Wednesday 9th November 2016

Via Email

To: NHS Trust Finance Directors and Audit Committee Chairs

Dear Colleague,

Local appointment of auditors to NHS trusts by 31 December

Under the provisions of the Local Audit and Accountability Act 2014 (“2014 Act”), NHS trusts will appoint their own external auditors for the first time from the 2017/18 financial year. This is an important opportunity and responsibility for NHS trusts.

The 2014 Act requires\(^1\) that NHS trusts must appoint their external auditor for the 2017/18 financial year by 31 December 2016 and must notify NHS Improvement (exercising the legal responsibility of the NHS Trust Development Authority) by that date\(^2\) if they fail to do so. Given this is a legal duty of NHS trusts we would consider the failure to appoint an external auditor by 31 December to be a failing in governance, unless there are exceptional circumstances. Any trust which considers that it may be in this position must engage with us as soon as possible, and in any case well in advance of 31 December.

Most NHS trusts should be well advanced in their procurement process by now, but we understand that a sizeable minority remain in the early stages. The Department of Health published guidance\(^3\) for NHS trusts earlier in the year and this will be an essential source of reference. NHS Improvement has some practical advice in applying this guidance: this is contained in the annex to this letter.

We recently met with external audit firms who provided their feedback on NHS trust and CCG audit appointments so far. Based on their comments, if you are still in the process of appointing your auditor please be mindful of the following points:

- Ensure that you have a clear timetable for the procurement exercise.
- Ensure that the documentation issued for the procurement process is reviewed at the right level in the organisation before being released. Audit firms have reported many examples of poor procurement documentation, including bodies using an internal audit specification to procure their external auditors.

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1. Section 7(1)
2. Schedule 13, paragraph 9(1)

NHS Improvement is the operational name for the organisation that brings together Monitor, NHS Trust Development Authority, Patient Safety, the National Reporting and Learning System, the Advancing Change team and the Intensive Support Teams.
Ensure that the tender document and any subsequent process asks the right questions that will enable you to differentiate between firms. Make sure you are able to assess the value of what each firm offers: this may not simply be a matter of price.

Ensure that you engage in proper procurement practices: for example ensuring confidentiality in the process and appropriate conflicts checks.

Ensure that the membership of the auditor panel includes sufficiently experienced individuals.

Talk to other NHS trusts, foundation trusts and CCGs to share good practice or learn from their experience.

A professional procurement process is important. There are legal standards to adhere to, but it also reflects on the organisation’s credibility and its relationship with its auditors. Some of the examples reported to us suggest that audit chairs and senior finance team members have not been sufficiently involved in the procurement process to ensure a high quality exercise is run. Please ensure that you have sufficient oversight of the process for your trust.

We need to ensure that NHS trusts fulfil their responsibilities by 31 December 2016. You will notice that we are asking for some additional information in our month 7 monitoring form so that we can assess the sector’s progress. Please complete this as accurately as you can.

If you have any queries please refer to the guidance issued by the Department of Health in the first instance. For any further enquiries please contact our team at NHSI.TFMSqueries@nhs.net.

Please ensure this letter is shared with your audit committee chair.

Yours faithfully

Robert Alexander
Executive Director of Resources
NHS Improvement

Richard Douglas
Chair of Audit and Risk Assurance Committee
NHS Improvement
Annex: Applying the Department of Health's external audit procurement guidance

If you are still in the early stages of your procurement process we encourage you to read the Department of Health’s guidance referred to in our letter. In applying this to NHS trusts, please also consider:

- Paragraph 2 of the document sets out the potential procurement routes, but please note that these are not necessarily in the order in which they should be considered. We believe it is unlikely that NHS trusts would need to issue an Official Journal of the European Union (OJEU) procurement notice for their external audit as there are suitable framework agreements already in place through which to appoint external auditors.

- Paragraph 4.11 onwards give guidance on the use of framework agreements. We think this is likely to be the best procurement route for the majority of NHS trusts.

- Paragraph 4.17 implies that audit services will be provided based on agreed rates under the framework agreement. We believe in many examples this will not be the case. External audit services are not always allocated to individual rates in this way, but if they are the ‘rates’ are likely to be lower than the maximum permissible rates under the framework agreement.

- Paragraph 4.18 onwards gives guidance on direct contract award. NHS trusts should exercise extreme care if this route is taken, and in particular must ensure proper procurement standards and internal standing financial instructions are followed. However this may be the right answer in some circumstances, particularly where there is uncertainty over the medium term future of the organisational form. Any appointments under this route should be time limited. In most cases we would expect any such appointments to be no longer than 12 months in duration.