) and expenses for employees and any other persons providing services to the CCG save for the members of the Governing Body, taking into account national guidance, the running cost allocation and benchmarked information of other clinical commissioning groups.
- 43 Remuneration details of any Governing Body members and senior employees of the CCG will be published as part of annual accounts.

## **JOINT COMMISSIONING ARRANGMENTS WITH NHS ENGLAND FOR THE EXERCISE OF CCG FUNCTIONS**

- 44 The CCG may wish to work together with NHS England in the exercise of its commissioning functions.
- 45 The CCG and NHS England may make arrangements to exercise any of the CCG's commissioning functions jointly.

- 46 Where joint commissioning arrangements pursuant to the above are entered into, the parties may establish a joint committee to exercise the commissioning functions in question.
- 47 Arrangements made pursuant to the above may be on such terms and conditions (including terms as to payment) as may be agreed between NHS England and the CCG.
- 48 Where the CCG makes arrangements with NHS England (and another CCG) as described above, the CCG shall develop and agree with NHS England a framework setting out the arrangements for joint working, including details of:
- How the parties will work together to carry out their commissioning functions;
  - The duties and responsibilities of the parties;
  - How risk will be managed and apportioned between the parties;
  - Financial arrangements, including, if applicable, payments towards a pooled fund and management of that fund;
  - Contributions from the parties, including details around assets, employees and equipment to be used under the joint working arrangements; and
- 49 The liability of the CCG to carry out its functions will not be affected where the CCG enters into arrangements pursuant to the above paragraph
- 50 The CCG will act in accordance with any further guidance issued by NHS England on co-commissioning.
- 51 Only arrangements that are safe and in the interests of patients registered with member practices will be approved by the governing body.
- 52 The governing body of the CCG shall require, in all joint commissioning arrangements, that the Chair of the Joint Committee makes, as a minimum, a quarterly written report to the governing body and holds at least annual engagement events to review aims, objectives, strategy and progress and publish an annual report on progress made against objectives.
- 53 Should a joint commissioning arrangement prove to be unsatisfactory the governing body of the CCG can decide to withdraw from the arrangement but has to give six months' notice to partners, with new arrangements starting from the beginning of the next new financial year after the expiration of the six months' notice period.

## **JOINT OR FULLY DELEGATED COMMISSIONING ARRANGEMENTS WITH NHS ENGLAND FOR THE EXERCISE OF NHS ENGLAND'S FUNCTIONS**

- 54 The CCG may wish to work with NHS England and, where applicable, other CCGs to exercise specified NHS England functions.
- 55 The CCG may enter into arrangements with NHS England and, where applicable, other CCGs to:
- Exercise such functions as specified by NHS England under delegated arrangements
  - Jointly exercise such functions as specified with NHS England
- 56 Where arrangements are made for the CCG and, where applicable, other CCGs to exercise functions jointly with NHS England a joint committee may be established to exercise the functions in question.
- 57 Arrangements made between NHS England and the CCG may be on such terms and conditions (including terms as to payment) as may be agreed between the parties.
- 58 For the purposes of the arrangements described above, NHS England and the CCG may establish and maintain a pooled fund made up of contributions by the parties working together. Any such pooled fund may be used to make payments towards expenditure incurred in the discharge of any of the commissioning functions in respect of which the arrangements are made.
- 59 Where the CCG enters into arrangements with NHS England as described above, the parties will develop and agree a framework setting out the arrangements for joint working, including details of:
- How the parties will work together to carry out their commissioning functions;
  - The duties and responsibilities of the parties;
  - How risk will be managed and apportioned between the parties;
  - Financial arrangements, including, if applicable, payments towards a pooled fund and management of that fund;
  - Contributions from the parties, including details around assets, employees and equipment to be used under the joint working arrangements; and
- 60 The liability of NHS England to carry out its functions will not be affected where it and the CCG enter into arrangements pursuant to the paragraph above,

- 61 The CCG will act in accordance with any further guidance issued by NHS England on co-commissioning,
- 62 Only arrangements that are safe and in the interests of patients registered with member practices will be approved by the governing body,
- 63 The governing body of the CCG shall require in all joint commissioning arrangements that the Chair of the Joint Committee makes, as a minimum, a quarterly written report to the governing body and holds at least annual engagement events to review aims, objectives, strategy and progress and publish an annual report on progress made against objectives
- 64 Should a joint or fully delegated commissioning arrangement prove to be unsatisfactory the governing body of the CCG can decide to withdraw from the arrangement but has to give six months' notice to partners, with new arrangements starting from the beginning of the next new financial year after the expiration of the six months' notice period.

#### **PATIENT AND PUBLIC INVOLVEMENT**

- 65 The CCG will make arrangements to secure public involvement in the planning, development and consideration of proposals for changes and decisions affecting the operation of commissioning arrangements by:
- working in partnership with patients and the local community to secure the best care for them;
  - adapting engagement activities to meet the specific needs of the different patient groups and communities ;
  - publishing information about health services on the CCG's website and through other media;
  - encouraging and acting on feedback

#### **CONFIDENTIALITY**

- 66 In this paragraph 65 the expression Confidential Information means any information that any Member may have or acquire in relation to the CCG or another Member but excludes information that:
- Is or becomes public knowledge other than as a result of it being disclosed in breach of this paragraph;

- A Member can show to the reasonable satisfaction of the other Members that this was known to it before it became a Member and that it was not under any duty of confidence in respect of the information;
  - A Member can show to the reasonable satisfaction of the other Members that it discovered the information from a source not connected with its membership of the CCG and the source was not under any obligation of confidence in respect of the information;
  - The Members agree in writing is not confidential.
- 67 Each Member will keep all Confidential Information confidential and will not use or disclose it except:
- In accordance with any use permitted by the owner of the Confidential Information;
  - To its professional advisers where necessary for a proper purpose connected with the operation of the CCG;
  - As required by law or regulation.
- 68 These obligations will continue without limit in time and will survive the expiry of membership of the CCG.
- 69 No Member will make or permit the making of any press release or other public statement concerning the CCG without the prior written approval of the OLT.

## **NOTICES**

- 70 A notice under this Constitution will be in English, in writing, for the attention of the Member Representative to the address stated in the Register of Members from time to time and will be delivered personally or by first class post or to recognised email address.

## **DUTY TO REPORT NON-COMPLIANCE WITH STANDING ORDERS AND PRIME FINANCIAL POLICIES**

- 71 If for any reason any provision in this Constitution or any document deriving force from it is not complied with, full details of the non-compliance and any justification for non-compliance and the circumstances around the non-compliance, will be reported to the next meeting of the Council of Members or Governing Body, whichever is earlier, for action or ratification. All Member Representatives and staff have a duty to disclose any non-compliance to the Chief Officer as soon as possible.

## **USE OF SEAL AND AUTHORISATION OF DOCUMENTS**

### **CCG Seal**

72 The CCG may have a seal for executing documents where necessary. The following individuals or officers are authorised to authenticate its use by their signature:

- The Chief Officer;
- The Chair of the Governing Body;
- The Chief Finance Officer.

73 The CCG will keep a record of the date and purpose of each occasion where the seal has been used and report these to the next available Audit Committee meeting.

### **Execution of a document by signature**

74 The following individuals are authorised to execute a document on behalf of the CCG by their signature:

- The Chief Officer;
- The Chair of the Governing Body;
- The Chief Finance Officer.