

Greater Manchester Joint Commissioning Board

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Date: 18 December 2018
Subject: Terms of Reference
Report of: Rob Bellingham – Interim MD, GM Health and Care Commissioning
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PURPOSE OF REPORT:

To present the Terms of Reference for formal adoption.

The attached Terms of Reference have been considered by all CCGs and in the light of this local consideration are now being presented for approval.

Further work is to be done prior to the end of the current financial year with a view to broadening the scope of these Terms of Reference to provide for the delegation of specified Local Authority, as well as NHS, commissioning decisions.

One CCG, Heywood, Middleton and Rochdale, have indicated that with regard to section 3.4 of the Terms of Reference, delegation has only been granted for the Neuro-Rehabilitation elements. The CCG plans to consider the remaining elements for delegation at a meeting being held in January. In the meantime, this position will be clearly recorded in the relevant minute of today's meeting.

RECOMMENDATIONS:

The Greater Manchester Joint Commissioning Board is asked to:

-) Approve the attached Terms of Reference
-) Note the Heywood, Middleton and Rochdale position described above and require that this is clearly recorded in today's minutes
-) Note that further work is planned prior to the end of the current financial year to extend the scope of the Terms of Reference to provide for the delegation of specified Local Authority, as well as NHS, commissioning decisions

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GREATER MANCHESTER HEALTH AND SOCIAL CARE PARTNERSHIP

Terms of Reference of the Joint Commissioning Board

Version control

Version	Author	Date
001	Hempsons	28 May 2018
002	Hempsons	29 June 2018
003	Hempsons	3 July 2018
004	Hempsons	12 July 2018
005	Hempsons	13 July 2018
006	RB/ LT suggested amends for JCB consideration	14 August 2018
007	RB/LT suggested amends for JCB consideration to section 3.4.	6 September 2018
008	RB/LT suggested amends for JCB consideration to section 17.1, 4.1.3, 13.9	11 September 2018

1. AUTHORITY

1.1. The Joint Commissioning Board (JCB) has been established as a joint committee of the following Clinical Commissioning Groups (CCGs):

1.1.1. NHS Bolton Clinical Commissioning Group

1.1.2. NHS Bury Clinical Commissioning Group

1.1.3. NHS Manchester Clinical Commissioning Group

1.1.4. NHS Oldham Clinical Commissioning Group

1.1.5. NHS Heywood, Middleton and Rochdale Clinical Commissioning Group

1.1.6. NHS Salford Clinical Commissioning Group

1.1.7. NHS Stockport Clinical Commissioning Group

1.1.8. NHS Tameside and Glossop Clinical Commissioning Group

1.1.9. NHS Trafford Clinical Commissioning Group

1.1.10. NHS Wigan Borough Clinical Commissioning Group

pursuant to the powers to form joint committees contained in section 14Z3 of the National Health Service Act 2006. The CCGs have agreed to work together collaboratively on certain matters as set out in these Terms of Reference.

1.2. Each CCG's constitution provides that its Governing Body may establish a committee of the CCG whose members may consist of or include persons other than members or employees of the CCG.

1.3. The CCGs have each agreed to adopt these terms of reference in the same form for the purpose and objectives set out below but they intend that in the future they will agree more fully inclusive terms of reference for a Joint Committee which will have delegated decision-making powers for local authority and NHS commissioning.

2. PURPOSE AND OBJECTIVES

2.1. The Joint Commissioning Board (JCB) is the forum for collective commissioning / decommissioning decision making.

2.2. The JCB will have oversight of commissioning undertaken on a GM footprint.

2.3. The JCB will provide strategic input into commissioning decisions made by commissioning organisations in GM.

3. RESPONSIBILITIES

3.1. The JCB will oversee the work of the Commissioning Hub.

3.1.1. The JCB will agree the scope of work to be undertaken by the Commissioning Hub.

3.1.2. Before approving a piece of work, JCB will ensure that:

3.1.2.1. there is an agreed common vision or model for a new, or reduced, or decommissioned service

3.1.2.2. that the required investment or disinvestment is available or agreed in principle

3.1.2.3. that the Hub has access to sufficient capacity to do the work

3.1.3. Project timescales will be agreed and implementation progress monitored through the JCB.

3.2. The CCGs may delegate commissioning to the JCB where they consider it is appropriate to commission GM wide services together.

3.3. In particular each of the CCGs delegates to the JCB responsibility for the oversight and decision making processes relating to the programme known as "Theme 3" of the Greater Manchester 5 year plan *Taking Charge*. Theme 3 is a programme defined as "Standardising Acute & Specialist Care" and is described as, "The creation of "single shared services" for acute services and specialist services to deliver improvements in patient outcomes and productivity, through the establishment of consistent and best practice specifications that decrease variation in care; enabled by the standardisation of information management and technology.

3.4 The delegations described in these Terms of Reference relate only to the process up to and including the decisions to agree the preferred option for the configuration of the services listed below. The scope of the decisions to be delegated for Theme 3 is decisions on GM wide acute hospital care standards and reconfiguration in the following specialties: -

-) Paediatrics (including specialised children's services),
-) Respiratory and cardiology
-) Benign urology
-) MSK and orthopaedics
-) Breast services
-) Neuro-rehabilitation
-) Vascular
-) A&E, Acute Medicine and General Surgery (Healthier Together)

-) OG cancer
-) Urology cancer.

3.5 Each of the CCGs expressly withdraws any previous delegation of functions that it may have granted in relation to Theme 3 services, as they relate to any of the decisions delegated to the JCB.

4. MEMBERSHIP

4.1. The membership of the JCB (JCB members) shall be:

4.1.1. Up to three representatives for each of the following localities:

- 4.1.1.1. Bolton Locality comprised of NHS Bolton Clinical Commissioning Group and Bolton Council
- 4.1.1.2. Bury Locality comprised of NHS Bury Clinical Commissioning Group and Bury Council
- 4.1.1.3. City of Manchester Locality comprised of NHS Manchester Clinical Commissioning Group and Manchester City Council
- 4.1.1.4. Oldham Locality comprised of NHS Oldham Clinical Commissioning Group and Oldham Council
- 4.1.1.5. Rochdale Locality comprised of NHS Heywood, Middleton and Rochdale Clinical Commissioning Group and Rochdale Borough Council
- 4.1.1.6. Salford Locality comprised of NHS Salford Clinical Commissioning Group and Salford City Council
- 4.1.1.7. Stockport Locality comprised of NHS Stockport Clinical Commissioning Group and Stockport Council
- 4.1.1.8. Tameside Locality comprised of NHS Tameside and Glossop Clinical Commissioning Group and Tameside Metropolitan Borough Council
- 4.1.1.9. Trafford Locality comprised of NHS Trafford Clinical Commissioning Group and Trafford Council
- 4.1.1.10. Wigan Locality comprised of NHS Wigan Borough Clinical Commissioning Group and Wigan Council

4.1.2. The Chief Executive for the time being of Greater Manchester Combined Authority (GMCA); and

4.1.3. The Chief Officer for the time being of Greater Manchester Health and Social Care Partnership (GMHSCP), acting in their capacity as an Officer of NHS England

4.2. Each locality will appoint its representatives, with the ability to nominate a clinician, elected member and senior officer.

4.3. Commissioning decisions on behalf of NHS England will be taken in parallel through the existing delegation to the Chief Officer of the Greater Manchester Health and Social Care Partnership. These Terms of Reference have no impact or suggest no amendment to this delegation.

5. DEPUTIES

5.1. An individual may deputise for a JCB member provided that the relevant CCG or local authority or NHS England has given written notice of the deputy's attendance at the meeting to the Chair to arrive no later than the day before the relevant meeting (or within such shorter period before the meeting as the Chair may in his or her sole discretion decide).

5.2. Any deputy for a JCB member must be a member of the relevant CCG's Governing Body or an officer or member of the relevant local authority. Deputies should be drawn from the same discipline as that of the member for whom they are deputising, eg a deputy for a clinical member would be expected to be another clinician etc. Any deputy for the NHSE England JCB member must be an officer of NHS England.

6. CO-CHAIRS

6.1. Two JCB members shall be Co-Chairs of the JCB.

6.2. One of the Co-Chairs shall be a JCB member who is a GP (GP Co-Chair) and the other shall be a JCB member who is an elected member or officer of a local authority (LA Co-Chair).

6.3. JCB members can put themselves forward as candidates for the role of GP Co-Chair in line with the requirements set out in 6.2 above. If there is more than one valid candidate to be GP Co-Chair, an election will be held using a single transferrable vote system under which:

6.3.1. each locality shall have one vote,

6.3.2. the least supported candidate shall be eliminated and second/third preference votes shall be assigned to the remaining candidates until one candidate has at least six votes.

6.4. The CCG from which the GP Co-Chair comes will be reimbursed to the value of two clinical sessions per week.

6.5. JCB members can put themselves forward as candidates for the role of LA Co-Chair.

If there is more than one valid candidate to be LA Co-Chair, an election will be held using a single transferrable vote system under which:

6.5.1. each locality shall have one vote, and

6.5.2. the least supported candidate shall be eliminated and second/third preference votes shall be assigned to the remaining candidates until one candidate has at least six votes.

7. APPOINTMENT OF THE VICE-CHAIRS

7.1. Two of the JCB members shall be Vice-Chairs of the JCB. One of the Vice-Chairs shall be a JCB member who is a GP and the other shall be a JCB member who is an officer or elected member of the local authority that nominated him or her.

7.2. The Vice-Chairs shall be elected using a single transferrable vote process that is equivalent to the process used for the election of the Co-Chair. Their elections will be progressed once the Co-Chair have been elected so a geographic spread across the localities can be achieved if this is thought desirable.

7.3. The Vice-Chairs must not be from the same localities as the Co-Chairs or each other.

8. TERMS OF OFFICE OF THE CO-CHAIRS AND VICE-CHAIRS

8.1. The initial Co-Chairs and Vice-Chairs of the JCB shall serve annual terms of office for the duration of each financial year subject to re-elections (if any) held in accordance with paragraph 6.2.

8.2. In January each year views will be sought as to whether there should be a change of one or both Co-Chairs or one or both Vice-Chairs for the next financial year. If any post is requested in writing, by 31 January, to be re-appointed to by at least three quarters of the members of the JCB then an appointment/election will be held. The existing role holders may stand for re-election.

8.3. If a Co-Chair or a Vice-Chair of the JCB ceases to hold their relevant role that qualifies them for membership of the JCB then they will cease to be a Co-Chair or Vice-Chair.

9. SUBCOMMITTEES

9.1. The JCB may appoint and subdelegate to such subcommittees as it considers to be appropriate.

9.2. Members of a subcommittee may comprise or include persons who are not members of the JCB.

10. BUSINESS TO BE UNDERTAKEN BY THE JCB AND THE JCB EXECUTIVE

10.1. All business undertaken by the JCB and the JCB Executive team shall be categorised as Level A business or Level B business in accordance with this paragraph 10.

10.2. The JCB shall appoint an JCB Executive to undertake Level A business which shall include all business that the JCB has not identified as Level B business but for the avoidance of doubt the JCB Executive does not have delegated decision-making authority on behalf of the CCGs or JCB.

10.3. The JCB shall undertake all business that it has identified as Level B business. It will use the following criteria to assess whether an issue is Level B business.

10.3.1. the issue cannot be implemented by the harmonised actions of individual CCGs; and/or

10.3.2. a proposal cannot be implemented unless it is implemented on a Greater Manchester wide basis; and/or

10.3.3. to avoid potential legal challenge it is necessary that the issue is categorised as Level B business.

10.4. Items/papers submitted to the JCB, the JCB Executive or any subcommittee it may establish will make explicit whether they are Level A business or Level B business.

10.5. Level A decisions will be implemented through the coordinated implementation actions of individual CCGs. For the avoidance of doubt, if any CCG does not agree with any Level A decision made by the JCB, it shall not be required to implement any such decision.

10.6. The JCB, the JCB Executive and any subcommittee of the JCB shall take account of the commissioning intentions of all of the CCGs in discharging their delegated functions.

11. MEETINGS OF THE JCB

11.1. The JCB shall meet at least quarterly at such times and places as the Chair may direct on giving reasonable written notice to the members of the JCB. Meetings will be scheduled to ensure they do not conflict with respective CCG Boards.

- 11.2. Meetings of the JCB shall be open to the public unless the JCB considers that it would not be in the public interest to permit members of the public to attend a meeting or part of a meeting.
- 11.3. The Co-Chairs of the JCB shall each chair alternate meetings of the JCB or in their absence one of the Vice Chairs whom the meeting agrees by simple majority to chair the meeting (or in the event of a tied vote the Vice Chairs shall draw lots as to which of them shall chair the meeting).
- 11.4. Members may participate in meetings in person or virtually by using video or telephone or weblink or other live and uninterrupted conferencing facilities.
- 11.5. When appropriate and at the discretion of the Co-Chair who is chairing the meeting (or in their absence one of the Vice Chairs who is chairing the meeting) individuals from other organisations may attend meetings of the JCB but will not be members of the JCB and shall not have a vote.

12. QUORUM FOR JCB MEETINGS

- 12.1. A meeting of the JCB shall be quorate if at least one representative from each locality and the GMCA and GMHSCP representatives are present.

13. VOTING AT JCB MEETINGS

- 13.1. Each group of locality members who are present at a meeting of the JCB shall jointly exercise a single vote. If they do not agree how to cast their vote then they shall not be entitled to vote at all. If one but not all of the locality members is present at a JCB meeting, then the one present shall vote on behalf of all of them. For clarity, it will normally be the officer member of the JCB, who casts the vote on behalf of the locality and in their absence, another nominated member.
- 13.2. It is the intention of the participant organisations to value the (possibly) differing views of individuals and individual commissioners and to work by consensus. However there may be occasions when it is important to be absolutely clear about the view of the JCB.
- 13.3. Therefore at any meeting of the JCB a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded, either:
- 13.3.1. by the Chair of the JCB; or
- 13.3.2. by at least nine members present in person at a meeting of the JCB.

13.4. Unless a poll is demanded then a declaration by the Chair that a resolution has, on a show of hands, been carried unanimously or by a majority, or lost, shall be made and an entry to that effect in the minutes of the proceedings of the JCB shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour or against such resolution. The demand for a poll may be withdrawn.

13.5. If a poll is duly demanded then it shall be taken in such a manner as the Chair directs and the result of the poll shall be deemed to be the resolution of the meeting and an entry to that effect in the minutes of the proceedings of the JCB shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour or against such resolution.

13.6. In the case of an equality of votes whether on a show of hands or on a poll the Chair (or in his or her absence one of the Vice Chairs who is chairing the meeting) at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.

13.7. Level B decisions of the JCB, (see section 10 above), will be binding on the CCGs if there are not less than seven votes in favour of it. Decisions relating to the "Theme 3" programme, (see section 3.3 above will be Level B decisions).

13.8. NHS England reserves a proportionate ability for NHS England to notify the JCB where an item due for consideration could have significant ramifications for NHS England, eg proposed spending beyond existing budget(s); or potential and significant adverse implications for communities beyond Greater Manchester.

13.9. To allow appropriate positions to be reached in terms of exercising locality votes and to support the production of a clear audit trail, papers will be made available setting out the relevant professional advice and recommendations.

14. MEETINGS OF THE JCB EXECUTIVE

14.1. The JCB Executive shall meet in any month when the JCB does not meet unless the Co-Chairs decide that a meeting is unnecessary.

14.2. The JCB shall approve terms of reference for the JCB Executive.

15. STANDARDS OF BUSINESS CONDUCT AND CONFLICTS OF INTEREST

15.1. The standards of business conduct and procedures for managing conflicts of interest which are set out in the CCGs' respective Constitutions and conflict of interest policies will apply to the JCB and the JCB Executive Team.

16. DISPUTE RESOLUTION

16.1. In the event of dispute a dispute resolution process will be implemented. The focus of this process will be threefold: to understand why dispute has occurred; to determine/understand the potential implications of the dispute; and to resolve where possible.

16.2. Where appropriate disputes will be resolved at place level. Where disputes cannot be resolved at place level, a group comprised of an agreed number of members from each stakeholder group to arbitrate and make recommendation. The recommendations made by the dispute resolution group are binding.

17. SUPPORT

17.1. Officers from the Governance and Scrutiny, Greater Manchester Combined Authority (GMCA) will provide policy and administrative support to the JCB.

17.2. Additional support will be provided by the GM Health and Social Care Programme Management Office.

18. ACCOUNTABILITY

18.1. The JCB is accountable to each of the CCGs.

19. REVIEW OF TERMS OF REFERENCE

19.1. These terms of reference will be formally reviewed on an annual basis, with an initial review taking place no later than 31 March 2019.

