

## NHS Northern, Eastern and Western Devon Clinical Commissioning Group

### Audit and Assurance Committee Terms of Reference (April 2018)

#### Constitutional Obligations

The Clinical Commissioning Group's Governing Body/ Board hereby resolve to establish a Committee of the Governing Body/Board known as the Audit and Assurance Committee. The Committee is established in accordance with Northern, Eastern and Western Clinical Commissioning Group's Constitution, Standing Orders and Scheme of Delegation.

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 and standing orders.

The Audit and Assurance Committee is an assurance committee of the Governing Body and have the ability to execute any powers assigned to them by the Governing Body and those specifically delegated in these terms of reference and/or through the CCGs constitutional scheme of delegation.

The Local Audit and Accountability Act 2014 (the Act) requires every 'relevant authority' to appoint an 'auditor panel' to exercise functions set out in the Act (part 3, section 9). The Governing Body has resolved to nominate its audit committee to act as its auditor panel in line with schedule 4, paragraph 1 of the 2014 Act<sup>1</sup> and details of the auditor panel responsibilities and purpose are encompassed within the audit and assurance committee's terms of reference in line with the Act<sup>1</sup>.

<sup>1</sup> *Governing bodies can – if they choose – nominate a 'sub set' of the audit committee to act as the auditor panel. If a sub set is used, there must be at least 3 members with a majority who are independent and non executive members of the governing body. (HFMA briefing December 2015)*

#### Purpose

The purpose of the Audit and Assurance Committee is to assist the CCG in delivering its responsibilities for the conduct of public business, and the stewardship of funds under its control. In particular, the committee will seek to provide evidence-based assurance to the Governing Body that an appropriate system of internal control is in place to ensure that:

- Business is conducted in accordance with the law and proper standards
- Public money is safeguarded and properly accounted for
- Financial statements are prepared in a timely fashion, and give a true and fair view of the financial position of the CCG for the period in question
- Affairs are managed to secure economic, efficient and effective use of resources
- Reasonable steps are taken to prevent and detect fraud and other irregularities

It is the responsibility of the committee to make recommendations to the Governing Body on determinations about the assurances received surrounding any internal or external audit findings and probity issues on behalf of the CCG.

It shall support the objectives of NEWD CCG Governing Body as outlined in the Operational Plan, and provide assurances to the Governing Bodies that these are being met and considered.

It will promote a whole system culture of continuous improvement, ensuring that assurance and probity sits at the heart of health and social care locally, whether provided by NHS or non-NHS providers

It will seek assurance that the CCG is fulfilling its statutory duties through continuous monitoring and this will be detailed in both organisations annual governance statement and annual report, under the relevant Acts, and current national guidance.

The Committee is authorised by the CCG Governing Body to investigate any activity within its terms of reference. It is authorised to seek any information it requires from any employee, and all employees are directed to cooperate with any request made by the committee.

The committee is authorised by the CCG Governing Body to obtain external legal or other independent professional advice and to secure the attendance of advisers with relevant experience and expertise if it considers this necessary.

The committee is responsible for the approval of the annual financial statements and annual governance statement prior to submission to the CCG Governing Body.

## Responsibilities

The responsibilities of the committee can be categorised as follows:

### **Governance, internal Control and Risk Management**

The Committee shall review the establishment and maintenance of an effective system of governance, risk management and internal control, across the whole of the organisation's activities (clinical and non-clinical) that supports the achievement of the organisation's core objectives.

In particular, the Committee will review the adequacy and effectiveness of:

- all risk and control related disclosure statements (in particular the Annual Governance Statement and any declarations of external compliance), together with any accompanying Head of Internal Audit statement, external audit opinion or other appropriate independent assurances, prior to endorsement by the CCG Governing Body
- the underlying assurance processes that indicate the degree of the achievement of corporate objectives, the effectiveness of the management of principal risks and the appropriateness of the above disclosure statements;
- the policies for ensuring compliance with relevant regulatory, legal and code of conduct requirements and any related reporting and self-certifications.
- the policies and procedures for all work related to counter fraud and security as required by NHS Protect.

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In carrying out this work the Committee will primarily utilise the work of Internal Audit, External Audit and other assurance functions, but will not be limited to these audit functions. It will also seek reports and assurances from directors and managers as appropriate, concentrating on the overarching systems of governance, risk management and internal control, together with indicators of their effectiveness. This will be evidenced through the Committee's use of an effective risk assurance framework to guide its work and that of the audit and assurance functions that report to it. To enable this, the audit committee will have sight of the full risk assurance framework no less than four times a year to enable it to report on its assurances of internal control and the process of risk management throughout the organisation to the Governing Body.

The Audit and Assurance Committee shall review the findings of other significant assurance functions through effective relationships with other key committees so that it understands processes and linkages and will receive assurance that these committees are working effectively through the annual committee effectiveness reviews. However these other committees must not usurp the committees role.

The Committee will review the Finance and Performance reporting and Quality reporting to the Governing Body at each meeting. The Committee will challenge the content of the report and seek assurance that it is based on sound systems of control and that there are appropriate action plans in place to mitigate the risk areas. This will provide the opportunity for detailed scrutiny of the performance of the CCG prior to this being presented to the Governing Body.

Where timeliness is of the essence in managing a significant risk or issue, the Chair of the Committee will be informed of an issue by the quickest possible means (e.g. verbally) and this will be acted upon in accordance with the risk management strategy and risk escalation processes of the CCG.

### **Auditor Panel**

The auditor panel for NHS NEW Devon CCG forms a sub set of the audit and assurance committee and shall comprise of the core membership of the audit and assurance committee this membership consists of at least 3 members with a majority who are independent and non-executive members of the governing body.

The auditor panel is a non executive committee and has no executive powers other than those specifically delegated in these terms of reference. In line with the requirements of the Local Audit (Health Service Bodies Auditor Panel and Independence) Regulations 2015 (regulation 6) each members independence must be reviewed against the criteria laid down in the regulations<sup>2</sup>.

The auditor panel chairperson and/or members of the panel can be removed in line with rules agreed by the governing body.

The auditor panels chairperson shall formally state at the start of each meeting that the auditor panel is meeting in that capacity and NOT as the audit committee.

Auditor panel business shall be identified clearly and separately on the agenda and audit

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committee members shall deal with these matters as auditor panel members NOT as audit committee members.

The auditor panels functions are to:

- Advise the CCG's governing body on the selection and appointment of the external auditor. This includes:
- Agreeing and overseeing a robust process for selecting the external auditors in line with the organisations normal procurement rules;
- Making a recommendation to the governing body as to who should be appointed;
- Ensuring that any conflicts of interest are dealt with effectively;
- Advise the CCGs governing body on the maintenance of an independent relationship with the appointed external auditor
- Advise (if asked) the CCG's governing body on whether or not any proposal from the external auditor to enter into a liability limitation agreement as part of the procurement process is fair and reasonable;
- Advise on (and approve) the contents of the organisations policy on the purchase of non-audit services from the appointed external auditor;
- Advise the CCG's governing body on any decision about the removal or resignation of the external auditor.

2 If a specially established panel is nominated with new members (ie not from the existing audit committee, a full recruitment process must be followed in line with regulation 3. This means that any prospective members who are not on the governing body must be appointed in response to an advertised vacancy and after submitting an application.

### External Audit

The Committee shall review and monitor the external auditors independence and objectivity and the effectiveness of the audit process. In particular, the Committee will review the work and findings of the External Auditors and consider the implications and management responses to their work. This will be achieved by:

- Considering the appointment and performance of the external auditors, as far as the rules governing the appointment permit (and make recommendations to the governing body when appropriate)
- Discussing and agreeing with the external auditors, before the audit commences, the nature and scope of the audit as set out in the annual plan
- Discussing with the external auditors their evaluation of audit risks and assessment of the organisation and the impact on the audit fee
- Reviewing all external audit reports, including the report to those charged with governance (before its submission to the governing body) and any work undertaken outside the annual audit plan, together with the appropriateness of management responses
- Ensuring that there is in place a clear policy for the engagement of external auditors to supply non audit services.

### Internal Audit

The Committee shall ensure that there is an effective internal audit function established by management that meets the Public sector internal audit standards, 2014 and provides appropriate independent assurance to the Committee, Accountable Chief Officer and CCG Governing Body.

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This will be achieved by:

- consideration of the provision of the Internal Audit service and costs involved,
- reviewing and approving the annual internal audit plan and more detailed programme of work, ensuring that this is consistent with the audit needs of the organisation as identified in the assurance framework;
- considering the major findings of internal audit work (and managements response) and ensuring coordination between the internal and external auditors to optimise the use of audit resources;
- ensuring that the internal audit function is adequately resourced and has appropriate standing within the organisation
- monitoring the effectiveness of internal audit and carrying out an annual review

### **Counter Fraud and Bribery**

The Committee shall satisfy itself that the organisation has adequate arrangements in place for counter fraud and security that meet NHS Protect's standards and shall review the outcomes of work in these areas.

The Committee shall also ensure that there is a counter fraud specialist within the CCG and that policies and procedures for all work related to fraud are in place while also ensuring that procedures are in place which ensure that it cannot be guilty of any bribery or corruption. The Committee will receive reports from the Local Counter Fraud Specialist on current investigations.

### **Financial reporting**

The Committee shall monitor the integrity of the financial statements of the organisation and any formal announcements relating to its financial performance.

The Committee should ensure that the systems for financial reporting to the governing body, including those of budgetary control, are subject to review as to the completeness and accuracy of the information provided.

The Committee shall review the annual report and financial statements before submission to the governing body, focusing particularly on:

- The wording in the annual governance statement and other disclosures relevant to the terms of reference of the committee;
- Changes in, and compliance with, accounting policies, practices and estimation techniques;
- Unadjusted mis-statements in the financial statements;
- Significant judgements in preparation of the financial statements
- Significant adjustments resulting from the audit
- Letters of representation
- Explanations for significant variances

### **Whistleblowing**

The Committee shall review the effectiveness of the arrangements in place for allowing staff to raise (in confidence) concerns about possible improprieties in financial, clinical or safety matters and ensure that any such concerns are investigated proportionately and independently.

### **Other assurance functions**

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The Committee shall review the findings of other significant assurance functions, both internal and external to the organisation, and consider the implications for the governance of the organisation.

## Membership

The core membership of the Audit and Assurance Committee shall be:

<p><b>The following members have voting rights:</b></p> <ul style="list-style-type: none"> <li>• (Chair) Lay member – probity and governance</li> <li>• 2 x Lay member representatives</li> </ul> <p><b>The following members do not have voting rights:</b> 2 x Clinical membership representation</p>
<p>Under the NHS (CCG Groups) Regulations 2012, (14) Audit Committee (3) The following are disqualified from membership of a CCG’s audit committee: (a) the Chair of the CCG’s Governing Body (b) the CCG’s Chief Finance Officer</p>
<p><b>Attendees <u>do not</u> have voting rights and include:</b></p> <p>The Chief Finance Officer, Governance representative, Head of Internal Audit, the local counter fraud specialist and representatives from external audit shall normally attend meetings. At least once a year the committee members should meet privately with the external and internal auditors without any senior officer present.</p> <p>The Accountable Officer/Chief Officer and CCG Chair can attend any committee meeting.</p> <p>The Accountable Officer/Chief Officer should be invited to attend and discuss at least annually with the Audit and Assurance Committee the process for assurance that supports the CCGs input into the annual governance statement. He or she should also attend when the committee considers the CCG input into the draft internal audit plan and annual accounts.</p>
<p>Lay Members may request that one of the additional CCG Governing Body Lay Members or Locality Lay Members may represent them in their absence at the committee and these individuals would maintain a vote.</p> <p>The Chair of the committee may co-opt any non-voting Clinicians, Executive or Managing Directors, nominated deputies and lead managers as appropriate, and particularly, when the committee is discussing areas of risk or operation that are the responsibility of that attendee.</p>
<p>Note: When a committee member is unable to attend, a nominated formal deputy with sufficient authority must attend in their place. Deputies will have the decision making and voting rights of the person he/she is representing.</p>

## Quorum

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A quorum of the audit and assurance committee and the auditor panel shall be two of the independent members and one clinical member.

A decision put to a vote at the meeting shall be determined by a majority of the votes of independent members present. In the case of an equal vote, the Chair(s) of the Committee shall have a second and casting vote.

Invited members, or those in attendance to the Committee do not have the right to vote.

If the Committee Chair is absent then the members of the Committee will select a chair for that meeting from the voting members present – this will be overseen by the most senior officer responsible for governance as the Chair needs to be an independent representative of the CCG.

## Register of Interests

The Register of Interest will be reviewed at each Audit and Assurance Committee meeting in line with the NHS Audit Committee Handbook.

Members will be asked by the Chair of the Audit and Assurance Committee to declare any interests at the beginning of each meeting. If a member feels compromised by any agenda item they should declare a conflict of interest and leave for that agenda item.

**Auditor Panel.** Conflicts of interest must be declared and recorded at the start of each meeting of the auditor panel. Auditor panel register of interest must be maintained by the panels chairperson and submitted to the governing body in accordance with the CCGs standards of business conduct policy. If a conflict of interest arises, the chairperson may require the affected auditor panel member to withdraw at the relevant discussion or voting point.

## Frequency of Meetings

The Audit and Assurance Committee must consider the frequency and timing of meetings needed to allow it to discharge all of its responsibilities. A benchmark of five meetings per annum at appropriate times in the reporting and audit cycle which must be documented in the corporate calendar and aligned to provide assurance in a timely manner to Governing Body. The Governing Body, Accountable Officer, External Auditors or Head of Internal Audit may request an additional meeting if they consider that one is necessary.

The Head of Internal Audit, representative or external audit and counter fraud specialist have a right of direct access to the Chair of the committee.

The auditor panel will meet on the same day as the audit and assurance committee, either before or after dependent upon availability of members and governance arrangements. The auditor panels chairperson may invite executive directors and others to attend depending on the requirements of each meeting's agenda. These invitees are not members of the auditor panel.

The Committee has agreed that in the interest of expediency or when there are few items to

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be discussed that business of the committee can be conducted by e-mail and the actions/decision will be recorded by the Administrator for purposes of transparency and recording. Where a discussion is required, all members must respond, and the administrator will oversee this to ensure that all members are accounted for.

## Reporting arrangements

The Committee Chair shall report formally to the CCGs Governing Body on its proceedings after each meeting on all matters within its duties and responsibilities. The report shall be presented to the public meeting of the CCGs Governing Body. The Committee shall make recommendations to the CCGs Governing Body on any area within its remit where action or improvement is needed.

The Committee is authorised by the CCG Governing Body to investigate any activity within its terms of reference. It is authorised to seek any information it requires from any employee and all employees are directed to co-operate with any request made by the Committee.

The Committee may require the attendance at its meetings of any officer of the CCG and the production of any document.

The Committee is authorised by the CCG Governing Body to obtain outside legal or other independent professional advice and to secure the attendance of outsiders with relevant experience and expertise if it considers this necessary.

The auditor panel is a sub group of the audit and assurance committee and is authorised by the governing body to carry out the functions specified below and can seek any information it requires from any employees or relevant third parties. All employees are directed to co-operate with any request made by the auditor panel.

The auditor panel is authorised by the governing body to obtain outside legal or other independent professional advice (for example, procurement specialists) and to secure the attendance of outsiders with relevant experience and expertise if it considers this necessary. Any such 'outside advice' must be obtained in line with the organisations existing rules (e.g legal framework policy). Minutes and reports of the meetings will be produced and held by the Administrator of the Committee, accessible to the Chair, core membership and the Director of Corporate Affairs. Extracts from Minutes will be made public as appropriate under the freedom of information act.

## Conduct of the Committees in Common

The Committee shall conduct its business in accordance with national guidance, relevant codes of practice including the Nolan Principles.

Members of the committee will review their declaration of interest as presented in the papers, and the administrator will record any conflicts or updates in the minutes. Should any conflicts be presented on the day of the committee, it will be for the Chair to make a formal decision as to whether that committee member or attendee can participate in discussion, but not vote, or whether they leave the meeting for that item. If a member feels

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compromised by any agenda item they should declare a conflict of interest and leave for that agenda item.

The membership shall observe the highest standards of propriety involving impartiality, integrity and objectivity in relation to the stewardship of public funds and the management of the bodies concerned.

The membership shall maximise value for money through ensuring that services are delivered in the most efficient and economical way, within available resources, and with independent validation of performance achieved wherever practicable.

## Statutory Functions, Committee Oversight and KPIs (Internal Monitoring)

The Governing Body has delegated the following authorities to Audit and Assurance Committee:

<ul style="list-style-type: none"> <li>• Authority to establish sub-committees</li> </ul>
<ul style="list-style-type: none"> <li>• Provision of an independent and objective view of the CCG's systems of internal control, information and compliance with laws, regulations and directions governing the CCG in so far as they relate to finance, risk, quality and performance management systems underpinned by the assurance framework</li> </ul>
<ul style="list-style-type: none"> <li>• Appoint internal auditors</li> </ul>
<ul style="list-style-type: none"> <li>• Approve the internal audit plan</li> </ul>

The Committee will undertake an annual review of the performance and effectiveness of the CCG Governing Body associated sub-committees to ensure that the committee structure and work plans reflect the current and future needs of the CCG Governing Body.

In addition, the Committee will review the work of other committees within the organisation, whose work can provide relevant assurance to the Committee's own scope of work. These may include, but will not be limited to, any reviews by Department of Health Arms Length Bodies or Regulators/Inspectors (e.g Audit Commission) or professional bodies with responsibility for the performance of staff or functions (eg Royal College, accreditation bodies).

The reviews will be spread throughout the year with an annual report produced by the Committee for the Governing Body.

## Administration

The Committee and its sub group shall be supported administratively by its Administrator his or her duties in this respect will include:

- Agreement of agendas with the Chair and attendees
- Preparation, collation and circulation of papers in good time
- Ensuring that those invited to each meeting attend
- Taking the minutes and helping the Chair to prepare reports to the Governing Body

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- Keeping a record of matters arising and issues to be carried forward
- Arranging meetings for the Chair – for example, with the internal/external auditors, auditor panel or local counter fraud specialists
- Maintaining records of members appointments and renewal dates
- Advising the committee on pertinent issues/areas of interest/policy developments
- Advising the auditor panel on pertinent issues/areas of interest/policy developments
- Ensuring that action points are taken forward between meetings
- Ensuring that committee members receive the development and training they need.
- Ensuring that panel members receive the development and training they need
- Providing appropriate support to the chairperson and panel members

Following each meeting, the Administrator will:

- Maintain an attendance log and follow up as appropriate after each meeting to ensure the Committee adheres to the required frequency of attendance by members.
- Maintain a decisions log of reporting arrangements into each formal meeting of the Committee from sub-committees and follow up with chairs of sub-committees as appropriate.
- Maintain a log of summary written reports provided to Governing Body from formal meetings.

## Review

An annual effectiveness review will be undertaken by the Head of Governance as good governance practice and to ensure compliance with the annual governance statement of internal control.

These Terms of Reference will be reviewed on an annual basis or sooner if required through the Head of Governance with recommendations made to the CCGs Governing Body for approval.

**END**

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