

Appendix 1

International Consultancy

Draft Terms of Reference for Independent Investigation Into Unlawful Trading

To undertake an independent investigation into the circumstances that gave rise to unlawful commercial trading between 2017 and 2021 as detailed in the S114 report issued by the Council's S151 Officer on 23 May 2022.

A written report is required by 10 September 2022.

with specific reference to the following:

1. What was the original basis of the agreement to participate with Northumbria Healthcare Foundation Trust in the Northumbria International Alliance? Who authorised this?
2. How, when, and why did the arrangement change and who authorised this?
3. How was advice regarding the legal basis for these commercial trading activities commissioned and what involvement did the NCC legal team have in this?
4. What advice was given, or concerns raised by the statutory officers, NCC legal team and others regarding the lawfulness of the activity and what evidence is there that these were acted upon?
5. What management controls over commercial trading activities were in place over this period and how were they overridden, and the 3 lines of defence circumvented? What steps need to be taken to ensure that this cannot happen again?
6. Did the international business make a profit and if so, how was this shared between NCC and NHCFT?
7. Was the financial position accurately reported to members?
8. On what basis was the Chief Executive paid an international allowance from 2017? Did the NHCFT or the CCG pay a similar allowance at any point prior to December 2017?
9. Who approved travel expenses incurred in relation to the international business by the Chief Executive and other officers and members? Were these reasonable and proportionate and did they comply with the NCC business travel policy in force at the time?

The investigation will also seek to understand whether the council's processes for ensuring commercial trading activities are undertaken on a lawful basis and subject to appropriate oversight and reporting are fit for purpose and identify where they fall short of both standard and best practice.

The initial investigation should report within four weeks and may make recommendations for any immediate action and areas where further work is required to address performance or conduct issues. The investigation will be led by an external investigator for independence.

The outcome from the investigation will be reported to the Audit Committee at its meeting on 28 September 2022.