



Audit and Risk Committee Terms of Reference

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Relevant documentation to read in conjunction:	Governance Manual and appendices Conflicts of Interest Policy Fit & Proper Persons SOP Risk Policy, Risk Strategy and SOP

Audit and Risk Committee

Terms of Reference

1. Constitution

- 1.1. The Audit and Risk Committee (the ARC) has been convened under the authority of the Board of Directors (a Tier 1 Governance meeting of Torbay and South Devon NHS Foundation Trust (the “Trust”)); to whom the the ARC shall remain accountable.
- 1.2. The Board of Directors retain the authority to disband ARC at any time in the best interests of the Trust.
- 1.3. This is a Tier1 governance meeting in accordance with the Trust’s governance framework.
- 1.4. ARC will adhere to, and be cognisant of the Trust values at all times.
- 1.5. These Terms of Reference shall be published on the Trust’s intranet and public website.

2. Powers

- 2.1. In accordance with the delegated authority outlined above, the ARC is authorised to seek any information it requires from any member of staff, who shall be under a positive obligation to co-operate with any request made by the ARC.
- 2.2. The Committee is authorised by the board to obtain outside legal or other independent professional advice
- 2.3. The ARC may request the attendance of individuals and authorities from outside the Trust with relevant experience and expertise if it considers this necessary in the best interests of the Trust.
- 2.4. The ARC derives its power from the Board of Directors and has no powers, other than those specifically delegated in these terms of reference.

3. Purpose

- 3.1. The purpose of the ARC is to have primary responsibility for reviewing the effectiveness of the framework in place for the identification and management of risks and associated controls, corporate governance and assurance frameworks.
- 3.2. The ARC will have close working relationships with the Quality and People Committee which has responsibility for oversight and monitoring of clinical risks.
- 3.3. The ARC will have a working relationship and due regard with respect to the Integrated Care System’s oversight and assurance mechanisms.
- 3.4. The ARC shall provide the Board of Directors with a means of independent and objective review of financial and corporate governance, assurance processes and risk management across the whole of the Foundation Trust's activities (including any subsidiary companies of the Trust) both generally and in support of the statement of internal control. In addition the ARC shall:
 - 3.4.1. Ensure independence of external and internal audit;
 - 3.4.2. Ensure that appropriate standards are set and compliance with them is monitored, in all areas that fall within the remit of the ARC; and

- 3.4.3. Monitor corporate governance (e.g. compliance with terms of licence, constitution, codes of conduct, standing orders, standing financial instructions, maintenance of registers of interests).
- 3.5. The duties of the ARC will be driven by the Trust's objectives and the associated risks. An annual programme of business will be agreed before the start of the financial year; however this will be flexible to new and emerging priorities and risks.
- 3.6. The ARC will promote local level responsibility and accountability.

4. Duties and Responsibilities

- 4.1 The duties of the ARC are to receive thematic reports and provide an assurance report to the Board, in the prescribed form and using the assurance methodology prescribed by the Trust, as issued from time to time (including but not limited to the Board Assurance Framework), as relates to the Committees purpose: In addition to the duties specified herein, the ARC shall have oversight of:
 - 4.1.1 Compliance with legal, regulatory, and national standards; and
 - 4.1.2 Receive necessary or desirable (statutory, regulatory or other) reports, aligned to the Committee's purpose, on behalf of the Board of Directors; and
 - 4.1.3 Alignment with the relevant overarching NHS policy, procedure or guidance as pertains to those matters aligned to the Committees purpose.

Governance, risk management and internal control

- 4.2 The ARC shall review the adequacy and effectiveness of an effective system of governance, risk management and internal control, across the whole of the organisation's activities (both clinical and non-clinical), that supports the achievement of the organisations objectives. In particular, the ARC will review the adequacy and effectiveness of:
 - 4.2.1 All risk and control related disclosures statements, together with any accompanying Head of Internal Audit opinion, external audit opinion or other appropriate independent assurances, prior to submission to the Board and/or the Council of Governors.
 - 4.2.2 Statements within the quality account.
 - 4.2.3 External audit assurance of the quality account (if applicable).
 - 4.2.4 The underlying assurance processes that indicate the degree of achievement of the Trust's objectives, the effectiveness of the management of principal risks, the appropriateness of the above disclosure statements; and the adequacy and effectiveness of risk appetite/risk appetite governance.
 - 4.2.5 The policies for ensuring compliance with relevant regulatory, legal and code of conduct requirements and related reporting; as well as receiving reports on upcoming legal and regulatory requirements.
 - 4.2.6 The policies and procedures for all work related to fraud and corruption as required by NHS Counter Fraud Authority.

- 4.3 In carrying out this work the ARC will primarily utilise the work of internal audit, external audit and other assurance functions, but will not be limited to these sources. It will also seek reports and assurances from directors and managers as appropriate, concentrating on the over-arching systems of governance, risk management and internal control, together with indicators of their effectiveness.
- 4.4 This will be evidenced through the ARC's use of an effective Board Assurance Framework to guide its work and that of the audit and assurance functions that report to it.
- 4.5 As part of its approach, the ARC will have effective relationships with other committees so that it understands processes and linkages. However, these other committees must not usurp the ARC's role.

Internal Audit

- 4.6 The ARC shall ensure that there is an effective internal audit function that meets the Public Sector Internal Audit Standards as issued from time to time and provides appropriate independent assurance to the ARC, Chief Executive (as Accountable Officer) and the Board. This will be achieved by:
 - 4.6.1 Considering the provision of the internal audit service, the costs involved and any questions of resignation and dismissal.
 - 4.6.2 Reviewing and approving the annual internal audit workplan and more detailed programme of work, ensuring that this is consistent with the audit needs of the organisation as identified in the Board Assurance Framework.
 - 4.6.3 Considering the major findings of internal audit work (and management's response) and ensuring co-ordination between the internal and external auditors to optimise the use of audit resources.
 - 4.6.4 Ensuring that the internal audit function is adequately resourced and has appropriate experience and standing within the organisation.
 - 4.6.5 Overseeing the continued independence of the internal auditor.
 - 4.6.6 Monitoring the effectiveness of internal audit and carrying out an annual review.

External Audit (Statutory Audit)

- 4.7 The ARC shall review and monitor the external auditors' independence and objectivity and the effectiveness of the audit process. In particular, the ARC will review the work and findings of the external auditors and consider the implications and management's responses to their work. This will be achieved by:
 - 4.7.1 Considering the appointment and performance of the external auditors, as far as the rules governing the appointment permit (and make recommendations to the Board and/or Council of Governors when appropriate).
 - 4.7.2 Discussing and agreeing with the external auditors, before the audit commences, the nature and scope of the audit as set out in the annual plan.

- 4.7.3 Discussing with the external auditors their evaluation of audit risks and assessment of the Trust and associated impact on the audit fee.
- 4.7.4 Reviewing all external audit reports, including the report to those charged with governance, (before submission to the Board and/or the Council of Governors) and any work undertaken outside the annual audit plan, together with the appropriateness of management responses.
- 4.7.5 Ensuring that there is in place a clear policy for the engagement of external auditors.

Other Assurance Functions

- 4.8 The ARC shall review the findings of other significant assurance functions, both internal and external, and consider the risk implications for the governance of the Trust, including its subsidiaries.
- 4.9 These may include, but will not be limited to, any reviews by Department of Health and Social Care arms-length bodies or Regulators / Inspectors (eg Care Quality Commission, NHS Resolution Scheme etc), and professional bodies with responsibility for the performance of staff or functions (eg Royal Colleges, accreditation bodies etc).
- 4.10 The ARC will review the adequacy of the clinical audit function.
- 4.11 In addition, the ARC will review the work of other committees within the organisation, whose work can provide relevant assurance to the ARC's own areas of responsibility. This will particularly include the Trust's Quality and People Committee, Board Committees and any other risk management and assurance committees or ARCs that are established.
- 4.12 The committee will report to the board at least annually on its work in support of the annual governance statement, specifically commenting on the:
 - 4.12.1 fitness for purpose of the assurance framework
 - 4.12.2 completeness and 'embeddedness' of risk management in the organisation
 - 4.12.3 effectiveness of governance arrangements
 - 4.12.4 appropriateness of the evidence that shows that the organisation is fulfilling regulatory requirements relating to its existence as a functioning business.
- 4.13 This annual report should also describe how the committee has fulfilled its terms of reference and give details of any significant issues that the committee considered in relation to the financial statements and how they were addressed.

Counter Fraud

- 4.14 The ARC shall satisfy itself that the organisation has adequate arrangements in place for counter fraud, bribery and corruption that meet NHS Counter Fraud Authority standards and shall review the outcomes of work in these areas.
- 4.15 With regards to the local counter fraud specialist it will review, approve and monitor counter fraud work plans, receiving regular updates on counter

fraud activity, monitor the implementation of action plans and discuss NHSCFA quality assessment reports.

- 4.16 The ARC will refer any suspicions of fraud, bribery and corruption to the NHS Counter Fraud Authority.

Management

- 4.17 The ARC shall request and review reports, evidence and assurances from directors and managers on the overall management of governance, risk and internal control.
- 4.18 To receive reports on breaches of policy, procedure or proceedings, including, for example, suspensions of the Trust's Standing Orders, in order to provide assurance in relation to the appropriateness of decisions and to derive future learning.

Financial Reporting

- 4.19 The ARC shall monitor the integrity of the financial statements of the Trust and any formal announcements relating to the Trust's financial performance.
- 4.20 The ARC should ensure that the systems for financial reporting to the Trust, including those of budgetary control, are subject to review as to completeness and accuracy of the information provided.
- 4.21 The ARC shall review the annual report and financial statements before submission to the Trust, focusing particularly on:
- 4.21.1 The wording in governance disclosures and other disclosures relevant to the Terms of Reference of the ARC.
 - 4.21.2 Changes in, and compliance with, accounting policies, practices and estimation technique.
 - 4.21.3 Unadjusted misstatements in the financial statements.
 - 4.21.4 Significant judgements in preparation of the financial statements.
 - 4.21.5 Significant adjustments resulting from the audit.
 - 4.21.6 Letter of representation.
 - 4.21.7 Explanations for significant variances.

Information Governance (IG)

- 4.22 To gain assurance in respect of the Trust's IG arrangements, the ARC will:
- 4.22.1 receive regular updates on IG compliance (including uptake and completion of data security training), data breaches and any related issues and risks.
 - 4.22.2 review the annual Senior Information Risk Owner (SIRO) report, the submission for the Data Security and Protection Toolkit and relevant reports and action plans.
 - 4.22.3 receive reports on audits to assess information and IT security arrangements, including the annual Data Security and Protection Toolkit.
 - 4.22.4 provide assurance to the Board that there is an effective framework in place for the management of risks associated with information governance.

Cyber Security and Digital Resilience

4.23 To gain assurance in respect of the Trust's Cyber Security and Digital Resilience arrangements, the ARC will:

- 4.23.1 Incident Response and Resilience: Seek assurance as to the resilience of digital services, including defending against and recovering from external threats and reviewing incidents to ensure continuous improvement and safeguard future occurrences.
- 4.23.2 Providing regular reports or a highlight report to the Trust Board on cyber security matters, significant issues, and the committee's work.
- 4.23.3 Review and recommend the organisation's digital, data, and technology strategies, and ensuring robust and effective cyber security policies are in place and aligned with national standards.

Systems for raising concerns

4.24 The ARC shall review the effectiveness of the arrangements in place for allowing staff to raise (in confidence) concerns about possible improprieties in financial, clinical or safety matters and ensure that any such concerns are investigated proportionately and independently through the Trust's procedures; including but not limited to: Whistleblowing, Freedom to Speak Up Guardian or Local Counter Fraud Specialist.

5. Membership and attendance

- 5.1 The ARC's membership shall reflect those individuals outlined in Appendix 1.
- 5.2 Other staff may be invited by the Chair to attend all or part of any meeting.
- 5.3 If any member of the ARC has been disqualified from participating on an item on the agenda, by reason of a declaration of a conflict of interest, then that individual shall no longer count towards the quorum.
- 5.4 Members will possess between them knowledge, skills and experience in: accounting, risk, management, internal, external audit; and technical or specialist issues pertinent to the Trust's business. When determining the membership of the ARC, active consideration will be made to diversity and equality.
- 5.5 The Chair will be appointed by the Board on account of their specific knowledge, skills and experience making them suitable to chair the ARC.
- 5.6 The Chair of the ARC shall be independent and therefore may not chair any other committees.
- 5.7 Regardless of attendance, External Audit, Internal Audit, Local Counter Fraud and Security Management will have full and unrestricted rights of access to the ARC and its Chair.
- 5.8 The Chief Executive (in their capacity as Accounting Officer for the Trust) shall be invited to attend meetings. They should also attend when the ARC considers the annual report and accounts.
- 5.9 Other executive directors/managers should be invited to attend, particularly when the ARC is discussing areas of risk or operation that are the responsibility of that director/manager.

- 5.10 Representatives from other organisations (for example, NHS Counter Fraud Authority) and other individuals may be invited to attend on occasion.
- 5.11 At least once a year the ARC should meet privately with the external and internal auditors.
- 5.12 Members unable to attend an ARC meeting should inform the Secretary to the ARC as soon as possible in advance of the meeting, except in extenuating circumstances.
- 5.13 Unless otherwise determined by the Chairman, the duration of appointments to this ARC shall be for a continuous term, with annual review; for the avoidance of doubt, no member may continue to attend following the completion of their Non-Executive or Executive role at the Trust.
- 5.14 Governor and Devon ICS representatives may be invited to attend as observers.

6. Attendance

- 6.1 A register of attendance will be maintained and the Chair of the ARC will follow up any issues related to the unexplained non-attendance of members. Should continuing non-attendance of a member jeopardise the functioning of the ARC, the Chair will discuss the matter with the member and, if necessary, select a substitute or replacement in collaboration with the Trust Chair and noting that the Board of Directors must approve changes to these Terms of Reference.

7 Administration

- 7.1 The ARC shall be supported by a nominated Secretary whose duties in this respect will include:
 - 7.1.1 In consultation with the Chair, develop and maintain an annual reporting schedule to the ARC;
 - 7.1.2 Collation of papers and drafting of the agenda for agreement by the Chair of the ARC;
 - 7.1.3 Taking the notes of the meeting and keeping a record of matters arising and issues to be carried forward;
 - 7.1.4 Advising on scheduled agenda items;
 - 7.1.5 Agreeing and circulating the action schedule following each meeting;
 - 7.1.6 Maintaining a record of attendance.

8. Meetings

- 8.1 Meetings will be held on the following basis:
 - 8.1.1 Meetings will be held at least on a quarterly basis.
 - 8.1.2 In the absence of the Chair, a Non-Executive Director shall be nominated to act as Chair;
 - 8.1.3 Items for the agenda must be sent to the meeting administrator a minimum of 5 days prior to the meeting: urgent items may be raised under another business;
 - 8.1.4 The agenda will be sent out 5 days prior to the meeting date, together with the action schedule and other associated papers;

8.1.5 An action schedule will be circulated to members following each meeting and must be duly completed and returned to the meeting administrator for circulation with the following meeting's agenda and associated papers.

8.2 Notwithstanding the above, a meeting may be duly convened at short notice by the Secretary, at the request of the Chair, to meet Trust requirements; in such event provisions 8.1.3 – 5 may be disapplied.

9. Reporting

9.1 The ARC will provide a report in the form of a prescribed template to the Board of Directors to demonstrate that the work undertaken fulfills the purpose for which the ARC was constituted.

9.2 The ARC will receive reports as per the meeting work plan.

10. Quorum

10.1 The quorum necessary for the transaction of business shall be 3 Non-Executive members .

10.2 A duly convened meeting at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the ARC.

10.3 Deputies will not count towards the quorum.

11. Review

11.1 The Terms of Reference shall be reviewed on an annual basis and ratified by the Board of Directors.

12. Monitoring Effectiveness

12.1 In order that the ARC can be assured that it is operating effectively in discharging its responsibilities at set out in these terms of reference and, if necessary, to recommend any changes to the Terms of Reference, the Chair will ensure that once a year a review of the following is undertaken and reported to the next meeting of the ARC.

12.2 The purpose and duties, as prescribed above, were fulfilled.

12.3 Appropriate level of attendance by members to ensure effective meetings was achieved.

Appendix 1
MEMBERS AND ATTENDEES

Membership
Non-Executive Chair of this Committee
Finance and Operations Committee Chair or representative
Quality and People Committee Chair or representative
Liz Edwards-Smith
Attendance
Director of Corporate Governance & Trust Secretary
Chief Finance Officer
Chief Nursing Officer
External Audit Representatives
Internal Audit Representatives
Counter Fraud Specialist