

## Surrey Health & Social Care

### Surrey-wide Commissioning Committees in Common

#### Terms of Reference

<b>NHS Surrey Heartlands CCG</b>	✓
<b>NHS North East Hants &amp; Farnham CCG</b>	✓
<b>NHS Surrey Heath CCG</b>	✓
<b>Surrey County Council</b>	✓

**Approved:** December 2020 (tbc)

**Next review due:** December 2021

#### 1. Context

- 1.1. Surrey County Council and the three Surrey CCGs wish to collaborate and integrate the commissioning of Health & Social Care.
- 1.2. The integration approach varies across the three CCGs.
  - The three Surrey CCGs will each establish a Surrey Commissioning Committee that will meet in Common with a Commissioning Committee established by Surrey County Council.
  - The collaborative working between the CCGs and Surrey County Council will be underpinned through an agreement of a suite of agreements under section 75 of National Health Services Act 2006.
  - The three CCGs are members of three different Integrated Care Systems (ICS) and therefore:
    - may not be able to make some collaborative decisions with their Surrey partners. However, there will be a need for them to participate in the discussion with other Surrey decision-making Committees' members to order to manage the consequences of a decision on their services; and/ or
    - will need to report into their own ICS for oversight and assurance purposes.

#### Introduction

- 1.3. Each of the three Surrey Clinical Commissioning Group Governing Bodies has resolved to establish a committee of the Governing Body known as the Surrey

Commissioning Committee ('the Committee') in accordance with Schedule 1A of the National Health Service Act 2006 (as amended) ("the NHS Act").

- 1.4. The Committee is established in accordance with each of the CCG's constitution and, where agreed, any delegation of functions from NHS England (also known as 'the NHS Commissioning Board' or the 'Board' under section 13Z of the NHS Act). These terms of reference set out the membership, remit, responsibilities and reporting arrangements of the Committee and shall have effect as if incorporated into the CCG's constitution.
- 1.5. Under Section 9E of the Local Government Act 2000, the Leader of a local authority operating executive governance arrangements, such as Surrey, may determine to whom executive functions are delegated. Such delegation of functions may be made to a number of defined groups, including a sub-committee of the executive. So long as that sub-committee meets the general local government requirements for taking decisions, it may meet in any location to transact its business. Surrey County Leader will establish committee called the "Surrey Commissioning Committee" and delegate to it the decision-making of Surrey County Council health-related commissioning functions.
- 1.6. The Committee will meet "in common" with one or more of the other Surrey CCGs, an equivalent Surrey County Council Commissioning Committee and an NHSE Officer. (The Committee may meet individually where there is a matter that is only relevant to a single organisation.)

## **2. Purpose & Objectives**

- 2.1. The Committee exercises oversight for health and social care commissioning across Surrey including any responsibilities delegated to it from local and national partners. The Committee will be outcomes led, taking into account best clinical & social care practice and the views of the citizens of Surrey.
- 2.2. The Committee is:
  - A forum for bringing together representatives from the County Council, the three Surrey Clinical Commissioning Groups and NHS England to develop and discuss proposals and make aligned decisions relating to the commissioning of Surrey health and social care services.
  - Responsible for taking commissioning decisions within the scope/ set of functions delegated to it by local/ national partners.
- 2.3. The Committee will operate in line with the principles, vision and objectives set out in:
  - The Surrey Joint Health & Well-being Strategy;
  - Surrey Heartlands Devolution Trilateral Agreement (the "Surrey Heartlands Vision").

- 2.4. The Committee will make health & care commissioning decisions for Surrey residents.
- In developing the scheme of delegation (including any functions delegated to Surrey CCGs by national partners), the Committee will pay due regard to the principle of subsidiarity to ensure that decision making authority is delegated to the most appropriate level.
- 2.5. The Committee may only make decisions that the Governing Body / Surrey County Council Cabinet has delegated to it (listed in Annex 1). The Committee may enter into discussions with other committees that are making a decision for services that have not been delegated to it. This allows the Committee to be informed and inform the other committees of the impact of their decisions on the Committee.

### **3. Accountability/ Delegated Authority**

- 3.1. The Committee is accountable to the Governing Body/ Surrey County Council Cabinet.
- 3.2. The minutes of Committee meetings shall be formally recorded and submitted to the Governing Body/ Surrey County Council Cabinet. The Chair shall draw to the attention of the Governing Body/ Surrey County Council Cabinet any issues that require consideration or require executive action. (For clarity – Any minutes from the confidential part of a meeting (Part II) will be considered in the Part II Governing Body / Surrey County Council Cabinet meeting.)
- 3.3. The Committee also reports strategic or “at scale” decisions to the relevant Integrated System Board and Integrated care partnerships for delivery.
- 3.4. Where a “Committees in Common” meeting arrangement is used, the minutes will be written as if only the Committee met<sup>1</sup>.
- 3.5. The Committee is authorised by the Governing Body/ Surrey County Council Cabinet to investigate any activity within these terms of reference. It is authorised to seek any information it requires from any member, officer or employee who are directed to co-operate with any request made by the Committee. The Committee is authorised by the Governing Body/ Surrey County Council Cabinet to obtain outside legal or other independent professional advice and to secure the attendance of other individuals with relevant experience and expertise if it considers necessary.
- 3.6. The Committee makes strategic or “at scale” decisions and reports these to various local forums, e.g. Integrated Care Organisations for delivery or influencing local commissioning. This is in addition to reporting to the Governing Body/ Surrey County Council Cabinet.

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<sup>1</sup> The minutes will be usually written generically e.g. “The Committee agreed that” and therefore identical for all the committees meeting in common. The start of the minutes will have a Header denoting the name of each Committee participating in the meeting in common.

- 3.7. There is a three stage mechanism for delegating decisions to the Surrey Commissioning Committee:
- a) **Enable Delegation to the Surrey Commissioning Committee**  
The Governing Body / Surrey County Council Cabinet decides to delegate the preparation of a list of collaborative decisions to their executive and that the decisions for these are delegated to the Surrey Commissioning Committee.
  - b) **Describe the Scope of the Surrey Commissioning Committee**  
The Surrey Commissioning Committee advises its parent bodies the scope of services that are suitable for collaborative commissioning and adds these as at Annex 1 to these Terms of Reference.
  - c) **Delegation of Decisions to the Surrey Commissioning Committee**  
The executive of each participating organisation decides what in-scope decisions it will delegate to Surrey Commissioning Committee. The individual organisation's list is approved by its Governing Body / Surrey County Council Cabinet and added to Annex 1.

## 4. Sub Committees & Delegation

- 4.1. The Committee may delegate tasks to such individuals, sub-committees or third parties as it shall see fit, provided that any such delegations are consistent with the parties' relevant governance arrangements, are recorded in a scheme of delegation, are governed by terms of reference as appropriate and reflect appropriate arrangements for the management of conflicts of interest.

## 5. Responsibilities

- 5.1. Subject always to the Surrey Health & Care Vision, the key responsibilities of the Committee are:
- To develop and agree the mechanism and protocol to determine what should be commissioned at a Surrey or CCG level, subject to agreement by the relevant partners;
  - To exercise oversight of the commissioning of health and social care services for the people of Surrey;
  - To develop proposals for policies and / or agree the principles for the procurement of and/or the award of contracts to deliver health and social care services in Surrey;
  - To agree the overall principles for the allocation of resources across Surrey;
  - To review and pay due regard to the outcome of any consultations in relation to proposed significant services changes;

- To ensure decisions are taken and resources allocated to give the best value for money/ outcomes for residents;
  - To define (and rationalise where required) the supporting governance arrangements for the Committee particularly where it meets “in common”.
- 5.2. As set out in the Surrey Heartlands Investment Framework, the Committee may receive delegated responsibility to enable the application and approval of transformation funds across Surrey:
- Formally deciding on opportunities to prioritise and case for change;
  - Formally deciding on the approval of Level 3 investments.

## **6. Membership**

- 6.1. The membership of the Committee is described in Annex 2.
- 6.2. The membership must be sufficient for the Committee to make decisions that have been delegated to it. The membership may be different to the partner organisations participating in the “in common” meeting. Each organisation will recognise the need of establishing a functional “in common” meeting.
- 6.3. Appointment of Members:
- The members of the Committee shall be appointed with approval from the Governing Body/ Surrey County Council Cabinet.
  - There shall be no bar to a particularly valued member returning to the Committee if a vacancy occurs in future years.
- 6.4. Members of the Committee should aim to attend all scheduled meetings. The Chair of the Committee will review with the Chair of the Governing Body/ Surrey County Council Cabinet any circumstances in which a Member’s attendance falls below 75% attendance.

## **7. Co-opted members/ deputies/ attendees**

- 7.1. Committee members may nominate a suitable deputy when necessary and subject to the approval of the Chair. All deputies should be fully briefed and the secretariat informed of any agreement to deputise so that quoracy can be maintained.
- 7.2. No person attending the meeting in one role can additionally act on behalf of another person as their deputy. A member may attend a meeting and simultaneously be a member or a deputy for a member of another meeting that is meeting “in common”.
- 7.3. People from a range of areas may be invited to attend based on the needs of the agenda.

## **8. The Convener – (Committees in Common)**

- 8.1. Where the Committee is using the “Committees in Common” meeting approach, the participating Chairs will either select:
  - a “Convener” from amongst themselves; or
  - an independent individual to be the “Convener”.
- 8.2. All the participating Committees will agree to allow the selected Convener to Chair the committees in common meeting.
- 8.3. The Convener will rotate amongst the participating Chairs, although there may be occasions when the business will indicate which of the Chairs would be most appropriate to be the Convener.

## **9. Quorum**

- 9.1. The quorum for the Committee is described in Annex 2.
- 9.2. The quorum may be different to the partner organisations participating in the “in common” meeting.
- 9.3. The Convener will ask each of the participating Chairs to decide if the meeting is quorate after any actions have been taken to manage any declared conflicts of interest.
- 9.4. Nominated deputies attending Committee meetings, on behalf of substantive members, will count towards quorum.
- 9.5. If a meeting is not quorate, the Convener may adjourn the meeting to permit the appointment or co-option of additional members if necessary. The Committee Chair will have the final decision as to their suitability.
- 9.6. Any decisions put to a vote at a Committee meeting shall be determined by a majority of the votes of members present. (For clarity: members may be physically attending the meeting or participating by an agreed telecommunications link). In the case of an equal vote, the Chair shall have a second and casting vote. The Chair will declare the result of the vote.

## **10. Meetings**

- 10.1. The Committee will meet formally on a quarterly basis and have an annual rolling programme of meeting dates and agenda items.
- 10.2. In addition to the above formal meetings, the Committee will meet informally in private for development sessions/ seminars.
- 10.3. The Committee will operate in accordance with the CCGs’/ Surrey County Council’s Standing Orders.

- 10.4. The CCGs'/ Surrey County Council's Corporate Office will be responsible for ensuring administrative support to each Committee.
- 10.5. The Surrey Heartlands' CCGs Governance Team will administer all meetings held "in Common". This will include:
  - Giving notice of meetings (including, when the Chair of the Committee deems it necessary in light of the urgent circumstances, calling a meeting at short notice);
  - Issuing an agenda and supporting papers to each member and attendee no later than 5 days before the date of the meeting;
  - Ensuring an accurate record (minutes) of the meeting.
- 10.6. The Committee will meet in public and agendas and papers will be published at least seven working days in advance of the meeting except where confidential or sensitive information is likely to be disclosed. This may include:
  - information given to any of the partners in confidence;
  - information about an individual that it would be a breach of the Data Protection Act to disclose; or
  - information the disclosure of which could prejudice the commercial interests of any of the partners or third parties.
- 10.7. Meetings may be held by conference call or by electronic means, so long as the technology provides live and uninterrupted conferencing facilities.
- 10.8. With the agreement of the Chair and by exception, one or more Members of the Committee may participate in meetings in person or virtually by using video or telephone or web link or other live and uninterrupted conferencing facilities.
- 10.9. An extra meeting of the Committee can be called at the request of the Chair.
- 10.10. Where an extra meeting needs to be scheduled, every endeavour will be made to give at least 10 working days' notice. Notification will be given by email.
- 10.11. The Committee 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.
- 10.12. Non-voting people present at a meeting may be required to withdraw from the confidential part of the meeting.
- 10.13. Members of the Committee have a collective responsibility for the operation of the Committee. They will participate in discussion, review evidence and provide

objective expert input to the best of their knowledge and ability, and endeavour to reach a collective view.

## **11. Agenda Preparation**

- 11.1. The Committee will develop the forward-looking rolling Agenda programme, maintained by the secretariat.
- 11.2. The Convener will work with the secretariat on the preparation of the next meeting agenda and consult with the other participating Chairs.

## **12. Managing Conflicts of Interest**

- 12.1. The members of the Committee must comply fully with NHS England Guidance and CCG Policy regarding Conflict of Interest<sup>2</sup>.
- 12.2. The Convener is responsible for managing conflicts of interest at a meeting of the Committee. If the Convener has a conflict of interest, then one of the other participating Chairs or another member of the Committee is responsible for deciding the appropriate course of action.
- 12.3. At the start of the meeting, the Convener will invite members to declare if they have any conflicts of interest with the business to be conducted, including previously declared interests.
- 12.4. The Convener will decide any necessary course of action to manage a declared conflict of interest as advised by the CCGs' Conflict of Interest Policy.
- 12.5. Any declared conflicts of interest will be recorded in the minutes along with any action taken, in a form as advised by the CCG Conflict of Interest Policy. In summary the information recorded is
  - the name of the person noting the interest;
  - the nature of the interest and why it gives rise to the conflict;
  - the item of the agenda to which the interest related;
  - how it was agreed that the conflict should be managed;
  - evidence that the conflict was managed as intended.

## **13. Decision-making (Committees in Common)**

- 13.1. The aim of the Committee is to achieve consensus decision-making wherever possible.
- 13.2. The Committee will normally meet using the "Committees in Common" arrangement with the other Surrey CCGs and Surrey County Council. When the Convener

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<sup>2</sup> The Management of Conflicts of Interest is included in the CCG Business Conduct Policy.



determines a consensus has been achieved by the members present then the decision will be considered to have been made by the Committee.

- 13.3. Each voting member of the Committee shall have one vote. (It should be noted that an individual may be a member of more than one committee and is entitled to place their vote in each of their committees.)
- 13.4. If the Convener determines that there is no consensus or one member disputes that consensus has been achieved, a vote will be taken by the Committee members. (The other CCG Committees meeting at the same time will likewise take a vote.) The vote will be passed with a simple majority the votes of the Committee members present. In the case of an equal vote, the Chair shall have a second and casting vote.
- 13.5. The outcome of the vote will be shared with the other participating organisations in the “in common” meeting. There are two possible results:
  - a) **All Committees support the decision** – The decision is supported and becomes binding on the participating organisations.
  - b) **One or more Committees do not support the decision** – The meeting makes a judgement as to whether the decision can be delivered only in the organisations supporting the decision. If this is not possible the decision is declared as not being supported by all participating organisations.

For clarity – The “In-Common” meeting cannot force an individual organisation to support a decision.

- 13.6. The result of the vote will be recorded in the minutes and a record will also be made of the outcome of the voting for the other committees participating in the decision.
- 13.7. All decisions taken in good faith at a meeting of the Committee shall be valid even if there is any vacancy in its membership or, it is discovered subsequently, that there was a defect in the calling of the meeting, or the appointment of a member attending the meeting

## **14. Decision-making (Single Committee Issue)**

- 14.1. On occasions, an agenda item at a CIC meeting will be considered that is pertinent to only one participant Committee. All meeting members may contribute to the discussion. When a decision needs to be made, the Convener will invite committees not affected by the item to abstain from the decision-making.
- 14.2. A record of the discussion and decision need only be included in the minutes of the Committee involved in the item.

## **15. Emergency/ Chair's action**

- 15.1. The Committee will delegate responsibility for emergency powers and urgent decisions to the Chair of each Committee who must consult at least one other member of the Committee.
- 15.2. Urgent decisions must be reported to the next Committee meeting following the urgent decision for ratification by the full meeting together with a report detailing the grounds on which it was decided to take the decision on an urgent basis and the efforts made to contact the relevant other members of the Committee prior to taking the decision.

## **16. Secretariat**

- 16.1. The Surrey Heartlands' Governance Team will ensure the provision of a Secretary to the meeting who shall attend to take minutes of the meetings and provide appropriate administrative support to the Convener, Committee Chair and Committee members.
- 16.2. The Surrey Heartlands' Governance Team will be responsible for supporting the Convener in the management of the Committee's business and for drawing the Committee's attention to best practice, national guidance and other relevant documents as appropriate.
- 16.3. The Meeting Secretary will ensure minutes of the Committee will be presented to the next meeting for formal sign off and made available to the participating organisations for publication on their website. Minutes or sections of minutes which are of a confidential nature which would not be disclosed under a Freedom of Information Act request will not be made available on the participants' websites.

## **17. Policy and Best Practice**

- 17.1. The Committee will apply best corporate governance practice in its decision-making processes, covering a clear ethical basis to the business being considered; aligned business goals; an effective strategy incorporating stakeholder values; a well governed organisation and reporting systems to provide transparency and accountability.

## **18. Conduct of the Committee**

- 18.1. The CCG/ Surrey County Council has a code of conduct in place which defines required standards of behaviour for individuals working within this organisation, and those performing or authorising activities or advisory duties on our behalf. The Committee and its membership will conduct itself in accordance with these standards and principles.
- 18.2. The CCG code of conduct specifically covers an employee/member's responsibility in relation to hospitality and gifts, and has regard to:

- Professional Standards Authority: Standards for Members of NHS Boards and Clinical Commissioning Group Governing Bodies in England,
- NHS Business Services Authority: Standards of Business Conduct Procedure,
- Nolan seven principles of public life.

18.3. The Surrey County Council code of conduct covers members'/ employees' responsibilities in relation to managing conflicts of interest, hospitality and gifts.

## 19. Review of Terms of Reference

19.1. The Committee will also self-assess its performance on an annual basis (normally starting each November), referencing its work plan to ensure that the business transacted in meetings has effectively discharged the duties as set out in the Terms of Reference.

19.2. These terms of reference will be reviewed annually by the Committee membership. Any proposed significant changes to the ToR and responsibilities will be presented to the CCG Governing Body/ Surrey County Council Cabinet for approval.

## 20. Review History

20.1. These Terms of Reference are used by all three Surrey CCGs and Surrey County Council.

Version Date	Reviewed by	Status	Comments/ Changes since last version
30/09/2020	Committees	FINAL	Amendments: <ul style="list-style-type: none"> <li>• Changes in membership approved;</li> <li>• Section 10.8 amended in relation to virtual meetings to allow for virtual meetings to become more 'the norm';</li> <li>• Agreed for organisations involved to discuss.</li> </ul>

## Annex 1: List of commissioning decisions delegated to Surrey Commissioning Committees in Common

Service/ Scheme	Surrey Heartlands CCG	North East Hants & Farnham CCG	Surrey Heath CCG	Surrey County Council
<b>Acute Commissioning</b>				
Patient Transport Service	Delegated	Delegated	Delegated	No
<b>Mental Health Services</b>				
Mental Health Services -Adult	Delegated	Delegated	Delegated	Delegated
CAMHS	Delegated	Delegated	Delegated	Delegated
Local Authority / Joint Services - CAMHS	Delegated	Delegated	Delegated	Delegated
IAPT Service	Delegated	Delegated	No	No
Mental Health - Transformation	Delegated	Delegated	No	No
Mental Health - SLAs-Other providers (non-NHS, inc. VS)	Delegated	Delegated	No	No
Mental Health - NCAs	Delegated	Delegated	No	No
<b>Learning Disability Services</b>				
Learning Disability Services	Delegated	Delegated	Delegated	Delegated
<b>Community</b>				
Healthy Children & Families	Delegated	Delegated	Delegated	Delegated
Wheelchair services	Delegated	Delegated	Delegated	No
Children - SLAs - Other providers (Non-NHS, incl. VS)	Delegated	Delegated	Need to split further	No
<b>Continuing Health Care</b>				
Continuing Care Services (All Care Groups)	Delegated	Delegated	Delegated	Delegated
Funded Nursing Care	Delegated	Delegated	Delegated	Delegated
Children Services - Sussex Community NHS FT	Delegated	Delegated	Delegated	Delegated
Children Services - Continuing Care Services	Delegated	Delegated	Delegated	Delegated
Hosted - Continuing Healthcare Assessment & Support	Delegated	Delegated	Delegated	Delegated

Service/ Scheme	Surrey Heartlands CCG	North East Hants & Farnham CCG	Surrey Heath CCG	Surrey County Council
<b>Better Care Fund</b>				
Better Care Fund	Delegated	Delegated	Delegate Surrey Wide services. For others, need to split out and decide line by line for ones which are more locality specific.	Delegated
<b>Public Health</b>				
Public	No	No	No	Delegated

## Annex 2: Committee Membership and Quorum

Organisation	Voting members		Quorum
	Role	Name ( <i>deputies</i> )	
<b>Surrey Heartlands CCG</b>	Clinical Chair	Dr Charlotte Canniff	A minimum of three members including: <ul style="list-style-type: none"> <li>• Clinical Chair or GP Member;</li> <li>• A Lay Member or the Registered Nurse; and</li> <li>• Accountable Officer or Chief Finance Officer.</li> </ul>
	GP for Surrey-wide Services	Dr Timothy Bates	
	Lay Member – Audit	Jacqui Burke	
	Lay Member – General	Jonathan Perkins	
	Registered Nurse	Julia Dutchman-Bailey	
	Accountable Officer	Dr Claire Fuller (Interim CCG AO)	
	Chief Finance Officer	Karen McDowell	
<b>North East Hants &amp; Farnham CCG (NEH&amp;F)</b>	Clinical member of the Governing Body	Steven Clarke, Clinical Leader	One member
	Lay Member	Kathy Atkinson, Lay Member ( <i>can also act on behalf of Surrey Heath CCG</i> )	
	An Executive Director	Nicola Airey, Managing Director, Surrey Heath CCG ( <i>can also act on behalf of Surrey Heath CCG</i> ) OR Daryl Gasson, Managing Director, NEH&F CCG ( <i>can also act on behalf of Surrey Heath CCG</i> ) OR Rob Morgan, Chief Finance Officer ( <i>can also act on behalf of Surrey Heath CCG</i> )	
<b>Surrey Heath CCG</b>	Lay Member (either Lay Chair, Lay Member for Audit and Governance, Lay Person for PPE)	Kathy Atkinson, Lay Member ( <i>Can also act on behalf of NEH&amp;F CCG</i> )	It is expected that two members will normally attend the meeting; however, quoracy will be agreed as one member with
	Secondary Care Consultant	Amanda Wellesley	

Organisation	Voting members		Quorum
	Role	Name ( <i>deputies</i> )	
	Executive Director (either Chief Finance Officer, Dir Planning and Delivery, Director Quality and Nursing, Chief Officer)	Nicola Airey, Managing Director, Surrey Heath CCG ( <i>Can also act on behalf of NEH&amp;F CCG</i> ) OR Daryl Gasson, Managing Director, NEH&F CCG ( <i>Can also act on behalf of NEH&amp;F CCG</i> ) OR Rob Morgan, Chief Finance Officer ( <i>Can also act on behalf of NEH&amp;F CCG</i> )	delegated authority. The CCG may also invite a subject matter expert to help inform the decision.
<b>Surrey County Council</b>	Leader of the Council	Cllr Tim Oliver *	Any three Cabinet Members.
	Cabinet Member for Adults and Public Health	Cllr Sinead Mooney*	
	Cabinet Member for Children, Young People and Families	Cllr Mary Lewis *	
<i>*Deputy will be any other SCC Cabinet Member as nominated by the Leader of the Council.</i>			

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