

## Governing Body meeting (held in public)

**DATE: 29 September 2016**

Title	Constitutional changes
This paper is for <b>Decision and information</b>	
Recommended action for the Governing Body	<p>That the Governing Body:</p> <p><b>Agree</b> that an application should be made to NHS England to change the CCG's constitution to enable the CCG undertake level 3 co-commissioning functions. The membership (PCAG) at its meeting on 15 September 2016 approved the changes.</p>
Potential areas for Conflicts of interest	None identified in this report
Executive summary	<p>The CCG membership (PCAG) at its meeting on 15 September 2016 approved amendments to the constitution as set out in the report. The amendments support the CCG in being able to undertake co-commissioning level 3 and to establish a revised process on managing conflicts of interest within the CCG.</p> <p>Commencing the responsibilities of level 3 co-commissioning functions and implementing the new NHS England guidance on managing conflicts of interest requires the following changes to the constitution:</p> <ul style="list-style-type: none"> <li>i) Bexley CCG to have an additional lay member on the governing to meet the minimum of three lay members recommended;</li> <li>ii) To inset in the constitution, the authority to undertake level co-commissioning functions</li> <li>iii) The primary care joint-commissioning committee to be chaired by a lay member and have lay members and executives in the majority on the committee</li> <li>iv) All CCG employees, governing body and committee members and practice staff involve in the CCG's business are required to make a declaration of interest and update their declarations on a regular basis as required by statute and guidance from NHS England from time to time.</li> </ul>

## Clinical Commissioning Group

	The governing body is asked to approve the application to NHS England for a formal change to the CCG's constitution. The application to NHS England will be made to NHS England immediately following the approval.	
How does this paper support the CCGs objectives?*	<b>Patients:</b>	Improve the health and wellbeing of people in Bexley in partnership with our key stakeholders
	<b>People:</b>	Empower our staff to make NHS Bexley CCG the most successful CCG in (south) London
	<b>Pounds:</b>	Delivering on all of our statutory duties and become an effective, efficient and economical organisation
	<b>Process:</b>	Commission safe, sustainable and equitable services in line with the operating framework and which improves outcomes and patient experience
What are the Organisational implications	Key risks	Failure to apply to NHS England for a formal amendment to the constitution.
	Equality	None identified in this report
	Financial	Failure to apply to NHS England for a formal amendment to the constitution may have financial consequences for the CCG
	Data	None identified in this report
	Legal issues	Failure to apply to NHS England for a formal amendment to the constitution may have legal implications for the CCG
	NHS constitution	Failure to apply to NHS England for a formal amendment to the constitution may lead a breach of the NHS constitution
Engagement	EMC and PCAG were engaged in the review and amendment of the constitution.	
Audit trail	The amended constitution has been presented to the EMC and PCAG for approval.	
Comms plan	The revised constitution will be published on the CCG's website when approved	
Author: Elinam Attipoe	Clinical lead: Dr Nikita Kanani Bexley CCG Chair	Executive sponsor: Anne Douse Director of Quality, Performance and Governance
Date	16 September 2016	

## Clinical Commissioning Group

### Primary Care Co-Commissioning – Level 3 constitutional changes

#### Introduction

The move to level 3 co-commissioning functions and the need to bolster how conflicts of interest are managed require a number of amendments to the CCG's constitution. These amendments will provide the CCG with the appropriate powers and ensure that it has the necessary arrangements in place to take on the functions. The CCG's membership through the Primary Care Advisory Group (PCAG) at its meeting on 15 September 2016 approved the amendments set out below in the constitution.

#### Amendments to the constitution

Note the following table details the additions and deletions to the current constitution. Please see the [current constitution](#) - which is available in the Governing Body section on the CCG website - to see these changes in context of the full constitution text.

The proposed changes are:

- Deletions are marked in **Blue**
- Additions are marked in **Red**

	Proposed change	Reason
1.0	<u>Section 5.1</u> Functions of the CCG There is an additional function for the CCG. <b>Section 5.1.2.16: Undertake co-commissioning level 3 functions</b>	This is to enable the CCG undertake level 3 co-commissioning functions.
2.0	<u>Section 6.8</u> Composition of the Governing Body There is an addition of a third lay member as below <b>Section 6.8.1.6: A lay member with the qualification, expertise or experience to express informed views about legal and commercial/procurement matters.</b>	NHSE has strongly recommended that all CCGs should have at least three lay members to enable CCGs to manage conflicts of interest effectively. The person specification of the third lay member was approved by the governing body at its July 2016 meeting.
3.0	<u>Section 6.9.5.3:</u> The chairing of the Primary Care Joint-Commissioning Committee. The chairing of the committee has been prescribed as below: <b>Section 6.9.5.3: The Primary Care Joint-Commissioning Committee to be chaired by a</b>	The NHSE guide on level 3 co-commissioning defines who should chair the committee, the composition and membership.

## Clinical Commissioning Group

	lay member and have lay members (non-clinical) and executives in the majority.	
4.0	<p><u>Section 6.9.5.3.1:</u> This section removes the roles of PCAG in terms of the TOR of the Co-Commissioning Committee.</p> <p><u>Section 6.9.5.3.1:</u> The terms of reference for this committee will be agreed by the governing body from time to time. <del>however any changes to the membership of the committee will be presented to the next meeting of the Primary Care Advisory Group where the change if not endorsed the Primary Care Advisory Group can reinstate the original membership or alter the membership</del></p>	<p>The terms of reference for the committee will be agreed by the governing body from time to time.</p> <p>This is to ensure the CCG complies with the guidance on managing conflicts of interest and enables the governing body to agree the membership of the committee based on the skills required.</p>
5.0	<p>Section 8.2 Conflicts of Interest</p> <p>The addition of responsibility for all regarding the management of conflict of interest</p> <p><del>Section 8.2.2: Arrangements for managing conflicts of interest will comply with statute and guidance from NHS England (as amended from time to time) and will be set out in Policy approved by the Governing Body and available on the CCG website</del></p> <p>All CCG employees, governing body and committee members and practice staff involved in the CCG's business are required to make a declaration of their interests and update their declarations on a regular basis as required by statute and guidance from NHS England (as amended from time to time). This will be set out in a Conflicts of Interest Policy approved by the Governing Body and available on the CCG website.</p>	<p>The NHSE guide has placed responsibility on all involved in the functions of the CCG to make regular declarations of interest.</p> <p>Section 8.2.2 has been removed and replaced with an enhanced clause in order to strengthen the management of conflict of interest within the organisation and the NHS.</p> <p>The details of management of conflict of interest are defined in the policy.</p>
6.0	<p>Appendix B – List of Member Practices.</p> <p>The list has been amended to reflect the registered list from NHS England. This includes Practice Code, Registered practice name and address.</p>	<p>The list of member practices has been reviewed and updated with NHSE register of practices.</p> <p>Please see amended list below.</p>
7.0	<p>Foreword:</p> <p>The Chair's foreword has been deleted.</p>	<p>This has been removed as it quickly becomes dated.</p>

8.0	Formatting	As a result of the amendments to the constitution, there are several changes to the formatting of the documents, especially to the numbering of the sections.
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## Clinical Commissioning Group

### List of member practices according to NHSE register as at 30 June 2016

Practice Code and Name	Address	Practice Representative's Signature & Date Signed
G83002. The Westwood Surgery	Westwood Lane, Welling Kent DA16 2HE	
G83004. Barnard Medical Practice	43 Granville Road, Sidcup Kent DA14 4TA	
G83005. Cairngall Medical Practice	2 Erith Road, Belvedere Kent DA17 6EZ	
G83006. The Albion Surgery	Albion Surgery, 6 Pincott Road, Bexleyheath Kent DA6 7LP	
G83009. Bellegrove Surgery	174 Bellegrove Road, Welling Kent DA16 3RE	
G83010. Northumberland Heath Medical Centre	Hind Crescent, Northumberland Heath, Erith DA8 3DB	
G83018. Lakeside Medical Practice	Lakeside Health Centre, Yarnton Way, Thamesmead London SE2 9LH	
G83024. Ingleton Avenue Surgery	84 Ingleton Avenue, Welling, Kent DA16 2JZZ	
G83025. Welling Medical Practice	2 Danson Crescent, Welling, Kent DA16 2AT	
G83028. Bexley Group Practice	73 Upper Wickham Lane, Welling, Kent DA16 3AT	
G83029. Plas Meddyg Surgery	40 Park Hill Road, Bexley, Kent DA5 1HU	
G83033. Dr Thavapalan & Partner	Little Heath Surgery, 55 Little Heath Road, Bexleyheath Kent DA7 5HL	
G83037. Bulbanks Medical Centre	62 Battle Road, Erith Kent DA8 1BJ	
G83043. The Parkside	208 Parkside Avenue, Barnehurst Kent DA7 6NW	
G83046. Bursted Wood Surgery	219 Erith Road, Barnehurst Kent DA7 6HZ	
G83047. Station Road Surgery	69 Station Road, Sidcup Kent DA15 7DS	
G83049. Lyndhurst Road Medical Centre	41 Lyndhurst Road, Barnehurst Kent DA7 6DL	
G83052. Belvedere Medical Centre	15 Albert Road, Belvedere Kent DA17 5LQ	
G83053. Bexley Medical Group	171 King Harolds Way, Bexleyheath Kent DA7 5RF	
G83057. Woodlands Surgery	146 Halfway Street, Sidcup Kent DA15 8DF	
G83061. Crook Log Surgery	19 Crook Log, Bexleyheath DA6 8DZ	
G83062. Slade Green Medical Centre	156 Bridge Road, Slade Green, Erith Kent DA8 2HS	

## Clinical Commissioning Group

Practice Code and Name	Address	Practice Representative's Signature & Date Signed
G83064. Thanet Road Surgery	63 Thanet Road, Bexley Kent DA5 1AP	
G83066. Sidcup Medical Centre	2 Church Avenue, Sidcup Kent DA14 6BU	
G83630. Good Health, Erith Health Centre	50 Pier Road, Erith, Kent DA8 1RQ	
G83642. Crayford Town Surgery	Crayford Road, Crayford Kent DA1 4ER	
G83672. Mill Road Surgery	25 Mill Road, Erith Kent DA8 1HW	



## **FOREWORD**

This Constitution sets out the arrangements to meet our responsibilities for commissioning health care for the people of Bexley.

Clinicians in Bexley have a tradition of being involved for the long term and being committed to working with partners for the common good of their patients and the residents of Bexley. This Constitution formalises the structures that have been shown to work over the past few years of early involvement in commissioning and to ensure that these principles of broad involvement both within the organisation and between the Clinical Commissioning Group (CCG) and other related organisations are supported and developed further. In particular the Constitution seeks to ensure that not only are the views of all local clinicians heard and represented by the organisation but also, and particularly, the views of local residents and users of the planned services are both heard and responded to.

The coming years represent a time of change and also limitations in resources and it is in everyone's interests to ensure that these resources are spent effectively, allocated fairly, and that services are of the highest possible quality producing the outcomes that professionals seek and the population both needs and deserves.

The Constitution describes the governing principles, rules and procedures that we will establish to ensure probity and accountability in the day to day running of the CCG; to ensure that decisions are taken in an open and transparent way and that the interests of patients and the public remain central to our goals.

The Constitution applies to all of the Members; the CCG's employees, individuals working on behalf of the CCG and to anyone who is a member of the CCG's governing body (including the governing body's audit and integrated assurance, executive management and remuneration committees) and any other committees or sub-committees established by the CCG or its governing body.

Every member practice, employee or other person working on behalf of the CCG, or member of the governing body or any committees is responsible for knowing, complying with and for upholding the arrangements for the governance and operation of the CCG as described in this constitution.

Dr Howard Stoate  
Chair, NHS Bexley CCG  
May 2014





### **Recommendation**

The amendments to the constitution as reported above have been reviewed and recommended to the membership (PCAG). The membership considered and approved the recommendations. The governing body is being asked to agree the amendments that going to be presented to NHS England for approval. There will be further work and responsibilities for the governing body following the amendments and the revised conflicts of interest (including gifts and hospitality) policy.



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[www.bexleyccg.nhs.uk](http://www.bexleyccg.nhs.uk)

19 September 2016

Dear Sir,

### **Application to vary constitution**

Level 3 co-commissioning functions offer the CCG the opportunity to assume full responsibility for commissioning general practice services. The functions include:

- GMS, PMD and APMS contracts (including the design of PMS and APMS contracts, monitoring of contracts, taking contractual action such as issuing breach/remedial notices and removing contracts)
- Newly designed enhanced services
- Design of local incentives schemes as an alternative to QOF
- The ability to establish new GP practices in an area
- Approving practice mergers
- Making decisions on 'discretionary' payments (e.g., returner/retainer schemes).

In order for the CCG to meet the robust governance and assurance process required to effectively carry out the responsibilities, the following changes have been proposed.

### **NHS Bexley CCG's constitution**

The CCG has added a third lay member to the governing body. The third lay member will have the qualification, expertise or experience to express informed views about legal and commercial/procurement matters. The third member will bring additional expertise to the governing body and compliment the experience and expertise already on the governing body. The lay member will assist in the effective management the of conflicts of interest process within the CCG.

The CCG has established a primary care commissioning committee. The committee will be chaired by a lay member and a majority of the membership of the committee will be made up of lay members and the CCG's executives. The primary care commissioning committee will be responsible for providing the CCG's governing body with system-wide leadership,



challenge oversight and guidance for the delivery of the primary care (Level 3) commissioning work in Bexley. The primary care commissioning committee will:

- Provide recommendations and assurance to the CCG's governing body on accountability of primary medical care service delivery
- Oversee the implementation of local primary care delivery and quality improvement as outlined in the CCG's commissioning intentions and primary care strategy
- Make commissioning recommendations and report on commissioning
- Ensure that decisions taken by the committee are documented in full and reported to the governing body

As part of the process for an effective management of conflicts of interest, all employees, governing body and committee members and practice staff involved in the business of the CCG are required to make regular declarations of interest and update their declarations on a regular basis in accordance with statute and guidance from NHS England.

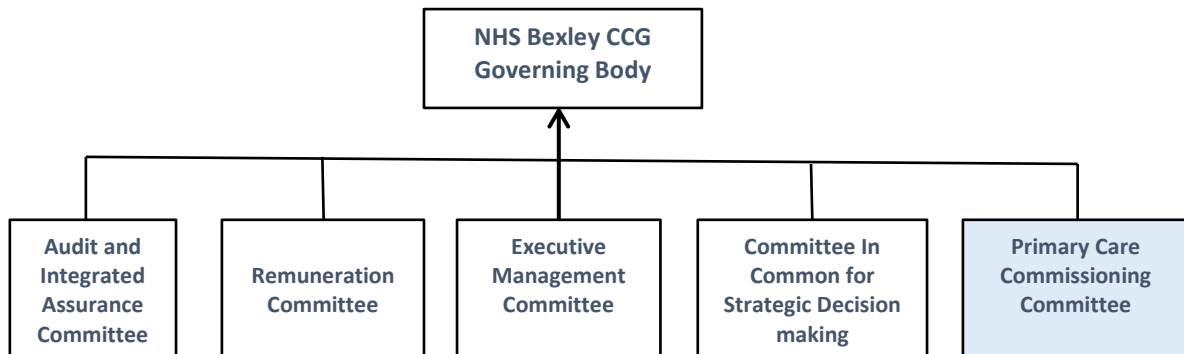
## Constitutional changes

To enable the CCG to undertake level 3 co-commissioning a third lay member is to be appointed on to the governing body and the primary care commissioning committee to be established, the following changes to the CCG's constitution have been agreed by the membership at their meeting on 15 September 2016.

	Original	Change	Reason
1.0	<u>Section 5.1</u> Functions of the CCG	There is an additional function for the CCG. Section 5.1.2.16: Undertake co-commissioning level 3 functions	This is to enable the CCG undertake level 3 co-commissioning functions.
2.0	<u>Section 6.8</u> Composition of the Governing Body	There is an addition of a third lay member to Section 6.8.1.6: A lay member with the qualification, expertise or experience to express informed views about legal and commercial/procurement matters.	The third lay member added to the governing body should enable the CCG manage conflicts of interest effectively. The third lay member should have the qualification, expertise or experience in legal and commercial/procurement matters in order to compliment the experience and expertise already on the governing body
3.0	<u>Section 6.9.5.3:</u> The chairing of the Primary Care Joint-Commissioning Committee.	The Primary Care Joint-Commissioning Committee named as the Primary Care Commissioning Committee.  Section 6.9.5.3: The Primary Care Commissioning Committee to be chaired by a lay member and have lay members and executives in the majority.	The NHSE guide on level 3 co-commissioning defines who should chair the committee, the composition and membership. The constitution has been amended to include guidance from NHS England. This should aid effective management of conflicts of interest.
4.0		<u>Section 6.9.5.3.1:</u> This section removes the roles of PCAG in terms of	The terms of reference for the committee will be agreed by the

		the TOR of the Primary care Commissioning Committee. <u>Section 6.9.5.3.1:</u> The terms of reference for this committee will be agreed by the governing body from time to time	governing body from time to time.  This is to ensure the CCG complies with the guidance on managing conflicts of interest and enables the governing body to agree the membership of the committee based on the skills required.
5.0	Section 8.2 Conflicts of Interest	The addition of responsibility for all regarding the management of conflict of interest  Section 8.2.2: All CCG employees, governing body and committee members and practice staff involved in the CCG's business are required to make a declaration of their interests and update their declarations on a regular basis as required by statute and guidance from NHS England (as amended from time to time). This will be set out in a Conflicts of Interest Policy approved by the Governing Body and available on the CCG website.	Section 8.2.2 has been removed and replaced with an enhanced clause in order to strengthen the management of conflict of interest within the organisation and the NHS.  The details of management of conflict of interest are defined in the policy.

The new Primary Care Commissioning Committee will report direct to the governing body. It is an addition to the committees already appointed by the governing body and approved by the CCG's membership.



The objective of the Primary Care Commissioning Committee will be to:

- Transform and innovate when challenging the delivery of primary care services to ensure a reduction of unwarranted variation in Bexley and the delivery of high quality patient care
- Ensure that there is a robust and supportive performance management structure for primary care providers

- Ensure that there are quality and finance reporting processes providing assurance to the Quality and Safety Sub-Committee, Finance Sub-Committee and the Governing Body
- Ensure that services are whole population focussed and geographically coherent, serving natural recognised communities, planned against a deep understanding of that population's need and focussed on prevention and a reduction in health inequalities
- Promote learning that could be shared with other programmes.

The executive of the CCG have consulted the governing body and the membership of the CCG which agreed to the proposed amendments to the constitution at their meeting on 15 September 2016

I have attached for your information a copy of the CCG's revised constitution for your approval. I have also attached the constitutional change checklist for your information.

Yours sincerely,

Anne Douse  
Director of Quality, Performance and Governance

I declare that the revised constitution continuous to meet the requirements of the Health and Social Care Act 2012

Sarah Blow  
Accountable Officer