

Notes on the South Reading CCG Constitution

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1 Overview of the Constitution

The S. Reading CCG constitution is necessarily complex as the CCG structure is complex. The CCG has 20 member practices, a Council of Practices, a Governing Body, a Management Team, and combines with 3 other CCGs in a Federation to commission secondary services and provide administrative mechanisms (e.g. appeals).

Here we pick out excerpts related to public and patient participation, transparency and accountability, and then comment on the constitution.

1.1 Structure of the Constitution

Part I Clauses of the constitution.

PartII page 2 Appendix 2 - Berkshire West Federation - notes and Federation Memorandum of Understanding including agreement to delegate commissioning powers to the Federation and including Schedule 2 (Glossary) Schedule 3 (Functions), Schedule 4 (Financial Risk Sharing Principles), Schedule 5 (Terms of Reference for the Federation Development Group, Organisation diagram and Initial Staffing Diagram, Fed. Chair's Role Description), Schedule 6 (Terms of Refence for Each of the Joint Committees),

Part III Page 1 Appendix 1 - Register of Members

Part III Page 4 Appendix 3 - CCG Geography in terms of wards and output area identifiers

Part III Page 7 Members of the Governing Body

Part III Page 12 Appendix 5 Managing Conflicts of Interest

Part III Page 16 Appendix 6 Nolan Principles

Part III Page 17 Appendix 7 Summary of the NHS Constitution

Part III Page 19 Appendix 8 Standing Orders

Part III Page 28 Appendix 9 Scheme of Reservation and Delegation

Part III Page 31 Appendix 10 Prime Financial Policies

Part III Page 41 Appendix 11 Glossary

Part IV Page 2 Schedule of Matters Reserved to the CCG and Scheme of Delegation - spreadsheet showing topics being the preserve of the Council of Members, of the Governing Body, of Officers and of the Remuneration Committee.

2 Extracts From the Constitution

2.1 Vision and Values

16. The CCGs vision is: Working with patients and partners to improve the health of our local community through both innovation and evidenced best practice, within available resources.

17. The CCGs values are:

- Openness, transparency and responsiveness
- Clinical leadership commissioning is more effective when it is clinically led
- Patients involving and listening to patients and carers is essential to successful commissioning and delivery of services
- New ideas being innovative and challenging the established norms, being open to new ideas and giving people freedom to develop them
- Collectivism - every member of the CCG holds collective and individual responsibility for ensuring successful commissioning by each practice, locality and the consortium as a whole, regardless of their role
- Partnerships developing strong partnerships based on mutual respect and shared responsibility that delivers real and continuous improvements
- Sustainability accepting that we have a responsibility to live within our means.
- Quality - adopting a collaborative approach with member practices to provide high quality primary care and commission safe, high quality services.

2.2 Probity and Accountability

19. In accordance with section 14L(2)(b) of the National Health Service Act 2006, the CCG will at all times observe generally accepted principles of good governance in the way it conducts business. These include:
 - The highest standards of propriety involving impartiality, integrity and objectivity in relation to the stewardship of public funds, the management of the organisation and the conduct of its business;
 - The Good Governance Standard for Public Services;
 - The standards of behaviour published by the Committee on Standards in Public Life (1995) known as the Nolan Principles (summarised at Appendix 6);
 - The seven key principles of the NHS Constitution; and
 - Meeting its public sector equality duty under the Equality Act 2010.
20. The CCG will further demonstrate its accountability to its Members, local people, stakeholders and the NHS Commissioning Board in a number of ways, including by:
 - Publishing this Constitution;
 - Appointing independent lay members and non GP clinicians to its Governing Body;
 - Holding meetings of its Governing Body in public (except where the group considers that it would not be in the public interest in relation to all or part of a meeting);
 - Publishing annually a commissioning plan; and
 - Complying with local authority health overview and scrutiny requirements.

2.3 Duties of Governing Board (selected)

38. The Governing Body will discharge its statutory duties and functions delegated to it by:
 - Recommending to the Council of Practices a commissioning strategy/plan (setting the strategic direction of the CCG) and an annual operating plan (to meet statutory obligations and implement the commissioning strategy);
 - Publishing annually the Commissioning Plan approved by the Council of Practices and submit a copy to the NHS Commissioning Board and to the relevant Health and Wellbeing Board;

- Preparing, in consultation with the relevant Health and Wellbeing Board and in accordance with such Directions given by the NHS Commissioning Board, recommend to the Council of Members and publish an Annual Report in every financial year except its first financial year setting out how the CCG discharged its functions in the previous financial year;
- Publishing and submitting a copy of the Annual Report to the NHS Commissioning Board and hold a meeting for the purpose of presenting the report to members of the public;
- Overseeing the delivery of the annual operating plan and commissioning strategy, once they have been approved by the Council of Practices;
- Approving a procurement strategy and ensuring its publication;
- Holding each member of the Governing Body and each Member of the CCG to account for the delivery of the annual operating plan and commissioning strategy;
- Promoting the NHS Constitution (which is summarised at Appendix 7);
- Engaging in a collaborative approach within the local health system with patients, the public and other stakeholders;
- Engaging with the relevant Health and Wellbeing Board/s and nominate a member of the Governing Body to act as the CCGs representative on it;
- Pro-actively engaging with the local HealthWatch;
- Publishing an explanation of how it has spent any quality payments made to it;
- Establishing systems and processes to ensure public assets are secure;

2.4 Governing Body’s Power of Delegation

- 39.** The Governing Body may delegate any of its functions to any member, employee, committee or sub-committee, provided the terms of any such delegation are set out clearly in a scheme of delegation that includes standing orders and standing financial instructions which are made available publically.

2.5 Meetings of the Governing Body

- 41.** The Governing Body will meet in public not less than four times per year.
- 43.** The date, time and venue of the meetings will be made public with at least 14 days notice. The agenda and all papers required for the meeting will be made public at least 7 days before the meeting. Notice, the agenda and all

papers required for the meeting must be given to each Member representative and to each member of the Governing Body at least 7 days before the meeting. The following bodies may also be notified: the CCGs auditor, the Chair of the Health and Wellbeing Board and the local HealthWatch.

45. Members of the public will be allowed to ask questions at specified times, but may not contribute to discussion unless invited by the Chair.
49. The Governing Body must make, keep and make available to Members and the public:
 - Minutes of all AGMs, meetings of the Governing Body and meetings of the Council of Members that take place in public;
 - The Register of Members and Member representatives;
 - A register of interests in accordance with Appendix 5 below.

2.6 Members Joining and Leaving the CCG (excerpt)

54. Any provider of primary medical services, as defined in the Act at Chapter A2, Section 14A(4), within the Geography is eligible to become a Member and if such body wishes to become a Member, it will make a written application to the Governing Body, confirming that it is willing to enter into and abide by this Constitution.

2.7 Standards of Business Conduct and Managing Conflicts of Interest

59. 59. Employees, Members, representatives on the Council of Members and members of the Governing Body (and its committees) will at all times comply with this Constitution and be aware of their responsibilities as outlined in it. They should act in good faith and in the interests of the CCG and should follow the Seven Principles of Public Life, set out by the Committee on Standards in Public Life (the Nolan Principles) as set out in Appendix 6. They must comply with the groups policy on business conduct, including the requirements set out in the policy for managing conflicts of interest. This policy will be available on the CCGs website once established, and is appended to this Constitution at Appendix 5.
60. Individuals contracted to work on behalf of the CCG or otherwise providing services or facilities to the CCG will be made aware of their obligation with regard to declaring conflicts or potential conflicts of interest. This requirement will be written into their contract for services.

2.8 Patient and Public Involvement

63. The CCG will make arrangements to secure public involvement in the planning, development and consideration of proposals for changes and decisions affecting the operation of commissioning arrangements by:

- working in partnership with patients and the local community to secure the best care for them;
- adapting engagement activities to meet the specific needs of the different patient groups and communities;
- publishing information about health services on the CCGs website and through other media;
- encouraging and acting on feedback;

and the Governing Body will monitor how the CCG does this and report to the Council of Members on compliance against this statement of principles.

2.9 Roles and Competencies of Lay Members of Governing Board

Apart from the general duties and competencies of all board members:

Lay member for patient and public empowerment • Provide an external view of the working of the CCG, with a strategic and impartial focus;

- Ensure that public and patients views are heard and their expectations understood and met as appropriate;
- Ensure that the CCG builds and maintains an effective relationship with Local Healthwatch and draws on existing patient and public engagement and involvement expertise;
- Ensure that the CCG has appropriate arrangements in place to secure public and patient involvement and responds in an effective and timely way to feedback and recommendations from patients, carers and the public;
- If the Deputy chair, take the Chairs role for discussions and decisions where the Chair had made a declaration of interest;
- Actively contribute to and engage in the CCG business through the Governing Body;

Lay member with the lead role in overseeing key elements of governance (including audit, remuneration and managing conflicts of interest)

- Provide an external view of the working of the CCG, with a strategic and impartial focus;

- If the Deputy Chair, take the Chairs role for discussions and decisions where the Chair had made a declaration of interest;
- Participate in ensuring that appropriate and effective whistle blowing and anti-fraud systems are in place;
- Actively contribute to and engage in the CCG business through the Governing Body;

2.10 Duty to Report

69. If for any reason any provision in this Constitution is not complied with, full details of the non-compliance and any justification for non-compliance and the circumstances around the non-compliance, will be reported to the next meeting of the Council of Members or Governing Body, which ever is earlier, for action or ratification. All Member representatives and staff have a duty to disclose any non-compliance to the Accountable Officer as soon as possible.

2.11 Nolan Principles (extract)

- d) **Accountability** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- e) **Openness** Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

3 Commentary on the Constitution

This is necessarily a personal view and is given in good faith to allow possible weaknesses to be recognised and acted upon.

The constitution from its statement of vision and values to its espousal of good business conduct and the Nolan principles of conduct in public life, stands clearly for public involvement, accountability. One can see points where it could be strengthened - a few are listed below, but there can be no doubt about the thrust of the main part of the constitution.

It suffers from a weakness, however, that it is also designed to allow four CCGs to work together in a Federation, which is not a body corporate, but to which much commissioning work is delegated. It is not clear that the powers of delegation fully transmit the duties regarding openness and accountability to the Federation. In principle, since the Federation is merely a forum in which the four CCGS act together, the duties should apply there but as most of the commissioning work will be carried out by the Federation (the CCGs having minimal staffs) it is far from clear that much of this will be visible. One is

reminded of the Yogi Berra quote, "In theory, there is no difference between theory and practice, but in practice there is!". That is to say, that much depends on how the the federation is actually operated, how much pressure the CCGs are under, whether rationing of any kind becomes a public issue and so on.

In my view, this is more the result of jamming together to different ideas, those of the CCG and of the federation, than of

The constitution asserts the accountability of the CCG in general terms. But it then declares (clause 20 - see above) with what measures this accountability might be realised. In terms of planning this amounts to publishing an annual commissioning plan, useful but possibly not the sum be-all and end-all of accountability.

In practice patients will be interested in aspects of the quality and safety of the services. There is a whole side to commissioning concerned with monitoring how well services are going, with negotiating improvements with suppliers, and so on - which is hardly dealt with in ther constitution. It may be that this will be handled by the CCG, or by the federation, or even by the Commissioning Support contracted by the federation - which is a separate organisation entirely and might plead commercial confidentiality.

Lastly, the CCG is a public body but the constitution does not spell out the position in relation to Freedom of Information.

In the end, the achievement of accountability and genuine patient involvement will depend on the commitment of all involved, not on the wording of a constitution.