

Audit and Risk Committee

Minutes of the Audit and Risk Committee meeting held at 9.30 am on Monday, 19 June 2023 via MS Teams and in Meeting Rooms 8 & 9 Waverley Gate.

Present:

Mr M. Connor (Chair), Non-Executive Board Member; Mr P. Allenby, Non-Executive Board Member; Councillor S. Jenkinson, Non-Executive Board Member; Mr W. McQueen, Non-Executive Board Member.

In Attendance:

Ms L. Allen, Assistant Finance Manager; Ms J. Bennett, Associate Director for Quality Improvement & Safety; Mr C. Campbell, Chief Executive; Mr J. Crombie, Deputy Chief Executive; Ms C. Grant, Audit Scotland; Mr C. Marriott, Director of Finance; Ms E. Mayne, Grant Thornton; Mr A. McCreadie, Deputy Director of Finance; Ms O. Notman, Head of Financial Services; Mr S. Nugent, Audit Scotland; Mr J. Old, Financial Controller; Mr D. Thompson, Board Secretary; and Miss L. Baird, Committee Administrator.

Apologies: Councillor H. Cartmill, Non-Executive Board Member; Ms K. Kasper, Non-Executive Board Member.

The Chair reminded Members that they should declare any financial and non-financial interests they had in the items of business for consideration, identifying the relevant agenda item and the nature of their interest. There were no declarations of interest.

Welcomes and Introductions

The Chair welcomed Members to the June meeting of the Audit and Risk Committee. He thanked Mr McQueen for stepping in to ensure that there would be a quorum.

11. Minutes of the previous meeting held on 17 April 2023

- 11.1 The minutes of the meeting held on 17 April 2023 were accepted as an accurate record and approved.

12. Running Action Note

- 12.1 The Committee noted the actions marked complete or items on the agenda for further discussion and those that were not due for consideration detailed within the report.

- 12.2 Counter Fraud Activity Update – The Committee agreed to reinstate the action regarding civil cases. Based on advice from the CLO, it was acknowledged that a civil case should normally only be considered once the potential for a criminal case had been exhausted. However, the Committee wished further clarity on the potential for boards to make use of the “Simple Procedure” within the Scottish Courts when seeking the recovery of funds. The Board Secretary had posed this query to Counter Fraud Services colleagues and any further advice received would be shared with the Committee. **DT/CFS**

- 12.3 Violence and Aggression – The Chair and Mr McQueen would continue to pursue a meeting with Ms Ireland and Mr Allenby to consider how he might inform the violence and aggression project.

- 12.4 The Committee accepted the running action note and the information therein.

13. Risk Management

- 13.1 NHS Lothian Corporate Risk Register (CRR) - the previously circulated report was received.
- 13.2 The Committee reviewed the March 2023 updates provided by the leads concerning risk mitigation set out in the assurance table which will be considered by the June 2023 Board.
- 13.3 The Committee noted that any materially worsening risks will be set out in the CRR paper which will be submitted to the Strategy, Planning and Performance Committee (SPPC) prior to its submission to the Board.
- 13.4 The Committee noted the February 2023 Corporate Management Team increased the grading for the 4-Hr emergency access risk, the hospital bed occupancy risk and access to treatment risk from very high (20) to very high/extreme (25) due to worsening performance and impact on patient experience and outcome of care. Risk mitigation plans were to be presented to the May SPCC from a performance perspective and the May Healthcare Governance Committee from a person-centred safe, effective care perspective. Both committees had accepted limited assurance that the plans in place would mitigate the risks.
- 13.5 Good progress made against Psychology Therapies and Child and Adult Mental Health Services (CAMHS) was welcomed by the Committee. Members recorded their thanks to staff who had supported this work.
- 13.6 Members acknowledged that a significant number of risks described challenges around the availability of resources required to support the recovery plans.
- 13.7 The Committee accepted the report.

14. Litigation Annual Report 2022/23

- 14.1 The previously circulated annual report that provided assurance on the management of litigation in NHS Lothian was received.
- 14.2 The report did not provide the total number of litigation cases brought against NHS Lothian, the volume that was settled, the cost to the organisation and how Lothian compared to its peers. This information would normally be extracted from the CNORIS report. However, the CNORIS report for 2022/23 was not available at the time the annual report was written. The Committee received verbal assurances that NHS Lothian was not an outlier, nor had it been in the past. The Associate Director for Quality Improvement & Safety took an action to share the CNORIS report with the Non-Executive Directors when it was published for their information. **JB**
- 14.3 It was noted that all cases of litigation were taken to the Medical Director to review and make recommendations on, prior to their final sign off with the Corporate Management Team and the Chief Executive.
- 14.4 Litigation trends and where they were reported in the governance structure was discussed. It was noted that the Audit and Risk Committee was the only governance committee of the Board that received trends on litigation. Healthcare Governance Committee had oversight

of falls and would continue to monitor that under their remit. Violence and Aggression was a key risk on the Staff Governance Committee agenda.

- 14.5 Members agreed that more could be done to share information on risk trends with the Non-Executive Directors who do not attend the Audit and Risk Committee. Mr McQueen would liaise with the Chief Executive outwith the meeting to determine appropriate parameters for the report on risk trends.

WMcQ/ CC

- 14.6 The Committee discussed the programme of improvement and learning within the organisation. It was reported that NHS Lothian's approach was constantly evolving and taking account of developments at a national level.
- 14.7 The Committee accepted this report as an annual update on litigation processes and activity in terms of numbers, financial impact and recurring themes.
- 14.8 The Committee accepted significant assurance for the effectiveness of the processes and adherence to expected standards regarding the litigation process.
- 14.9 The Committee accepted moderate assurance in terms of evidence of learning after cases are closed based on programmes of work in place to improve management of and the response to adverse events. It should, however, be recognised that events resulting in a claim are not always part of an adverse process and that claims can take a considerable time to reach completion.
- 14.10 The Committee accepted the report.

15. Internal Audit

- 15.1 Internal Audit Remobilisation and Recovery of Scheduled Care – The final report from the 2022/23 Internal Audit Plan was received. The report provided a moderate level of assurance with two medium and four low rated findings.
- 15.1.1 The report concluded that that there was a good structure in place but there were areas within the risk management and governance structure that that could be improved upon.
- 15.1.2 Management had agreed all recommendations. Actions were attributed to several Chairs but the oversight and final responsibility for the completion of the actions had been assigned to the Chief Officer, Acute Services to ensure action was taken.
- 15.1.3 The Committee accepted the report.
- 15.2 Internal Audit Progress Report – June 2023 – the previously circulated report was received. It was noted that the future format of the summary of progress report would be expanded to provide more assurance and align with the Internal Audit Standards.
- 15.2.1 The Committee thanked the Internal Audit Team for the dedication and hard work that led to the completion of the 2022/23 Internal Audit Plan.
- 15.2.2 The Committee accepted the report.

- 15.3 Internal Audit Recommendation Tracker Report (June 2023) – The previously circulated report was presented. The report outlined work that Internal Audit had done in respect of the long standing actions that had not been implemented within their allotted timeframes.
- 15.3.1 The Committee was content for the violence and aggression action to remain on the tracker. Members agreed that this would bring the action in line with the revised violence and aggression programme.
- 15.3.2 The Committee noted that actions regarding Water Safety had taken time to complete but that the actions would be closed off soon.
- 15.3.3 The Committee received assurance that longstanding management actions were reviewed regularly at the Corporate Management Team (CMT) to ensure that timescales and the recommendations remained appropriate for the organisation. Where necessary, matters were escalated to the Chief Executive and relevant Directors to pick up with individual services.
- 15.3.4 Members agreed that the Committee was fortunate that the Deputy Chief Executive and the Chief Executive regularly attend meetings and they had been invaluable in escalating and progressing actions that had stalled during the pandemic.
- 15.3.5 The Committee agreed that future Tracker Reports should be clear on which governance committee was responsible for seeking and receiving assurance on the delivery of each audit action. This responsibility should not sit with the Audit and Risk Committee. The reports should also clearly state the senior officer responsible for providing assurance to the relevant committee in each case. The Board Secretary and the Head of Internal Audit agreed to work together to update this information for future reports. **DT/ EM**
- 15.3.6 The Committee accepted the report.
- 15.4 Internal Audit Annual Report and Opinion 2022/23 (June 2023) – the previously circulated report was received. The report summarised the work that had been undertaken by Internal Audit throughout the year and provided the annual internal audit opinion.
- 15.4.1 The Head of Internal Audit drew the Committee's attention to her opinion for the period 1 April 2022 to 31 March 2023, that based on the scope of reviews undertaken and the sample tests completed during the period, moderate assurance could be given on the overall adequacy and effectiveness of the organisation's framework of governance, risk management and control.
- 15.4.2 The Committee accepted the report, noting that Internal Audit had concluded that there were sufficient arrangements in place, in the areas Internal Audit had reviewed, to promote value for money and secure regularity and propriety in the administration and operation of NHS Lothian controls.

16. Counter Fraud Activity

- 16.1 Counter Fraud Activity for the year 1 April 2022 to 31 March 2023 – The Committee received a verbal overview of the previously circulated paper.

- 16.1.1 Committee members asked how “information only” referrals from CFS were dealt with. The Fraud Liaison Officer explained that these types of referrals usually indicated irregularities but with no clear evidence of fraud having occurred. However, NHS Lothian would follow up each case to verify that the information was correct, to understand the potential irregularity and to be assured that there was no evidence of fraud.
- 16.1.2 The Committee discussed a formatting error that had obscured Lothian’s placement in terms of counter fraud activity performance. It was noted that Lothian was currently ranked second, closely after NHS Greater Glasgow and Clyde.
- 16.1.3 Staff was one of the largest categories where instances of fraud occurred. The majority of these cases related to those with secondary employment and a lack of understanding around what they were allowed to do in their second job when off sick from their primary role in NHS Lothian. The Committee received assurances that Human Resources was working nationally with colleagues in Scottish Government and Counter Fraud Services on the agile working policy given the increased trend of fraud in this setting.
- 16.1.4 It was noted that as part of the work to implement the new counter fraud standards a counter fraud policy would be developed and implemented within Lothian. The Counter Fraud Action Group would review and recommend the adoption of a policy based on a national template currently being developed by CFS.
- 16.1.5 It was noted that from November 2022 TURAS modules on procurement were mandatory for all new members of staff added to the Authorisation Signatory Database. The Counter Fraud Action Group continue to work their way back through existing members to ensure that staff are completing the TURAS module and re-applying when accreditation expires.
- 16.1.6 In response to concerns around the current numbers of staff who had achieved accreditation to the TURAS modules on Procurement, the Fraud Liaison Officer agreed to provide updated completion figures to the Audit and Risk Committee via the running action note. **JO**
- 16.1.7 The Committee accepted the report as a summary of the counter fraud activity within the year.
- 16.1.8 The Committee accepted a moderate level of assurance that the Board was raising awareness of the counter fraud strategy/ policy through communications and training and that all cases of suspected fraud were accounted for and acted upon appropriately.

17. Corporate Governance

- 17.1 National Services Audit Reports 2022/23 – The previously circulated report was received.
- 17.1.1 The Committee noted an assurance gap highlighted by Audit Scotland. Due to the changes to the Audit Standard, the external auditors were required to investigate IT systems to get a deeper understanding of how they work. This work had identified that none of the audit reports consider the general controls that support the e-Financial and disaster recovery systems. Audit Scotland had recommended that Ayrshire and Arran and NSS work together to resolve this matter.

- 17.1.2 The External Auditors recognised that the potential gap around system backup and recovery was not a risk for the 2022/23 Annual Accounts, but it would be something they would consider moving forward.
- 17.1.2 The Committee accepted these reports from the service auditors as a source of significant assurance that there were adequate and effective systems of internal control relating to the National Single Instance financial ledger, practitioner services and the National IT Services contract.
- 17.2 SFR 18.0 - Schedule of Losses and payments for the year ended 31 March 2023 – The previously circulated report was received.
- 17.2.1 The Committee discussed the potential to approach the Foreign Commonwealth Office for support in recovering funds from overseas patients. It was felt that such an approach was unlikely to be successful. There were standard processes in place to recover these funds through the Private and Overseas Patient Team that linked closely with Scottish Government. Despite significant effort made some individuals were very difficult to trace once they had returned to their own country. In these instances the Board reports the individuals to the Home Office, and this may prevent them from returning to the country.
- 17.2.2 It was noted that the recovery of significant funds relating to overseas patients was also dependent on their status, for example if they had entered the country without a visa but subsequently obtained one, the debt is no longer upheld.
- 17.2.3 The Committee discussed information relating to the overpayment of salaries in 2022/23 and the extent to which these funds could be recovered. It was noted that previous decisions had been taken, through the appropriate governance channels, to write off some overpayment amounts. Despite this, the Committee was assured that the Board continued to actively pursue recovery of all salary overpayments and that a write off of any amount would only be considered when all reasonable recovery options had been exhausted.
- 17.2.4 The Internal Audit Plan 2023/24 would also include a review of the controls in place around overpayment of salaries. The Committee agreed to defer discussion on this matter until the final audit report was available.
- 17.2.5 The Committee were assured that the store discrepancies detailed within the report related to damaged and expired medicines or instances where a loss was incurred due to faulty fridges. Members accepted that the controls in place around medicines were robust and inevitably there would be an aspect of write-off within pharmacy for these reasons. Comprehensive reports requesting the formal write off of any significant loss requiring Board or Scottish Government approval would first be brought to Audit and Risk Committee.
- 17.2.6 The Committee accepted this report as source of significant assurance that the Board had adequate and effective systems of control relating to losses and special payments, and that management was continually reviewing and evaluating changes to improve those systems.
- 18. Edinburgh and Lothians Health Foundation Annual Report and Annual Accounts 2022/23**

- 18.1 The Committee noted that there had been a review of the charitable funds and that they were found to be a clean set of accounts, and there had been no issues raised.
- 18.2 The Committee accepted the report as a source of significant assurance that management had prepared the Annual Report and Financial Statements of the Charity for 2022/23, Azets had carried out an external audit of the accounts and provided an unqualified opinion.

19. NHS Lothian Annual Accounts

- 19.1 2022/23 Governance Statement – The previously circulated report was presented.
 - 19.1.1 The Committee accepted the report as a significant source of assurance that the process to develop the 2022/23 Governance Statement was consistent with the associated instructions and good practice.
 - 19.1.2 The Committee reviewed the report and the draft 2022/23 Governance Statement and did not identify any additional disclosures and agreed it should be included within the 2022/23 annual accounts.
- 19.2 Strategy, Planning & Performance Committee Annual Report 2022/23 – The Committee accepted the Strategy, Planning & Performance & Development Annual Report 2022/23 as a source of assurance.
- 19.3 Finance and Resource Committee Annual Report 2022/23 – The Committee accepted the Finance and Resources Committee Annual Report 2022/23 as a source of assurance.
- 19.4 Staff Governance Committee Annual Report 2022/23 - The Committee accepted the Staff Governance Committee Annual Report 2022/23 as a source of assurance.
- 19.5 Healthcare Governance Committee Annual Report 2022/23 – The Committee accepted the Healthcare Governance Committee Annual Report 2022/23 as a source of assurance.

20. Audit Scotland: Cover Letter and NHS Lothian Draft External Audit Report for the year to 31 March 2023

- 20.1 The Committee received a brief overview, highlighting how the cover letter and report was collated, key findings and the unmodified opinion therein.
- 20.2 The External Auditor received confirmation from those charged with governance that there had been no instances of any actual, suspected, or alleged fraud; any subsequent events that had occurred since the date of the financial statements, or material non-compliance with laws and regulations affecting the entity that should have been brought to their attention.
- 20.3 It was noted that several outstanding items listed within the cover letter would be concluded in the next couple of weeks. These would be addressed through updating the narrative of the Annual Report. Any changes made to the Annual Report would not affect the opinion provided and the External Auditors were comfortable that the Audit and Risk Committee take the External Audit Report along with the Annual Accounts to the Board in June 2023.

- 20.4 The Chair thanked the External Auditors and Finance Team for the comprehensive report and achieving the deadlines despite the late start to the process.
- 20.5 The Committee noted that the External Auditors had identified that improvements should be made around the utilisation of the budget monitoring reports produced from the financial ledger. Currently NHS Lothian had the ability to monitor who downloads the reports from the dashboards, but further work was required to ensure that managers were scrutinising the data appropriately. External Audit had recommended that NHS Lothian should enhance its processes to ensure that budget holders' regularly access and review the reports effectively on a monthly basis.
- 20.6 The Finance Team recognised the importance of utilising this data and would work on engaging with budget holders and improve processes in place via a programme of training.
- 20.7 The Director of Finance and the Deputy Director of Finance agreed to identify a suitable date for a development session on the finance dashboards for the Non-Executive Directors. The session would provide Non-Executive Directors some insight into information held on the dashboards, how it should be used and what action was being taken to promote the use of the dashboard with managers with budgetary responsibility.

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- 20.8 The Committee accepted the report.

21. NHS Lothian Annual Accounts for the year ended 31 March 2023

- 21.1 The Committee reviewed the draft Annual Accounts for the year ended 31 March 2023.
- 21.1.1 The Committee agreed to recommend to the Board that it adopt the Annual Accounts for the year ended 31 March 2023.
- 21.1.2 The Committee agreed to recommend to the Board that it should authorise the designated signatories to sign the Accounts on behalf of the Board.
- 21.1.3 The Committee noted that the accounts would not go into the public domain until Parliament adopts them later in the year.

22. Management Representation Letter

- 22.1 The Committee reviewed the draft Representation Letter to the External Auditors.
- 22.2 The Committee agreed that the statements properly represented confirmation to the External Auditors on matters arising during the course of their audit of the annual accounts for the year ended 31 March 2023. The Committee also agreed to recommend to the Board that the letter be signed by the Chief Executive of NHS Lothian.

23. NHS Lothian Patients' Private Funds Annual Accounts 2021/22

- 23.1 The previously circulated report was presented.
- 23.2 The Committee accepted the management letter from Azets as a significant source of assurance in relation to the draft Patients' Private Funds annual accounts and the underlying systems of internal control.

- 23.3 The Committee agreed to recommend to the Board that the Chief Executive and the Director of Finance sign the “Statement of Lothian NHS Board Members’ Responsibilities” on behalf of the Board.
- 23.4 The Committee recommended to the Board that, following the Board’s consideration, the Director of Finance and the Chief Executive sign the “Abstract of Receipts and Payments” (SFR19.0).
- 23.5 The Committee recommended to the Board that the Board approve the draft Patients’ Private Funds accounts for the year ended 31 March 2023.

23. Committee Business

- 23.1 Audit and Risk Committee Annual Report and Assurance Statement to the Board 2022/23
– The Committee reviewed its Annual Report for 2022/23, noting that this had been prepared in line with the Scottish Government’s Audit and Assurance Committee Handbook.
- 23.2 The Committee approved its 2022/23 Annual Report for submission to the Board.

24. Any Other Competent Business

- 24.1 There were no other items of competent business for consideration.

25. Reflections on the meeting

- 25.1 The Committee welcomed the detailed discussions held. There were no other matters to raise with the Board with the exception of the annual accounts and assurance documents.

26. Date of Next Meeting

- 26.1 The next meeting of the Audit and Risk Committee will be held on Monday 22 August 2023 at 9.30 a.m. via Microsoft Teams.