

Item Number: 13

Name of Presenter: Tracey Preece

Meeting of the Governing Body

7 April 2016



Vale of York

Clinical Commissioning Group

Consideration of 'Going Concern Status' 2015-16 Accounts and Director Declarations

**Purpose of Report
For Decision**

1. Rationale

For the financial year ended 31 March 2016, the CCG's external auditors, Mazars, are required to ask management and those charged with governance (including the CCG Governing Body) about the arrangements the entity has put in place to prevent and detect fraud and comply with applicable law and regulations.

The purpose of the report is to propose a response to the questions and request agreement on a collective response from the Governing Body.

In addition, the request and this report also cover the appropriateness of the going concern assumption.

2. Strategic Initiative

- | | |
|--|--|
| <input checked="" type="checkbox"/> Integration of care | <input checked="" type="checkbox"/> Planned care |
| <input checked="" type="checkbox"/> Person centred care | <input checked="" type="checkbox"/> Transforming MH and LD services |
| <input checked="" type="checkbox"/> Primary care reform | <input checked="" type="checkbox"/> Children and maternity |
| <input checked="" type="checkbox"/> Urgent care reform | <input checked="" type="checkbox"/> Cancer, palliative care and end of life care |
| <input checked="" type="checkbox"/> Effective and Efficient Organisation | <input checked="" type="checkbox"/> System resilience |

3. Local Authority Area

- | | |
|---|---|
| <input checked="" type="checkbox"/> CCG Footprint | <input type="checkbox"/> East Riding of Yorkshire Council |
| <input type="checkbox"/> City of York Council | <input type="checkbox"/> North Yorkshire County Council |

4. Actions / Recommendations

It is recommended that the Governing Body approve the preparation of the annual accounts for 2015/16 on a going concern basis and consider the declarations they are required to make given the evidence in this paper.

5. Engagement with groups or committees

The going concern report has been reviewed by the Audit Committee and amended following feedback received there and updated for the most recent 2015/16 financial position and 2016/17 planning information.

6. Impact on Primary Care

The preparation of annual accounts on the going concern principles is critical to demonstrating the on-going provision of services commissioned by the CCG which includes those delegated to it through the Primary Medical budgets.

7. Significant issues for consideration

The preparation of annual accounts on the going concern principles is critical to demonstrating the on-going provision of services commissioned by the CCG. Directors (Governing Body) are required to consider the declarations they are asked to make by the external auditors.

8. Implementation

N/A

9. Monitoring

N/A

10. Responsible Chief Officer and Title

Tracey Preece, Chief Finance Officer

11. Report Author and Title

Michael Ash-McMahon, Deputy Chief Finance Officer

12. Annexes

Annexe A – Request for Declarations

Annexe B – Consideration of ‘Going Concern Status’ 2015/16 Accounts

Director Declarations

1. Questions about arrangements for preventing and detecting fraud

How does the Committee assess the risk that the financial statements may be materially misstated due to fraud?

The Governing Body (bi-monthly) and Quality and Finance Committee (monthly) receive detailed finance reports throughout the year which outline the current position, forecast outturn and all risks. The reports also highlight reasons for any variances and all movements from one month to another. This gives a high degree of assurance that the financial position reported in the financial statements is consistent with that reported throughout the year and is not subject to material misstatement due to fraud.

Internal Audit conduct audits during the year on all key financial control systems and no material issues regarding potential fraud have been raised.

All finance and contracting staff are trained and qualified to an appropriate level and work to detailed financial reporting guidelines. The CCG is also in the process of rolling out the Healthcare Financial Management Association e-learning package across all CCG staff as an introduction to NHS finance.

The CCG are also required to report monthly to the Area Team who also have full access to the CCG general ledger.

Is the Committee aware of the management's process for identifying and responding to the risks of fraud generally and specific risks of misstatement in the financial statements?

The process for identifying and responding to such risks is managed through the Audit Committee which is clear in the terms of reference of the committee, the CCG policy and the governance arrangements for the CCG which all Governing Body members are aware of.

Is the Committee aware of the arrangements in place for management to report about fraud to the Committee?

All fraud reporting is done through the Audit Committee which is clear in the terms of reference of the committee, the CCG policy and the governance arrangements for the CCG which all Governing Body members are aware of.

Is the Committee aware of the arrangements management have in place, if any, for communicating with employees, lay members, partners and stakeholders regarding ethical governance and standards of conduct and behaviour?

The CCG has a 'Standards of Business Conduct' policy which is available to all staff, partners and stakeholders on the website. The subject is also covered in the induction process and any relevant issues communicated to staff through the weekly team brief. Governing Body and committee members regularly discuss relevant issues, in particular in relation to conflict of interests, and these are recorded in the relevant minutes.

Does the Committee have knowledge of actual or suspected fraud, and if so is it aware of what actions management is taking to address it?

It is outlined in the Annual Counter Fraud Plan 2015/16 that the Local Counter Fraud Specialist (LCFS) will provide updates for the committee on counter fraud work, including updates on current and concluded fraud investigations and proactive counter fraud work undertaken. The update reports identify the outcomes from fraud investigations, what - if any - sanctions were obtained and details of any system weaknesses exploited by fraudsters and the action taken by management to address them.

What arrangements are in place for the Committee to oversee management arrangements for identifying and responding to the risks of fraud and the establishment of internal control?

The arrangements for identifying and responding to the risks of fraud are enshrined in the Local Anti-Fraud, Bribery and Corruption Policy and the Committee has oversight of the processes from the update reports and Annual Counter Fraud Report provided by the LCFS.

2. Questions about arrangements for complying with law and regulations responsibilities

Has management provided a clear statement which confirms its consideration of relevant laws and regulations and its compliance with them?

The principal legal requirements were embodied in the Health and Social Care Act 2012 which significantly amended the NHS Act 2006. The CCG adopted the model constitution which itself contained the legal requirements and was published by the NHS Commissioning Board (NHS England). Where appropriate and necessary, specific advice is sought on any given matter that arises.

How does the Committee satisfy itself that all relevant laws and regulations are being complied with?

The Audit Committee and Governing Body receive and approve an Annual Governance Statement in addition to regular reports on any non-compliance. The CCG also complies with the various reporting requirements as directed by NHS England.

Is the Committee aware of any instances of non-compliance with laws or regulations?

The CCG management are not aware of any instances of non-compliance with laws or regulations.

Has management provided a list of litigation and claims?

No new claims have been made since the CCG was established.

Has an assessment been made of the outcome of the litigation or claim and its estimate of the financial implications, including costs involved?

Not applicable.

Has the reasonableness of management's assessments been considered and additional information provided to the auditor where necessary?

Not applicable.

3. Questions about the appropriateness of the going concern assumption

Has a report been received from management forming a view on going concern?

A going concern paper was presented to; considered and approved by Audit Committee and for completeness is attached here in Annexe 2

Are the financial assumptions in that report (e.g. future levels of income and expenditure) consistent with the strategic business plan and the financial information provided to the Governing Body throughout the year?

The financial assumptions within this report are wholly in line with the CCG's strategic business plan and the financial information presented to the Governing Body throughout the year and as part of the annual planning process.

If not, does the report contain a clear explanation, with supporting evidence, for the assumptions used, and are those assumptions appropriate? This should include written evidence of agreed income and expenditure for major funding streams.

Not applicable.

Are the implications of statutory or policy changes appropriately reflected in the business plan, financial forecasts and report on going concern?

The going concern paper is prepared on the basis of the CCG complying with all statutory and policy changes. However, given the financial position the CCG finds itself with and the scale of recovery required the plan does not meet all the business rules in 2016/17 and is currently proposed with a four year recovery period.

Have there been any significant issues raised with the Governing Body during the year (e.g. adverse comments raised by internal and external

audit regarding financial performance or significant weaknesses in systems of financial control, or significant variances to activity levels compared to those planned), which could cast doubts on the assumptions made?

There have been no significant issues, adverse or otherwise, raised by internal or external audit with regards to financial control.

However, a letter was sent from the CCG's auditors, Mazars, on 22 January 2016 which was a report to the Secretary of State for Health under Section 30 of the Local Audit & Accountability Act 2014 for the anticipated or actual breach of financial duties. This is noted in 'Note 1.1 Going Concern' of the CCG's Accounting Policies but does not affect the CCG preparing the accounts on a going concern basis. This position has been further reinforced by NHS England who have confirmed that the CCG's deficit outturn does not affect its ability to operate as a going concern.

Has an analysis been undertaken of the CCG's projected or actual performance against its financial plan? If so, is it robust and does it identify any areas of potential concern?

The Governing Body (bi-monthly) and Quality and Finance Committee (monthly) receive detailed finance reports throughout the year which outline the current position, forecast outturn and all risks. The reports also highlight reasons for any variances and all movements from one month to another.

The Governing Body and Quality and Finance Committee also received the NHS England commissioned "Capacity & capability review at Vale of York CCG" from PricewaterhouseCoopers (PwC). The report clearly states that the CCG has produced good quality underlying analysis of its forecast outturn which demonstrates a good understanding of the key drivers. This forecast outturn has been used as the starting point for the construction of the 2016/17 financial plan.

The CCG's financial plan for 2016/17 has been presented in detail on a number of occasions to the Governing Body for review, consideration and final sign-off including a number of key areas of concern:

- The significant level of further deterioration in the overall position
- The scale of QIPP required
- The level of risk within the QIPP requirement, both in terms of the unidentified amount and the risk of delivery against those schemes that have been identified
- Lack of agreement on the Better Care Fund plans with Local Authorities
- No contract agreements with main providers in place as yet including the impact of proposed QIPP plans

Where there are potential concerns what action is being taken to address those areas of potential weakness?

The CCG continues to work on a number of plans to address the concerns above:

- The CCG has reduced the overall deterioration between 2015/16 and 2016/17 since the original draft plan submission as far as possible. This is represented in the latest version of the financial plan.
- Further development of high risk QIPP schemes and joint work with main provider on new QIPP schemes.
- On-going discussions with local authorities to review all Better Care Fund schemes with a view to decommissioning or increasing the associated benefits.
- On-going contract negotiations with providers, in particular York Teaching Hospital NHS Foundation Trust with a view to reaching contract agreement before the end of April
- Formal request to release 1% non-recurrent uncommitted reserve

Does the organisation have sufficient staff in post, with the appropriate skills and experience, particularly at senior management level, to ensure the delivery of the organisation's objectives? If not, what action is being taken to obtain those skills?

The PwC report highlighted the fact that the current structure and availability of the Executive Team does not allow sufficient capacity to address the needs of an organisation in turnaround. There was recognition that CCG capacity needs to be increased, especially within the finance team.

Since this report the CCG has taken the following actions to ensure the delivery of the organisational objectives:

- A Turnaround support team are now in place with three individuals providing additional capacity to the Chief Clinical Office, Chief Operating Officer and Chief Finance Officer
- The finance team have seconded a Deputy Chief Finance Officer from another regional CCG to provide both additional senior finance capacity and capability within the Primary Care budgets
- Realignment and prioritisation of the Innovation and Improvement team to bring them in line with the financial recovery plan priority areas and the establishment of a formal Project Management Office structure