

# Finance and Performance Committee Terms of Reference

## 1. Introduction

- 1.1 The Finance and Performance Committee (the Committee) is established in accordance with NHS Kernow Clinical Commissioning Group's (NHS Kernow) 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 clinical commissioning group's (CCG) constitution and standing orders).

## 2. Committee's purpose

- 2.1 The primary functions of the Finance and Performance Committee are to:
- Fulfil the assurance function in relation to the CCG's operational and financial performance;
  - Oversee the preparation and implementation of a delivery plan to ensure the CCG achieves operational and financial performance standards;
  - Monitor performance of services ensuring they perform to recognised standards;
  - Ensure proactive action to prevent deterioration, and to restore performance should it fall below acceptable levels (in relation to timeliness, accuracy and quality of measures and their reporting, as well as the systems and processes underpinning them);
  - Seek assurances that resources are allocated in line with the agreed plan;
  - Ensure providers from whom the CCG commissions care are held to account in driving agreed improvements.

## 3. Accountability

- 3.1 The Committee shall be authorised to decide on proposals and recommendations put to it within the powers delegated to it by the Governing Body, and/or as detailed in these Terms of Reference and NHS Kernow's Scheme of Delegation. The Chair, advised by the committee, shall decide whether a matter should be reported in writing to the Governing Body for decision or ratification, and the content of any summary report.
- 3.2 The Committee is authorised by the Governing Body to investigate any activity within its Terms of Reference and is authorised to seek any information it requires from any employees and all employees are directed to co-operate with any request made by the Committee.

- 3.3 The Committee is authorised to set targets and review progress around key performance issues (with due regard to financial implications) and around financial issues (paying due regard to performance implications) to ensure effective and focused management of the CCG's objectives. The Committee shall also pay due regard to any quality implications and work closely with the Quality Committee as necessary.
- 3.4 It shall invite reports from partners and stakeholder committees (or groups) where this impacts on the functions of the Group.
- 3.5 The Committee will have due regard to the public sector equality duty and the CCG's equality objectives.
- 3.6 The work and effectiveness of the Finance and Performance Committee shall be subject to regular monitoring by the Audit Committee which shall undertake at least one formal annual review of the committee as part of its assurance function.

#### **4. Membership**

- 4.1 The Committee shall be appointed by NHS Kernow from amongst its Governing Body Members.
- 4.2 The Committee shall comprise:
- At least two Governing Body clinical members, e.g. GP members or secondary care doctor;
  - GB Fiscal lay Member
  - Chief Finance Officer;
  - Deputy Director of Finance with responsibility for performance management.

In addition, the Accountable Officer shall have a right to attend when deemed necessary.

- 4.3 The Chair of the Committee shall be the fiscal lay member. In the absence of the Chair, the Committee shall be chaired by a GB GP member.
- 4.4 Members can, in circumstances where their non-attendance would result in the meeting not being quorate, send a nominated representative to the meeting. These individuals must be fully briefed and able to operate with full authority over any issue arising at the meeting. These nominated representatives shall therefore be deemed eligible to vote where necessary.
- 4.5 Decisions will normally be reached by consensus. Where the Committee cannot agree the matter will be referred to the Governing Body unless a decision is needed urgently in which case the members of the committee will be required to vote on the issue. The Chair will, in the event of the Committee being required to vote on an issue, be eligible to cast a single vote. If the vote is tied, the Chair may cast a second and casting vote. When called upon to act as Chair, the Governing Body clinical member undertaking that role will, in the event of the committee being required to vote on an issue, be eligible to cast a single vote. If the vote is tied, they

may cast the Chair's second and casting vote. Eligibility to vote will be held by those entitled to vote and present at the time, voting by proxy is not permitted.

4.6 Other colleagues may be invited to attend on a regular basis or depending upon the items on the agenda for each meeting. These invitees will not have a vote. Regular invites may include:

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- Senior Responsible Officers from the System Boards
- Directors of Integrated Care
- Deputy Director of Corporate Governance
- Quality and performance managers

4.7 Other staff of NHS Kernow may be invited to attend, as appropriate, to enable the Committee to discharge its functions effectively. The Committee may also invite guests to attend to present information and/or provide the expertise necessary for the Committee to fulfil its responsibilities.

## **5. Quorum**

5.1 The quorum shall be at least one NHS Kernow Executive level director plus at least one Governing Body clinical member and one Governing Body lay member.

5.2 In addition the Chief Finance Officer or their nominated deputy must be present for the committee to be quorate.

## **6. Remit and Responsibilities of the Committee**

6.1 The Committee will:

### **Performance**

- Ensure that contract performance is monitored on a monthly basis (monthly is the default – other periods may be agreed for certain contract types as appropriate);
- Explore and test explanations for significant variations from plan of all KPIs;
- Test the appropriateness and robustness of any correcting management actions including that of demand management initiatives;
- Ensure actual and forecast contract over-performance or under-performance is quantified in financial terms and activity terms;
- Agree which of the underperforming contracts need to be brought to the attention of the Governing Body and or Quality Committee for further discussion.

### **Finance**

- Review and endorse all financial plans, including the CCG's annual financial plan and medium to long term financial plan, prior to seeking Governing Body approval and submission to NHS England;
- To provide assurance that the CCG are managing within financial plans;
- To ensure that the allocation for the CCG is optimised and offers value for money (i.e. being used effectively, efficiently and economically);

- Monitor the delivery of the efficiency savings / QIPP (quality, innovation, productivity and prevention) challenge within financial resources, in line with national requirements (including excellent outcomes);
- Monitor and review the achievement of the financial recovery programme;
- Evaluate, scrutinise and quality assure the validity, both financial and in terms of impact on patient and service safety and quality, of the investments, disinvestments and re-procurements where these exceed Director delegation limits;
- Provide assurance to the Governing Body that procurement practice is in accordance with legislation and NHS policy including oversight of the organisational procurement plan and reporting.

### **Procurement**

- Develop a clear procurement strategy for NHS Kernow in line with statutory requirements: Public Contract Regulations 2005 National Health Service (Procurement, patient Choice and Competition No 2) Regulations 2013; Social Value Act 2012);
- To ensure services achieve value for money and improved outcomes for the population of Cornwall and Isle of Scilly;
- Seek assurance that the procurement of services for NHS Kernow is consistent with the CCG's procurement strategy and that conflicts of interest have been declared, managed and published in accordance with Section 140 of the National Health Service Act 2006;
- Ensure that NHS Kernow meets its statutory regulations in relation to maintain and publishing a register of procurement decisions taken, either for the procurement of a new service or any extension or material variation of a current contract.

### **General**

- Contribute to and endorse sections of the annual Operating Plan which relate to the Committee's remit and the LTP;
- Manage and oversee delivery of the Committee's elements of the Annual Report and Governance Statement;
- Review specific aspects of performance measures, metrics or financial performance where the Governing Body requires additional scrutiny or assurance;
- Establish operational sub-committees (and approve membership as well as terms of reference for these groups) and additionally receive reports from these sub-committee within the powers delegated to the Committee by the GB; the committee cannot delegate responsibility;
- Review (including adding new risks and closing existing risks) the risks contained within the corporate risk register relevant to performance and finance, monitoring action plans and internal controls;
- Approve, where necessary policies and procedures which fall within the Committee's remit;
- Identify key issues requiring discussion or decision by the Governing Body;
- Provide regular committee reports to the Governing Body, presenting the committee minutes, forward plan, risks, issues, decisions and recommendations for the Governing Body.

## **7. Policy and best practice**

7.1 The Committee will seek to apply best practice in the decision making processes and will comply with:

- The Nolan Principles
- Conflicts of Interest Guidance
- Freedom of Information Act
- The Data Protection Act
- Treasury guidance on Managing public money
- International Financial Reporting Standards (IFRS) and generally accepted accounting principles as included in the Department of Health and Social Care Group Accounting Manual (GAM).
- NHS England and Improvement guidance
- Healthcare Financial Management Association (HFMA) best practice

7.2 The above list is not exhaustive.

## **8. Frequency and notice of meetings**

8.1 The committee will meet not less than six times a year.

8.2 Additional meetings may be requested through the Chair to address particular issues arising judged sufficiently urgent (for example, waiting for the next scheduled meeting would potentially compromise either overall financial performance or the delivery of the Operating Plan). If, for any reason, it is not considered necessary to call a full meeting to consider such urgent issues, the Committee may choose to convene a telephone conference or other virtual meeting or to review and take decisions via email. These will be recorded by the Committee Secretary and confirmed at the next available committee meeting.

8.3 If an agenda indicates the requirement for a private and confidential session of the meeting (part two), then separate agendas and minutes will be produced. The chair of the committee will determine whether any invitees to the meeting may remain in attendance for the part two. However, the default position will be to restrict the meeting to committee members only and officers invited to specifically present and discuss the part two subject matter. Part of the justification for establishing a private and confidential agenda will be the identification of an appropriate Freedom of Information exemption together with, where required, an assessment of the public interest test; this to be recorded on the agenda item(s) frontispiece.

8.4 An agenda will be issued seven calendar days prior to the meeting. Requests for items to be included on the agenda should be sent to the supporting PA at least ten days before the meeting.

8.5 At least once during the year the Chair of the Committee will be expected to produce and present a report to the Audit Committee.

## **9. Conflicts of Interest**

- 9.1 Conflicts of Interest will be managed in accordance with current NHS England & NHS Improvement guidance and the NHS Kernow policy on Conflicts of Interest. All members of the committee will be required to complete the NHS England & NHS Improvement conflicts of interest e-training annually.
- 9.2 Conflicts of Interest are a standing agenda item with an extract from the Declarations of Interest register provided to each meeting. The Chair of the committee will ensure committee members are asked to declare any updates to their interests which are yet to be reflected on the register as well as any 'incidental' interests arising as a result of agenda items. Where all Committee Members are conflicted, e.g. in relation to their own remuneration and terms of service discussions, alternative arrangements will be sought.
- 9.3 Declarations which are considered a conflict of interest will be managed by the Chair, who will decide if the individual can participate in the agenda item or is required to leave the meeting for that item.

## **10. Administration**

- 10.1 The Committee shall be administratively supported by the PA to the Committee's sponsoring Executive Director who will be responsible for supporting the Chair in the management of its business and for drawing the Committee's attention to best practice, national guidance and other relevant documents, as appropriate.
- 10.2 Administrative support will include minuting meetings of the committee. Formal minutes will be drafted within seven working days of the meeting and shared with presenters of agenda items to ensure technical accuracy.
- 10.3 Minutes, along with supporting action grids, will be circulated within seven working days of the Committee taking place.
- 10.4 Ratified minutes of the committee will be presented to the Governing Body for information and to provide assurance on the work undertaken by the committee.

## **11. Review**

- 11.1 The Committee shall establish a forward plan for the conduct of its own work across each financial year, having regard to the Operational Plan and Director's annual objectives.
- 11.2 The Committee will present this Forward Plan to the Governing Body, with a schedule of planned Governing Body Reports and recommendations.
- 11.3 Annually, the Committee shall review its work to ensure it is operating at maximum effectiveness. It will use this exercise to inform the review of its Terms of Reference and its annual work plan.

- 11.4 These Terms of Reference will be reviewed at least annually or in response to changes imposed by the Governing Body or changes to legislation with the next review date being inserted into the Terms of Reference.
- 11.5 Any suggested changes to its Terms of Reference shall be presented to Governing Body for formal approval.

**Status of these Terms of Reference: Agreed by Finance and Performance Committee June 2020 and ratified by the Governing Body August 2020**