

Agenda Item: 15

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 NHS Norwich CCG Governing Body
 Tuesday 27th January 2015



Norwich

Clinical Commissioning Group

Subject:	Governance Review
Presented By:	Nikki Cocks, Director of Operations and Delivery
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Purpose of Paper:	Agreement

Summary: In April 2014, NHS Norwich CCG commissioned a review of governance to identify any gaps and inform the updating of the constitution. The review was carried out by an independent governance manager who concluded her work at the end of October. The review concluded that, while there are some areas for improvements, the governance process is sound.

Recommendations to address the areas identified are being implemented. Those pertaining to the updating of the constitution have already been proposed via Council of Members and a Governing Body development meeting in December, and submitted to NHS England for ratification.

Recommendation: The Governing Body is asked to agree the following recommendations

1. Formation and Terms of Reference for Executive Committee to be included in constitution.
2. Formation and Terms of Reference for Finance Committee to be included in constitution
3. Amendment of wording in the constitution to recognise the change from collaborative commissioning boards to commissioning networks.
4. Updated strategic objectives to be included in the CCG constitution
5. Strategic objectives to be included in the cover sheet of all Governing Body and Committee agendas and papers.
6. Inclusion of facility for the Governing Body of NHS Norwich CCG to authorise the formation of joint committees in accordance with the LRO.
7. System Performance should be the third area of business for the CCG Governing Body, after quality and finance, but before commissioning and governance.
8. Freedom of Information Requests, Complaints, Business Continuity, and Emergency Planning Resilience and Response Arrangements, should be reported on an annual basis to the Governing Body meeting in public.
9. All decisions of the CCG Governing Body should be clearly recorded in the minutes and marked using bold text.
10. The GBAF document should be fully reviewed and refreshed in terms of both format and content, in line with the governance review recommendations.
11. Risk register system with triggers and process for escalation to the GBAF should be set out explicitly in the notes to the GBAF document.
12. Review the system for Conflicts of interest on an annual basis.
13. Health & Safety at Work to be made the responsibility of the Executive Committee.
14. The Performance of NEL Commissioning Support Unit (CSU) and oversight of functions delegated to officers of the CSU to be the responsibility of the Executive Committee.
15. The oversight of functions delegated to a CCG clinical representative at the Norfolk & Waveney Drugs & Therapeutic Committee to be the responsibility of the Executive Committee. The clinical representative should attend the Executive Committee on an annual basis.

Overview

In spring 2014 NHS Norwich CCG commissioned a governance review – to obtain an independent and external analysis on governance systems within the CCG. The review has examined whether the CCG has robust, effective, and proportionate systems and controls in place to ensure it is meeting its statutory duties, and exercising its powers in accordance with the law, and in a transparent, accountable, and consistent manner.

The review report was produced in November, and has now been published on the CCG website and shared with members of the Governing Body. In broad terms the CCG is assessed as having a generally sound system of internal control, and robust governance arrangements. There are, however, recommendations for further improvement, some identified gaps in controls, and some proposed modifications to the constitution that reflect recent changes in the law. These are presented for consideration by the Governing Body in three parts; changes to the CCG constitution, proposals for modifying the working of the Governing Body, and some changes to the scope and responsibilities of the Governing Body Committees.

1. Changes to the CCG Constitution

1.1. New Governing Body Committees.

The Governing Body has authorised the formation of two additional committees since authorisation in April 2013. These should be referenced – and terms of reference included – in the CCG constitution.

- **Recommendation 1:** Formation and Terms of Reference for Executive Committee to be included in constitution.
- **Recommendation 2:** Formation and Terms of Reference for Finance Committee to be included in constitution.

1.2. Changes to Collaborative Commissioning Arrangements.

In June 2014 the Norfolk CCGs agreed changes to the decision making authority and terms of reference of collaborative commissioning arrangements – giving greater recognition to the sovereignty of CCG Governing Bodies – converting the decision making collaborative boards into clinical networks that now make joint recommendations to CCGs.

- **Recommendation 3:** Amendment of wording in the constitution to recognise the change from collaborative commissioning boards to commissioning networks.

1.3. Updated Strategic Objectives.

The strategic objectives of the CCG have been further developed since authorisation, particularly in the area of integrated care (The YourNorwich Programme). The strategic objectives were considered clear and were regularly communicated to Governing Body members, but would benefit from a higher profile with the public and with all CCG staff.

- **Recommendation 4:** Updated strategic objectives to be included in the CCG constitution.
- **Recommendation 5:** Strategic objectives to be included in the cover sheet of all Governing Body and Committee agendas and papers.

1.4. Changes to the Law.

The Legislative Reform Order (LRO) came into effect on 1st October 2014 to enable two or more CCGs to form joint committees and/or one or more CCGs and NHS England to form joint committees. The CCG may wish to have the facility to participate in joint committees in future, whether for collaboration with CCGs, or co-commissioning with NHS England for Primary Care and Specialised Commissioning.

- **Recommendation 6:** Inclusion of facility for the Governing Body of NHS Norwich CCG to authorise the formation of joint committees in accordance with the LRO.

2. Modifications to the Working of the Governing Body

2.1. Order of Business.

The relationships between quality, finance, and system performance should be reflected in the Governing Body agenda, to improve the flow of discussion and make issues and options for response more apparent.

- **Recommendation 7:** System Performance should be the third area of business for the CCG Governing Body, after quality and finance, but before commissioning and governance.

2.2. Annual Reviews of Key Functions.

There are areas of business that constitute core duties of the CCG, which – although actively managed and reviewed by Governing Body Committees – should be reported on an annual basis to the Governing Body to allow proper transparency and public assurance.

- **Recommendation 8:** Freedom of Information Requests, Complaints, Business Continuity, and Emergency Planning Resilience and Response Arrangements, should be reported on an annual basis to the Governing Body meeting in public.

2.3. Recording Decisions.

Although the making of decisions is clearly expressed during the Governing Body meetings, it is not always clearly recorded in the minutes.

- **Recommendation 9:** All decisions of the CCG Governing Body should be clearly recorded in the minutes and marked using bold text.

2.4. Governing Body Assurance Framework (GBAF).

The GBAF was considered fit for purpose, but would benefit from a full review and refresh of content in the light of the CCG's refreshed strategic objectives. The format could be improved by including a 'committee' column to highlight where risk is being reviewed. It was also recommended that the escalation triggers and processes for supporting risk registers is made explicit.

- **Recommendation 10:** The GBAF document should be fully reviewed and refreshed in terms of both format and content, in line with the governance review recommendations.
- **Recommendation 11:** Risk register system with triggers and process for escalation to the GBAF should be set out explicitly in the notes to the GBAF document.

2.5. Conflicts of Interest.

The registering of interests, and systems for managing real or perceived conflicts of interest was considered appropriate and fit for purpose, particularly given the very limited role of the CCG in Primary Care Commissioning, and the very limited interests recorded by the current governing body. More robust arrangements – such as a Conflicts of Interest Committee – may be appropriate if the role of the CCG or makeup of the Governing Body changes significantly in the future.

- **Recommendation 12:** Review the system for Conflicts of interest on an annual basis.

3. Changes to the Responsibilities of Governing Body Committees

3.1. Gaps in Controls.

Three gaps in controls assurance have been identified, where there are insufficient controls in place within the organisation to provide the Governing Body with the necessary

assurance on the exercise of delegated functions. It is recommended that these three areas are placed formally within the remit of the Executive Committee.

- **Recommendation 13:** Health & Safety at Work to be made the responsibility of the Executive Committee.
- **Recommendation 14:** The Performance of NEL Commissioning Support Unit (CSU) and oversight of functions delegated to officers of the CSU to be the responsibility of the Executive Committee.
- **Recommendation 15:** The oversight of functions delegated to a CCG clinical representative at the Norfolk & Waveney Drugs & Therapeutic Committee to be the responsibility of the Executive Committee. The clinical representative should attend the Executive Committee on an annual basis.

Appendix 1 – Proposed Changes to Wording of Constitution to Create the Facility for Joint Committees.

1. Joint commissioning arrangements with other Clinical Commissioning Groups
 - 1.1. The clinical commissioning group (CCG) may wish to work together with other CCGs in the exercise of its commissioning functions.
 - 1.2. The CCG may make arrangements with one or more CCG in respect of:
 - 1.2.1. delegating any of the CCG's commissioning functions to another CCG;
 - 1.2.2. exercising any of the commissioning functions of another CCG; or
 - 1.2.3. exercising jointly the commissioning functions of the CCG and another CCG
 - 1.3. For the purposes of the arrangements described at paragraph 1.2, the CCG may:
 - 1.3.1. make payments to another CCG;
 - 1.3.2. receive payments from another CCG;
 - 1.3.3. make the services of its employees or any other resources available to another CCG; or
 - 1.3.4. receive the services of the employees or the resources available to another CCG.
 - 1.4. Where the CCG makes arrangements which involve all the CCGs exercising any of their commissioning functions jointly, a joint committee may be established to exercise those functions.
 - 1.5. For the purposes of the arrangements described at paragraph 1.2 above, the CCG may establish and maintain a pooled fund made up of contributions by any of the CCGs working together pursuant to paragraph 1.2.3 above. Any such pooled fund may be used to make payments towards expenditure incurred in the discharge of any of the commissioning functions in respect of which the arrangements are made.
 - 1.6. Where the CCG makes arrangements with another CCG as described at paragraph [1.2] above, the CCG shall develop and agree with that CCG an agreement setting out the arrangements for joint working, including details of:
 - How the parties will work together to carry out their commissioning functions;
 - The duties and responsibilities of the parties;
 - How risk will be managed and apportioned between the parties;
 - Financial arrangements, including, if applicable, payments towards a pooled fund and management of that fund;
 - Contributions from the parties, including details around assets, employees and equipment to be used under the joint working arrangements.
 - 1.7. The governing body of the CCG shall require, in all joint commissioning arrangements, that the lead clinician and lead manager of the lead CCG make a written report to the governing body at least quarterly, and publish an annual report on progress made against objectives.

2. Joint commissioning arrangements with NHS England for the exercise of CCG functions
 - 2.1. The CCG may wish to work together with NHS England in the exercise of its commissioning functions.
 - 2.2. The CCG and NHS England may make arrangements to exercise any of the CCG's commissioning functions jointly.
 - 2.3. The arrangements referred to in paragraph [2.2] above may include other CCGs.
 - 2.4. Where joint commissioning arrangements pursuant to [2.2] above are entered into, the parties may establish a joint committee to exercise the commissioning functions in question.
 - 2.5. Arrangements made pursuant to [2.2] above may be on such terms and conditions (including terms as to payment) as may be agreed between NHS England and the CCG.
 - 2.6. Where the CCG makes arrangements with NHS England (and another CCG if relevant) as described at paragraph [2.2] above, the CCG shall develop and agree with NHS England a framework setting out the arrangements for joint working, including details of:
 - How the parties will work together to carry out their commissioning functions;
 - The duties and responsibilities of the parties;
 - How risk will be managed and apportioned between the parties;
 - Financial arrangements, including, if applicable, payments towards a pooled fund and management of that fund;
 - Contributions from the parties, including details around assets, employees and equipment to be used under the joint working arrangements; and
 - 2.7. The governing body of the CCG shall require, in all joint commissioning arrangements, that the lead clinician and lead manager of the lead CCG make a written report to the governing body at least quarterly, and publish an annual report on progress made against objectives.
3. Joint commissioning arrangements with NHS England for the exercise of NHS England's functions
 - 3.1. The CCG may wish to work with NHS England and, where applicable, other CCGs, to exercise specified NHS England functions.
 - 3.2. The CCG may enter into arrangements with NHS England and, where applicable, other CCGs to:
 - Exercise such functions as specified by NHS England under delegated arrangements;
 - Jointly exercise such functions as specified with NHS England.
 - 3.3. Where arrangements are made for the CCG and, where applicable, other CCGs to exercise functions jointly with NHS England a joint committee may be established to exercise the functions in question.

- 3.4. Arrangements made between NHS England and the CCG may be on such terms and conditions (including terms as to payment) as may be agreed between the parties.
- 3.5. For the purposes of the arrangements described at paragraph [3.2] above, NHS England and the CCG may establish and maintain a pooled fund made up of contributions by the parties working together. Any such pooled fund may be used to make payments towards expenditure incurred in the discharge of any of the commissioning functions in respect of which the arrangements are made.
- 3.6. Where the CCG enters into arrangements with NHS England as described at paragraph [3.2] above, the parties will develop and agree a framework setting out the arrangements for joint working, including details of:
- How the parties will work together to carry out their commissioning functions;
 - The duties and responsibilities of the parties;
 - How risk will be managed and apportioned between the parties;
 - Financial arrangements, including payments towards a pooled fund and management of that fund;
 - Contributions from the parties, including details around assets, employees and equipment to be used under the joint working arrangements.
- 3.7. The governing body of the CCG shall require, in all joint commissioning arrangements, that the lead clinician and lead manager of the lead CCG make a written report to the governing body at least quarterly, and publish an annual report on progress made against objectives.