



**Minutes of the Audit Committee (AC) Meeting**  
**Tuesday 22<sup>nd</sup> May 2018 at 13.00**  
**WLCCG Headquarters, Woodgate, Loughborough, Leicestershire LE11 2TZ**

**Present:**

Mr Steve Churton	Lay Member (Chair)
Mr Ray Harding	Lay Member
Ms Gillian Adams	Lay Member

**In Attendance:**

Mr Toby Sanders	Managing Director
Mr Ket Chudasama	Director of Performance and Corporate Affairs
Mr Spencer Gay	Chief Finance Officer
Mr Matt Curtis	Counter Fraud Specialist
Mr John Gregory	Grant Thornton
Mr Paul Harvey	Grant Thornton
Mr Tony Simpson	Head of Financial Accounting
Mrs Annette Tudor	Interim Deputy Director, 360 Assurance
Mrs Julie Warren	Communications Officer, MLCSU (until item AC/18/068)
Mrs Michele Morton	Senior Committee Clerk (minutes)

Action

**AC/18/061 Apologies for Absence**

The Chairman welcomed all to the meeting. Apologies for absence were received from Mrs Caroline Trevithick.

**AC/18/062 Declarations of Interest on Agenda Topics**

The Chairman requested that members declare any potential conflict of interest during the meeting.

**Minutes of the Meeting held on 27 March 2018**

The minutes of the meeting held on 27 March 2018 were agreed as a correct record, with the exception of:

**AC/18/027 - Counter Fraud Progress Report:** second paragraph, second line, counter Fraud Agency should read 'NHS Counter Fraud Authority'.

**AC/18/031 – Internal Audit Progress Report:** first paragraph, third and fourth sentences should read: there remained seven reviews to be completed, four were collaborative reviews (one of those had been moved into 2018/19). Ms Dyer said the remaining reviews had been deferred at the request of the CCGs. Page 5, third paragraph should read 'Ms Dyer noted that, with the exception of the collaborative work areas, the internal audit work was progressing well. The full 2017/18 reports issued to date had been given significant assurance.

**AC/18/064 Matters Arising Audit Committee Action Log**

The action log was received. In respect of the second bullet point, Internal Audit Reports, Mr Chudasama said this had been raised at an F&P meeting where it was determined it was not an internal control issue.

**ACTION**

- The Audit Committee **RECEIVED** the action log.

## AC/18/065 Grant Thornton Audit Findings – Year Ending 31 March 2018

Mr Gregory presented the above report that summarised the key issues arising from the statutory audit of NHS WLCCG and the preparation of the CCG's financial statements for the year ended 31 March 2018, for those charged with governance. He added the audit had been carried out smoothly with minimal changes and no significant impact.

Mr Gregory made particular reference to the Statutory duties and said a s30 letter to the Secretary of State had been issued, due to the CCG's spending exceeding its formal in-year allocation, although they noted that the CCG was in good faith managing to a higher allocation as notified to it by NHS England more locally. The situation had affected a small number of CCGs across the country. Essentially the NHS England local teams had worked on the basis that prior years surplus could be counted towards the current years in-year allocation, however the NHS England central team had not been working to that assumption. This had created a general degree of frustration and Grant Thornton had been required to document that the CCG had incurred unlawful expenditure. As a result they had proposed:

- A qualified regulatory opinion because of the deficit incurred for the year.
- VFM conclusion had not been qualified.

Mr Gay confirmed the accounts had been produced consistently with previous years that showed that all the CCG targets had been hit; however due to the above explanation, for 17/18 it had made the CCG appear to be in a worsened position. Mr Harding asked when the regulations had changed and Mr Gregory replied that the rules had just been made clearer in terms of using the previous years surplus.

Mr Harding felt the position made no sense and should be vigorously opposed. Mr Gregory said approximately one third of CCGs were issued with a s30 notice. Ms Adams agreed with Mr Harding and she asked what action was being taken on the advice given by the regional team. She queried how the CCG would move forward towards a resolution or whether the situation would be accepted.

Mr Sanders said he understood the frustration felt by Audit Committee members, however the end result was that the CCG missed its financial target and for him the most important aspect would be to determine whether or not WLCCG had been disproportionately treated compared to other organisations. Mr Gregory replied that processes should have been operated in exactly the same way and organisations should have been treated equally.

Mr Harding said as a CCG Board member, Audit Committee member and Chair of the Finance and Planning Committee, he disagreed with the term unlawful expenditure and felt it should be challenged and recorded that the Audit Committee did not accept it. Mr Gay said he had suggested some slight amendments to the wording on page 13, referral to the regulator, to better clarify what had happened. Mr Sanders agreed the wording to describe the situation was important and he said if the CCG had known about the previous years surplus, the accounts would still have been conducted in the same way in that the CCG had done everything that was possible to meet the financial targets.

Mr Chudasama said it would be inevitable that the s30 Notice would impact on the CCG ratings and was likely to put WLCCG in a different category. Mr Sanders agreed and said it was important how this would link into the annual assessment ratings. Within that context he would be comfortable with a letter to NHS England sharing the level of frustration and asking for a balanced view. Mr Churton agreed and said it would be useful to hold a Board discussion on whether to challenge the

situation. Mr Harding said if a Board decision was made not to challenge, then he would personally do so.

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#### ACTION

- The Audit Committee **RECEIVED** the Grant Thornton Audit Findings – Year Ending 31 March 2018

#### AC/18/066 2017/18 Statutory Accounts

Mr Simpson presented paper C and explained that in accordance with the Department of Health Group Accounting Manual, the CCG was required to submit an audited annual report and accounts, approved in accordance with the CCG's Constitution, as a single document no later than 12 noon on 29<sup>th</sup> May 2018. It was intended that the accounts attached to the report as Appendix 1 would form part of that submission. Key points of note:

- Since the draft accounts were submitted on 23<sup>rd</sup> April, a number of adjustments had been made either on the initiative of the CCG or on the recommendation of the auditors; those had all been taken into account in the report and it was further noted that none were of significant value or had any effect on the key financial results reported for the year (with the exception of the change to the performance measure detailed below).
- As the audit by Grant Thornton was still in progress, any further minor amendments would be taken into account. However, it was confirmed by Mr Harvey that there were not expected to be any such amendments and that the Accounts as reported to the Committee were final and definitive.
- As mentioned above, there was one significant change to the draft Accounts submitted on 23<sup>rd</sup> April. In Note 20 (Financial performance targets) on page 33, the first and third lines had been amended so that the revenue resource against which the performance for the year was measured no longer included the surplus brought forward from the previous year, affecting both the 17/18 and 16/17 results. This was referred to in the auditors' report, and the outcome – that the CCG had failed to spend within the 17/18 resource limit – meant that a statutory duty had not been met, and was the reason for the auditors' qualification of their regularity opinion. This was explained in detail in Mr Simpson's report to the Committee that accompanied the Accounts and affected many other CCGs in addition to WLCCG, as confirmed by Mr Harvey.

Mr Churton sought clarification on what was meant by 'related party transitions'. Mr Simpson elaborated on the information shown in the Accounts, explaining that it referred to transactions by the CCG with organisations with which the CCG or its senior managers had a significant influence, hence including all other NHS bodies, certain councils, and a number of GP surgeries and limited companies.

#### ACTION

- The Audit Committee **APPROVED** The 2017/18 Statutory Accounts

#### AC/18/067 Annual Report and Accounts 2017/18

Mr Chudasama presented paper D and reported that CCGs were required to publish, as a single document an annual report and accounts. The NHS Act 2006 required CCGs to prepare their annual report and annual accounts in accordance with directions issued by the Department of Health. The directions for 2017/18 were in the main in line with those published in 2016/17.

The draft annual report 2017/18 complied with the requirements laid out in the

manual for accounts issued by the Department of Health from 2017/18. The draft document had been read by external auditors (and not internal auditors as documented in the cover paper) and their comments had been acted on. The draft document was also submitted to NHS England on 20 April and their feedback had been incorporated, as were responses from the Health and Wellbeing Board.

Thanks were extended to Mrs Julie Warren from the MLCSU who had produced the documents. Comments were invited that included:

- Mr Sanders referred to page 101 – Financial Performance Targets – narrative required changing to reflect Audit Committee discussion above
- Ms Adams to send comments through to Mrs Warren
- Mrs Warren to check on the number of confidential Board meetings attended by Mr Churton
- Mrs Tudor referred to the non-attendance at committee meetings and noted that some people had less than 50% attendance – the CCG should be looking for better value for money or presenting the data more appropriately
- Mrs Warren confirmed on page 83 that the areas ‘subject to audit’ was an appropriate phrase to use
- Mr Sanders proposed a sense check throughout the report that narrative appropriately reflected that the CCG had been given a Section 30 notice, for example the foreword on page 5 referred to the CCG as being an organisation with an extremely strong record of financial management (but also true the CCG had failed to deliver on its control total) – similarly an amendment was required on page 97.
- The CCG was referred to having an ‘outstanding rating’ in the foreword – this was technically for the previous year.
- On page 52 – the reference to Dr Peter Cannon required rewording as he was still a Board member.
- Mrs Warren confirmed to Mr Churton that the most up to date register of interests would be added as an appendix.
- Page 59 and page 73 - NHS Protect should read ‘the NHS Counter Fraud Authority’
- Page 61 – Mr Gregory referred to the statement of accountable officer responsibilities – the section 30 notice should be referenced (that the CCG had not met its statutory targets of breakeven and referral was made to the Secretary of State). Mr Sanders added it would be useful to find a form of words to reflect the agreed position with NHSE.
- Mr Harvey pointed out the name and title of the managing director should be added to the annual governance statement before signature.

#### **ACTION**

- Subject to the above amendments, the Audit Committee **APPROVED** the Annual Report and Accounts 2017/18

#### **AC/18/068 Annual Report and Head of Internal Audit Opinion**

Mrs Warren left the meeting.

Mrs Tudor presented paper E and outlined that the report contained a Head of Internal Audit Opinion and a summary of the delivery of an internal audit service for the 2017/18 financial year. The provision of assurance services was the main role for an internal audit provider within the public sector and as part of that role, and in compliance with Public Sector Internal Audit Standards (PSIAS), the Head of Internal Audit had provided an opinion that was based on an objective assessment of the framework of governance, risk management and internal control.

Mrs Tudor reported that it had been a challenging year for all NHS organisations and some delays had been experienced in the delivery of the internal audit plan to West Leicestershire CCG. 360 Assurance had also been challenged in terms of the delivery of joint audits (across the three LLR CCGs), notably in terms of the agreement of terms of reference at the commencement of projects and the agreement of reports following the conclusion of work. The report made reference to the change this year in the CSU from Arden GEM to Midlands & Lancs CSU along with the consideration of any third party assurances received during the year.

Common themes had been identified across all 18 CCGs with whom 360 work, specifically in respect of the challenges of ensuring that governance systems keep pace with operational changes and as such processes require constant review Capacity within CCGs to respond to the pace of change would remain a constant issue for the new financial year.

Based on an assessment of the operation of the BAF, the out-turn from the IA plan and the extent to which the CCG implements agreed actions, an overall opinion of significant assurance has been issued. There was generally an appropriate framework for governance, risk management and control, designed to meet the organisational objectives, and controls were generally being applied consistently.

This opinion was based on work undertaken to date, noting that, as a result of delays in delivering work, (as reported to the Audit Committee previously), outputs had been more limited than anticipated with a reduced breadth of coverage. Two areas of recommended development had been identified specifically in relation to the BAF:

1. The design and operational of the BAF to include:
  - a. Distinction between internal/external and positive/negative assurances on the BAF,
  - b. Clear links between controls and assurances and any actions to address gaps in controls and assurances.
2. The BAF to clearly record the action plans where gaps in controls and assurances had been identified, and to include the implementation deadlines and responsible officers.

Overall the CCG has been very responsive to the implementation of recommendations with an implementation rate of 92%. It was noted, however, that one high risks issue remained outstanding from the 2016/17 financial year, in relation to the review of personal health budgets. (this is noted as a challenging area with an over payment of £23,000 to clients (documented in point 1.3.3)

With reference to section 2, the annual report, Mrs Tudor highlighted para 2.2 which noted the outcome of the independent assessment of 360 Assurance as a service provider (as required by PSIAS), which provided the highest level of compliance. Mrs Tudor also referred to para 2.6; results from client satisfaction questionnaires and reported that very good feedback had been received from WLCCG. Appendix A showed the internal audit plan outturn levels and Appendix B, definitions of assurance levels.

Mrs Tudor confirmed to Mr Churton that the 17/18 head of internal opinion should form part of the CCG's current annual report.

Mr Chudasama reported that the working relationships between the relevant teams had been positive, pro-active and collaborative. Evidence had been produced and

reviewed appropriately and he thanked his team for their particular contribution. He added that the challenges would continue for 2018/19, particularly the production of terms of reference for joint audits, however progress was still on target.

Mr Churton asked if there were any lessons to be learned from the previous year in terms of the CCG supporting the delivery of the IA plan and Mr Chudasama said the new joint management arrangements could be used as a mechanism to achieve consistency.

#### **ACTION**

- The Audit Committee **RECEIVED** the Annual Report and Head of Internal Audit Opinion

#### **AC/18/069 Counter Fraud Annual Report**

Mr Curtis presented paper F and reported that during 2017/18, NHS CCGs continued to be required to comply with Standards for Commissioners: fraud, bribery and corruption, published by the NHS Counter Fraud Authority.

Mr Curtis reported the CCG was rated green in all of the four main areas. The Self Review Tool score had two ambers as follows:

The organisation had proportionate processes in place for preventing, deterring and detecting fraud, bribery and corruption in procurement (standard 3.5).

Response: Both the CCG and CSU had reviewed processes in relation to NHSCFA guidance. Controls were generally in line with guidance and robust. To score green the CCG/CSU needed to show meaningful evaluation that lead to improvements. The CFS would be working with relevant partners to that end in 2018/19.

The organisation sought to recover, and/or support the NHSCFA in seeking to recover NHS funds that had been lost or diverted through fraud, bribery and corruption, following an assessment of the likelihood and financial viability of recovery. The organisation publicised cases that had led to successful recovery of NHS funds (standard 4.6).

Response: The CCG considered all possible methods of recovery, including pursuit via small claims court and debt collection agencies. The CCG's Fraud, Corruption & Bribery Policy detailed the CCG's stance on the pursuit of losses and this was supported by the CCG at Governing Body level. The CFS ensured that any losses identified through investigations were pursued by the CCG. The CCG publicised successful recovery cases via the CFS newsletter issued to all staff, to maximise the deterrent effect. The CCG could not achieve a Green rating as it had not had a fraudulent overpayment to recover within the last two years; however the appropriate policies and protocols were in place to do so.

Mr Sanders acknowledged that progress had been made and added that looking ahead it would be useful to identify any areas of weaknesses such as the use of interims and Mr Curtis confirmed that appropriate conversations were ongoing.

#### **ACTION**

- The Audit Committee **RECEIVED** the Counter Fraud Annual Report

#### **AC/18/070 Counter Fraud Risk Assessment**

Mr Curtis presented paper G that summarised the CCG's local fraud, bribery and corruption risk assessment as at February 2018. It was aligned to the proposed

work plan of operational activity for 2018/19 and provided the Audit Committee with assurance regarding anti-fraud, bribery and corruption risks. The Health and Social Care Act 2012 required the CCG to establish and maintain appropriate counter fraud arrangements, having regard to Standards for Commissioners: Fraud, Bribery and Corruption as issued by the NHS Counter Fraud Authority in February 2018.

A new format had been used for the report and Mr Curtis invited comments and feedback. He referred to page 3 and the types of referrals received by WLCCG over the previous three years, which included 4 pharmacy cases, 1 GP referral and 1 patient bed hopper. Page 5 depicted a more graphic way of showing the risks than in previous years.

Ms Adams agreed to discuss with Mr Curtis outside the meeting whether it was possible share conclusions on the cases investigated with other committees that had reported concerns.

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#### **ACTION**

- The Audit Committee **APPROVED** the Counter Fraud Risk Assessment.

#### **AC/18/071 Counter Fraud Work plan 2018/19**

Mr Curtis presented paper H that set out the proposed plan of work to be undertaken at the CCG during 2018/19 to mitigate the risks of fraud, bribery and corruption. It was aligned to the Fraud Risk Assessment for 2018/19 and provided the Audit Committee with assurance regarding anti-fraud, bribery and corruption measures. Standard 1.4 of the NHS Counter Fraud Authority standards for commissioners required the CCG to have a counter fraud provision that was proportionate to the level of risk identified. The work plan had been produced to ensure the organisation addressed high risk areas in line with their risk appetite.

Mr Curtis reported that the plan was based on the standards and a particular look would be taken at risk, medicines management and the use of EPACT. The content was similar to previous years.

#### **ACTION**

- The Audit Committee **RECEIVED** the Counter Fraud Workplan 2018/19.

#### **AC/18/072 Counter Fraud Staff Survey Report**

Mr Curtis presented paper I and explained that a number of individual standards within NHS Counter Fraud Authority's 'Standards for Commissioners: fraud, bribery and corruption' required the CCG to evaluate the success of training, publicity or policy changes. In order to gauge that success, a short survey had been utilised to capture relevant information. The survey was issued to CCG staff during 2017/18. By 19 March 2018, 49 of the CCG's staff had completed the module. Actions and recommendations from the survey were:

- A recommendation that the CCG took further action to ensure that all staff understood the rules regarding secondary employment, sickness absences and declarations of interest.
- Discussion of potential risks to be included as part of counter fraud discussions with CCG staff in the future to understand better the top organisational risks.

Mr Sanders referred to timesheet fraud and in that context as organisations became more collaborative people who worked either from home or not in their usual location might be subject to considerable risk. As a consequence a significant amount of

trust was necessary towards employees. Mr Curtis replied this was not necessarily the most concerning area but plans were in place to identify any risks and would be worth raising with line managers. Mrs Tudor emphasised the importance of challenging employees when appropriate.

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#### **ACTION**

- The Audit Committee **RECEIVED** the report on the Counter Fraud staff survey.

#### **AC/18/073 Losses and Special payments 2018/19**

Mr Simpson presented the report which reported on the losses and special payments which had occurred in the year to date. There was a bad debt which would have to be written off. The loss was the result of SBS paying a receipt into the wrong bank account. According to NHS England, SBS was not accountable for any errors made, so WLCCG had incurred the loss.

#### **ACTION**

- The Audit Committee **NOTED** the Losses and Special payments 2018/19 update.

#### **AC/18/074 Off-Payroll Remuneration**

Mr Simpson advised that there were no losses or special payments to report at present.

#### **ACTION**

- The Audit Committee **RECEIVED** the above update.

#### **AC/18/075 Detailed Financial Policy Waivers and Single Tender Actions**

Mr Simpson noted that this was a standing item on the Audit Committee agenda to inform the Committee on Financial Policy Waivers and Single Tender Actions. He advised that there were no waivers to report at the meeting.

#### **ACTION**

- The Audit Committee **NOTED** the above.

#### **AC/18/076 Committee Effectiveness**

Mr Chudasama presented paper K that outlined the results of a survey on the effectiveness of Audit Committee 20 2017/18. In accordance with the CCG's constitutional governance review arrangements, Audit Committee members were invited to complete a formal survey on the effectiveness of the Audit Committee. The survey was sent out by 360 Assurance on 10<sup>th</sup> April, followed by a reminder on the 20<sup>th</sup> April, with a deadline of 24<sup>th</sup> April 2018. 360 Assurance analysed the 2017/18 Audit Committee Self-Assessment Survey Responses attached as part of the report. Nine people were surveyed and five responses received. The survey results were shown at Appendix A.

Mr Chudasama reported that in general Audit Committee members were content with the key components of how the committee worked. One suggestion had been that the Audit Committee provided a highlight report to the Board, particularly in the context of the reduction in the number of meetings. It was agreed to provide a highlight report for the June Board.

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Mrs Tudor informed members that the effectiveness reviews were facilitated by 360 Assurance if this was the case the following year, the questions needed a review in

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line with the new audit committee handbook where questions were more reflective of new collaborative arrangements.

**ACTION**

- The Audit Committee **RECEIVED** the results of the Committee Effectiveness survey.

**AC/18/077 Reflection of the Meeting and Items to Escalate to the Board**

The Audit Committee members shared a brief positive reflective period before the closure of the meeting.

**AC/18/078 Any Other Business**

Mr Harding reported that at a recent PPAG meeting an information breach was reported on from the CAMHs Crisis Team. As a consequence it had been proposed that the three Audit Committee CCG Chairs approach the Chair of the LPT Audit Committee to request some assurance around their actions in terms of improving data quality. Mr Churton supported that proposal.

**RH**

**ACTION**

- The Audit Committee **APPROVED** the proposal to send a letter from the three CCG Audit Committees to the LPT Audit Committee Chair to seek assurance on improvements to data quality.

**AC/18/079 Date and Time of Next Meeting**

The next meeting of the West Leicestershire Clinical Commissioning Group Audit Committee would be held on Tuesday 25 September 2018, Boardroom 1 at the WLCCG Headquarters, Woodgate, Loughborough, Leicestershire LE11 2TZ.