

TERMS OF REFERENCE FOR THE PRESCRIBED SPECIALISED SERVICES ADVISORY GROUP (PSSAG)

(A) ESTABLISHMENT & CONDUCT

Background

1. Section 3B(1)(d) of the National Health Service (NHS) Act 2006, as amended by the Health and Social Care Act 2012, gives the Secretary of State (SofS) the power to require the NHS Commissioning Board (NHS England) to commission prescribed services or facilities in relation to England by making regulations. Using this power, the SofS may require NHS England to commission specialised services for people with rare or very rare conditions. Before deciding whether to make regulations, SofS must consider it appropriate to do so, having regard to four statutory factors set out in section 3B(3) of the NHS Act 2006. Section 3B(4) requires the SofS to obtain appropriate advice before making regulations under this section.

Purpose of the Group

2. In order for the SofS to meet these obligations in making regulations under section 3B, the Prescribed Specialised Services Advisory Group (PSSAG) has been established to provide appropriate advice to Ministers. In particular, its purpose is to advise on whether certain services, for people with rare and very rare conditions, are specialised and should be prescribed in regulations for commissioning by NHS England.

Membership and general obligations on members

3. The Group is a Department of Health appointed expert committee with membership drawn from a wide geographical spread. One of its number is appointed Chair by the Secretary of State for Health. Membership of the Group includes representatives from the Royal Colleges and from Clinical Commissioning Groups, lay members to represent the interests of patients and the general public, and members from NHS England with financial and technical expertise who can offer assistance with matters relating to how the specialised elements of a service can be separately identified.

4. Evidence, supporting information and activity on those services currently prescribed in legislation for direct commissioning by NHS England and any services identified as potentially specialised and suitable for direct commissioning by NHS England, will be made available to PSSAG from a range of sources, which may include Clinical Reference Groups (CRGs) (established by NHS England to provide it with clinical advice regarding the services it commissions), patient groups, clinicians, commissioners and members of the public. Enquiries about the process for submitting applications to PSSAG may be made to the Group's secretariat (provided by DH). Contact details available at:

5. Members of the Group have a collective responsibility for the operation of the Group:

- 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.
- Members are expected to contribute towards the collective recommendations to be made to Ministers. Because of the advisory nature of the Group's work in making recommendations, it is envisaged PSSAG will arrive at a consensus view on issues under consideration wherever possible and that a call for votes will not generally be a suitable approach in reaching a collective view on substantive matters.
- If the Group considers that a proposal that is put to it is not supported by suitable evidence, the Group may, rather than reject the proposal, decide to postpone consideration until further evidence is produced.
- The Group may call upon additional experts to attend meetings on an ad hoc basis to inform discussions.
- Lastly, Group members shall respect confidentiality requirements set out below.

6. Members have a duty to attend meetings with appropriate frequency. If a non-lay member is unable to attend, a suitably qualified or similarly representative deputy may be sent in their place with the Chair's prior written agreement. However, if a member is unable to attend meetings on a regular basis the Chair may decide, on reasonable notice to the member concerned, to consider the position vacant.

7. Members may, by prior arrangement with the Chair through the secretariat, attend by telephone (where facilities can be made available).

8. If, due to unforeseen circumstances, the Chair is unable to attend a meeting or a part of a meeting, an acting chair may be appointed for that meeting or that part of the meeting from within the non-lay membership.

9. The names of the members are given in the list in Schedule 1 and the secretariat shall update the list when membership alters.

Quoracy & supplemental discussions

10. The Group will be considered quorate if over half of members are present. This must include the Chair (or acting Chair), and additionally, at least 2 lay members, and at least 1 member from each of the following representative sub-groups:

- CCG representatives
- Royal College representatives
- NHS England representatives

11. If, due to unforeseen circumstances, a member or members is not able to attend, despite having planned to, and as a result, the Group is not quorate when it meets, the meeting may still go ahead but members who are not present must be consulted by way of supplemental discussions or correspondence before decisions about advice to Ministers are agreed, as follows the principal goal being that any proposal considered at the inquorate meeting is sufficiently aired as to ensure that sound, robust and proper advice can then be provided to Ministers.

Secretariat

12. The secretariat will be provided by officials of the Department of Health and will be the first point of contact between NHS England, Clinical Commissioning Groups and the Department of Health. The secretariat will provide support to the Group, including arranging meetings, drafting agendas, commissioning and distributing papers provided by clinical experts, minute taking and taking responsibility for ensuring all actions are followed up. The secretariat will act as the main contact for questions and requests for advice about Group meetings.

Frequency of meetings

13. The Group will meet up to four times a year in order to make recommendations to Ministers. In exceptional circumstances, this may need to be reviewed. The secretariat will give members at least 6 weeks' notice of meetings to enable them to make arrangements to attend.

Confidentiality

14. Members should not reveal protected data or other material attracting confidentiality which is put to the Group (other than when required to by law). Besides personal data, this could be information attracting commercial confidentiality or material which it was intended by the party disclosing it should be kept confidential.

15. PSSAG's recommendations will remain confidential until a report containing its recommendations has been published.

(B) SUBSTANTIVE FUNCTIONS

Considerations

16. PSSAG considers four specific questions:

- Whether the services currently included on the list of prescribed specialised services set out in legislation (currently SI 2012/2996) should continue to be commissioned by NHS England;
- Whether there are services currently commissioned by NHS England, which would be more appropriately commissioned by CCGs;
- Whether there are services currently commissioned by CCGs which would be more appropriately commissioned by NHS England;
- Whether there are innovative new treatments and interventions that are not part of existing services and which should be commissioned by NHS England.

17. When considering if a service is specialised or not the Group must review existing services and assess new ones on the basis of **each of** the four statutory factors within the National Health Service Act 2006 which are:

- the number of individuals who require the provision of the service or facility;
- the cost of providing the service or facility;
- the number of persons able to provide the service or facility; and,
- the financial implications for Clinical Commissioning Groups if they were required to arrange for the provision of the service or facility

PSSAG's conclusions or observations in relation to each of these factors should be noted in meeting notes. The meeting notes will be circulated to members for comment before advice is put to Ministers. In addition, a report of the Group's recommendations to Ministers will be produced and circulated to members for comment prior to publication.

18. In developing its advice, PSSAG should also consider such matters as:

- How activity can be identified to enable separate contracting, monitoring and payment;
- Likely costs associated with separate and direct commissioning;
- Defining elements of service to be commissioned;
- The number of provider contracts NHS England is likely to need to develop to directly commission the service.

Service descriptions

19. NHS England's legal commissioning duty in relation to specialised services is to arrange the prescribed services to such extent as it considers necessary to meet all reasonable requirements for the provision of that service as part of the NHS. The service description will therefore reflect NHS England's judgment about how best to fulfil its functions. The Secretary of State respects the autonomy of NHS England in its commissioning decisions in this regard. However, as part of the process in advising the Secretary of

State about statutory prescribed services, the Group may take into account proposals from NHS England on the formulation of its service descriptions. Where the Group considers it relevant, it may also give its views to Ministers on NHS England's service descriptions (and any proposed changes) in respect of any prescribed service which it considers. This may be particularly relevant where there is a question as to whether a new service/therapy may or may not be considered part of an existing prescribed service (because if it is not, then a new prescription may be appropriate). Likewise, where NHS England are amending their service description to alter what is done under the heading of an existing prescribed service, this may have an impact on the description of the prescribed service in the relevant prescribing regulations, so would be a suitable matter for the Group's consideration.

Review

20. It is envisaged that these Terms of Reference will be reviewed from time to time, reflecting experience of the Group and Ministers in fulfilling their respective functions.

Dated: 30 September 2014

Schedule 1

PSSAG Chair

- Professor Sir Ian Gilmore

CCG representatives

- Dr J. E. Tim Burke (Clinical Commissioning Group - South)
- Dr Chris Clayton (Clinical Commissioning Group - North)
- VACANCY (Clinical Commissioning Group - London)
- Dr Christine Moss (Clinical Commissioning Group - Midlands and East)

Royal College representatives

- Helen Donovan (Royal College of Nursing)
- Dr Andrew Goddard (Royal College of Physicians)
- Dr Bronwyn Kerr (Royal College of Pathologists)
- Professor Paul O'Flynn FRCS (The Royal College of Surgeons of England)
- Dr Archie Prentice (Royal College of Pathologists)

Lay representatives

- Professor Bhaskar Choubey (lay representative)
- William Savage (lay representative)
- Dr Rebecca Strachan (lay representative)

NHS England representatives

- Dr Mike Bewick (NHS England Medical)
- Ceri Townley (NHS England Informatics)
- Fiona Marley (NHS England Operations)
- Tabitha Gardner (NHS England Finance)
- Michelle Mello (NHS England Nursing)