

Report to the Members' Council

For Approval

Date 17th February 2009

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Working group to consider the options for the appointment of Trust Auditor.

Executive Summary

The Members' Council has the authority under the terms of the Constitution to appoint or remove the Trust Auditor (para 9.21.1,a,iv)

The Council have appointed the Audit Commission as the auditors for the Trust to 31st March 2009. The Trust will be without a Trust Auditor with effect from 1st April 2009.

The Council have set up a working party of 3 Governors supported by the Chair of the Audit Committee, the Deputy Chief Executive/Director of Finance and the Finance Programme Manager to research the options and make a recommendation to the Council.

Recommendation

The Council is asked to approve that;

- the Audit Commission be asked to extend their appointment for at least 6 months to 30th September 2009
- the Trust Auditor Working Group be made a formal Committee of the Council with authority to appoint the Trust Auditor on their behalf.

Author and title:

Author: William Cox – Finance Performance Manager

Lead Governor: Mike Alexander

A risk assessment has been undertaken around the legal issues that this paper presents and there are no issues that need to be referred to the Trust Solicitors.

This paper provides assurance and evidence against the following Better Healthcare Standards: C 7 b

Appointment of Trust Auditor.

Current position

The Members' Council has the authority under the terms of the Constitution to appoint or remove the Trust Auditor (para 9.21.1,a,iv)

The Council have set up a Working Group of 3 Governors (Mike Alexander, Tricia Birchley and Roger Priest) supported by the Chair of the Audit Committee (Cedric Scroggs, Non-Executive Director), the Deputy Chief Executive/Director of Finance and the Finance Programme Manager to research the options and make a recommendation to the Council.

At its meeting on 25 February 2008, the Council appointed the Audit Commission as the auditors for the Trust to 31st March 2009. The Trust will be without a Trust Auditor with effect from 1st April 2009, unless an appointment is made before then. The plan was for the working party to have prepared a paper for this meeting (17th February 2009). Unfortunately it has not been possible for the Working Group to meet and take this work forward in time.

Work undertaken to date

The Working Group first met on 18th December 2008. The three Governors mutually agreed that Mike Alexander would be the Chair of the group. Mike has declared his interest as he has acted from time to time as a consultant for the accountancy firm Grant Thornton. Arising from the discussion, the following work was requested before an informed recommendation could be made.

- I. The Audit Committee to answer a questionnaire regarding the performance, quality and value for money of the Audit Commission. To be completed and endorsed at the Audit Committee meeting on 25th February 2009.
- II. The implications and timetable for the tender process, especially if the Official Journal of the European Union (OJEU) applies.
- III. Finance Department view on the working relationship with the Audit Commission.
- IV. A list of organisations who could be the Trust Auditor.
- V. A clear analysis of fees paid by mental health foundation trusts.
- VI. Specification for audit services, criteria for judging performance and quality. Audit Committee to consider and advise this group.
- VII. Ascertain the reasoning and outcome at other mental health foundation trusts regarding the appointment of their Trust Auditor; those that stayed

with their existing auditors, those that tendered and did not change auditor and those that did.

- VIII. Calculate the cost of tendering for the Trust Auditor
- IX. Clarify the implications for the Trust's membership of the Audit Commission's Benchmarking club if the Trust were not to continue with the Audit Commission as Trust Auditor.
- X. Request that the Audit Commission advise of the mix of Trust Auditor work between private firms and themselves.
- XI. Clarify the implications of the interplay of auditing the NHS and local authority.

Some of papers have been prepared and considered, the rest will be completed in time for the Working Group's next meeting on 17th March 2009.

There will not be enough time for the Working Group to meet, consider the information and form a recommendation in time for the Council to consider the recommendation and make a decision before the current appointment of the Audit Commission lapses on the 31st March 2009.

Recommendation

It is recommended that the Audit Commission be asked to extend their appointment for at least 6 months to 30th September 2009 and possibly to 12 months, in order that the Trust is not without an auditor. The Audit Commission's appointment covers the work done in the calendar year 2009 relating to the financial year to 31st March 2009. However, this will not cover matters arising in the financial year starting 1st April 2009.

The Trust Auditor Working Group has found the issues relating to the appointment of the Trust Auditor to be highly technical and recommend that, in the interests of speed and effectiveness, it is made a formal Committee of the Council with authority to appoint the Trust Auditor on their behalf. The Committee shall report formally to the full Members' Council the decisions taken and reasons. Suggested terms of reference are at Appendix 1.

It is recommended that the Members' Council reconfirm membership of the Committee and the chair of the Committee.

Council should note that it is entitled to appoint committees to assist it in the proper performance of its functions under Section 5 of the Standing Orders.

Terms of reference - Trust Auditor Committee

1 CONSTITUTION AND AUTHORITY

- 1.1 The Members' Council is responsible for the appointment for the Trust Auditor in accordance with the guidance issued by Monitor.
- 1.2 The Trust Auditor Committee, which is constituted as a standing committee of the Members' Council has the responsibility to appoint, on the Council's behalf, the Trust Auditor.
- 1.3 The Committee is authorised to obtain outside legal or other independent professional advice and secure the attendance of outsiders with relevant experience and expertise if it considers it necessary to discharge their duties.
- 1.6 The duties of the Trust Auditor Committee shall be in accordance with the Guide for Governors: Audit Code for NHS Foundation Trusts issued by Monitor.

2 MEMBERSHIP

- 2.1 The Committee and Chair of the Committee shall be appointed by the Members' Council from amongst the Governors of the Council and shall consist of no fewer than three members.
- 2.2 The Chair of the Members' Council cannot be a member of this Committee.
- 2.3 The Members' Council will review membership of this Committee annually.
- 2.4 Where possible, at least one Governor will have a financial background.
- 2.5 Each member will be provided with a copy of the Guide for Governors: Audit Code for NHS Foundation Trusts issued by Monitor.

3 ATTENDANCE AT MEETINGS

- 3.1 The Committee quorum is two members.
- 3.2 The Chair of the Trust's Audit Committee, Deputy Chief Executive/Director of Finance and Finance Programme Manager will normally be in attendance by invitation.
- 3.3 This Committee may invite other directors or staff to attend meetings.

4 FREQUENCY OF MEETINGS AND ANNUAL TIMETABLE OF BUSINESS

- 4.1 The frequency of meetings can be varied at the discretion of the Chair of the Committee.

5 CALLING MEETINGS

- 5.1 The notice period will be a minimum of seven clear days. Written reports are to be made available five clear days before the meeting.

6 REMIT

- 6.1 The Trust Auditor Committee shall review the opinions of the Trust's Audit Committee regarding the performance of the current Trust Auditor.
- 6.2 Ensure that the appointment of the Trust Auditor complies with the Trust's Procurement Policy.
- 6.3 Ensure that the appointment complies with the Trust's requirement for value for money.
- 6.4 Ensure that the appointment complies with the guidance issued by Monitor.

7 REPORTING

- 7.1 Minutes of the meetings will be formally recorded and circulated to the Members' Council members within ten working days following review by the Chairman of the Committee. The minutes, approved by the Trust Auditor Committee will be formally reviewed at the following Members' Council meeting.

8 LIMITATIONS OF AUTHORITY

- 8.1 The Trust Auditor Committee shall be delegated the power of the Members' Council to require the attendance of any director or member of staff.
- 8.2 Save as is expressly provided in the Terms of Reference, the Trust Auditor Committee shall have no further power or authority to exercise on behalf of the Members' Council, any of its functions or duties.
- 8.3 For the avoidance of doubt, the Committee shall not itself be responsible for undertaking any operational involvement in the Trust's financial and other systems. Its responsibilities shall be limited to the appointment of the Trust Auditor, review of the issues involved, requiring executive directors and managers of the Trust to undertake certain work, to receiving their reports (both verbal and written), considering such and reporting to the Members' Council thereafter.