NHS
North Cumbria
Clinical Commissioning Group

NHS North Cumbria CCG Full Council of Members	Agenda Item
8 February 2018	6

North Cumbria and the North East CCG Joint Committee, and the North Cumbria Committee in Common

Purpose of the Report

The purpose of this report is to ensure that the Full Council of Members are updated on developing partnership arrangements across North Cumbria and the North-East.

Outcome Required:	Approve		Ratify		For Discussion		For Information	**X**

Assurance Framework Reference:

4, Leadership - The CCG needs to develop and implement robust governance and management arrangements to operate in a safe and sound manner.

Recommendation(s):

The Council of Members is asked to note:

1. That North Cumbria CCG has become a member of the Joint CCG Committee for Cumbria and the North-East
2. That the CCG's Constitution, Standing Orders and Scheme of Delegation have been amended to formalise the CCG's arrangements within the joint committee
3. The Terms of Reference for the Joint CCG Committee for Cumbria and the North-East - (Attached as Appendix 1)
4. That on February 7 2018 the NHS North Cumbria CCG Governing Body were due to consider a proposal to establish a Committee in Common with partner organisations in North Cumbria

Executive Summary:

This paper provides an update regarding two formal approaches to partnership based working.

North Cumbria and North East CCGs Joint Committee

The first relates to the establishment of a Joint Committee between NHS North Cumbria CCG and our partner

CCGs in the North East. The Joint Committee has been established to be able to make decisions on a limited number of issues where there is a clear collective interest for all of the CCGs in the region. The Committee does not replace any of the statutory or formal duties of the CCG.

West, North and East Cumbria Committee in Common

The second development is the proposal to establish a Committee in Common between NHS North Cumbria CCG and local partner organisation sin West, North and East Cumbria. This will replace the existing System Leadership Board, and will provide a forum for the partner organisations to consider issues collectively. Formally, the Committee in Common is actually a Committee of each of the organisations meeting concurrently, and therefore none of the organisation are delegating any decision making powers outside of their own organisations governance. Again, the Committee in Common does replace any of the statutory or formal duties of the CCG.

The proposed duties of the Committee in Common are:

1. Take a collective, proactive role in delivering the vision for the Integrated Health and Care System across North Cumbria.
2. Oversee the mechanics and lead on the requirements of the accountable care model for North Cumbria.
3. Develop the commissioning aspects of the accountable care model in accordance with strategic and local commissioning plans.
4. Oversee the development of building a population health management system in order to segment, risk stratify and prioritise future need & demand for care.
5. Have collective oversight of the development and implementation of sustainable system strategies and transformational plans (including STP).
6. Oversee the implementation of the public consultation outcomes and identify future services which require system wide reviews to improve local population health outcomes.
7. Identify risk areas collectively for further mitigation and or review, including co-dependencies on proposed service changes across the system.
8. Establish and approve key enabling strategies to support system wide working across health and where possible care, for example Organisational Development, Estates and IM&T.
9. Develop and implement a single strategic financial plan and risk share for health.
10. Identify opportunities for pooling resources and improving value for money across the system.
11. Prioritise investments in accordance with the health and wellbeing strategy, public health and clinical outcome data.

The membership of the Committee in Common is anticipated to include (subject to approval from each of the individual organisations):

- Cumbria County Council
- Cumbria Partnership NHS FT

- NHS North Cumbria CCG
- North Cumbria University Hospitals NHS Trust
- North West Ambulance Service

Further consideration is been given to the most effective way for General Practice to be represented at the Committee.

A verbal update regarding the Committee in Common, including on the decision made by the Governing Body, will be given at the Full Council of Members meeting. The remainder of this paper relates to the Joint Committee.

Key Issues:

Background

On 20 April 2016 the Full Council of Members for NHS Cumbria CCG approved the inclusion of NHS England's model wording for the establishment of joint commissioning arrangements with other CCGs, NHS England for the exercise of CCG functions and NHS England for the exercise of NHS England functions.

Also on the 20 April 2016, the Full Council of Members also delegated to the Governing Body the authority to approve all matters relating to committee administration including approval of terms of reference, committee membership, Standing Orders, Scheme of Reservation and Delegation and Prime Financial Policies, including reporting procedures to the Governing Body (Ref No: 1.12 of Section J of the Scheme of Delegation). This included making minor amendments to the Constitution around the CCG's committees (Ref No: 1.2 of Section J of the Scheme of Delegation). These were subsequently adopted and approved at the Full Council of Members meeting on 18 May as part of NHS North Cumbria CCG's Constitution, Standing Orders and Scheme of Delegation from 1 April 2017.

During early 2017 and following the formation of NHS North Cumbria CCG, it was evident that, due to our strong connectivity to the north-east, there would be occasions where we needed to make commissioning or policy decisions with the other 11 CCG's on a regional basis rather than individually.

On 5 October 2017 the Joint CCG Committee for Cumbria and the North-East approved the Terms of Reference (Appendix 1) at its inaugural meeting. At this meeting the election of the Chair took place and North Cumbria CCG Chair, Jon Rush, was appointed.

The main constitutional points currently contained within the Terms of Reference are as follows:

- Each CCG will be represented by its Chair and Chief Officer (or deputy)
- Each CCG will have one vote (based on their delegates agreeing)
- The current scope of the Committees regional commissioning is Specialist Acute Services and 111 Services
- NHS Sunderland CCG have not yet agreed on their full membership of the Committee but are attending the meetings with a view to joining in the near future
- All decisions of the Committee must be unanimous
- There are 2 Lay Members on the Committee, selected from the membership of the constituent CCG's
- The Committee will approve an annual work plan, which will enable an interaction to take place

between the Committee and its relevant CCG Governing Bodies.

Whilst the Joint CCG Committee is developing it is anticipated that its scope may be widened; which will involve ongoing amendments being made to the Terms of Reference.

Constitutional Issues for NHS North Cumbria CCG

As part of the establishment of the Joint CCG Committee for Cumbria and the North-East, legal advice was obtained regarding the steps that a CCG needed to take in order to delegate some of its functions to a Joint Committee. This included:

1. The CCG's Constitution needs to allow for delegation of the CCG and/or Governing Body functions to a joint committee, and describe the process that the CCG needs to follow to do this.
2. The CCG's Constitution will usually include the details of those committees to which the CCG has delegated particular functions.
3. Where functions are delegated to a joint committee, committee or sub-committee, this needs to be reflected in the schedule of delegation.

In relation to item 1 above, NHS Cumbria CCG and subsequently NHS North Cumbria CCG adopted the model wording for the establishment of Joint Committees that was approved by the Full Council of Members on 20 April 2016 (as described above) and subsequently utilised for the NHS North Cumbria CCG constitution (formally approved 18 May 2018). These can be found in Sections 6.5, 6.6 and 6.7 of the CCG's Constitution. Therefore there was no requirement to amend the Constitution in relation to the establishment of a joint committee. However, items 2 and 3 did require the following amendments to be made:

- Item 2 above – Inclusion of the following paragraph in the CCG's Constitution under 6.8 Joint and Collaborative Commissioning Arrangements:

  6.8.4 The CCG has established a formal joint committee with the following CCG's (see the Terms of Reference for the remit of the Committee):

  - NHS Darlington CCG
  - NHS Durham Dales, Easington & Sedgefield CCG
  - NHS Hambleton, Richmondshire & Whitby CCG
  - NHS Hartlepool & Stockton CCG
  - NHS Newcastle Gateshead CCG
  - NHS North Cumbria CCG
  - NHS North Durham CCG
  - NHS Northumberland CCG
  - NHS North Tyneside CCG
  - NHS South Tees CCG
  - NHS South Tyneside CCG
  - NHS Sunderland CCG

- Item 3 above – Inclusion of the following amendment to Section J, 9 Tendering and Contracting, of the CCG's Scheme of Delegation:

Ref No	Reserved or Delegated Matter	Matter Reserved to FCM	Matter Reserved to GB	Matters Considered by		Responsible for Recommending a course of action	Operational
				Governing Body or Committee	Ind. Member or Officer		
9.3	Approve arrangements for co-ordinating the commissioning of services with other CCGs or NHSE in line with Section 6.5, 6.6 and 6.7 of the CCG's Constitution	N/A	Governing Body	N/A	N/A	Accountable Officer	Accountable Officer
9.4	Make decisions and approve actions in relation to subjects recommended to it by the Joint CCG Committee for Cumbria and the North-East, operating within the terms of the CCG's Constitution and with the agreed Terms of Reference for this Committee	N/A	Governing Body	Delegated to the Joint CCG Committee for Cumbria and the North-East	N/A	Chair/ Accountable Officer	Chair/ Accountable Officer

Key Risks:
Timescales, establishment of safe/sustainable services, efficiency of decision making and cost savings will be improved if decision making is undertaken on a regional basis.

Implications/Actions for Public and Patient Engagement:
It is envisaged that by joining this committee patient choice and quality of services could be improved.

However at this stage there are no implications for public and patient engagement.

Financial Impact on the CCG:
It is anticipated that by the CCG joining this committee there is the potential to improve the commissioning of high quality services and to effect potential savings by purchasing services for the whole of the North of Cumbria and the North East of England.

Strategic Objective(s) supported by this paper:	**Please select (X)**
Support quality improvement within existing services including General Practice	
Commission a range of health services appropriate to Cumbria's Needs	**X**
Develop our system leadership role and our effectiveness as a partner	**X**
Improve our organisation and support our staff to excel	**X**

Impact assessment: (Including Health, Equality, Diversity and Human Rights)	**No**

Conflicts of Interest Describe any possible Conflicts of interest associated with this paper, and how they will be managed	**None identified**

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Joint CCG Committee for Cumbria and the North East (CNE)

Terms of Reference

Version	Date	Comments
1.0	5.10.17	Considered at Joint CCG Committee for CNE meeting
2.0	12.10.17	Updates incorporated following Joint CCG Committee for CNE meeting on 5.10.17 as follows: Para.2 – Insertion re term of office: 'The term of office will be two years'. Para.5 – Insertion of paragraph re lay members: 'There will also be two (non-voting) lay members appointed to the Joint Committee, one of whom will be from a patient and public involvement perspective and the other from a finance and governance perspective. One lay member will be from the north of the path and the other from the south of the patch' Para 15 – Insertion of sentence re decision making: 'Decisions will be taken only by those CCGs to whom a particular issue applies' Para 16 – amendment to paragraph re collective decisions to read: The collective decisions of the Joint Committee shall be binding on all member CCGs to whom a particular issue applies, and decisions will be published by individual CCG members on their websites. All decisions of the Joint Committee must be unanimous. Title of the Committee This has been amended to read consistently throughout as 'Joint CCG Committee for Cumbria and the North East
	4.1.18	At its meeting on 1 January 2018 (development session), the Joint Committee agreed not to include financial limits for decision making in the terms of reference.

TERMS OF REFERENCE

Joint CCG Committee for Cumbria and the North East: membership and functions

1. Membership of the Joint CCG Committee for Cumbria and the North East (hereafter referred to as 'the Joint Committee') will be open to the twelve undermentioned clinical commissioning groups :

- NHS Darlington CCG
- NHS Durham Dales, Easington & Sedgefield CCG
- NHS Hambleton, Richmondshire & Whitby CCG
- NHS Hartlepool & Stockton CCG
- NHS Newcastle Gateshead CCG
- NHS North Cumbria CCG
- NHS North Durham CCG
- NHS Northumberland CCG
- NHS North Tyneside CCG
- NHS South Tees CCG
- NHS South Tyneside CCG
- NHS Sunderland CCG

2. Voting membership of the joint committee will comprise the Chair and Chief Officer from each member CCG, or a nominated deputy.

3. The Chair and Vice Chair of this Joint Committee will be elected by the members of the Joint Committee, and must come from the twelve member CCGs. Both roles cannot be undertaken by members of the same CCG. The term of office will be two years.

4. Each CCG will be entitled to exercise one vote in the Joint Committee – this means that the two representatives of each CCG will have to be in agreement when exercising their CCG's vote. It will then be important for these representatives to canvas views from their nominating CCG prior to meetings and to discuss agenda matters in advance of meetings.

5. There will also be two (non-voting) lay members of CCGs appointed to the Joint Committee, one of whom will be from a patient and public involvement perspective and the other from a finance and governance perspective. One lay member will be from the north of the patch and the other from the south of the patch.

6. Given that the Joint Committee's proposed membership is the same (CCG Chairs and Chief Officers), the Joint Committee will convene straight after the monthly meetings of the Northern CCG Forum. Also attending the meeting (in a non-voting capacity and where appropriate under the conflicts of interest policies of the CCGs) will be the Managing Director of NECS, a named Director from NHS England, and the Head of Strategic CCG Development.

7. This Joint Committee will make decisions on subjects recommended to it by the Northern CCG Forum which will develop an annual work plan for the Joint Committee to be approved by each of the CCGs as part of the annual review of the Terms of Reference. These will be confined to issues that pertain to all CCG areas in Cumbria and the North East (and, where appropriate, Hambleton, Richmondshire and Whitby) namely the commissioning of:

- Specialist acute services
- 111 services

8. Expansion of this scope to accommodate any decision making required to progress delivery of the STP work streams at a CNE/HRW level will only follow from the unanimous agreement of member CCGs and in line with an annually agreed work programme.

9. The Joint Committee will not make decisions on the following areas (which will remain the exclusive preserve of individual CCG Governing Bodies) including but not limited to:

- Financial planning
- Strategic planning for the locality (e.g. 5 year plans, annual plans, primary care strategy)
- The commissioning, contracting and performance management of
  - Local hospital services
  - Community Services
  - Primary care services
  - Mental Health and Learning Disability services
  - Community pharmacy services
- Health and Social Care integration
- Continuing Health Care, Funded Nursing Care, and other individual level commissioning arrangements eg S117 and other associated responsibilities

10. The Joint Committee will be guided by the following principles:

- Securing continuous improvement to the quality of commissioned services to improve outcomes for patients with regard to clinical effectiveness, safety and patient experience
- Promoting innovation and seeking out and adopting best practice, by supporting research and adopting and diffusing transformative, innovative ideas, products, services and clinical practice within its commissioned services, which add value in relation to quality and productivity.
- Developing strong working relationships with clear aims and a shared vision putting the needs of the people we serve over and above organisational interests
- Avoiding unnecessary costs through better co-ordinated and proactive services which keep people well enough to need less acute and long term care.

11. The Joint Committee will also ensure compliance with the four key tests for service change as established by the Department for Health:

- Strong public and patient engagement.
- Consistency with current and prospective need for patient choice.
- Clear, clinical evidence base.
- Support for proposals from commissioners.

12. In accordance with statutory powers under s.14Z3 of the NHS Act 2006, the proposed Joint Committee will be able to make decisions on procuring services and awarding contracts, chiefly to the providers of specialised acute and ambulance services. In discharging this function the committee will:

- Determine the options appraisal process for commissioning services, including agreeing the evaluation criteria and weighting of the criteria

- Where appropriate, determine the method and scope of the consultation process, and make any necessary decisions arising from a Pre-Consultation Business Case (and the decision to go run a formal consultation process). That includes any determination on the viability of models of care pre-consultation and during formal consultation processes, as set out in s.13Q, s.14Z2 and s.242 of the NHS Act 2006 (as amended).

- Approve the formal report on the outcome of the consultation that incorporates all of the representations received in order to reach a decision, taking into account all of the information collated and representations received in relation to the consultation process.

- Make decisions to satisfy any legal requirements associated with consulting the public and making decisions arising from it, ensuring that individual CCGs' retained duties can be met.

Decision-making and links to individual CCG Governing Bodies

13. The NHS Act 2006 (as amended) enables CCGs to exercise certain functions jointly and to take collective binding decisions as to the exercise of these functions. To be clear, this legislative permission only applies to Joint Committees of CCGs and does not apply to enable decision-making to be exercised by any alternatively constituted or wider group (for example, an STP Board or Programme Board).

14. Under this legal framework, the power to take commissioning decisions in respect of health services sits with CCGs (and to a more limited extent NHS England), with decisions being taken by the Governing Body or otherwise, as determined in the relevant governance documents. On this basis, all commissioning decisions must be taken by the CCGs acting independently or as a formally constituted joint CCG committee. Therefore, when functions are delegated to the Joint Committee, it will transact all the work necessary to discharge those functions. The Joint Committee will be the decision maker in relation to that work and those functions, however it is for the members of the Joint Committee to consult their own Governing Body prior to any decision being taken and for the members to report back to their relevant CCG Governing Body.

15. The relevant parties to whom any Joint Committee decision applies must be agreed first by the Joint Committee itself – before any recommendations are brought back to it for decision-making (this will allow for the exclusion of certain CCGs where the geographical scope of a proposal does not apply to them or because of their current status, e.g. where legal directions prohibit them from taking the decision). Decisions will be taken only by those CCGs to whom a particular issue applies.

16. The collective decisions of the Joint Committee shall be binding on all member CCGs to whom a particular issue applies, and decisions will be published by individual CCG members on their websites. All decisions of the Joint Committee must be unanimous.

17. The Joint Committee will have a forward plan to ensure CCG members are clear which decisions they need to prepare for. It will be the responsibility of each member CCG to ensure that their Governing Body and/or other CCG decision making body is appropriately consulted and briefed ahead of Joint Committee meetings, and is provided with regular updates on the business of the Joint Committee so that they are clear on the implications of the decisions made.

18. Implementation of the decisions will be the remit of each member CCG and therefore accurate reporting back to their respective Governing Body is essential. The Joint Committee will make regular written reports to the Governing Bodies of its member CCGs, and will review its aims,

objectives, strategy and progress and produce an annual report for the member Governing Bodies.

19. While CCGs can delegate decisions to the Joint Committee they can also agree the governing bodies or members input on these decisions and have them provide recommendations into the Joint Committee.

20. It is essential that each CCG delegates the same level of authority for the same matters into the Joint Committee.

21. Should this joint commissioning arrangement prove to be unsatisfactory, the Governing Body of any of the member CCGs can decide to withdraw from the arrangement and pull out of the Joint Committee.

Meetings of the Joint CCG Committee for Cumbria and the North East:

22. Members of the Joint Committee have a collective responsibility for the operation of the Joint Committee. They will participate in discussion, review evidence and provide objective expert input to the best of their knowledge and ability, and endeavor to reach a collective view.

23. The Joint Committee will usually meet on a quarterly basis, but additional meetings can be called as required.

24. The Joint Committee may call additional experts to attend meetings on an ad hoc basis to inform discussions.

25. The Joint Committee has the power to establish sub groups and working groups and any such groups will be accountable to the Joint Committee (and ultimately the member CCGs).

26. Para 8 of Schedule 1A of the NHS Act 2006 requires meetings of a Governing Body to be in public unless it is not in the public interest to hold them in public. It will be for the members of the formally constituted Joint Committee to decide whether their meetings (or parts of them) are held in public to help them meet their statutory duties of transparency and public involvement.

27. The Joint Committee shall adopt the standing orders of North Durham CCG (which is one of its constituent CCGs) insofar as they relate to the:

- Notice of meetings
- Recording and minuting of meetings
- Agendas
- Circulation of papers
- Conflicts of interest (together with complying with the statutory guidance issued by NHS England)
- At least one full voting member from each CCG must be present for the meeting to be quorate.
- All decisions of the Joint Committee must be unanimous (see section 19.1 above).

28. Members of the Joint Committee shall respect confidentiality requirements as set out in the Standing Orders unless separate confidentiality requirements are set out for the Joint Committee in which event these shall be observed.

29. The secretariat to the Joint Committee will:

- Circulate agenda and associated documents at least ten working days prior to the meeting
- Work in collaboration with CCG and NECS communication and engagement personnel to publicise the meeting/agenda and documents on all CCG websites
- Circulate the minutes and action notes of the Joint Committee within three working days of the meeting to all members
- Present the minutes and action notes to the governing bodies of the CCGs.

30. These terms of reference will be formally reviewed annually by the CCGs and may be amended by mutual agreement between the CCGs at any time to reflect changes in circumstances as they may arise.