

Council of Governors Meeting 7th October 2014

<p>Council of Governors 7th October 2014 Item 6</p>
--

TITLE OF PAPER	Tender Process - External Audit Contract
TO BE PRESENTED BY	Mr. M. Rosling, Non-Executive Director/Chair – Audit & Assurance Committee Mr. P. Robinson, Executive Director of Finance
ACTION REQUIRED	To note the process/Nomination of Governor Representatives
OUTCOME	To note the process for the tender of the External Audit Contract To nominate two representatives from the Council of Governors to participate in the tender/interview process
TIMETABLE FOR DECISION	Confirmation of COG representatives: October 2014 Tender Process to Commence: November 2014 Interviews to be held: January 2015 Appointment to commence: 1 st April 2015
LINKS TO OTHER KEY REPORTS / DECISIONS	Constitution of Sheffield Health & Social Care NHS FT
LINKS TO OTHER RELEVANT FRAMEWORKS BAF, RISK, OUTCOMES ETC	<ul style="list-style-type: none"> Under the Health & Social Care (Community Health and Standards) Act 2003 each Foundation Trust must have an external auditor. Under the Act, the Auditor is appointed by the Council of Governors. Revised Audit Code for NHS Foundation Trusts - Monitor. Monitor's Compliance Framework. Board Assurance Framework. Group Audit Instructions – National Audit Office.
IMPLICATIONS FOR SERVICE DELIVERY AND FINANCIAL IMPACT	Statutory requirement to have the Trust's Annual Report, Accounts and all other appropriate documents audited by independent auditors.
CONSIDERATION OF LEGAL ISSUES	Under the Health & Social Care (Community Health and Standards) Act 2003 each Foundation Trust must have an auditor. Under the Act, the Auditor is appointed by the Council of Governors.
Author of Report	M. Rosling P. Robinson
Designation	Chair, Audit & Assurance Committee/Non-Executive Director Executive Director of Finance
Date of Report	September 2014

SUMMARY REPORT

Report to: Council of Governors

Date: 7th October 2014

Subject: Process for the Appointment of External Audit Services 2015/2016 Onwards

From: M. Rosling, Non-Executive Director/Chair – Audit & Assurance Committee
P. Robinson, Executive Director of Finance

1 Purpose

<i>For Approval</i>	<i>For a collective decision</i>	<i>To report progress</i>	<i>To seek input from</i>	<i>For information</i>	<i>Other (please state below)</i>
		X	X		
<ul style="list-style-type: none"> To note and agree the process to be undertaken in the appointment of the Trust's External Audit Service 2015/2016 To nominate two representatives from the Council of Governors to participate in the tender/interview process 					

2 Summary

As Governors are aware, one of their major responsibilities and duties, in accordance with the Governors' Statutory Duties & Responsibilities, is to appoint the Trust's External Auditors.

The Trust's current contract in respect of its External Audit Service expires on the 31st March 2015 and, as previously agreed, a tender exercise will be entered into to secure the service going forward with effect from 1st April 2015 for a period of at least 3 years.

Initial discussions have been held with the Head of Procurement, who will manage the tender process on behalf of the Trust.

It is proposed that the process of appointment be undertaken by a small working group, comprising:

- 3 x Non-Executive Directors
- 2 x Council of Governor Representatives
- Executive Director of Finance
- Deputy Director of Finance
- Head of Procurement

This process is considered good practice in accordance with Monitor's expectation.

3 Next Steps

For the Council of Governors to agree the process and nominate two representatives to participate in the tender/interview process.

4 Required Actions

As above.

5 Monitoring Arrangements

Through the Audit & Assurance Committee.

6 Contact Details

Paul Robinson, Executive Director of Finance

Martin Rosling, Non-Executive Director/Chair – Audit & Assurance Committee

Stephen Jackson, Head of Procurement

Excerpt from ‘Your statutory duties: A reference guide for NHS foundation trust governors’ August 2013

7.2 Appointing the auditor



Figure 6: Key stages for appointing the auditor

Trigger for action

The impending end of the existing auditor’s contract term will trigger a new appointment process, whether or not the existing auditor is seeking reappointment.

Governors also have the power to remove an existing auditor and, in certain situations, an auditor can or should resign. In either event, governors will need to make a new appointment.

Agree process and establish criteria

The council of governors should take the lead in agreeing with the audit committee the criteria for appointing, reappointing or removing auditors. As with all appointments or reappointments, the procedure must be formal, rigorous and transparent.

The audit committee will run the process but the final decision on any appointment rests with the council of governors. Having established objective criteria, the audit committee should:

1. agree with the council of governors a clear process for nominating a new auditor or reappointing the existing one, including a timetable showing the deadline by which a new appointment should be made; and
2. prepare a specification defining the role and capabilities required, including the necessary qualifications, skills and experience, and agree the specification with any governors’ audit working group or similar.

Procurement process

The audit committee should run a formal procurement process to obtain the best candidate as fairly and transparently as possible. The process may vary depending on the NHS foundation trust’s particular procurement rules but it must be within procurement law. This is complex and the audit committee and the governors’ audit working group are likely to need legal advice before embarking on a procurement process.

Re-appointment

If the audit committee and the governors’ audit working group have followed a correct process and the existing auditor meets the appropriate criteria, then the existing auditor may appear on the shortlist of final candidates. The same criteria should be applied to all those that express an interest in becoming the auditor of the NHS foundation trust.

Shortlist

The audit committee should draw up a shortlist of at least two appointable candidates in conjunction with the governors’ audit working group.

Presentation by the audit committee

The audit committee and any governors’ audit working group should present to the council of governors:

- the procurement process they have followed;
- the results of the procurement process; and
- recommendations.

The recommendations should describe in full the shortlisted candidates and assess their relative strengths and weaknesses. The appointment must be based on merit and objective criteria. The committee should also recommend the preferred candidate and set terms of engagement for the external auditor.

How will the council of governors make a final decision?

The council of governors should then make a final decision in line with its statutory obligations. If the council of governors chooses to make an appointment, the audit committee will need to approve the auditor's terms of engagement. The council of governors and the audit committee should consider in particular how long the appointment should last.

Best practice is to appoint an auditor for a period which allows it to develop a strong understanding of the NHS foundation trust, normally three to five years (see "Who can be the auditor?" above).

Should the council of governors feel unable to make an appointment, for example, because it is unwilling to accept the audit committee's recommendations or believes the procurement process was flawed, then the audit committee and the governors' audit working group must set to work again at speed. The law requires the NHS foundation trust to have an auditor at all times, so they should adhere to the appointment timetable they will have drawn up at the start of the process. However, they may need to consider extending the incumbent auditor's contract to ensure that the trust is never without an auditor.

Next steps

In any event, the full process must be set out in the NHS foundation trust's annual report. In particular, if the council of governors does not accept the audit committee's recommendation, the board of directors should include in the annual report a statement from the audit committee explaining its recommendation and the reasons the council of governors took a different position.