

NEW Devon Clinical Commissioning Group

Final Internal Audit Report: Plymouth Integrated Commissioning Fund – Section 75 Framework Agreement and Financial Framework High Level Review

Report Reference: NEWDCCG02/19

December 2018

Distribution List (for action)

Ben Chilcott, Chief Finance Officer (Western Locality)
John Dowell, Chief Finance Officer

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AUDIT BACKGROUND, SCOPE AND OBJECTIVES

Background

In accordance with the 2018/19 Aligned Audit and Assurance Plan of NEW Devon Clinical Commissioning Group ('the CCG'), as approved by the Audit Committee in Common, a high level review of the CCG's Plymouth Integrated Commissioning Fund arrangements has been undertaken.

The fund was established on the 1st April 2015 and brings together budgets from NEW Devon CCG and Plymouth City Council (PCC) to facilitate the joint commissioning of services for health and social care. A Section 75 Framework Partnership Agreement (s75 Agreement) was drawn up on creation of the Integrated Commissioning Fund to set out the terms on which both parties agreed to collaborate, and to establish a framework through which the parties could secure, through the pooling of funds and aligned budgets, the future position of health and wellbeing services through lead or joint commissioning arrangements.

Supporting the s75 Agreement is a Financial Framework which sets out the general rules and scope for the management and expenditure of public sector funds originating from NHS and Local Government sources. It also makes provision for governance and accountability of:

- The Integrated Commissioning Fund.
- Authorities and responsibilities delegated from the partners.
- Financial planning and management responsibilities.
- Budgeting and budgetary control, including forecasting.¹

During 2014/15, a review of the Integrated Commissioning Fund s75 Agreement and associated Financial Framework was undertaken. This work was led by Devon Audit Partnership, Plymouth City Council's Internal Auditors. The recommendations arising from this work were in respect of actions required in preparation for, and prior to, creating the Integration Commissioning Fund.

Objectives and Scope of the Audit

The objective of this review was to assess the current s75 Agreement and the supporting Financial Framework to ensure that the documents have been fully completed, are up to date and have been approved and signed as required.

As part of agreeing the scope of work for this review, suitable assurances were provided by the Chief Finance Officer (Western Locality) that the recommendations arising from the audit undertaken in 2014/15 were addressed before the Fund was established. It was also highlighted that Integrated Commissioning Fund arrangements and the supporting agreement and framework have evolved and been updated since the audit was completed. We continue to attend the Finance and Assurance Review Group (FARG) meetings, the key governance group for the Integrated Commissioning Fund, and can confirm the further development of the suitable governance arrangements since the creation of the Fund in April 2015 in order to support the ongoing management on a day to day basis. As such, a formal follow-up of the recommendations arising from the 2014/15 work was not required as part of this review.

¹ Taken from the Financial Framework document

OVERALL CONCLUSION

The governance arrangements in place surrounding the s75 Agreement and the Financial Framework are clearly defined in the corresponding documents and are appropriately structured.

In respect of the robustness of the supporting s75 Agreement and the Financial Framework, we were advised that there is no jointly signed s75 Agreement in place, with copies of the original document from April 2015 being separately signed and held within each respective organisation. In partial mitigation, the recent update to the s75 Agreement resulted in a jointly signed covering letter detailing changes that had been made to the document. This also applies to the Financial Framework document for which we were unable to obtain a jointly signed and final version of the document.

We have highlighted within this report a number of areas in the Financial Framework which would benefit from updating during its imminent review to ensure that the document continues to be up to date and reflects current arrangements.

In order to better demonstrate robust governance arrangements and management of the Integrated Commissioning Fund we have recommended that both parties hold a jointly signed copy of the s75 Agreement and Financial Framework.

SUMMARY OF FINDINGS

A summary of our assessment of each area covered by this review is set out below. Our assessment used the following key:

Each finding has an associated individual rating. This is intended to be an indicator of the outcome of our evaluation of the design or operation of the process that is in place to manage the function or task being reviewed

These indicators are separate from the audit report's overall "single assurance opinion" or the "rating of audit recommendations," both of which are based on a broader evaluation of the system and are explained within the Audit Report Information section on the final page of this report.

Rating



Description

Processes are appropriately designed and appear to be operating well. Any areas for improvement that were identified are not significant and are unlikely to reoccur.

Controls and arrangements are generally appropriately designed working well but we have identified areas where these arrangements should be further strengthened. We do not have significant concerns regarding this area and any issues that were identified are unlikely to reoccur if properly managed.

Urgent action is needed to address weaknesses in the processes which are in place to manage the task or function. We have significant concerns regarding this area and consider that issues may arise or reoccur.

Area Reviewed	Rating	Comments
Integration Fund Governance Arrangements		<p>The Integrated Commissioning Fund has been in place now for three and a half years and the governance structure has changed since it was formed. The Integrated Commissioning Board, also known as the Plymouth Integrated Commissioning Board (PICB), which was established to provide oversight and leadership for the delivery of the integrated commissioning function, ceased to exist from July 2018 as it was considered that there was duplication in committees.</p> <p>The governance arrangements are clearly defined within the s75 Agreement, with the updated document now showing that the Western System Improvement Board replaces the former role of the PICB.</p>

The Finance and Assurance Review Group (FARG) has a responsibility to advise on the review of the s75 Agreement and the Financial Framework documents. These arrangements are considered appropriate and should, if followed, ensure that there is suitable oversight and control over the Integrated Commissioning Fund.

Area Reviewed	Rating	Comments
Review of the Section 75 Framework Agreement		<p>The s75 Agreement is in a standard format and is an ongoing agreement which remains in place until such time as one or both parties wishes to withdraw from the arrangement. We requested a copy of the original s75 Agreement signed by the CCG and Plymouth City Council from the CCG. We were subsequently advised that there was no jointly signed, dated and sealed s75 Agreement, only two separate copies of the Agreement each held by the respective organisations and solely signed by that organisation.</p> <p>The Agreement has been reviewed and updated during 2018 through the FARG and its associated Joint Technical Working Group.</p> <p>A document entitled 'Review of the Section 75 Partnership Agreement', detailing the most recent changes to the s75 Agreement, was signed and dated in October 2018 by the CCG's Chief Finance Officer and by a nominated Council member (undated), in support of the updated s75 Agreement. Updated financial figures for 2018/19 for the Better Care Fund have been included within the revised unsigned s75 Agreement and within the update review document. Also included within the review document are the 2018/19 Integrated Commissioning Fund budget contributions from both the CCG and Plymouth City Council.</p> <p>Legal advice received by the Joint Technical Working Group for the FARG in March/April 2017 indicated that if each party to the agreement produced a letter confirming they were still committed to the fund that would be sufficient to refresh the s75 Agreement.</p> <p>As there is no original jointly signed and sealed s75 Agreement in place we recommend that the newly updated s75 Agreement is formally signed, dated, sealed and an original copy held by both parties, together with the original 2015 version of the Agreement. This will demonstrate more robust governance and management of the Integrated Commissioning Fund and reduce the risk of the terms of the Agreement not being complied with should any issues or disputes arise in the future.</p>
Area Reviewed	Rating	Comments
Review of the Financial Framework		<p>The Financial Framework is the key governance document supporting the s75 Agreement for the Integrated Commissioning Fund and was drawn up to describe the ground rules for making and approving financial decisions relating to the Fund.</p> <p>We obtained the latest version of the Financial Framework (v1.0) to establish whether:</p> <ul style="list-style-type: none"> • The Framework has been reviewed on a regular basis. • It is robust and contains relevant and current information. • It has been approved through the appropriate channels.

The Framework is a detailed document which clearly sets out how the Fund should be managed from a financial perspective. It sufficiently covers the following key areas:

- Scope of the Financial Framework.
- Responsibilities of organisations and individuals.
- Statutory Reporting Requirements.
- Budget Setting.
- Risk Sharing Framework.
- Managing the transactions of the Integrated Commissioning Fund.
- Managing Financial Performance.

Key areas where the Framework could be further strengthened and/or clarified are summarised as follows:

- V1.0 is the latest version but remains in draft form according to its title, with the last update being undertaken in January 2017.
- The document indicates that it requires signing by the Chief Finance Officer (Western Locality) for the CCG and the Head of Integrated Finance for PCC, however the copy we were provided with was unsigned and it is unclear if there is a signed copy.
- The document contains references to years and values which are now out of date and it also refers to the PICB which has now been replaced by the Western System Improvement Board (WSIB), as indicated by the revised s75 Agreement.
- Additional sections have been added to v1.0 of the Framework, most notably examples around how the risk share agreement would work given different scenarios. The examples used refer back to 2014/15 however and would therefore benefit from a refresh.

We were unable to establish the following:

- Whether a signed copy of the Financial Framework exists.
- The approval route for v1.0 of the Financial Framework. This is not set out in the Framework's Document Control Table and minutes of the Plymouth Integrated Commissioning Board (PICB) for the period January to May 2017 did not indicate that the amendments had been taken to the PICB Board for approval, as per the requirements of the Financial Framework.

We understand that the Framework is next due for review by the FARG in December 2018.

To improve clarity and reduce the risk of the Framework not being complied by all parties, the CCG should ensure that the document contains up to date information, reflects current working practice and, if required, is signed by both parties.

A signed copy of the revised document should then be readily accessible within the CCG for ease of reference if needed. Where possible we would suggest not including reference to specific years within the document itself as the requirement for review is now 'as necessary' and should this not be done on an annual basis the document may appear to contain out of date references. Further detailed observations from our review of the Framework are set out at **Appendix A** of this report. These observations should be used to inform the forthcoming review of the Framework by the FARG.

We have raised two recommendations to address the above findings, as detailed in the Action Plan on page 7 of this report.

We would like to acknowledge the help and assistance given by the Finance Team during the course of this review.

RATING OF RECOMMENDATIONS

Recommendations raised in this report have been rated in accordance with the CCG's risk scoring matrix.



Jenny McCall, Director of Audit

REPORT DATA

Date Work Undertaken	October/November 2018
Date of Issue of Draft Report	14 December 2018
Date of Return of Draft Report	17 December 2018
Date of Approval by Director	17 December 2018 (Ben Chilcott)
Date of Approval of Final Report	19 December 2018
Lead Auditor	Angela Tucker, Audit Manager
Client Lead Manager(s)	Ben Chilcott, CFO (Western)
Client Lead Director	John Dowell, CFO
Governance/Regulatory Links	S75 Health & Social Care Act 2006

Rec No	Recommendation	Risk Rating	Management Response	Manager Responsible	Action Date
1	Given there was no original jointly signed, sealed and dated s75 Agreement at the formation of the Integrated Commissioning Fund, this should be rectified using the revised s75 Agreement. Both partner organisations should then hold a fully signed document for future reference.	Medium Risk	Agreed, to be actioned during January 2019	Ben Chilcott Chief Finance Officer (Western Locality) David Northey Head of Integrated Finance – Plymouth City Council	31/01/19
2	The Financial Framework, which supports the s75 Agreement for the Integrated Commissioning Fund, should be reviewed and updated to ensure that it: <ul style="list-style-type: none"> Reflects current working practice. Does not contain out of date information such as the existence of the Plymouth Integrated Commissioning Board and references to previous years. Clearly details the approval route of any future amendments made to the document. <p>A fully signed copy of the revised document should be readily accessible within the CCG for ease of reference if required.</p>	Medium Risk	Agreed, to be actioned during January 2019	Ben Chilcott Chief Finance Officer (Western Locality) David Northey Head of Integrated Finance – Plymouth City Council	31/01/19

Review of Draftv1.0 – Financial Framework – Last updated 26th January 2017

Section	Title/Reference	Comment
Table of Contents	Section C – Sign Off - incomplete	If this section is required, then it should be completed in full.
	Section D – Executive Summary	This section is not included within the document and therefore needs removing.
	Sections 1, 3, 6, 21, 24, 25, 27, 31, 33 – all missing	These sections need to be included.
1.5/2.1/3 etc	References the Plymouth Integrated Commissioning Board	This and all references to the (Plymouth) Integrated Commissioning Board (ICB) will need updating as the Board no longer exists.
5 & 6 & 7	Objectives of the Partners and of the Integrated Commissioning Board (5) Objectives of the Integrated Commissioning Board (6) Objectives and targets of the integrated commissioning function (7)	Clarification on the headings may be of benefit as the headings, particularly (5) and (6). Given the ICB no longer exists (6) presumably this will now need to be the Western System Improvement Board (WSIB), in line with the recently updated s75 Agreement, unless this section (6) is no longer required.
9.3	Responsibilities of Partner organisations' leadership	Are these individuals documented anywhere so there is a record of who can act in those capacities eg who has the 'Authorised Officer' role re s75 for each organisation?
10.1	Reference to Authorised Officer signing approval of changes to s75 agreement. 10.1.3 states the AO must be a member of the ICB (now WSIB)	Chief Finance Officer for the CCG signed off the last s75 'Review of s75 Agreement' update document – clarification required as to whether the CFO is the Authorised Officer and a member of the WSIB (previously PICB).
12.3	Interim Pool Fund Manager	This subsection will need updating as it references 17/18 only and an interim role.
16	Better Care Fund	This will not have been updated for 2018/19 – we would suggest removal of specific values to eliminate need for continual update.
16.4	Reference to BCF Policy Framework, December 2014	This needs to be updated to reflect latest guidance document.
16.12/14	iBCF - We will.... / our	The use of 'we' is not in line with more formal language in the rest of the document.
16.13	iBCF – responsibility for reporting lies with LA	There is now a joint quarterly return so this section may need to be updated to reflect the change.
16.13	Table beneath	This does not seem to fit in with any specific narrative above or below the table. Is it still needed?

Section	Title/Reference	Comment
17	Budget figures and/or reference to years	This will need updating where relevant. If this document no longer requires annual update see section 2.1 we suggest not referencing years and/or budget figures as suggested above for line 16.
21	Local Counter Fraud and Security Management Services	These are two separate services now so this will need to be reflected in the title ie not LCFSMS. NHS Protect is now known as NHS Counter Fraud Authority, this will need updating. Security Management Services – separate wording is required. The CCG has a separate contract with Audit South West to cover this. Arrangements within PCC are not known.
31	Treatment of historical overspends	Spacing – this needs separating from section 30.
41	Financial Risk Framework: Risk Cap Model	This section needs updating as examples reference 2014/15 still. (Note- the copy of the document to be reviewed at FARG in 2018/19 has already removed this whole section).
44.6	Local Operating Rules	Is this still current or does it need updating.
54.1.1	Reference to NHS Litigation	This will need updating to NHS Resolution.
55.1	Reference to 2015/16 in bullet point 2	This will need to be updated or removed.

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INHERENT LIMITATIONS OF THE REVIEW

There are inherent limitations as to what can be achieved by systems of internal control and consequently limitations to the conclusions that can be drawn from this review. These limitations include the possibility of faulty judgment in decision-making, of breakdowns because of human error, of control activities being circumvented by the collusion of two or more people and of management overriding controls. Also there is no certainty that controls will continue to operate effectively in future periods or that the controls will mitigate all significant risks which may arise in future. Accordingly, unless specifically stated, we express no opinion about the adequacy of the systems of internal control to mitigate unidentified future risk.

RATING OF RECOMMENDATIONS

The recommendations in this report are rated according to the organisation's risk-scoring matrix. The recommendations have been arrived at by assessing the risk in relation to the organisation as a whole. This should enable recommendations made in different reports to be compared when deciding the priority and level of risk faced by the organisation.