

<b>Meeting: Governing Body (Meeting in Public)</b>			
<b>Meeting Date</b>	22 May 2019	<b>Action</b>	Receive
<b>Item No.</b>	5	<b>Confidential</b>	No
<b>Title</b>	Recommendations for Good Governance following the Independent Review of the Altrincham Hub Scheme and report		
<b>Presented By</b>	Geoff Little, Accountable Officer		
<b>Author</b>	Geoff Little, Accountable Officer		
<b>Clinical Lead</b>	-		

<b>Executive Summary</b>
<p>The Greater Manchester Health and Social Care Partnership recently published the outcome of the independent review into the Altrincham Hub development including the governance of decisions made by the CCG. The review was commissioned under the responsibilities delegated to the Chief Officer of the Greater Manchester Health and Social Care Partnership to ensure all Greater Manchester CCGs discharge their functions appropriately.</p> <p>Although the review was focused specifically on the Altrincham Hub, the recommendations highlighted a number of actions that relate to the whole of Greater Manchester focused on ensuring similar issues do not arise in future. The report is attached (Appendix 1) and CCGs have been asked to read this carefully to absorb the lessons learned, consider the recommendations in light of current and future development projects and discuss with their respective Governing Bodies.</p>
<b>Recommendations</b>
<p>The Governing Body considered whether: -</p> <ul style="list-style-type: none"> <li>• Appropriate training is being provided in relation to the Nolan principles and those contained in the Standards for members of NHS boards and Clinical Commissioning Group governing bodies in England as outlined in Appendix 2 of the report.</li> <li>• Appropriate due diligence is being applied during procurement processes particularly in relation to potential suppliers being appointed without a competitive process.</li> <li>• Commercial and legal advice is being obtained and followed in relation to all developments.</li> <li>• Risks of legal challenge have been considered and mitigated.</li> </ul>

<b>Links to CCG Strategic Objectives</b>	
To encourage people so that they want to, and do, take responsibility for their own health and well-being.	<input type="checkbox"/>

To drive and support system wide transformation.	<input type="checkbox"/>
To commission joined-up health and social care for people in Bury through a Single Commissioning Framework.	<input type="checkbox"/>
To achieve financial sustainability for the Bury health and social care economy.	<input type="checkbox"/>
To support the Locality Care Alliance to deliver high quality services in line with commissioner intentions.	<input type="checkbox"/>
To be a high-performing, well-run and respected organisation with an empowered workforce	<input checked="" type="checkbox"/>
Does this report seek to address any of the risks included on the Governing Body Assurance Framework? If yes, state which risk below:	
GBAF [ <i>Insert Risk Number and Detail Here</i> ]	

Implications						
Are there any quality, safeguarding or patient experience implications?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Has any engagement (clinical, stakeholder or public/patient) been undertaken in relation to this report?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Have any departments/organisations who will be affected been consulted?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
< <i>If you have ticked yes, Insert details of the people you have worked with or consulted during the process :</i> Finance (insert job title) Commissioning (insert job title) Contracting (insert job title) Medicines Optimisation (insert job title) Clinical leads (insert job title) Quality (insert job title) Safeguarding (insert job title) Other (insert job title)>						
Are there any conflicts of interest arising from the proposal or decision being requested?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Are there any financial Implications?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Has an Equality, Privacy or Quality Impact Assessment been completed?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Is an Equality, Privacy or Quality Impact Assessment required?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Are there any associated risks including	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>

Conflicts of Interest?						
Are the risks on the CCG's risk register?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
<i>If you have ticked yes provide details here. If you are unsure seek advice from Lynne Byers, Email - <a href="mailto:lynnebyers@nhs.net">lynnebyers@nhs.net</a> about the risk register.</i>						

Governance and Reporting		
Meeting	Date	Outcome

# Trafford CCG

Independent review of the Altrincham Hub development

Commissioned by the Greater Manchester Health and  
Social Care Partnership

(Published)

6 March 2019

For release at 9am on Wednesday 6 March

## Disclaimer

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## 1. Introduction

### 1.1 This report

EY was commissioned by the Chief Officer of Greater Manchester Health and Social Care Partnership (GMHSCP) to undertake a review of the Trafford Clinical Commissioning Group (Trafford CCG) leadership and decision making leading up to the development known as the Altrincham Hub, as agreed in our contract dated 8 August 2018. The review was completed between 13th August 2018 and 12 November 2018. It was supported by 32 interviews with individuals from the CCG and external partners, and a review of in excess of 100 documents to understand the rationale and the decision-making for the process. In commissioning this review, the Chief Officer of GMHSCP, as an officer of NHS England, was using regulatory powers with regard to CCGs under the NHS Act 2006(as amended).

This report sets out our findings and recommendations for a number of bodies.

### 1.2 Background to this Review

In Greater Manchester, responsibility to ensure Trafford CCG is fulfilling its responsibilities and appropriately discharging its functions was delegated to the Chief Officer of GMHSCP, an officer of NHS England, from 1 April 2016. NHS England is the regulator of the CCG. Following recent changes in the leadership of Trafford CCG and Trafford Council, EY was commissioned by the GMHSCP to undertake this review as a result of a number of concerns that came to light in relation to the development known as the Altrincham Hub.

The Altrincham Hub was proposed as a multi-agency health provision and advisory service, as well as being home for three local GP surgeries at the instigation of Trafford CCG. Evidence provided by the CCG shows it was first conceived in September 2014, with the Final Business Case (FBC) approved in principle in May 2015. It was to be located on the site of the old Altrincham Hospital. City Branch Healthcare Ltd., a local developer who previously developed the new Altrincham Hospital in 2014/15, was chosen by Trafford CCG to develop the scheme. It owned the old Altrincham Hospital site, having taken ownership as part of the deal relating to the development of the new Altrincham Hospital.

The Hub was completed and handed over in October 2018. However, following the changes in the leadership of Trafford CCG and the implementation of temporary arrangements, a number of concerns in relation to the project were raised by a new member of the CCG's Governing Body.

Part of the ground floor has been sold off on a 125-year long lease to Trafford Council to operate a library, café and office space. Upon completion, the remainder of the space (the Medical Suite) will be let to NHS Property Services (NHSPS) under a 30-year lease structure. NHS Property Services will then in turn sub-let space to the GPs and other health care tenants. However, the CCG retain the financial risk of void space through the indemnity it agreed with NHSPS for the Medical Suite. Currently the CCG is seeking to secure occupiers and service providers in line with the original business case. This has left the CCG with a potential annual financial liability of over £2m.

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In addition to bearing significant financial risk in relation to the Hub, the CCG does not benefit from any potential reward, with overage (a sum to which named stakeholders may be entitled as part of a property transaction, contingent on the fulfilment of specific clauses or conditions – in this case, resulting from savings in construction costs and profit resulting from any sale of the freehold by Citybranch), being payable to NHSPS. We understand that an informal arrangement has been agreed, whereby NHSPS will use some of the overage to facilitate occupancy of the building. The CCG is working to formalise this arrangement.

In view of these events, and in order to gain clarity as to the circumstances that have led to this position, the Chief Officer of the Greater Manchester Health and Social Care Partnership, in his role as an Officer of NHS England with delegated authority to act, decided to commission an independent review into the Altrincham Hub project. The review has covered the period from inception of the project through to the present time and included an assessment of the decision-making processes and governance; the financial agreements and the subsequent leasing arrangements; the risk sharing arrangements and any issues of probity, regularity and control.

### **1.3 Terms of Reference (ToR) of this review**

Greater Manchester Health and Social Care Partnership set the terms of reference for this review:

- ▶ Understanding the rationale for the project, the needs, risks and issues-assessment and options appraisal, identifying the Altrincham Hub as the appropriate solution to the identified need.
- ▶ The robustness of the governance arrangements in place to oversee the project from inception to completion. The review will focus on the role of the CCG - its governing body, Strategic Estates Group, user groups and management. It will also consider the role of NHS England and NHS Property Services in so far that it is relevant to the governance of the CCG.
- ▶ The processes and procedures used within the CCG for making the decision to progress with the Altrincham Hub development. In particular the accuracy, reliability, timeliness and robustness of the information and evidence presented to the governing body to progress the scheme.
- ▶ Potential and realised conflicts of interest between parties involved in the project with specific consideration to the relationship and engagement between the developer (City Branch) and decision-makers within the CCG, from the inception of the project onwards.
- ▶ The reasoning behind progressing the development without a contractual commitment from proposed tenants.
- ▶ Understanding the appropriateness of the financial deal; how was the financial deal arrived at and the governance process within the CCG through which this deal was assessed and agreed, including any engagement with NHS England at this time.
- ▶ The nature and validity of the assumptions made in relation to the income generation, the agreement in respect of the distribution of surplus construction funding and income through potential tenancies.
- ▶ The appropriateness of the levels of risk and reward across the parties involved (Citybranch, Trafford CCG and NHS Property Services)

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- ▶ The reporting and accuracy of reporting on progress against original brief and deliverables to the governing body and whether programme and project changes were approved by the CCG prior to being implemented.

In addition, GMHSCP have asked us to comment on the governance arrangements over the approval of providing funding to relocate Park Medical Practice into a purpose-built facility located at the existing library site in Timperley village centre, given that some of the same parties were involved in this development and undertaken within the time frame of the rest of this report. Our commentary will cover the period from inception of the project through to August 2018 and will include

- ▶ the decision-making processes and governance
- ▶ the financial agreements for the relocation
- ▶ the risk sharing arrangements and any issues of probity, regularity and control.

## 1.4 Approach

We have:

- ▶ Reviewed documentation provided to us by the CCG, covering the period from the inception of the Hub through to present day, including but not limited to:
  - Outline Business Case (OBC)
  - Full Business Case (FBC)
  - Governing Body meeting minutes and accompanying papers
  - Sub-committee meeting minutes and accompanying papers
- ▶ Interviewed 32 individuals, including Board members and senior leaders within the CCG, as well as holding discussions with external stakeholders from the Local Authority, GP Practices, NHS England and GMHSCP.
- ▶ We also received a written submission from Citybranch in response to questions we raised with them.



## 1.5 Timeline of events considered in this review:

Event	Date
Meeting between members of the CCG leadership team and Local Area Team to discuss the redevelopment of the Old Hospital site into a Health and Wellbeing Hub. Evidence submitted by Citybranch suggests that the idea of establishing a hub on the Old Hospital Site could have been formulated in 2013.	September 2014
Trafford Integrated Estates Strategy is presented to the Governing Body, with two potential opportunities for Health and Wellbeing Hubs identified in Altrincham and Stretford	January 2015
NHSE Capital Pipeline Working Group met to discuss the Altrincham Hub	January 2015
NHSE initiated contact with the CCG querying the development	February 2015
OBC for Altrincham Hub presented to the Governing Body	February 2015
FBC presented to the Governing Body and approved in principle subject to eight caveats being addressed. This reported that no overage would be included in the lease terms.	May 2015
CCG responds to the queries raised by NHSE in February 2015	June 2015
NHSPS present a paper on the Altrincham Hub development to their Asset & Investment Committee who advised that NHSPS should take on the head lease.	July 2015
<p>COO states in a Governing Body update that a copy of the FBC has been provided to the NHSE Project Appraisal Unit.</p> <p>Renegotiated head lease terms approved by the CCG Governing Body and it is agreed that NHSPS will hold the held lease. Other changes to terms included lower annual rent and a 50:50 split of any overage between the developer and the holder of the head lease.</p> <p>The Governing Body are informed in the update paper that the eight caveats have been addressed.</p>	August 2015
Planning permission granted.	September 2015
Indemnity Deed signed by the CCG Chair and CFO, indemnifying NHSPS against any losses or liabilities arising from the healthcare element of the premises not being fully let.	January 2016

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Head lease arrangement review paper presented to the Governing Body. It is proposed that NHSPS take on the lease management with a flat charge of 5% for leasehold management fees, which the CCG would levy against the holders of the underleases, so as to not amend the CCG constitution.	
Project reported to the Governing Body as progressing to plan.	February 2016
CCG receives its 2015/16 Annual Assurance Statement from NHS England with a recommendation to consider the financial affordability of the Hub	June 2016
Reported to the Governing Body that construction on site had begun.	February 2017
<p>Altrincham Medical Practice withdraw from their previous intention to move to the Hub, stating they would no longer relocate.</p> <p>Governing Body informed again of the risk of financial exposure if services are not commissioned out of the Hub. The update states that an agreement is yet to be reached with NHSPS on plans, apportioning of responsibilities and terms of the underleases.</p> <p>Overage still reported as 50% belonging to the CCG, despite them having lost their contractual entitlement as they are not the legal tenant.</p>	October 2017
<p>Tenant User Group established by the CCG, including membership from each of the proposed tenants and NHSPS.</p> <p>Handover scheduled for August 2018. Terms of development entered into by NHSPS and Citybranch; however, any reference to achievement of building standards as 'Excellent' or 'Very Good' has been omitted.</p> <p>Underleases reported to the Governing Body as to be formally signed late Spring/ early Summer and that GP practices expected this to be 'cost neutral'.</p> <p>Governing Body members query whether the CCG would be responsible for underutilisation; this has been known since the Indemnity Deed was signed in January 2016.</p>	January 2018
Issues with on-site parking at Altrincham Hub identified and reported by management to the Governing Body in an update paper.	February 2018
Practical completion scheduled for September 2018	August 2018

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The Governing Body discussed the strategy for the building. One option discussed was converting it to commercial use. It was resolved that that a full options appraisal for the future use of the Altrincham Hub be presented to the September meeting.	August 2018
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Please note that the completeness, extent and quality of written documentation in relation to the project is limited, particularly that provided to the Governing Body for the period between August 2015 and October 2017. This is highlighted in our report below as a key theme. The information retained is insufficient to support the rationale behind a number of decisions taken and there is little evidence of appropriate challenge and oversight throughout the process.

Please also note that our review commenced in August 2018 and our fieldwork has considered evidence in the period September 2014 to August 2018. However, we have also included in the report statements made to us by current CCG leaders regarding events post August 2018 where this will provide a reader with greater understanding of the current situation regarding the hub. We have not sought to corroborate these statements through further interviews or documentation review.

## 2. Executive Summary

### 2.1 Context and Overview

The CCG is made up of 32 General Practices within the Trafford area of Greater Manchester. The CCG commissions a range of services, including urgent and emergency care, elective hospital care, community health services, maternity, and mental health services on behalf of the Trafford population.

With the launch of NHS Five Year Forward view, healthcare providers nationwide were encouraged to collaborate in moving to an integrated model of care in order to relieve the pressure on acute and emergency services. In January 2015, the Integrated Estates Development plan was presented to the Trafford CCG Governing Body during a Strategy Session. During the session, it was identified that improvements were required to primary, integrated and community care service facilities, premises and the environment in which patients receive care. As part of the changes proposed, implementation of four integrated health and wellbeing hubs in Trafford was discussed, with one in each of the four Trafford localities, including Altrincham.

The Altrincham Hub was proposed as a multi-agency health provision and advisory services, as well as being home to 3 local GP surgeries, a pharmacy, a call centre, and Pennine Care NHS Foundation Trust. Citybranch Healthcare Ltd., a local developer who previously developed the new Altrincham Hospital in 2014/15, was chosen by Trafford CCG to develop the scheme.

It appears that, following Citybranch's acquisition of the old Altrincham General site, a decision was taken around or prior to September 2015 to develop it into what would become the Altrincham Hub. This was stated by a number of interviewees and is supported by the existence of Outlook calendar invitation which were observed during fieldwork, as well as multiple representations that Citybranch were being introduced to key stakeholders as "the developer" around this time.

In January 2015 the Trafford Integrated Estates Strategy was presented to the Governing Body, which included the opportunity to develop the old hospital site into a Health and Wellbeing Hub. Around this time (February 2015) the proposals for the Hub were also reviewed by the NHSE Capital Pipeline Working Group (who NHSE have stated was a local Working Group), who wrote to the CCG raising a number of valid concerns about the Hub. The CCG took four months to respond to the queries; however, their response did not fully address all of the points raised, and no further action was taken by NHSE.

The Governing Body received the OBC in February 2015, followed by the FBC in May 2015. However, the FBC was only 80% complete and was approved subject to a number of caveats. We have found no evidence of a detailed review, scrutiny and oversight of the business case, both at this point and on an ongoing basis throughout the project; we would have expected a project of this size and scope to have received significant challenge and monitoring from the Governing Body, and to see this reflected in the minutes of Governing Body meetings.

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In July 2015 NHSPS presented a paper on the Altrincham Hub development to the Asset Management Committee for NHSPS, who advised NHSPS to take on the head lease. However, NHSPS would not do this unless the CCG agreed to sign an Indemnity Deed to protect NHSPS against any losses or liabilities arising from the medical element of the premises not being fully let. This should have been reviewed and approved by the Governing Body as a key risk associated with the project. The Indemnity Deed was signed by the Governing Body in January 2016.

Due to the poor quality of documentation retained and/or provided to us, there is little written evidence to support decisions made between this point in time and mid-2018. There were a number of changes in leadership during this period.

Throughout the project, and in particular the crucial decision-making period of February 2015 to February 2016 there was a consistent failure to provide appropriate oversight and scrutiny of the project, and, critically, to ensure that there were contractual commitments from tenants to move into the building prior to long term financial commitments being entered into.

In October 2017, an external consultant was appointed to oversee the project to completion. Prior to this, Altrincham Medical Practice had withdrawn their previous stated intention to move to the Hub, stating they would no longer relocate.

In January 2018 a Tenant User Group was established by the CCG, including membership from each of the remaining proposed tenants and NHS PS. However, there was still no contractual commitment in place with proposed tenants to secure their use of the Hub. By August 2018 this had still not been obtained, and the Governing Body was informed by the Corporate Director of Commissioning that Trafford Care Coordination Centre (TCCC) and Pennine Care community staff would no longer relocate to the Hub, as commissioning these services from the location was not deemed to be financially and strategically suitable.

At this stage, TCCC, Barrington Road Surgery and St John's Surgery were advised by the Governing Body that relocation will no longer be supported. This option was initially explored in April 2018 by the then Accountable Officer.

Construction of the Hub was completed and the building ready for occupation at the end of October 2018. Canada Life UK, who have bought the freehold from Citybranch, will assign the two head leases (café and pharmacy to be used by Trafford Council and Medical and commercial space to be used by CCG identified tenants) to NHSPS.

## **2.2 Lifecycle of the Project and Key Themes**

Across the lifecycle of the project we have identified the following key themes:

- ▶ There were, and continue to be, a number of close professional relationships between former CCG employees, a Council Officer and Citybranch, the developers.
- ▶ The FBC was approved when it was 80% complete and did not include the appropriate analysis we would expect for the Governing Body to approve a programme of this size and importance. We have seen no evidence that this was revisited.

- ▶ There was limited follow up of issues and questions raised both by the CCG Governing Body and NHSE during the decision-making process. This was partly due to undefined governance processes and unclear schemes of delegation.
- ▶ There has been inadequate documentation to support decision making processes and rationale – for example, minutes of discussions from Governing Body meetings were limited in detail, and there was little documentation available of decisions and discussions that took place outside this forum.
- ▶ The Governing Body did not sufficiently hold management to account for the effective delivery of the programme, partly due to the inadequate governance processes referred to above.

Our review identified four key stages of decision making. The section below contains our key findings in relation to each stage.

## 2.3 Pre-Business Case

**It appears that the old Altrincham Hospital site was selected as the location of the Hub without robust evaluation of other potential locations.**

Although a formal options appraisal exercise was contained in the OBC and FBC, the CCG had been discussing the construction of the hub on the old Altrincham Hospital site with internal and external stakeholders many months prior to the business cases being developed. External stakeholders including representatives of NHSE were present at a meeting to discuss the potential project in September 2014. We have also heard representations that meetings had been held between the CCG and Citybranch prior to and around this time. We understand that Trafford Council also had discussions with Citybranch in 2014 regarding relocating a library to the site.

## 2.4 Business Case Approval by the Governing Body

**While the formalities of a business case approval process were followed, we are not satisfied as to the completeness and quality of the information presented within the OBC and FBC. There is also insufficient evidence of appropriate challenge and review from the Governing Body.**

### Strategic context

The Hubs were intended to serve as multi-agency health provision services that would enable more integrated care to be delivered in the community, rather than an acute setting. It was agreed that the CCG would pursue integrated care provision, and capital investment into unsuitable premises (for example, GP practices identified to be in poor condition) would not be provided if new estate could be found. The opinion expressed by the majority of the stakeholders interviewed was that the concept of the multi-service provision through neighbourhood Hubs was a sensible way forward towards integration of services and was in line with local and national strategy at the time.

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However, although those interviewed could articulate the strategic rationale behind the Hub, and this is included within the Business Cases, the rationale for the location and size of the Altrincham Hub is less clearly documented. Many of those interviewed have stated that there was limited debate surrounding the following two points.

- Location: the FBC was produced ahead of the CCG's estates strategy being produced and agreed. The results of the evaluation of sites was provided, but not the underlying methodology and criteria
- Size: the accommodation model required by each proposed provider had not been defined ahead of the FBC production. The FBC also made clear that no use had been identified for 20% of the Hub's capacity.

#### Financial implications and affordability

The FBC contains, in its appendices, various letters of support from potential tenants. However, these are not contractual commitments.

We have noted that the indicative net total cost per annum presented in the FBC was identified as £2,664,000 if no income from tenants was secured. We are, therefore, satisfied that the Governing Body had been made aware of the potential financial implications if no tenants could be secured. The FBC also contains, but does not highlight, the fact that potential tenants for only 80% of the capacity had been identified and there was, therefore, a £400k shortfall

We also note that the financial analysis within the FBC was less than we would expect relating to the appraisal of a business case of this size and complexity:

- There is limited affordability analysis. Reference is made to 'various income streams', that would be flowing as a result of the development; however, it is not explicitly stated what these are and how they would be derived.
- There is also no analysis of the net cost to the CCG. For example, contracts between the CCG and some of the providers should have contained funding for estate costs they were incurring at that time. We would have expected analysis of the net costs to the CCG after consideration, for example, of stranded costs.
- No Net Present Value analysis was contained, including at OBC stage when consideration was being given to a 25 or 30 year lease
- Sensitivity and Scenario analysis, with resulting mitigations, were not included, meaning that the financial impact of different scenarios was not considered
- In addition to revenue implications, cash flow and balance sheet implications were not explicitly included

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Original lease terms included no provision for overage to be payable to the CCG. We note from the Governing Body meeting minutes that an initial recommendation provided by external advisors was for the CCG to negotiate a percentage of the overage to be received by the CCG should the developer sell the investment at a profit in the future and if construction costs were lower than forecast.

Revised lease terms as negotiated by external advisors and reported to the Governing Body in August 2015 state that the overage is to be split 50:50 between the developer and the tenant. However, the Governing Body made the decision to allow NHSPS to hold the head lease; as such, they were the ultimate legal tenant and recipient of a 50% share of the overage, with the CCG losing its entitlement. The rationale for this was not documented.

### Reliance on Professional Advisors

Professional advice was obtained during production of the FBC. This was in relation to:

- Legal – a legal firm was consulted as to appropriateness of appointing developer without a procurement process, as well as assisting with drafting the Heads of Terms, the Agreement to Lease and the Lease.
- Health Planning - Health Planning Consultants, assisted in developing a Schedule of Accommodation the CCG with an indication of the size of any proposed facility so that it can deliver the required services and still provide room for expansion in the future.
- Real Estate/Lease Negotiations – District Valuer's Office oversaw negotiations for ensuring the building delivers value for money. An external consultancy were involved in renegotiating overage terms.

Although it is industry practice to appoint external advisors to support project governance, from interviews, the Governing Body may have placed undue assurance on the simple fact that external advisors had been appointed, rather than understanding if the advisors had been deployed in the area of greatest risk. From our review of Governing Body minutes, we have noted no evidence that specific risk areas were discussed, identified or challenged by the Governing Body, nor is there documentation to support whether the Project Board had identified the correct areas of risk for the advisors to review.

The FBC contained legal advice concluding that although Citybranch may be able to be appointed developer without the need for a procurement process, the risk of challenge to this decision would be decreased if Citybranch followed EU procurement rules in relation to the appointment of sub-contractors. We can see no evidence that the Governing Board were updated on this issue or how the risk of legal challenge was otherwise mitigated. However, Citybranch have confirmed that NHSPS published an Official Journal of the European Union notice inviting developers interested in delivering works via sub-contracts to contact Citybranch. They have also confirmed that they ran a competitive process to identify a sub-contractor.

There is also no documented evidence that the Governing Body provided appropriate review and oversight to ensure that the recommendations of an external consultant were followed, that challenge was provided where changes were proposed, or that the negotiations overseen by the District Valuer's Office represented best value for money for the CCG.



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From a review of CCG documentation, we can see no evidence of due diligence being performed on Citybranch in the manner that a competitive procurement exercise normally demands, for example, assessing the company's compliance with laws and regulations and its likelihood of being able to continue to trade. However, Citybranch have stated that the CCG did perform due diligence on them.

### Governance - FBC

Minutes from the Governing Board show that the FBC was approved, subject to caveats, despite it being only 80% complete. This is unusual and the rationale as to why the Governing Board was requested to expedite its approval is not clear. Some interviewees commented that it was difficult at times to raise challenges, with debate being closed down.

The 'Management Case' of the FBC contains limited explanation of the governance arrangements that will be followed post approval. This section is again less detailed than would be expected. It notes that the existing Estates Steering Group will act as the Project Board although there is no clarification on the delegated powers and authority this Group will have and what powers are reserved for the Governing Body.

The CCG self-assessed the risk relating to this project as low, meaning it was not required to have a Project Gateway Review by the Office of Government Commerce (OCG). We have found no evidence of the risk assessment being discussed or amended following the approval of the FBC. We have reviewed the Board Assurance Framework (BAF) up to June 2018 and noted that although a risk of failing to deliver the integrated agenda was included, there was no explicit mention of the development. We have been informed that the CCG has now reviewed its BAF, and the process for maintaining it.

The FBC was approved subject to a number of caveats. However, the wording of the caveats means it is unclear as to what action the Governing Body expected with respect to each and interviews have revealed that individuals have different recollections. For example, one caveat is documented as 'seek confirmation of commitment from providers'. It is not clear if this means that Governing Body required contractual commitments to be obtained prior to commencing with the scheme.

### Governance – Indemnity Deed

All members of the Governing Body were contacted in January 2016 with a 24-hour deadline for final approval to enable the Indemnity Deed to be formally signed. The email included a one-page briefing note and a summary of lease conditions. It stated that the scheme is within the affordable financial envelope for the CCG; however, it is unclear how the members of the Governing Body assured themselves that that was the case.

We have confirmed that the e-mail approval was obtained from all Governing Body members. However, it is possible that a tight timeline for final sign off did not allow for sufficient reflection and further review of the assumptions included in the agreement.

As such, the decision for the CCG to approve the Indemnity Deed was obtained in an expedited manner, similar to the FBC approval, with a lack of transparency regarding the delegation of authority.

## 2.5 Involvement of Other Key Stakeholders

**NHSE were informed of the project at a local NHSE Capital Pipeline Working Group (we have not obtained the Terms of Reference of this Committee) meeting in January 2015. They subsequently contacted the CCG COO with a number of challenges regarding the development. The letter did not request a response and these challenges were not followed up.**

**NHSPS's Asset & Investment Committee (AIC) met on the 15th of July 2015 recommended NHSPS take ownership of the head lease. However, they recommended that a condition of NHSPS taking ownership was that the CCG were required to sign an Indemnity Deed which placed the financial risk of void space entirely on the CCG. This should have indicated to the Governing Body that they were accepting an exceptionally high level of risk; however, there is no evidence of additional challenge and scrutiny in response to this requirement.**

### Involvement of NHS England

From communication provided to us, we understand that NHSE had sight of the Altrincham Hub proposition during the Capital Pipeline Working Group meeting in January 2015.

NHSE subsequently contacted the CCG with a number of challenges regarding the development, specifically financial affordability of the scheme and appropriateness of the procurement process followed. We have heard different reasons as to why these challenges were not followed up. These include the fact that Trafford CCG were acting under earned autonomy as they were assessed as good under the CCG assurance framework. They also include that as no request for capital funding was made, the Capital Pipeline Working group had no authority to ask for further assurance.

These challenges were responded to by the CCG, following a delay of four months. These responses did not address the substance of all the questions asked. No follow up action was taken by NHSE. As there was no NHSE capital being deployed, NHSE have stated that there was no requirement for national NHSE assurance and approval at the time.

GMHSCP have confirmed that as the hub was not included in the CCG's corporate risk register, it would not have been captured on their own risk register, depriving them of an opportunity to understand the risks.

### Involvement of NHS Property Services

Although the FBC confirmed that the CCG would be willing to change its legal constitution, if required, in order to hold the head lease, a decision was taken instead that NHSPS would enter in to the head lease.

This was followed by an AIC meeting on the 15<sup>th</sup> July 2015, which recommended NHSPS take ownership of the head lease. AIC made the recommendation to proceed on the condition that the CCG would provide a formal written undertaking to guarantee unrecoverable and void costs, as well as residual lease liability. The Governing Board of the CCG was informed of, and approved this change, at its meeting on 25 August 2015. We would expect the Governing Body to have raised additional challenges as to whether it was appropriate to proceed with the scheme, and what could be done to mitigate the financial risk – the CCG retained risk and responsibility for finding tenants and not NHSPS. We have seen no evidence that this level of scrutiny and review took place.

The Governing Body did not impose any further conditions, such as the need for 'back to back' arrangements with providers.

NHSPS then provided further instruction to an external firm who were successful in obtaining some amendments to the terms of the head lease, previously negotiated by the CCG. These included a statement that the tenant would be entitled to 50% of any overage gained through the development.

It is clear through interviews that the relationship between the CCG and the NHSPS deteriorated during the course of the project, for the most part due to difficulties experienced in reaching final agreement on the head lease terms, such as the split of any overage (and ability to realise the overage) and the certification of a BREEAM 'Excellent' rating. Both parties have differing views as to the reasons for, and timing of, this deterioration. However, we have been informed that relationships have now improved.

## 2.6 Post Business Case

**There is little evidence of programme governance, including formal reporting to the Governing Body and there is no evidence of what decisions were delegated to management. As such, we see limited evidence of challenge by the Governing Body and, when challenges were raised limited evidence was provided to support actions being reported as closed. Management failed to recognise and address the risks inherent in the programme and the Governing Body did not hold them effectively to account.**

### Evidencing completion of conditions of approval imposed by the Governing Body

As noted above, the FBC was approved subject to eight caveats (conditions) being addressed. A paper was submitted to the Governing Board on 25 August 2015 providing an update. Whilst some actions appear to have been completed and one superseded, others appear to remain open, albeit with ongoing actions described. Minutes show that the Governing Body concluded the conditions had been satisfied and gave delegated responsibility to management to agree the final accommodation schedule. We have not seen evidence that this delegated responsibility was effectively discharged, meaning that appropriate governance and oversight was lacking throughout the project.

### Changes at Executive Level

Multiple stakeholders interviewed have identified that staff changes at the Accountable Officer level have negatively impacted delivery of the programme. In particular, this has been felt to have resulted in decreased focus in securing tenants. Many of the Governing Body members we interviewed also commented that the shift to integrated arrangements between Trafford Council and the CCG meant management have focussed on implementing organisational changes, rather than on proactively seeking tenants for the Hub. Whilst these comments have been made to us during the course of the review we do not believe they excuse the insufficient identification of risk at the outset of the programme and the lack of oversight throughout by the Executive and Governing Body. As at August 2018, proposed relocation of the GP practices was not formally agreed or signed

### Relationship with Citybranch

A number of close professional relationships were noted between individuals working for Trafford Council, the CCG and Citybranch. We have received a number of representations that these individuals have accompanied Citybranch to meetings at Trafford Council and at the CCG. Citybranch has confirmed that attendance at relevant meetings was part of the consulting services these individuals provided to Citybranch after they

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left their former roles at Trafford Council and CCG, and in each case over a year after the Agreement for Lease was reached on the Altrincham Hub Site in April 2016.

## 2.7 Park Medical Practice

The Chief Officer of GMHSCP also requested that we consider governance at the CCG in relation to the approval of funding allocated to the relocation of Park Medical Practice.

As part of the New Models of Primary Care agenda across Greater Manchester, a request was submitted for funding to relocate Park Medical Practice (situated in Timperley) into a purpose-built facility located at the existing library site in Timperley village centre.

The financial implications were summarised as an additional £33k per annum to cover the rental increase associated with moving to the new site. We have noted that a potential Conflict of Interest was identified at the time and managed in line with expected governance and there was appropriate level of challenge and scrutiny over the business case.

As part of the Integrated Estates Strategy, the Governing Body resolved that the CCG would not support capital investment for unsuitable premises if a solution could be found involving new estate, as the premises need to be suitable for patients to receive care.

However, we also note that Park Medical was the only GP practice included in the Estates Strategy that did not form part of the Six Facet Survey designed to assess the quality of the Primary Care Estate managed by the CCG. As such, from the evidence presented, it is unclear how the CCG Primary Care Commissioning Committee (PCCC) obtained sufficient assurance that the practice indeed required relocation or investment into existing premises.

## 2.8 Summary and Conclusion

Our review has identified repeated failures in the governance processes of the CCG in relation to the Altrincham Hub, from inception of the programme through to July 2018.

The analysis and information contained within the OBC and FBC was inadequate, which was recognised by management at the time who described the FBC as being only 80% complete. We obtained no evidence of robust evaluation of other locations or challenge to the size of the Hub. Financial analysis was weak. The risk assessment was unreasonably optimistic. The Governing Body collectively failed to assess that the commercial risks and rewards of the programme were unfavourable to the CCG when approving the FBC and during decisions subsequently taken. From the evidence available, this appears to be a poorly conceived programme with poor commercial outcomes for the CCG and should not have been progressed without fundamental questions being asked and resolved in relation to the size of the development and the commercial terms.

NHSE raised valid concerns although then received an inadequate response from the CCG and did not take further action.

Whilst a number of governance failures occurred during the approval of the scheme, these were compounded by poor management, in the period between February 2016 and March 2018, when there is little evidence of proactive efforts to secure tenants to mitigate the financial risk to the CCG.

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Evidence to support decisions made throughout the project is limited. Ongoing challenge and risk management from the Governing Body was also limited, partly due to undefined governance processes and unclear schemes of delegation. This poor management and lack of governance meant that opportunities to partly mitigate the risks and impacts arising from the original deal were missed.

We identified no evidence from our review of CCG documentation that due diligence was performed on the developer, although the developer has stated that the CCG did perform due diligence on them.

There are clearly important messages to be cascaded to other bodies within GMHSCP regarding the need to abide by the Nolan Principles and to ensure that appropriate governance is followed when appointing developers without a formal procurement process.

The current situation was avoidable. Had appropriate challenge been provided in the early stages of the project and at many points thereafter, the CCG would have been saved from expending funds and resources on a programme that provided a completely inappropriate balance of risk and reward.

## 2.9 Recommendations

Many of the issues we have identified in this report relate to historic governance processes, some dating to 2015. Whilst we recognise that these processes may have been updated, the CCG should ensure the following is in place in relation to future programmes of similar size and strategic importance:

- ▶ Business Cases contain all of the information that is expected under industry standards, such as guidance contained in the Integrated Support Assurance Process
- ▶ The Governing Body should be explicit as to the governance processes that it expects to be in place over the lifetime of the Programme, particularly in relation to the frequency and content of updates it receives, the delegated authority it has provided to the Programme Board and the matters and decisions that are reserved for the Governing Body. Further documentation should be retained to evidence that governance
- ▶ Actions resulting from Governing Board meetings are clearly documented in an Action Tracker and are not closed until explicitly agreed by the Governing Body
- ▶ Professional advice continues to be sought, although the Governing Body should determine if it is receiving advice in all of the areas where it does not have the collective skills and experience to challenge and support management

We have also identified a number of actions that the CCG should take in relation to the ongoing delivery of the programme:

- ▶ Trafford CCG be required to confirm the governance processes that are in place for the Hub and what decisions have been reserved to the Governing Body and those that have been formally delegated. We would expect decisions of substance to be reserved for the Governing

Body. The CCG should formally rescind existing delegations in place in respect of the Hub and reassign responsibilities to current members of the Governing Body to ensure remaining discussions are understood and managed appropriately

- Trafford CCG continue to explore ways of decreasing the financial impact of the Hub through identifying tenants. The CCG should explore if there is an opportunity to change the indemnity that it previously provided to NHSPS and to obtain a share of the overage due from the developer.
- ▶ Trafford CCG and NHSPS review their contracts with the developer to ensure that there were no limitations on Citybranch employing former CCG employees.

We further recommend that, without exercising formal legal direction, GMHSCP exercises oversight of future decisions taken by the Governing Body in relation to this scheme.

In relation to Park Practical Practice:

- We recommend that the CCG reviews its policy for allocating capital and revenue funding to GP practices and ensures that the criteria for prioritising competing demands is transparent. Further, the CCG should retain evidence that this criterion has been applied.

We have also identified a number of actions for GMHSCP that will help to ensure CCGs and Councils adhere to industry practice in relation to similar programmes:

GMHSCP should ensure that all CCGs re-communicate to all senior staff and Board members the Nolan Principles of Public Life (as well as the Standards for members of NHS boards and Clinical Commissioning Group governing bodies in England, issued in November 2013 by the Professional Standards Authority) and also the policies that impact upon their relationships with third parties. The CCGs should also be asked to confirm that training in relation to the Principles, such as on gifts and hospitality, are up to date.

- ▶ GMHSCP should remind CCGs, when performing due diligence on potential suppliers, that they need to understand the ultimate parent company and associated structure, so that the due diligence is thorough and effective. Further, this assessment needs to be documented. GMHSCP should ask CCGs to disclose to them other cases where a developer has been appointed without competition and where the developer has a complex structure and clarity is required as to the ultimate owner/guarantor. Assurances should then be gained that:
  - Appropriate due diligence has been performed as part of the procurement process, particularly if the developer was appointed without a competitive procurement exercise
  - Commercial and legal advice has been obtained and followed in relation to the developments
  - Risks of legal challenge have been considered and mitigated
  - Clauses exist to prevent the developer approaching employees to work for them.

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Finally, we have identified recommendations for NHSE:

- ▶ NHSE should clarify to CCGs, and local leaders, that it is not only the source of capital that determines whether additional assurances and approvals are required from NHSE. The risks, complexity and size of the proposed project should also be considered. The same confirmations should be provided to their own staff. NHSE have informed us that formal commitments to property transactions involving NHS PS should now be made with reference to the guidance set out in the NHS 'Consolidated Charging Policy' (2017/18) and only ever entered into jointly by NHSE and CCG as per the requirement set out in that guidance;
- ▶ NHSE should ensure they take and act on the advice of appropriate subject matter experts available to support primary care commissioners in order to ensure that they fully understand both the implications of proposed property transactions and their related responsibilities;
- ▶ NHSE should ensure that its guidance should highlight that the following areas could signify additional risk that need to be understood and mitigated:
  - Complex lease structures and the requirement of CCGs to provide indemnities to the freeholder or the holder of any head lease
  - Where the owner of the land and/or building to be developed insists on being the developer, consideration needs to be given to the procurement process of sub-contractors

NHSE should re-assess the links between the Assurance Framework and a CCG's ability to approve and commence large, complex infrastructure projects.

It was also recommended that the GM Health and Social Care Partnership emphasise the importance of abiding by the Nolan Principles of Public Life and circulate the Standards for Members of NHS Bodies and CCG Governance Bodies in England to all GM CCGs to ensure appropriate governance is followed.

### Nolan principles

The Nolan Principles of Public Life were established in 1994 and apply to anyone who works in public life. The principles focus on culture rather than process and are considered as valuable now as they were when they were developed. There are seven principles which are outlined below:

- **Selflessness** – Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
- **Integrity** – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
- **Objectivity** – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- **Accountability** – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- **Openness** – Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- **Honesty** – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- **Leadership** – Holders of public office should promote and support these principles by leadership and example.

Further information on the Nolan Principles can be found at the following web site:

<https://www.gov.uk/government/publications/the-7-principles-of-public-life>

### Standards for members of NHS boards and Clinical Commissioning Group governing bodies in England

These standards describe the behaviour and competencies expected of any leader in the NHS. They were commissioned by the Secretary of State for health in July 2011 and were developed with public and patients. The standards cover personal behaviour, technical competencies and business practices. It is essential that these standards are adhered to across all GM NHS organisations. Further information on the standards can be found by following the link: [https://www.professionalstandards.org.uk/docs/default-source/publications/standards/standards-for-members-of-nhs-boards-and-ccgs-2013.pdf?sfvrsn=d5f77f20\\_2](https://www.professionalstandards.org.uk/docs/default-source/publications/standards/standards-for-members-of-nhs-boards-and-ccgs-2013.pdf?sfvrsn=d5f77f20_2)

### Quarterly assurance processes

Questions in relation to the points above will be included in the Q4 CCG assurance meetings to ensure the responses are documented and any required actions identified. However to ensure that we have full sight of any current developments or plans reaching maturity, can I ask that the director responsible for Estates within the CCG contacts Neil Grice, Area Director, Strategic Estates and Planning Services at [neil.grice@nhs.net](mailto:neil.grice@nhs.net) to confirm the arrangements for any current schemes in relation to the recommendations above.