

**BOARD PAPER - NHS ENGLAND**

**Title:** Audit Committee feedback

**Clearance:** Ed Smith, Audit Committee Chair

**Purpose of paper:**

- Report on the meeting held on 17 February 2014 and approved minutes of the meeting held on 2 December 2013.

**Key issues and recommendations:** As noted in the report.

**Actions required by Board Members:**

- To note the work of the Audit committee.

## Report of the Audit Committee

1. The Audit Committee met on 17 February 2014. Both members were present.
2. The meeting approved the minutes of the previous meeting, held on 2 December 2013, which are attached for information.
3. The key points from the meeting which the Committee wish to draw to the Board's attention are as follows:

- *Complaints Internal Audit Report*

The Committee noted the results of the recent internal audit work, which highlighted that whilst the backlog of complaints had been significantly reduced, there were a number of areas in which processes and controls required improvement. Management explained that the volume of complaints had been significantly under estimated, and as a consequence the whole process has needed re-engineering. There will however be a need for a new technical platform to deliver a fully fit for purpose solution, which is subject to a business case for funding in 2014-15.

- *Budgets for Counter Fraud Work*

Management reported that no budgets were originally established for 2013/14, and therefore creating recurrent funding for the significant work programme of future anti-fraud work was a financial pressure in the context of the 2014/15 business planning.

ES noted his frustration that current Treasury rules regarding separate admin and programme cost limits were an obstacle to developing an 'invest to save' culture. The benefits to be gained from investment in research, investigation and post payment verification are considerable, but will need 'pump-priming'.

Andrew Baigent from the Department of Health agreed to work with management to see if ways could be found to make funding available to allow the required investment in prevention and detection.

- *External Audit Progress*

The National Audit Office reported on progress on the interim audit, which had started slowly but was now moving ahead apace.

The NAO expressed concern that testing in period 9 did not involve full accounts production, which meant that some processes would be tested for the first time at year end.

Management confirmed that they were staffing up to deliver year end, including taking a project management approach and appointing a senior member of staff to co-ordinate the process as a whole.

- *Legacy Balances*

Management updated the Committee on the current position on legacy balances. In recent weeks NHS England has significantly increased the resource available to facilitate the delivery of the required work by year end. It was noted that three legacy organisations had still not provided data to the department of Health, and therefore the picture remained incomplete, but good progress is being made.

A verbal update on the evolving financial impact of legacy balances can be provided at the Board meeting.

- *2013-14 Governance Statement*

The Committee received an update on progress since the last meeting.

Considerable discussion occurred around the hand over arrangements between the retiring Accounting Officer and incoming Accounting Officer. It was confirmed that Sir David would prepare and sign a letter of assurance, addressed to the new Accounting Officer, covering his stewardship of the organisation during 2013-14.

- *Non-compliance with Standing Financial Instructions*

Two reports were received on deviations from current Standing Financial Instructions.

The first related to the signing of grant award letters. Standing Financial Instructions currently require all letters to be signed by one of the Chair, Chief Executive or Chief financial Officer. The volume of grants is making this impractical, and the delegation limits for non-clinical contracts are being utilised. Standing Financial Instructions will be amended at the next refresh to reflect this practice.

The second relates to the reduced authorisation limits introduced in the last refresh of Standing Financial Instructions for non-Purchase Order invoices. The ISFE system as currently configured is not capable of handling different approval limits invoices with and without purchase orders. A technical solution is being investigated with NHS Shared Business Services, but in the meantime the higher purchase order limits are being applied for the approval of non-PO invoices.

Both reports were noted by the Committee, and the actions taken were endorsed.

4. I am happy to discuss the content of this report, issues otherwise included in the Audit Committee minutes or other matters of Board concern. In summary, the required Audit Committee processes and key components of assurance on internal controls are now in operation, but with a full and challenging work programme for management and our assurance providers.

**Ed Smith**

**Audit Committee Chair**

**March 2014**

## NHS COMMISSIONING BOARD AUDIT COMMITTEE

### Minutes of the meeting held on 2 December 2013

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**Present:**

Ed Smith	Non-executive Director (Chair)	ES
Naguib Kheraj	Non-executive Director (via teleconference to item 8.1)	NK
Moira Gibb	Non-executive Director	MG

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**In Attendance:**

Paul Baumann	Chief Financial Officer	PB
Bill McCarthy	National Director: Policy	BM
Sheenagh Powell	Director of Financial Control	SP
Stephen Fell	Head of Assurance & Procurement (Secretariat)	SF
Richard Lawton	Head of Financial Accounting & Services	RL
Jon Schick	Head of Governance & Board Secretary	JS
David Noon	Deloitte LLP	DN <sub>o</sub>
Morag Childs	Deloitte LLP	MC
Colin Wilcox	National Audit Office (from item 3)	CW
Martin Wiles	NHS Protect	MW

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**Apologies:**

David Nicholson	Chief Executive	DN <sub>i</sub>
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**1. Welcome & Introductions**

- ES confirmed all in attendance knew each other.

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***Apologies for Absence***

- All members were present.
- ES noted he expected DN<sub>i</sub> to be present in person at the February 2014 meeting.

**Action AC-2013-40: DN<sub>i</sub> to attend the February 2014 Committee in person (DN<sub>i</sub>)**

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### ***Consideration of “Starred” Items***

- The items starred on the agenda were accepted with no changes requested.

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### ***Declarations of Interest in Matters on the Agenda***

- There were no member declarations of interest in matters on the agenda.
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## **2. Minutes of the Previous Meeting**

### ***Meeting of 16 September 2013 Minutes***

- It was noted MG was present in person, not via teleconference.
  - Subject to this one change, the minutes of the meeting held on 16 September 2013 were AGREED as an accurate record.
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### ***Chair’s Report to the Board***

- The Chair’s report to the Board on the previous meeting was NOTED by the Committee.
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### ***Action Log***

- AC-2013-28: ES reported a steering group has been established which he sits on. A review has occurred which confirmed concerns on governance issues, and a report will be presented to the NHS England Board in December 2013.
  - AC-2013-29: Carried forward.
  - AC-2013-30: Included in the progress report. Action closed.
  - AC-2013-31: Reported to the 18 September Department of Health Audit & Risk Committee. Action closed.
  - AC-2013-33: JS reported the Executive Risk Management Group is reviewing the BAF. It was AGREED to carry this forward.
  - The action log was NOTED by the Committee.
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### ***Matters Arising Not Covered on the Agenda***

- There were no matters arising that were not on the agenda.
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### 3. Internal Audit

#### ***Internal Audit Status Report***

- DNo presented the report, noting the format has changed significantly to reduce the length but increase the clarity.
- DNo highlighted a different reporting approach was being taken to rating two part audits, with a readiness rating now being issued rather than an overall rating. This has reduced the time spent debating ratings and hence speeded up the time to issue reports.

CW joined the meeting.

- ES challenged that a change to ratings could be seen as Internal Audit being soft on management. DNo responded that close out meetings with management were far from easy on management and his opinion at the end of the year will fully reflect where controls were not operating. SP noted that the previous opinions did not distinguish between areas where action plans were absent, and therefore were required, compared to areas where controls were weak but rectification plans were in place and the focus was now on delivery.
- MG queried whether there was the capacity in the business to deliver all the actions. SP noted the business is aiming to deliver against all the priority 1 issues and some priority 2's and 3's, depending on perceived priority, and some were already being progressed as the audits concluded, however it had to be recognised not all would be delivered. RL noted some of the controls would not have been present in the previous system. ES suggested that the past was not a guide to the standard being set at NHS England. The priority was to deliver a robust system of control, regardless of previous regimes.
- ES requested a rectification plan for the next Committee meeting for the Payments Audit.

**Action AC-2013-41: Rectification plan for the SBS Payments Audit to be presented to the next Committee meeting (SP)**

- CW queried whether this approach to reporting was comparable to other organisations. DNo noted NHS England was in an organisation in a category of one, so a comparator did not exist. The closest would be the introduction of

Sarbanes-Oxley where a readiness approach was used by US listed companies, and found to be an effective approach.

- The Committee CONFIRMED it was happy with the change in reporting on internal audits, as it did not change the underlying standard of the audit or requirements on management to deliver action plans.
- DNo highlighted the reliance on third party assurance. PB confirmed that all these organisations have existed previously, but a national view could now be taken which was highlighting issues. These are being addressed via regular meetings with the providers concerned, particularly NHS Shared Business Services
- DNo highlighted the progress on CSU audits, with a lot of activity having occurred. In both this area and general progress a lot of reports will be issued between now and the next Committee meeting.
- The Committee CONFIRMED they were happy with the new format for reporting issued reports.
- NK queried the lack of management responses. PB confirmed that management generally accepted the recommendations and Deloitte would highlight in their progress report where a recommendation was not accepted by management.
- ES requested an Audit Recommendations Progress paper that would confirm action was occurring, or highlight areas of slippage. PB agreed to work with Deloitte on incorporating such feedback in the progress report.

**Action AC-2013-42: Progress on audit recommendations to be incorporated into future progress reports (MC)**

- The report was NOTED by the Committee.

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**CSU Service Auditor Reporting**

- ES asked PB whether he had a recommendation out of the paper. PB confirmed his recommendations were that service auditor reporting should occur and CSUs should pay for this. CSUs should decide for themselves how they recover that cost from customers.
- CW noted providing service auditor reporting is not an option for NHS England, it owns the CSUs and needs to provide assurance to CCGs.

- The Committee ENDORSED management's recommendation to progress with providing service auditor reporting to customers of CSUs.
  - The Committee ENDORSED management's recommendation that CSUs should bear the cost of providing service auditor reporting.
  - The Committee ENDORSED management's recommendation that CSUs should decide for themselves how the cost of service auditor reporting should be recovered from customers.
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#### **4. Counter Fraud**

##### ***Anti-crime Work Plan Update***

- ES queried whether NHS England was fully sighted and engaged in the prescription fraud response. SF confirmed officials are fully engaged with the Department of Health in addressing the outcome. PB confirmed he is attending a meeting with Earl Howe and Dan Poulter (Department of Health Ministers) in the next few weeks to discuss a response to the report.
  - ES noted the policy was owned by the Department of Health, which is the origination of the issue, but directly impacts NHS England's accounts.
  - NK noted NHS England needs to be clear what it is responsible for, and can influence, versus what the Department of Health is responsible for and NHS England can only attempt to influence. ES added it was important that NHS England understand the root cause(s) and if found in policy make the Department of Health aware of the quantum of exposure, as well as NHS England's recommendation(s) for mitigation.
  - The update was NOTED by the Committee.
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##### ***Anti-crime 5 Year Strategic Plan***

- MW presented the plan, noting as a new organisation there was now an opportunity to review and bring activity together in a more rational way. He also noted a green rating reflected not just putting a plan in place, but also evidence of

delivery and effectiveness.

- ES commented that five years was too long. MW confirmed this is a plan for five years, as opposed to a plan that takes five years. A lot of actions will be delivered earlier and are covered in the response plan.
- ES noted a further piece of work is required by NHS England to look at those actions which can reduce economic crime quickly and substantially, in addition to those actions which might take longer or have policy implications.

The plan was NOTED by the Committee.

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### ***Anti-crime Threat Assessment & Response Plan***

- MW presented the plan, highlighting the three levels of confidence NHS Protect have in the figures produced.
- PB noted there is a lot of work required to deliver this, which needs working through to ensure resources are available to guarantee delivery.
- MG noted the paper did not give her confidence NHS England was moving to a more preventative model.
- SF and SP explained the previous regime was fractured and quite bureaucratic, which NHS England now had the opportunity to address. Some activity, such as a lot of the data analytics, was only now possible because of the bringing together in one new organisation. Other items, such as on-going training, need to be provided but in a more efficient way.
- NK highlighted he felt that the approach to tackling economic crime should be discussed at Board level.
- ES proposed the Committee report to the Board should highlight economic crime, and requested appointment of an SRO within NHS England to have oversight of delivery of this.

**Action AC-2013-43: An SRO to be appointed to oversee the delivery of the anti-crime strategy and response plan (PB)**

- The plan was NOTED by the Committee.
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## **5. External Audit & Financial Reporting**

### ***Update on External Audit Work***

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- CW presented the paper, noting the overall message is the NAO are doing as much as possible, but are restricted in some areas by how hard staff are already working and therefore not able to make progress as they would like.
  - ES noted NAO's attendance at the CCG financial accounting workshops and the concerns expressed about their (CCGs) apparent lack of readiness.
  - The update was NOTED by the Committee.
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#### ***Audit Planning Report***

- CW presented the paper, noting this was the formal planning report that built on the risks presented at the last Committee meeting. The lay out is different to previous years, but the nature of the content is ostensibly the same.
  - CW highlighted the timetable, and that all items are slipping to the right. This does not risk the opinion, but does risk pre-recess delivery of the accounts.
  - The report was NOTED by the Committee.
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#### ***Update on Accounts Timetable 2013-14***

- SP presented the paper, noting the draft data date is 23 April 2014. The submission of audited data was originally scheduled as 30 May 2014. The Audit Commission had indicated this was not deliverable and a revised date of 3 June 2014 had been proposed, which NHS England thought had been agreed. The Audit Commission have now formally written to the Department of Health stating a date earlier than 9 June 2014 is not achievable.
  - Discussions are on-going with the Department of Health to see whether there is scope to flex their timetable, and the Audit Commission to see if a staged delivery of data and outputs is possible.
  - The update was NOTED by the Committee.
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#### ***Update on Legacy Balances***

- SP presented the paper, noting it was slightly out of date as things have moved on since its issue. SP provided an update on current proposals.
- CW responded to the update flagging that the proposed accounts direction had not yet been formally agreed with NAO and would require NAO technical quality assurance agreement before this was confirmed. Whilst the principle appeared

sound, the formal acceptance and subsequent handling required further consideration so was not yet a final accepted solution.

- Resolution and a hard close at month 9, including legacy balances, is now a priority, as this will give significant comfort over the ability of both CCGs and NHS England to deliver year end close.
- MG queried what happens if the current proposals are not agreed. It was confirmed this would probably result in pre-recess accounts being missed.
- NK queried whether the sourcing of external support to-date had been procured appropriately. PB confirmed that whilst some use of waivers had been and may be needed the rules had been and would be followed.
- ES noted the current position is deeply disappointing, partly because the NAO had foreshadowed these concerns, and partly because this resulted from the Department of Health controlled process, which had not worked effectively. Staff are already fully committed to delivering the day job, and therefore the sourcing of external resource to support this was essential.
- The update was NOTED by the Committee.

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#### ***Draft Governance Statement***

- BM presented the paper, noting this will be presented on a number of future occasions as it is developed and needs to be brought in line with the guidance being issued to CCGs.
- In response to a request from MG, SF provided a background to what the governance statement should deliver and the messages it will be conveying.
- A number of issues were raised with the content, which were noted and taken away to be incorporated.
- CW noted this was the first governance statement he had seen this year, which was a positive step, but lots of work still to do.
- The statement was NOTED by the Committee.

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## **6. Governance**

### ***Review of Board Assurance Framework***

- BM presented the paper, noting the format is being revised. The Executive Risk

Management Group looks at these risks each month, and has concluded that they could be summarised and better presented into crisper overarching risks. There is, however, a necessity not to lose the linkage to operational level risks.

- BM noted seven risks are rated amber/red after mitigation, and fall into three themes.
- MG noted the key was not to spend lots of time making the document look good, and lose the focus on managing risk.
- MC noted the key was to ensure risk management was embedded at an operational level, and staff understood how to manage and escalate risks.
- CW noted the NAO had undertaken a review of risk management across the health environment for the Department of Health, which highlighted the lack of joining up of risks across the whole health system (each organisation is focussing internally, rather than looking outwardly as well).
- The paper was NOTED by the Committee.

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***Review of Inter-relationships with the Work of Other Committees***

- Nothing was reported.

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**7. Standing Items**

***SO 1.5.2: Non-compliance with Standing Orders***

- No items were reported.

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***SFI 1.2.2: Non-compliance with Standing Financial Instructions***

- The paper was NOTED by the Committee.
- The Committee APPROVED the waiving of disciplinary action in this case.

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***SO 5.14.4: Review of Decision(s) to Suspend Standing Orders***

- No instances of Standing Orders being suspended had occurred since the last meeting.

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***SFI 13.25.5: Waivers of Formal Tendering & Quotations Processes***

- The log of waivers of formal tendering and quotations processes was NOTED by the Committee.

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***SFI: 20.5.2: Losses & Special Payments***

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- The paper was NOTED by the Committee.
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## **8. Committee Matters**

### ***Review of Forward Work Programme***

- ES requested an additional meeting in mid-July 2014, to reflect the possibility of missing the current accounts deadline, plus possibly a teleconference in late June 2014.
  - Dates need reviewing in light of the proposed Board dates, particularly for accounts approval.
  - The forward work programme was AGREED by the Committee.
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### ***Audit Committee Self-assessment***

- SF confirmed tailoring would occur before issue to members.
  - The proposed approach was AGREED by the Committee.
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## **9. Matters the Meeting wishes to Specifically Draw to the Attention of the Board**

- The endorsement of the provision of service auditor reporting to CSU customers
  - The endorsement of the funding proposals for CSU service auditor reporting
  - The endorsement of the proposal that CSUs should be left to decide individually how they recover service auditor reporting costs from customers
  - The 5 Year Anti-crime Strategic Plan
  - The Anti-crime Threat Assessment & Response Plan
  - The recommendation that an SRO be appointed to oversee the delivery of the Anti-crime Strategy and Response Plan
  - The content of the Audit Planning Report (copy to be circulated)
  - Current progress, issues and proposed approach to legacy balances
  - Progress on drafting the 2013-14 Governance Statement for the Annual Report & Accounts
  - The reporting instances of non-compliance with Standing Financial Instructions
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## **10. Private Meeting without Management Present**

- The members of the Committee met privately with DNo, MC, CW and MW, initially with PB present and subsequently without any members of management present.
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