



**NHS Dorset Clinical Commissioning Group**

**Assurance Review of the NHS Constitution Arrangements**

**2015/16**

**DRAFT**

**July 2015**

# Assurance Review of the NHS Constitution Arrangements

## Executive Summary

<p><b>OVERALL ASSURANCE ASSESSMENT</b></p> 	<p><b>KEY FINDINGS</b></p> <ul style="list-style-type: none"> <li>• Dorset CCG established a NHS Constitution ('NHS C') working group in 2014. No meetings have taken place during 2015 but work has continued within directorates in producing a baseline assessment with evidence of the work from their teams linked to elements of the NHS C;</li> <li>• There has been no baseline assessment produced by the finance, performance and contracting directorate, although the measurable targets of compliance / non-compliance are reported in performance reports;</li> <li>• TIAA reviewed the contents of the evidence and noted the progress being made. There were areas where no evidence had been documented and one element of the NHS C which has not yet been worked on;</li> <li>• The inclusion of the NHS C on the frontis of reports would evidence the work in the report to the element of the NHS C to strengthen Dorset CCG's legal obligations to promote the NHS C.</li> </ul>								
<p><b>SCOPE</b></p> <p>The scope of the review was to provide assurance on the level of evidence available to support that the CCG is compliant with the NHS Constitution. In order to do this the processes in place for collating the evidence to demonstrate compliance with a sample of the elements of the NHS Constitution were reviewed.</p>	<p><b>ACTION POINTS</b></p> <table border="1" data-bbox="1137 1102 2018 1273"> <thead> <tr> <th>Urgent</th> <th>Important</th> <th>Routine</th> <th>Operational</th> </tr> </thead> <tbody> <tr> <td>0</td> <td>3</td> <td>4</td> <td>2</td> </tr> </tbody> </table>	Urgent	Important	Routine	Operational	0	3	4	2
Urgent	Important	Routine	Operational						
0	3	4	2						

## Management Action Plan - Priority 1, 2 and 3 Recommendations

Rec.	Risk Area	Finding	Recommendation	Priority	Management Comments	Implementation Timetable (dd/mm/yy)	Responsible Officer (Job Title)
1	Directed	The NHS Constitution Working Group was established during 2014 and it met regularly throughout the first half of 2014. TIAA noted that there had not been a meeting during 2015, although work has been undertaken by the representatives on collating evidence within their teams.	The Head of Information Governance to re-convene the NHS Constitution working group to assess the position that the representatives are at, progress the actions outstanding for the group and consider the actions from this report.	2			
2	Compliance	The evidence template had not been populated by the finance directorate, so it was not possible for TIAA to review the evidence and provide assurance on the work of this directorate.	The Head of Performance Intelligence to complete the template with the information from the finance, performance and contracting teams referenced to the NHS Constitution elements.	2			

PRIORITY GRADINGS

<b>1</b>	<b>URGENT</b>	Fundamental control issue on which action should be taken immediately.
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<b>2</b>	<b>IMPORTANT</b>	Control issue on which action should be taken at the earliest opportunity.
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<b>3</b>	<b>ROUTINE</b>	Control issue on which action should be taken.
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Rec.	Risk Area	Finding	Recommendation	Priority	Management Comments	Implementation Timetable (dd/mm/yy)	Responsible Officer (Job Title)
7	Operational	TIAA reviewed a sample of reports to the Governing Body and committees. It identified that in the majority of reports it was not possible to demonstrate the link of the work being undertaken to elements of the NHS Constitution and whether there is compliance or not with the NHS Constitution. There were some good examples from the Quality and Finance directorates.	The Head of Information Governance, in conjunction with the Governing Body Secretary, to update the Governing Body and Committee paper frontis sheets with a reference to the NHS Constitution so that all papers presented state the elements of the NHS Constitution that it refers to and a comment on whether the work demonstrates adherence or breach.	2			

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Rec.	Risk Area	Finding	Recommendation	Priority	Management Comments	Implementation Timetable (dd/mm/yy)	Responsible Officer (Job Title)
3	Compliance	TIAA noted that there were teams / areas of work where no references had been made to, these included continuing healthcare, primary care co-commissioning arrangements, systems resilience evidence and Better Together Programme evidence.	The NHS Constitution working group staff representatives responsible for continuing healthcare, primary care co-commissioning, system resilience and the Better Together Programme to update their directorate templates with NHS Constitution evidence for these areas.	3			
4	Compliance	Dorset CCG is undergoing directorate re-organisation in order to be able to be fit for purpose for the future. As part of this a Design and Transformation directorate has been established with IM&T responsibility. A NHS C template is required for the work undertaken by the directorate.	The NHS Constitution template to be completed by the Design and Transformation directorate, with reference to the existing work in place for the Clinical Services Review.	3			

PRIORITY GRADINGS

<b>1</b>	<b>URGENT</b>	Fundamental control issue on which action should be taken immediately.
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Rec.	Risk Area	Finding	Recommendation	Priority	Management Comments	Implementation Timetable (dd/mm/yy)	Responsible Officer (Job Title)
5	Compliance	The Performance reports to Directors and the Governing Body contain details of achievement and non-achievement of the measureable elements of the NHS Constitution. The content from these report could be used to provide a fuller position on the CCG's position with regard to the NHS Constitution within the reports to the Quality Group and the Annual Report on the NHS Constitution.	The Head of Information Governance to utilise the information in the performance reports with the details of the 'measurable targets' for narrative in the quarterly Quality Group reports and Annual Report on the NHS Constitution.	3			
6	Compliance	TIAA noted and made the Head of Information Governance aware that there has been a national consultation on the NHS Constitution which ended in April 2015. The outcome of the consultation has not been published. However, there are likely to be a further 10 new areas being proposed with four of the existing elements being amended slightly.	The NHS Constitution work group to review the revised NHS Constitution once it has been finalised to assess the impact of the work required.	3			

PRIORITY GRADINGS

<b>1</b>	<b>URGENT</b>	Fundamental control issue on which action should be taken immediately.	<b>2</b>	<b>IMPORTANT</b>	Control issue on which action should be taken at the earliest opportunity.	<b>3</b>	<b>ROUTINE</b>	Control issue on which action should be taken.
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## Operational Effectiveness Matters

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Ref	Risk Area	Item	Management Comments
1	Reputational	The Public Relations lead to consider providing engagement and communications leads with a 'script' on the NHS Constitution for inclusion in meetings with patients and public to raise awareness.	
2	Reputational	The NHS Constitution working group to review the actions from the Patient Association National Survey, consider those that are relevant and incorporate tasks within the action plan of the group.	

ADVISORY NOTE

Operational Effectiveness Matters need to be considered as part of management review of procedures, rather than on a one-by-one basis

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## Detailed Findings

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### INTRODUCTION

1. This review was carried out in June 2015 as part of the planned internal audit work for 2015/16. Based on the work carried out an overall assessment of the overall adequacy of the arrangements to mitigate the key control risk areas is provided in the Executive Summary.

### KEY FINDINGS & ACTION POINTS

2. The key control and operational practice findings that need to be addressed in order to strengthen the control environment are set out in the Management and Operational Effectiveness Action Plans. Recommendations for improvements should be assessed for their full impact before they are implemented.

### SCOPE AND LIMITATIONS OF THE REVIEW

3. The scope of the review was to provide assurance on the level of evidence available to support that the CCG is compliant with the NHS Constitution. In order to do this the processes in place for collating the evidence to demonstrate compliance with a sample of the elements of the NHS Constitution were reviewed.
4. The definition of the type of review, the limitations and the responsibilities of management in regard to this review are set out in the Annual Plan.

### MATERIALITY

5. The NHS Constitution comprises principles, values, rights and responsibilities of patients and public, pledges to the public and patients, staff rights, duties and responsibilities and NHS pledges to staff. Within each section there are a total of 119 elements.

### DISCLAIMER

6. The matters raised in this report are only those that came to the attention of the auditor during the course of the internal audit review and are not necessarily a comprehensive statement of all the weaknesses that exist or all the improvements that might be made. This report has been prepared solely for management's use and must not be recited or referred to in whole or in part to third parties without our prior written consent. No responsibility to any third party is accepted as the report has not been prepared, and is not intended, for any other purpose. TIAA neither owes nor accepts any duty of care to any other party who may receive this report and specifically disclaims any liability for loss, damage or expense of whatsoever nature, which is caused by their reliance on our report.

**RISK AREA ASSURANCE ASSESSMENTS**

7. The definitions of the assurance assessments are:

Substantial Assurance	Based upon our findings there is a robust series of suitably designed internal controls in place upon which the organisation relies to manage the risk of failure of the continuous and effective achievement of the objectives of the process, which at the time of our review were being consistently applied.
Reasonable Assurance	Based upon our findings there is a series of controls in place, however there are potential risks that they may not be sufficient to ensure that the individual objectives of the process are achieved in a continuous and effective manner. Improvements are required to enhance the adequacy and effectiveness of the controls to mitigate these risks.
Limited Assurance	Based upon our findings the controls in place are not sufficient to ensure that the organisation can rely upon them to manage the risks to the continuous and effective achievement of the objectives of the process. Significant improvements are required to improve the adequacy and effectiveness of the controls.
No Assurance	Based upon our findings there is a fundamental breakdown or absence of core internal controls such that the organisation cannot rely upon them to manage the risks to the continuous and effective achievement the objectives of the process. Immediate action is required to improve the adequacy and effectiveness of controls.

**ACKNOWLEDGEMENT**

8. We would like to thank staff for their co-operation and assistance during the course of our work.

**RELEASE OF REPORT**

9. The table (Figure 1) below sets out the history of this report.

*Figure 1 - Report History*

Date draft report issued:	2 <sup>nd</sup> July 2015
Date management responses recd:	
Date final report issued:	

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10. The following matters were identified in reviewing the Key Risk Control Objective:

**Directed Risk: Failure to direct the process through approved policy & procedures.**

- 10.1 The NHS Constitution ('NHS C') handbook and summary document were issued in March 2013 together with a staff guide. This information is available via the intranet site to a page with links on the Dorset CCG internet. The Health and Social Care Act 2012 and the recommendations from the Francis Report has placed new duties on NHS England and Clinical Commissioning Groups to promote the NHS C. The rights within the NHS C are legally binding.
- 10.2 The Head of Information Governance/Customer Care is responsible for establishing processes within the CCG for collating information to provide assurance that the organisation is adhering to the NHS Constitution. A quarterly report is produced for the Quality Group, of which the last couple of quarters were reviewed by TIAA. A NHS Constitution working group has been set up with a nominated staff member from each directorate to progress the collation of evidence within their directorate and to contribute ideas of ways Dorset CCG is able to promote the NHS C to the public and staff. An annual report was presented to the Governing Body on 19<sup>th</sup> November 2014 with details on the progress of the work, noting the non-compliance against the waiting times target.
- 10.3 The NHS C Working Group was established during 2014 and it met regularly throughout the first half of 2014. TIAA noted that there had not been a meeting during 2015, although work has been undertaken by the representatives on collating evidence within their teams. TIAA understands that this is due to the impact on staff resource, partly due to the Clinical Services Review and directorate re-structuring and the requirement for the CCG to meet legislative deadlines (for example complaints, freedom of information requests etc.). TIAA recommends that the working group re-convenes as soon as possible and incorporates the findings from this report into its work plan.

**Recommendation: 1**

**Priority: 2**

**The Head of Information Governance to re-convene the NHS Constitution working group to assess the position that the representatives are at, progress the actions outstanding for the group and consider the actions from this report.**

**Compliance Risk: Failure to comply with approved policy and procedure leads to potential losses.**

10.4 TIAA reviewed the progress that the Working Group was making on the following areas:

- The baseline assessments undertaken by Directorates;
- Awareness amongst the staff on the NHS C; and
- Promotion activities to the public.

**Baseline Assessments**

10.5 The Working Group produced a proforma template for all directorates to complete to collate examples of work that was undertaken and the element / principle of the NHS C that it related to. The table of elements, 119 in number, was used for ease of referencing. TIAA met and reviewed the content of the NHS C evidence that the following directorates have collated; Quality, Service Improvement, Engagement and Workforce and Corporate Services. TIAA noted that progress has been made to provide links to evidence to a significant number of the elements with detailed explanations of the work being undertaken by the teams and a sound understanding from the staff interviewed. TIAA did provide feedback on the documentation and evidence, with comments provided on areas which may have required further referencing.

10.6 In respect of the Finance directorate, the evidence template had not been populated, so it was not possible to gain assurance and review the evidence on work of this directorate. The Head of Performance Intelligence, the nominated staff member for the directorate, planned to complete the template by the end of June.

**Recommendation: 2**

**Priority: 2**

**The Head of Performance Intelligence to complete the template with the information from the finance, performance and contracting teams referenced to the NHS Constitution elements.**

10.7 TIAA noted that there were teams / areas of work where no references had been made, these included continuing healthcare, primary care co-commissioning arrangements, systems resilience evidence and Better Together Programme evidence.

**Recommendation: 3****Priority: 3**

**The NHS Constitution working group staff representatives responsible for continuing healthcare, primary care co-commissioning, system resilience and the Better Together Programme to update their directorate templates with NHS Constitution evidence for these areas.**

- 10.8 Dorset CCG is undergoing directorate re-organisation in order to be able to be fit for purpose for the future. As part of this a Design and Transformation directorate has been established with IM&T responsibility. A NHS C template is required for the work undertaken by the directorate, which does include the Clinical Services Review.

**Recommendation: 4****Priority: 3**

**The NHS Constitution template to be completed by the Design and Transformation directorate, with reference to the existing work in place for the Clinical Services Review.**

- 10.9 TIAA undertook a completeness check across all of the elements against the evidence provided by the directorates. Out of the 119 elements there were two that did not have any evidence; the provision of screening programmes and the public to treat NHS staff and other patients with respect. On discussion with the Head of Information Governance, it was confirmed that the provision of screening programmes was outside the remit of the CCG and that there was known work required to put in place processes to evidence the public to treat NHS staff and other patients with respect.
- 10.10 TIAA met with the Head of Performance Intelligence who collates and produces the reports to directors and performance reports to the Governing Body on the measurable elements of the NHS C; for example the waiting time performance position. In the performance report to the Governing Body on 20<sup>th</sup> May 2015, the position as at 31<sup>st</sup> March 2015 was reported. There were areas of non-compliance from a number of providers on the 18 weeks treatment to referral, diagnostic 6 weeks target, cancer target, 95% urgent and emergence care standard and the 111 service failed on four out of the five targets. This contributed to evidence provided to the NHS England (Wessex) Assurance June 2015 Checkpoint meeting which resulted in the CCG being assured on five of the domains and assured with support on domain three (delivery of better outcomes). The performance report could be utilised by the Head of Information Governance as a source of information for compiling the quarterly report to the Quality Group on the progress of the CCG against the elements of the NHS C.

**Recommendation: 5****Priority: 3**

**The Head of Information Governance to utilise the information in the performance reports with the details of the 'measurable targets' for narrative in the quarterly Quality Group reports and Annual Report on the NHS Constitution.**

- 10.11 As part of the assurance work on the Clinical Services Review, the NHS C template has been completed for the design phase. TIAA reviewed the details and confirmed that it had been compiled comprehensively. A new template is planned for the consultation phase.
- 10.12 The NHS C is included in all provider contracts under the service conditions. TIAA understand that as part of the contract monitoring process, providers are required to provide a self-assessment against the NHS C rights and pledges.

**Awareness of Staff**

- 10.13 The NHS C has been promoted to staff via team days and at the staff day in December 2014, where there was a stall. In addition, the NHS C has been promoted to some of the individual directorate teams via their meetings. A staff leaflet has been prepared. It is waiting final sign-off and distribution. This links the CCG's values to the NHS C's values, highlights the expectations on staff, the requirement for everyone to raise awareness of the NHS C and embed the principles into working practices and reports.
- 10.14 There has been a national consultation on the NHS C which ended in April 2015. The outcome of the consultation has not been published yet. However, there are likely to be a further 10 new areas being proposed with four of the existing elements being amended slightly. Most of these proposed changes will need to be considered by the CCG once the consultation has been finalised.

**Recommendation: 6****Priority: 3**

**The NHS Constitution work group to review the revised NHS Constitution once it has been finalised to assess the impact of the work required.**

**Operational Risk: Failure to identify opportunities to operate more efficiently or to be prepared for forthcoming changes.**

10.15 TIAA reviewed a sample of reports to the Governing Body and committees. It identified that in the majority of reports it was not possible to demonstrate the link of the work being undertaken to elements of the NHS C and whether there is compliance or not with the NHS C. Good evidence was seen from the Quality directorate as detailed in papers from the Medicines Optimisation Group where in the opening paragraphs of the reports there were references to the elements of the NHS C that are being addressed. Also, the performance reports (produced from the Finance Directorate) clearly highlighted areas of non-compliance with the measureable standards in the NHS C. However, in other reports that are presented to the Governing Body and committees there were not any references to the NHS C. The introduction of a line on the frontis of papers with the element of the NHS C that the papers refers would enhance this. The staff preparing the paper could seek advice from their representative on the working group or the list of elements be made available to all staff on the intranet to ease referencing.

**Recommendation: 7****Priority: 2**

**The Head of Information Governance, in conjunction with the Governing Body Secretary, to update the Governing Body and Committee paper frontis sheets with a reference to the NHS Constitution so that all papers presented state the elements of the NHS Constitution that it refers to and a comment on whether the work demonstrates adherence or breach.**

10.16 The CCG's Procedure for the development and management of procedural documents' is under review and consultation. As part of this TIAA was asked to provide comment. One of the points raised by TIAA was that there was no reference in policies about the NHS C. The Patient Safety and Risk Manager agreed to include a section in the procedure requiring that the relevant elements of the NHS C are recorded in the policy.

**Reputational Risk: Failure to deliver in a manner that meets the expectations of the organisation.****Promotion activities**

- 10.17 TIAA met with Public Relations Lead to discuss the work that had been undertaken to promote the NHS C in the local media. A radio campaign radio on Heart FM and Wessex FM has been run and there is a link to this in the internet. The engagement team promote the NHS C at meetings they attend and make comments on the Dorset CCG Facebook and Twitter accounts. The Patient Participation Group plus other members of the public that have registered, are provided with bi-monthly emails; 'Feedback – Your Health Involvement Network Bulletin'. The Public Relations Lead acknowledged that there was probably more work to do in raising awareness with HealthWatch and H&W Boards. Given that the consultation stage of the Clinical Services Review is imminent there is scope to increase public awareness through these forums as well.

**Operational Effectiveness Matter: 1**

**The Public Relations lead to consider providing engagement and communications leads with a 'script' on the NHS Constitution for inclusion in meetings with patients and public to raise awareness.**

- 10.18 TIAA did note that there has been a 'Patient Association National Survey' undertaken which assessed the impact on the public's understanding of the NHS rights and pledges following a number of initiatives that were run. A number of actions have been identified which would be relevant to the public in Dorset and it would be best practice to incorporate these into work plans within the NHS C working groups.

**Operational Effectiveness Matter: 2**

**The NHS Constitution working group to review the actions from the Patient Association National Survey, consider those that are relevant and incorporate tasks within the action plan of the group.**