

AUDIT & RISK MANAGEMENT COMMITTEE MEETING - MINUTES

Venue: Meeting via WebEx

Date: 5th November, 2020, 15:30-17:00

Members

Mrs L Writtle, Chair, Non-Executive Director (LW)
 Cllr W Zaffar, Non-Executive Director (WZ)

Mr H Kang, Non-Executive Director (HK)
 Mr M Hoare, Non-Executive Director (MH)
 Prof K Thomas, Non-Executive Director (KT)

In Attendance

Mr D Baker, Dir Partnerships & Innovation (DB)
 Mrs D McLannahan, Chief Finance Officer (DC)

Mr B Vaughan, RSM (BV)
 Mr A Hussain, RSM (AH)
 Mr M Gennard, RSM (MG)
 Mr M Stocks, Grant Thornton (MS)
 Ms S Rudd, Assoc. Dir. Corp Governance (SR)
 Mr C Higgins, Assoc Director of Finance (CH)
 Ms K French, Interim Chief Nurse (KF)

Apologies

Mr T Lewis, Chief Executive (TL)
 Ms K Dhami, Director of Governance (KD)
 Mr M Laverty, Non-Executive Director (ML)

Minutes	Reference
1. Introductions [for the purpose of the audio recording]	Verbal
<p>Chair, LW noted that it was the first time she had Chaired the Committee and she acknowledged that there had been technical issues which had delayed getting materials out on time. An extra meeting of the Committee had been scheduled for January 2021.</p> <p>Committee Members provided an introduction for the purpose of the recording.</p>	
2. Apologies for absence	Verbal
<p>Apologies were received from Toby Lewis, Kam Dhami and Mick Laverty.</p>	
3. Minutes of the previous meeting: 22nd June 2020	AR (11/20) 001
<p>The minutes of the meeting held on 22nd June 2020 were reviewed.</p> <ul style="list-style-type: none"> Item 4 – Reference to ‘...1,000 outstanding items’ to be changed to ‘a couple of outstanding items.’ Item 4 – Reference to the ‘Information Governance Working Group...’ to be changed to ‘The Data Quality Group...’ Attendees list – Typos to be corrected to Mr R Samuda and Mr D Baker. 	

The minutes were ACCEPTED as a true and accurate record of the meeting, subject to the amendments.	
4. Matters and actions arising from previous meetings	AR (11/20) 002
<p>The action log was reviewed and the following update made:</p> <ul style="list-style-type: none"> ○ <i>AR (10/19) 004 - Investigate other high-risk areas such as the performance metrics for data quality improvements.</i> <p>DB reported that a new data quality log had been set up with 60 issues having been logged. These were assessed and analysed. 45 of the 60 have been allocated to an operational lead with checks on risk scoring carried out.</p> <p>Of the 45, 26 had been actively treated, 6 had been moved around and 13 had been tolerated. DB reported that the focus would be on the unallocated 15. DB stated that the process was now up and running which was pleasing.</p>	
Action: DB to bring a progress report to the A&R Committee meeting of January or February 2021.	
DISCUSSION ITEMS	
5. Audit & Risk Committee Draft Terms of Reference	AR (11/20) 003
<p>LW stated that there were no recent Terms of reference in place for the Committee and a draft set was presented for consideration. The HFMA model terms of reference have been utilised as a guide which had then be developed for to make them more relevant to the Trust and integrating the Committee’s risk management responsibilities. Items open for discussion were:</p> <ul style="list-style-type: none"> • Numbers of meetings • Timings of meetings • Who should be in attendance <p>LW proposed that comments from Committee members could be forwarded over the next two weeks as materials had been distributed late.</p> <p>BV referred to the counter-fraud section (Page 14 of the document) and stated that reference made to ‘CFA’s Fraud Commissioner Standards’ should be changed to the ‘NHS CFA Standards for Providers’.</p>	
6. Strategic Board Assurance Framework and Corporate Risk Register Update	AR (11/20) 004
<p>KF summarised that the Trust Risk Register had been discussed at Board level, prior to the meeting and reminded Committee members that the COVID-19 risk had been included.</p> <p>The Trust had been working with RSM to plan a review of the operational risk management process within the organisation. One of the issues would be to determine if external support was required to help the Trust manage risk. KF expressed the view that it would be an opportunity for learning.</p>	

It was anticipated that further information would be available for the next A&R Committee in January 2021.

The SBAF had also been subject to review by internal auditors and there had been a number of recommendations. This was an ongoing piece of work and meetings would take place with executives about how the SBAF could be updated on the safeguard system.

In response to a query from KT, SR reported that the Safeguard system had been chosen by the Trust to record its risks.

LW clarified that the Committee could expect a full report in January 2021 on the Risk Register. The SBAF would be discussed later in the agenda.

DMc commented that she found the Safeguard system extremely unfriendly as a user, which was impacting on the successful administration of the Trust's risks. KF commented that there was a view that Safeguard as a system had limited capabilities and the company was not supporting updates going forward. She suggested that there was an opportunity to consider moving to Datix ahead of the move to MMUH.

Action: Undertake a review of Risk software potential opportunities in advance of move to MMUH

7. Governance Pack

AR (11/20) 005

DMc announced that there had been an improving picture in relation to the Governance pack and highlighted the following points to note:

Aged debt had been showing a generally improving position. Some work was underway around NHS Property Services which would take a lot of work to resolve. CH had been working with Worcestershire Acute Trust to clear their balance.

The invoice to Birmingham City Council for delayed discharges was £35k in total for the year to date compared to the same amount every month in previous years thanks to much better partnership working. The activity had greatly reduced and Melanie Roberts would be writing a letter thanking them for their collaboration. It was hoped that the invoices would eventually stop being raised in recognition of the changed behaviour as they related to a historic legal right and had never actually been paid.

In terms of overseas debt, the value of payments had stayed light, but activity was lower than expected because of restrictions caused by COVID-19. Overseas debts of a certain size and age were referred to an external debt recovery agency, but its performance had been disappointing and the Trust had been working with the company to improve it otherwise an alternative would be considered.

A big improvement had been observed in Aged Payables (AP) and DMc extended congratulations to the team for achieving this improvement whilst working remotely. The Trust had been paying as quickly as possible, being mindful of fraud risks. Local suppliers were being identified utilising CCG postcode data.

Salary payments and single tender waivers would be included in the bi-monthly group review packs, which was a positive improvement. DMc was personally reviewing every single waiver before approval.

KF queried the structure for recovering the overseas debt. DMc confirmed that as much of the process as possible sat within Governance but Finance had also been involved. There was no invoice backlog and invoices were raised very quickly. There were also high levels of credit raised – £384k so far this year. KF commented that overall, recovering the money was challenging and involved cultural issues about treating before charging.

DB raised the issue of the local supplier spend and suggested that it might be worth investigating how much of the Trust's pay spend took place in Sandwell and West Birmingham. DMc confirmed that the Trust wanted to employ local people and businesses wherever possible to put money into the local economy.

KT queried the meaning of the reference of liability to third parties. DMc clarified that this was whoever was claiming through the insurance pool.

8. Legal Services Update

AR (11/20) 006

SR reported that she was temporarily in charge of the Legal Services team.

She acknowledged that the report was very data heavy. SR advised that Legal Services were on top of their caseload despite sickness levels within the team but improvement and quality work around the dissemination of learning was not an area the team was able to focus on because of COVID-19.

The Trust was an outlier for Employer Liability and Personal Liability claims, although the statistically small numbers did not allow effective comparison.

KF commented that it was interesting to note the stability of clinical negligence claims despite COVID-19. However, there were a number around Obstetrics and Maternity which was unsurprising because it was a high-risk area. There were cases that needed to be allocated to services.

There had been some high value pay-out cases to note in Ophthalmology reflecting some of the pressures in that department.

Eight inquests had been opened by the Coroner and two closed within the quarter with five of the eight inquests through Birmingham and Solihull Coroner.

KT queried payments being made to employees for trips and slips because of management failures. She commented that processes and documentation were letting down the Trust. LW commented that staff had complained about recording difficulties in relation to making claims.

LW queried the opportunities for learnings to be shared by clinical groups. KF stated that it was fed back through regular governance reporting.

In response to a query from LW, KF stated that the Board would probably like to see a claims and negligence report on a reasonably regular basis. SR to include in committee forward plan.

Action: Include regular report for clinical negligence claims in forward plan

9. Information Governance/DSPT

AR (11/20) 007

SR reported that DMc had been appointed into the role of temporary SIRO at the Board meeting to cover staff absence.

RSM had undertaken a follow up audit against the Trust's data security protection toolkit and compliance which was still in draft form. Responses from SR and Martin Sadler were expected in respect of data quality issues. SR said that the report had revealed gaps and a lack of compliance in this area and no progress had been made against the previously agreed management actions which had been concerning. Resource would be increased to focus on standards, maintaining compliance and policy compliance. The Information Governance Group would be reinvigorated to monitor the action plan against the data security protection toolkit.

SR advised that the Trust had been invited to participate in an audit with the Information Governance Commissioner. The Trust had declined the offer previously but would now accept because it would show engagement with the ICO and support best practice efforts.

A full follow-up report from the DSPT and full position statement on the gaps (gap analysis) in the trust's compliance, plus an action plan, would be brought back to the next A&R Committee's meeting. The next submission date for the DSPT would be in March 2021 and evidence of vast improvements against the toolkit would be required.

LW commented that there needed to be a more robust report presented on this topic from January 2021 onwards.

KT queried whether any of the standards had been met. SR responded that a slight improvement had been made.

KF stated that it highlighted the resource element for IG and this would be urgently addressed.

Action: IG progress report and action plan to next meeting

EXTERNAL AUDIT

10. External Audit Progress Report and Sector Update

AR (11/20) 008

MS (Grant Thornton) reported that the audit was at an early stage.

Extra funding because of COVID-19 meant that the Trust was in a good financial position for the year. A small deficit of around £4.3m had been forecast, but it was hoped this could be recovered as the year progressed.

The trust had an underlying deficit before being hit by COVID-19 and this had not disappeared, but MS expressed the view that preparations for going back to 'normal' post pandemic would be essential.

MS commented that there was risk to the Trust in terms of its capacity to handle information governance and progress a significant agenda and urged the Board to consider its own capacity to respond in this area.

Trust accounts were being audited as efficiently as possible and regular conversations with the finance

team were ongoing. MS reported that a value for money conclusion would be issued as a matter of course, reflecting on the Trust's use of resources. Significant changes however, meant that the auditors had been tasked with focusing more on governance for 2021 and a performance assessment would be made in terms of service delivery.

MS stated that the conclusions reached would have to be put into a public report. Recommendations would be made and a response would be required from the Trust. The aim would be for the auditors and the Trust to collaborate on its position.

DMc reported that some helpful recommendations would add value to the Trust as an organisation.

LW stated that it would also focus attention on getting the approach to SBAF and risk correct. MS agreed. LW suggested that MS arrange a workshop to help with better understanding.

INTERNAL AUDIT

11. a) Internal Audit Progress Report

AR (11/20) 009

b) Internal Audit Reports

AR (11/20) 010

i. Follow up Report

AR (11/20) 011

ii. Strategic Board Assurance Framework

AH reported that it had finalised two out of the three reports RSM had been planning to bring to the Committee.

The data security and protection toolkit was in draft form and there had been engagement with the auditors in terms of finalising it.

RSM had completed a review around the HTA compliance and draft report would be issued (5th November 2020).

AH referred Committee members to the finding in the paper and made the following points to note:

The Follow-up Review

AH reported that the review looked at closed actions and the tracker used to validate the closure of those actions.

The review looked at 29 closed actions on the system and 24 had been successfully validated. Five had been re-opened because two had been prematurely closed and the other three had been closed without very much action done.

Information governance and the assurance framework was a key area along with follow-up in relation to ensuring there was evidence to support closed actions.

Strategic Board Assurance Framework Review

AH explained that the purpose of this review was to take a selection of risks which had been deemed to have an 'adequate' level of assurance around them in May 2020.

The ongoing scrutiny and challenge to these risks had been examined. Three key themes had been discovered:

- The information recorded against each of the risks was not being routinely updated and the information reported to the Board and Sub-Committees was out of date.
- Route to achieving 'adequate' assurance from 'limited' assurance had not been clearly defined.
- Routine reporting of the SBAF extracts. The survey found that scrutiny and challenge was not satisfactory. AH stated that it was important for robust monitoring to take place.

AH supported statements already made by DMc about the Safeguard system not being user friendly. The risk statements had not changed over time which suggested a lack of routine review of the full SBAF.

There was a disconnect with what was in the system and the understanding of the risks. MG commented that overall, it had emerged that this was an area that needed focus.

KF stated that this was an area within the organisation that needed resource. She expressed the view that knowledge and skill around risk and risk management was quite limited in the governance team. SR supported KF's comment.

DMc stated that there was expertise in the organisation in a couple of individuals, but the issue concerned the impact they were having. It was suggested that a review of training and upskilling might be helpful in support.

MG expressed the view that the report had revealed that the Trust Board had not seen the SBAF in its entirety since October 2019 which was a long time. Therefore, he would have to phrase his opinion carefully in relation to the Trust's risk management approach.

LW expressed the view that the message had been clear and the focus of the Trust was to consider how to quickly mobilise the right people in response.

The Data Security Protection Toolkit

This report had not been finalised however the headline was that there were 11 areas previously examined with 10 having been met. AH reported that all had been revisited and in six cases the Trust had self-assessed as still not having done enough. In five cases it self-assessed as having met the requirements. However, only in two cases was the evidence sufficient to support the self-assessment. In three cases the evidence was not sufficient.

AH commented that this was a stubborn area which probably needed resource to make a difference to the prioritisation of compliance.

LW suggested that some of issues could be tightened up quickly. SR agreed; however, she commented that within data security there was a big piece of work requiring resource to address key areas in information asset registers, information asset owners and data flow mapping.

AH referred Committee members to the topic of the routine tracking of outstanding actions. There were

49 of which 17 had already had extensions. SR and LW acknowledged that the process needed to be tightened up.

Action: LW, SR and KF to assign time to discuss the mobilisation of risk management expertise within the Trust to address concerns articulated by the Internal Audit team.

12. Counter Fraud Progress

AR (11/20) 012

BV reported that Self Review had been submitted [to NHSCFA] with an overall green rating.

The LCFS undertook a COVID-19 fraud risk change / financial governance review alongside Internal Audit. The Trust had reviewed its key business areas to assess if there had been any procedural changes or relaxations during COVID-19. A few areas had been identified.

Four new referrals had been received by the LCFS since 1 April 2020, and these had been discussed with the CFO and had been recorded on FIRST (the NHS CFA Case Management system).

New standards would be introduced to replace the SRT. BV reported that whether they would change the sign-off procedure by DMc and LW was currently uncertain.

BV reported that the Trust had received notification of the requirements of the fraud prevention guidance impact assessment – a report of how notices were implemented across the Trust. The Trust had responsibility to the LCFS to complete it. This would be done shortly with submission expected by 1st December 2020.

BV referred Committee members particularly to two benchmarking papers attached to the report. Emerging risks would also need comment from the Trust.

In response to a query from HK, BV reported that there had been reports of theft of PPE but proving theft had been difficult. DMc reported that PPE use in the Trust had been closely monitored.

BV stated that the Fraud Prevention Notice Return would need to be signed off by DMc by 1st December 2020.

OTHER MATTERS

13. Forward Plan

AR (11/20) 013

SR reported that the Forward Plan would be developed once the terms of reference had been signed off.

SR clarified that she would be putting together the full forward plan with all the expected items, including timings of meetings.

14. Committee Effectiveness

Verbal

LW commented that a full set of questions should be drafted to assess Committee effectiveness for the

December 2020 meeting.	
Action: LW and SR to draft a set of questions to assess Committee effectiveness at A&R Committee meetings.	
15. Matters to raise to the Trust Board	Verbal
<p>LW suggested the following matters be raised to the Trust Board:</p> <ul style="list-style-type: none"> ○ Adopting terms of Reference ○ Notify there will be a report on Legal Services in the New Year ○ The work required on the SBAF and IG 	
16. Any other business	Verbal
None discussed.	
Details of next meeting	
The next meeting will be held on Thursday 7 th January 2021, from 15:30 to 17:00, Conference Room, Education Centre, Sandwell General Hospital.	

Signed

Print

Date