

**Clinical Commissioning Group Governing Body**

**Paper Summary Sheet**

**Date of Meeting: 24 November 2015**

For: PUBLIC session  PRIVATE Session

For: Decision  Discussion  Noting

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| <b>Agenda Item and title:</b>                   | <b>GOV/15/11/11 Audit of panel for procurement of External Auditors</b>                                                                                                                                                                                                                                                     |
| <b>Author:</b>                                  | Ian Loveys, Financial Accountant                                                                                                                                                                                                                                                                                            |
| <b>Lead Director/GP from CCG:</b>               | Simon Truelove, Chief Finance Officer                                                                                                                                                                                                                                                                                       |
| <b>Executive summary:</b>                       | This report informs the Committee of the requirement for the CCG to procure external audit services from 2017/18. It explains the introduction of the <i>Local Audit and Accountability Act 2014</i> and outlines the role of auditor panels in the procurement process. The report is for information and requires noting. |
| <b>Evidence in support of arguments:</b>        | "Auditor Panels – Guidance to help Health Bodies meet their Statutory Duties, September 2015"                                                                                                                                                                                                                               |
| <b>Who has been involved/contributed:</b>       | Chief Financial Officer                                                                                                                                                                                                                                                                                                     |
| <b>Cross Reference to Strategic Objectives:</b> |                                                                                                                                                                                                                                                                                                                             |
| <b>Engagement and Involvement:</b>              | N/A                                                                                                                                                                                                                                                                                                                         |
| <b>Communications Issues:</b>                   | The CCG will need to consult via its web site on the outcome of the decision made by the Audit Panel                                                                                                                                                                                                                        |
| <b>Financial</b>                                | Should the CCG fail to appoint an external auditor, the legislation provides for the Secretary of State for Health or NHS England to                                                                                                                                                                                        |

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|--------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Implications:</b>                                                                             | either appoint an auditor for the CCG, or direct the CCG to appoint a named auditor. The CCG would then lose the ability to negotiate contract values.                          |
| <b>Review arrangements:</b>                                                                      | N/A                                                                                                                                                                             |
| <b>Risk Management:</b>                                                                          | The CCG would not be compliant with the law if it fails to appoint an external auditor.                                                                                         |
| <b>National Policy/ Legislation:</b>                                                             | The process is in line with the <i>Local Audit and Accountability Act 2014</i>                                                                                                  |
| <b>Equality &amp; Diversity:</b>                                                                 |                                                                                                                                                                                 |
| <b>Other External Assessment:</b>                                                                |                                                                                                                                                                                 |
| <b>What specific action re. the paper do you wish the Governing Body to take at the meeting?</b> | The Governing Body is asked to note the report and agree that the Audit Committee is delegated as the Audit Panel for the selection of the CCG's external auditors from 2017/18 |

## 1. INTRODUCTION

This paper updates the Governing Body on the position regarding the external audit contract, following the abolition of the Audit Commission, and the role of auditor panels in procuring a new contract.

## 2. BACKGROUND

As the Governing Body will be aware, the CCG is required to produce a set of financial statements each year, and to have these externally audited. The external auditors also make an annual assessment as to whether the organisation has achieved “value for money” in its operation.

Since 1990, the responsibility for auditing the NHS lay with the Audit Commission. The Commission appointed the external auditor for each NHS body - either its in-house audit staff, or a private sector company. The NHS organisation tended to have little influence over who was appointed as the external auditor. However, when foundation trusts were established, they were allowed to appoint their own external auditors. The CCG’s current auditors, KPMG LLP, were appointed as the auditors of the predecessor Primary Care Trust, and continued in this role at the formation of the CCG.

In 2010, the government proposed the abolition of the Audit Commission, and the establishment of a new framework for the audit of public sector bodies as part of the *Local Audit and Accountability Act 2014*. This mainly involved the transfer of the Commission’s functions to various other organisations, the transfer of its in-house audit staff to private companies, and allowing public sector bodies to appoint their own external auditor.

The Audit Commission closed on 31<sup>st</sup> March 2015.

## 3. CURRENT EXTERNAL AUDIT CONTRACT

The new approach to local audit does not begin until the 2017/18 financial year – this is the first year in which the CCG will appoint its own external auditor. This means that KPMG will continue in their current role for the next two years. The Department of Health has decided that all NHS bodies will have to procure their external audit service from this date.

## 4. AUDITOR PANELS

The 2014 Act details that the CCG **must** appoint an external auditor to audit the annual accounts by 31<sup>st</sup> December of the preceding year. As the new approach begins in 2017/18, this means an appointment must be made by

31<sup>st</sup> December 2016. The appointment can be for longer than a year, but there **must** be a new appointment process at least once every 5 years. The existing external auditor can be re-appointed for further terms. The external audit firm must be eligible for appointment in line with the requirements of the Financial Reporting Council. Two or more external auditors **can** be appointed to audit the accounts – in such cases, the auditors may act jointly or separately.

The Act specifies that all local public bodies covered by the legislation (including CCGs) must have auditor panels to advise on the selection, appointment and removal of external auditors, and on maintaining an independent relationship with them. The only exception to this would be if a body decided to make the appointment via a 'collective procurement', such as through a sector-led body. There are no current proposals for any such body in the NHS sector.

The auditor panel **must** advise on the selection and appointment of the external auditor, as well as the maintenance of an independent relationship with that auditor. This includes dealing with possible conflicts of interest. The auditor panel will have a role in establishing and monitoring the CCG's policy on the awarding of non-audit services – for example, if non-audit services are awarded to the external audit provider, how will the panel ensure that the auditors' independence is maintained?

Similarly, if members of the auditor panel are ex-employees of a potential external audit provider being considered for appointment, it is vital that an interest is declared. The member should then exclude him/herself from that decision.

The CCG **must** consult and take account of the auditor panel's advice on the selection and appointment of the external auditor. The advice given by the panel **must** be published and, should the CCG not follow that advice, the reasons for not doing so must also be published.

In order to take a decision, the auditor panel will need to be quorate. For this to be the case independent members must be in the majority AND there must be at least 2 independent members present or 50% of the auditor panel's total membership, whichever is the highest.

Since appointments for 2017/18 must be made by the end of 2016, the CCG's auditor panel needs to be in place early in 2016 so that it can fulfil its responsibilities.

The CCG's Governing Body should decide how it appoints its auditor panel. The panel must be either:

- A specially established panel OR
- An existing committee, sub-committee or panel provided it agrees to comply with the provisions applying to auditor panels.

The auditor panel should have its own terms of reference, which are agreed by the Governing Body. Should it be decided that the Audit and Assurance Committee also form the auditor panel then the Committee terms of reference would need to be updated to reflect its additional responsibilities.

The auditor panel must have a minimum of three members, and must have a majority of members who are independent and non-executive members of the governing body. The chair of the panel must also be independent and a non-executive member of the governing body. The chair of the governing body cannot be the chair of the auditor panel. Ultimately, the governing body makes the decision about the membership and chair of the panel.

"Independent", in relation to membership of an auditor panel, means that the member or prospective member is not in circumstances, and does not have relationships, which are likely to affect, or could affect his or her judgement in discharging his or her duties as a member of the panel.

The Chair of the auditor panel will be required to provide a report to the Governing Body about the activities and decisions of the panel. If the panel is the Audit and Assurance Committee, the report must be separate to the minutes of that committee. This makes it clear that the auditor panel is fulfilling a distinctive and important role.

It is expected that guidance on the procurement of external audit services will be provided by the Department of Health in early 2016.

## **5. PROPOSAL**

The current membership of the Audit and Assurance Committee would meet the requirements of an auditor panel, although there is one member who would not be 'independent' as defined in the legislation, due to their employment status with the CCG. However, the member could still be party to discussions of the panel, providing the rules around quoracy and decision making are followed.

This proposal was discussed by the Audit and Assurance Committee at the November 2015 meeting and it was agreed to recommend to the Governing

Body that the Audit and Assurance Committee undertake the role of the audit panel on behalf of the CCG.

## **6. RECOMMENDATION**

The Governing Body is asked to note the contents of this report.

The Governing Body is asked to accept the recommendation from the Audit and Assurance Committee that the Audit and Assurance Committee undertake the function of the auditor panel.