

**REPORT TO
NHS BIRMINGHAM EAST AND NORTH BOARD**

TO BE HELD ON: 25 NOVEMBER 2009

SUBJECT: COMMUNITY HEALTH SERVICES REPORT AND
REVISED TERMS OF REFERENCE

REPORT BY: MARIE MOORE

TO BE PRESENTED BY: BRENDAN O'BRIEN

REQUIRED FOR:
NOTING BY THE BOARD

PURPOSE OF REPORT:
COMMUNITY HEALTH SERVICES COMMITTEE UPDATE

RECOMMENDATIONS:
FOR THE BOARD TO NOTE THE CONTENTS OF THE REPORT AND **APPROVE
THE REVISED TERMS OF REFERENCE**
For the Board to approve the following amendments

- Removal of the description and responsibilities ((section 3)
- Deletion of parts of the paragraph vi (section 3)
- Decision that the Quorum should be one Non Executive and one Executive Director
- Mike Smith's name to be added to the org chart
- Marie Moore's title amended to read Interim Director
- Deletion of Lay Member

REPORT HAS BEEN DISCUSSED AT:
CHS COMMITTEE

NAME OF SUB-GROUP: N/A

CONTRIBUTION TO PCT GOALS (BHAGS):
N/A

FINANCIAL IMPLICATIONS:
Have the finances been approved N/A

COMMENTS:
NONE

WORKFORCE/TRAINING IMPLICATIONS:
NO

EQUALITY AND DIVERSITY IMPLICATIONS:

[impact assessment guidance form.doc](#)

Has an initial impact assessment been undertaken? NO

COMMENTS:

NONE

PATIENT AND PUBLIC INVOLVEMENT:

Does the report relate directly/indirectly to service provision? Yes

Have patients and/or public been involved in discussion of the proposals? N/A

COMMENTS:

What future plans for discussion have been made?

N/A

PARTNER IMPLICATIONS:

N/A

IT/INFORMATION IMPLICATIONS:

N/A

IMPLICATIONS FOR SUSTAINABILITY:

N/A

HIGHLIGHTS OF COMMUNITY HEALTH SERVICES COMMITTEE

2nd November 2009

1) Safeguarding – Level 2 Training update

A report and action plan illustrating how the required training was progressing and would be completed by December were duly noted and accepted by the Committee, together with the confirmation that in future all such statutory and mandatory training would be linked into the workforce data. HR and line managers would also receive alerts to assist tracking compliance. Work to ensure requirements are effectively managed by the training provider in the future has been instigated.

2) Terms of reference

The revised CHS Committee Terms of Reference discussed in October were presented with the discussed amendments and it was agreed that they would be submitted to the Trust Board for approval.

3) CHS Mission and Vision

The report identified the vision, principles and values specifically for CHS which had been developed in a workshop supported by Vista. The content fully reflects the NHS BEN existing position and additions or adaptations have been made only where necessary to reflect the particular focus of delivery of services to patients.

The committee discussed and approved wider consultation to be delivered through the Shaping Our Future Phase 3 programme.

The Committee were advised that they would receive a further update in January 2010.

4) Clinical Quality and Safety

The quarterly report to update on the CHS Clinical Quality & Safety Group was tabled and noted by the committee. The committee expressed particular interest in the following areas and were keen to be kept informed on progress linked to external assessment.

- CQC core standards
- NHSLA

There was discussion on the progress to balanced scorecards and the Committee's interest in their development.

Overall it was suggested the report would be enhanced by more detail on achievement and outcomes as well as areas actioned.

5) Communication and Engagement Strategy

The revised communication strategy and plan was agreed. Progress was discussed and there would be a further update in January 2010.

Areas discussed and explored included:

- The active engagement with the unions and staff
- Ensure NEDs would have internet access to be able to view information

- How we would explore research and make positive response to commissioning in areas where the market will be tested.
- The use of survey monkey to test the effectiveness of communication

6) Shaping Our Future Presentation – progress on transforming community services

A presentation was given to update progress on service clustering and redesign demonstrating pathway working and lean systems approaches.

There was positive engagement of clinicians with the commissioning strategies.

The committee were keen to ensure the right input was obtained to support CHS ability to effectively market themselves and to give the best opportunity to win tenders.

The activities were discussed and the ability to achieve the milestones in the timeframe and resources available was challenged. It was agreed to review to assure realistic delivery.

7) Quarterly Reports to the Board

There was a discussion to clarify what level of quarterly reporting was required by the board in addition to the monthly CHS Committee update, as the detailed information on the operation of CHS was discussed by the Committee. It was agreed that the Committee chair would clarify this with the PCT Board Chair to ensure we delivered a value adding report and did not duplicate.

8) Risk management

The updated risk management register format was presented and agreed and the current risks mitigations and scores were reviewed. No new risks warranted escalation to the PCT Corporate risk register. The approved status also addresses a Core Standard requirement.

9) Items for information and noting

A series of reports were tabled under this category

- Finance report

The contents were noted and accepted

- Operational Managers Group Flash report

The contents were noted and accepted

- SOF Status update and plan

The contents were noted and accepted

- NHSLA update

The report and action plan were noted and the Committee asked for it to be brought back to the January 2010 Committee in view of the NHSLA inspection scheduled in March 2010.

Revision History

Community Health Services Committee Terms Of Reference

Date of this revision: 12th October 2009

Date of Next revision: 25 November 2009

Revision date	Summary of Changes	Changes marked
29 April 09	First issue	
29 September 09	Update on voting members Addition of the need to keep a record of declarations of interest	Section 3 Membership and Decision Making
12 October 09	Updated version following the consolidated comments made during the CHS Committee meeting held on 5 October 2009	Changes tracked throughout and V3 will be brought forward to the CHS Committee on 2 November 2009 for approval

1.3 Approvals

This document requires the following approvals.

Signed approval forms are filed in the Management section of the project files.

Name	Signature	Title	Date of Issue	Version
Brendan O'Brien following agreement with the CHS Committee		Chair CHS Committee Non Executive of NHS BEN	29/9/09	2

1.4 Distribution

This document has been distributed to:

Name	Title	Date of Issue	Version
Brendan O'Brien	Non Executive Director	12/10/09	2
Mike Smith	Non Executive Director	12/10/09	2
Marie Moore	Director Community Health Services	12/10/09	2
Val Jones	Director of Nursing and Clinical Development	12/10/09	2
Julie Cooper	Director Strategic Workforce & HR	12/10/09	2
Mike Burns	Director of Finance	12/10/09	2
Janet Down	Non Executive Director	12/10/09	2

NHS Birmingham East and North

Terms of Reference for a Community Health Services Committee

1. Introduction

NHS Birmingham East and North ("the PCT") has established a Community Health Services Committee ("the Community Health Services Committee") in accordance with the following documents:

- (a) The PCT's Board Report on its Provider Service Development Strategy [(2008)]; and
- (b) The Department of Health's Operating Frameworks for 2008/09 and 2009/10; and
- (c) The Department of Health's paper on the "Principles and Rules for Cooperation and Competition; and
- (d) The Primary Care Trust's Standing Orders and Standing Financial Instructions; and
- (e) Department of Health Guidance "Transforming Community Services"

2. Remit and Functions of the Community Health Services Committee

The remit and functions of the Community Health Services Committee shall be as follows:

- (a) To be responsible for on behalf of the PCT and in accordance with delegated authority from the PCT pursuant to these Terms of Reference and the PCT's Scheme of Reservation and Delegation, for governing all operational Community Health Services of the PCT;
- (b) The above mentioned services shall include planning, organising and delivering Community Health Services in accordance with service level agreements agreed or to be agreed with the PCT and other commissioners with whom contracts/SLAs have been agreed and which services shall be provided and based on the same business and financial rules as the PCT applies to all other providers
- (c) To know its business, and understand the intention of its commissioners, to carry out consultations with stakeholders and to provide a detailed business plan;
- (d) To consider with the PCT future appropriate organisational forms for Community Health Services including those referred to in "Transforming Community Services";
- (e) The Community Health Services Committee shall carry out its activities in relation to Community Health Services in accordance with the same duties and obligations which the PCT is required to carry them out pursuant to any legislation or other requirements including the duty to act efficiently, effectively and economically;
- (f) Attached to these Terms of Reference is an extract from the PCT's Scheme of Reservation and Delegation which sets out in more detail the functions which have been delegated to the Community Health Services Committee.

3. Membership and Decision Making

- (a) The Committee will be appointed by the PCT Board except where otherwise stated or agreed and will comprise:

Voting Directors:

- (i) The Director of Community Health Services
- (ii) The Director of Finance
- (iii) The Director of Nursing and Clinical Development

Non Voting Directors

- (iv) The Director of HR & Development

Deputies are permissible but would not have voting rights.

Voting Independent Members

- (v) The Committee will look to secure independent scrutiny through the appointment of three non-executive officers.
 - (vi) The committee will be chaired by a non-executive officer. Members of the Community Health Services Committee who are also on the PCT Board shall have particular regard to the issue of conflicts of interest and they shall step out during discussions that represent a conflict of interest in accordance with the PCT's Standing orders. A record of declarations of interest will be held by the committee
- (b) The Community Health Services Committee shall at all times have regard to determining and re-assessing the number of non-executive officers required and the skills and levels of experience they and the Chair of the Community Health Services Committee need to ensure a well balanced Community Health Services Committee.
 - (c) The Community Health Services Committee shall maintain a list of officer affiliations and financial interests in accordance with the PCT's Standing Orders.
 - (d) The Community Health Services Committee will operate in accordance with PCT's Standing Orders and Standing Financial Instructions as amended by the Community Health Services Committee in agreement with the PCT Board and in accordance with Scheme of Reservation and Delegation that the Community Health Services Committee may put into place in relation to its own activities.
 - (e) Subject as set out in the Standing Orders, Standing Financial Instructions referred to in (b) above, decisions on recommendations will be reached by consensus where possible. Where there is not unanimous agreement, a simple majority will be sufficient and a vote shall be taken and the result recorded. The Non-Executive Chair of the Community Health Services Committee will have the deciding vote if applicable. Staff and others in attendance who are not members of the Community Health Services Committee shall not have voting rights.
 - (f) The Community Health Services Committee is a committee of the PCT Board and any payment to members will be in accordance with Department of Health guidance or instructions where applicable or otherwise in accordance with the PCT's powers.

4. Relationship with the Boards

- (a) The Community Health Services Committee will not be required to present its minutes to the Board. It is acknowledged that the Board is ultimately accountable for the actions of the Community Health Services Committee and that therefore the Community Health Services Committee and the Board will agree appropriate reporting and other mechanisms to ensure that the Board is able to manage the PCT's business and stay in control of the organisation including agreeing flows and timings of information between them. Any such mechanisms shall be incorporated into any relevant Service Level Agreements between the PCT and the Committee and/or the PCT's Scheme of Reservation and Delegation. Any Community Health Services Committee reports should be submitted to the PCT Board in advance of any dates which the PCT itself needs to comply with and where the PCT needs to take account of Community Health Services Committee reports. So for example, Community Health Services Committee Statement on Internal Control may be required in the quarter period before the quarter in which the PCT Statement on internal control is due.
- (b) The Community Health Services Committee shall:
- (i) provide any information which it has to the PCT Board and which the PCT Board considers is necessary for it to receive and to comply with any requirement of the Secretary of State or the PCT's Strategic Health Authority;
 - (ii) comply with any requirements of the PCT Board which the PCT Board reasonably believes are in the best interests of the PCT having regard to its functions and duties;
 - (iii) comply with PCT policies and procedures where this is appropriate and the Community Health Services Committee does not have similar policies or procedures in place;
 - (iv) wherever possible, undertake business, internal reporting and external reporting in the manner of an autonomous organisation;
 - (v) keep in place an audit process for its business by ensuring that agenda items on the main PCT audit committee are kept separate;
 - (vi) comply with such work guidance as may be issued by the Department of Health in relation to the operation of the Community Health Services Committee including guidance issued by the Appointments Commission;
 - (vii) have the ability to set up and delegate to sub-groups of the Community Health Services Committee [subject to it notifying the PCT Board] and provided that the Community Health Services Committee has regard to sub committees already operational so as not to create unnecessary duplication;
 - (viii) only delegate individual decision making responsibilities to executive officers and not non-executives;
 - (ix) sign a statement on internal control in relation to its Provider Business in accordance with the Department of Health's guidance and any required assessment of the Community Health Services Committee's assurance framework in relation to providing reasonable assurance that there is an effective system of internal control to manage the principal risks identified by the Community Health Services Committee. In this respect the Community

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Health Services Committee shall follow and comply with the Department of Health's annual requirements in relation to Statements of Internal Control as well as its March 2003 Guidance "Building the Assurance Framework: A Practical Guide for Boards" and the Department of Health's "Integrated Governance Handbook February 2006" on the subject; Any new guidance published must be taken into account which supersedes any of the detailed documents.

- (x) report to the PCT Board on a regular basis as agreed in relation to its development and operation generally including in relation to its assurance framework and the Community Health Services Committee shall respond to such other assurances as the PCT may reasonably require;
 - (xi) report on its management of and its performance under the Community Health Services Committee's SLA with the PCT in relation to the provision of services to the PCT.
- (c) Strategy, Plans and Budgets:
- (i) The Community Health Services Committee shall use all reasonable endeavours to generate an agreed level of surplus and to agree with the PCT a mechanism to enable in-year surpluses (in excess of an agreed threshold) to be reinvested by the Community Health Services Committee subject to meeting service commitments defined within SLA's with the Commissioners. The management of surplus and deficits are governed in the NHS BEN and NHSBEN CHS surplus and deficits protocol which will be reviewed, as a minimum, on an annual basis.
 - (ii) It is agreed that:
 - (a) as part of the Provider SIC assurance arrangements referred to above, tolerance limits would be set which, if breached, would trigger an early warning signal to the PCT Board from the Community Health Services Committee. Amongst other things, early warning signals would cover any serious risk of clinical, corporate or financial failure, including a serious risk of breaching the control total set for the provider by the PCT.
 - (b) The PCT Board would first provide provider management with an opportunity to rectify the situation by submitting a recovery plan, and demonstrating progress against it.
 - (c) In the event any milestones in the recovery plan are missed, the PCT Board shall reserve the right to intervene directly by *inter alia*:
 - Removing or replacing the chair/non-executive members of the Community Health Services Committee;
 - Removing or replacing the executive members of the Community Health Services Committee;
 - Requiring an independent audit of provider operations; and/or
 - Dissolving the Community Health Services Committee.

(d) Operational Decisions

- (i) It is acknowledged that the Community Health Services Committee currently does not have the resources it requires to run all its operations effectively, particularly in the areas of finance and information. It was agreed that as a starting mechanism, relatively detailed Service Level Agreements would be drafted with the PCT's corporate support services, enabling named individuals to be identified to work with Community Health Services in key corporate support functions.
- (ii) It was also agreed that this arrangement should be reviewed within 6 months to determine if some functions should be transferred over to the provider entirely (i.e. reporting into the Director of Community Health Services), or separate arrangements set up within the Provider.
- (iii) The Provider would not (in the short term) have the ability to source corporate support from other providers if this resulted in destabilisation of the PCT's corporate support functions.
- (iv) It is agreed that in the short term, no decision can be taken on giving the Community Health Services Committee authority to tender for new services outside of the host PCT, or to cease to provide services under existing contracts. All such decisions would need to be discussed with the Community Health Services Committee and Chief Executive of the PCT on a case by case basis, although they did not all necessarily need to go to the PCT Board (this would need to follow the PCT's own Scheme of Delegation).
- (v) The Provider would not (in the short term) lease or purchase any buildings for the purpose of delivering clinical services or operating the business without the express permission of the PCT Board

5. Frequency and Venue of Meetings

The Community Health Services Committee will meet monthly. However, there may be occasions when it is necessary to have urgent meetings and where this is necessary the members use all reasonable endeavours to do so. These meetings will not be held in public. The Community Health Services Committee shall split its time appropriately between strategic, operational, performance and risk issues.

Quorum

The Quorum shall be one Non executive Director and one Executive Director.

6. Papers

The deadline for notification of agenda items and submission and despatch of papers shall be in accordance with the Standing Orders referred to in these Terms of Reference.

7. Dissolution of the Community Health Services Committee

The PCT Board acknowledges the strategic and operational importance of the Community Health Services Committee and agrees for the purposes of certainty that it will not dissolve the Community Health Services Committee without good cause acting reasonably after consultation with the Community Health Services Committee members and upon the giving of not less than [3] months notice to the Director of the Community Health Services.

8. Review of Terms of Reference

These Terms of Reference shall be reviewed, at a minimum, annually and may only be varied by the PCT Board acting reasonably and after consultation with the Community Health Services Committee.

Updated March 2009.

Annex 2c

NHS BIRMINGHAM EAST AND NORTH

Section to be added to the PCT's current Scheme of Reservation and Delegation and relating to the delegation of functions to the Community Health Services Committee

DECISIONS DELEGATED BY THE BOARD TO, AND RESERVED BY, THE COMMUNITY HEALTH SERVICES COMMITTEE

REF	COMMUNITY HEALTH SERVICES COMMITTEE	DECISIONS DELEGATED BY THE BOARD TO, AND RESERVED BY, THE COMMUNITY HEALTH SERVICES COMMITTEE
THE COMMUNITY HEALTH SERVICES COMMITTEE		<p><i>Regulation and Control</i></p> <ol style="list-style-type: none"> 1. Following agreement with PCT Board, approve a scheme of delegation of powers from the Community Health Services Committee to sub-committees, Community Health Services Committee members and PCT employees. Including considering the creation and use of governance and audit sub-committee/sub-groups, such as, for example, a CHS Operations sub-group 2. Require and receive the declaration of any Community Health Services Committee member's interests which may conflict with those of the Community Health Services Committee and taking account of any waiver which the SofS may have made in any case and after consultation with the Community Health Services Committee Director and Chair where appropriate, determining the extent to which that member may participate in the consideration of a matter in which he/she has an interest. 3. Advise on and be responsible for governing and taking forward the PCT's community health services business as set out in this Scheme of Reservation and Delegation and otherwise as agreed with the PCT Board including ensuring robust quality and governance arrangements are in place having regard to any guidance by the Secretary of State, and including preparation of proposals to develop and monitor clinical standards. 4. Advise on and ensure robust governance arrangements are in place within Community Health Services through the

	<p>development and maintenance of an assurance framework to enable the Community Health Services Director to sign a Statement on internal control relating to Provider Services.</p> <p>5. Ratify or otherwise instances of failure to comply with Standing Orders in accordance with [SO 5.6]. Such failures to be reported to the PCT Board in formal session in line with the Provider Services escalation procedure.</p>
<p style="text-align: center;">THE COMMUNITY HEALTH SERVICES COMMITTEE</p>	<p>Strategy, Plans and Budgets</p> <p>1. Consider and approve Community Health Services Strategy and Plans and Budgets, on an annual basis, in relation to Community Health Services issues for approval by the PCT Board including:</p> <ul style="list-style-type: none"> (i) managing such budgets when they are set and dealing with any issues relating to deficits or surpluses which may arise in accordance with the Provider Services Surplus and deficits management protocol (ii) maintaining and considering segmented management accounts for provider services and reporting any significant variances from the budget to the PCT Board (in line with agreed escalation procedures). The PCT Board and the Community Health Services Committee shall agree what is a "significant variance". <p>2. Advise the PCT Board on the strategic aims and objectives of the PCT in relation to Community Health Services issues.</p> <p>3. Prepare and review annually draft plans in respect of the application of available financial resources to support the business processes the PCT is required to undertake including:</p> <ul style="list-style-type: none"> (i) working with local partners and conducting the Joint Strategic Needs Assessment and developing the Local Area Agreements; (ii) developing a strategic plan that describes the context for the next three to five years. (iii) developing an operational plan that: <ul style="list-style-type: none"> describes local targets defines success details milestones details proposed LAA content on health outcomes. <p>4. Determine arrangements in respect of provider services for agreeing the above mentioned business processes and</p>

	<p>advising the PCT Board, as required, in relation to Community Health Services on the above mentioned business processes.</p> <ol style="list-style-type: none"> 5. Having regard to the PCT's commissioning intentions, discuss, negotiate and agree any relevant service agreements between the PCT and provider services in relation to the (1) provision of services arranged by the Community Health Services Committee to the PCT (2) the provision of services arranged by the Community Health Services Committee to any third party commissioners, and (3) the provision of support services by the PCT to the provider services. 6. Develop and operationalise the PCT's policies and procedures for the management of risk in relation to Community Health Services 7. Negotiate the amount of the annual capital investment budget that is to be allocated to Community Health Services and, from there, to determine how that capital investment will be applied within Community Health Services, completing as appropriate, outline and final business cases for approval by the Community Health Services Committee (up to a capital value of £100,000 and, for investments in excess of £100,000+ further approval by the PCT Board. 8. If approved by the PCT Board, to work with the PCT Board in relation to the transfer of Community Health Services to an appropriate organisation or putting in place other arrangements relating to the future of Community Health Services.
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<p>THE COMMUNITY HEALTH SERVICES COMMITTEE</p>	<p>Direct Operational Decisions</p> <ol style="list-style-type: none"> 1. To advise on and be responsible for governing and taking forward the PCT's Community Health Services business as set out in this Scheme of Reservation and Delegation and otherwise as agreed with the PCT Board including advising the PCT Board on acquisition, disposal or change of use of land and/or buildings in relation to provider services. 2. To enter into a Memorandum of Occupation with landlords of facilities in which provider services has significant activities. 3. To introduce or discontinue any provider service activity or operation, albeit at all times acting in accordance with SLAs and any formal consultation requirements. Where such activity is significant the Community Health Services Committee shall consult in advance with the PCT CEO in the first instance. An activity or operation shall be regarded as significant, if it has a gross annual income or expenditure (that is before any set off) in excess of £100,000 4. To approve individual contracts of a capital or revenue nature relating directly to Community Health Services. Where such contracts are significant, the Community Health
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	<p>Services Committee shall consult with and secure the approval of the PCT Board. Contracts amounting to, or likely to amount to over £100,000 per annum shall be considered significant.</p> <ol style="list-style-type: none"> 5. To advise on the determination of individual compensation payments where they relate to provider services. Approval up to £1000 and above that limit make recommendation to the Director of Resources. 6. To consider and make recommendations to the PCT Board on action on litigation against or on behalf of the PCT in relation to provider services. 7. To advise on individual cases relating to provider services for the write off of losses or making of special payments above the limits of delegation to the PCT Chief Executive and PCT Director of Finance (for losses and special payments) previously approved by the PCT Board. 8. To ensure that the Community Health Services Committee has appropriate HR strategies and employment policies and procedures in place.
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<p>THE COMMUNITY HEALTH SERVICES COMMITTEE</p>	<p>Financial and Performance Reporting Arrangements</p> <ol style="list-style-type: none"> 1. Continuous appraisal of the affairs of the provider services business of the PCT as set out in management policy statements. All monitoring returns required by the Department of Health and the Charity Commission shall be reported, at least in summary, to the PCT Board. 2. Approve the opening or closing of any bank account relating to Community Health Services. 3. Receive and approve a schedule of NHS service agreements signed relating to Community Health Services and in accordance with arrangements agreed with the PCT Chief Executive. 4. Advise on the PCT's draft Annual Report (including the annual accounts) for approval by the Board in respect of Community Health Services issues.
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Governance Structure

