

commissioner fines; and being seen to act in accordance with what the trust perceived as the national expectation. As above, the paper did not set out the potential downside of acceptance, but some interviewees cited a loss of credibility or being subject to investigation as potential downsides. Our view is that a further downside was a delay in taking decisive action to tackle the deficit by signing up to a plan which was unlikely to be delivered.

34. We acknowledge that the decision to accept or reject the control total had many facets and that there were genuine benefits of accepting. However, our overarching view is that, based solely on the information available at the time, it was not reasonable to assume that the control total was deliverable. We believe that this represents an error of judgement by the Board, which has led to a large and almost inevitable variance from plan arising from the very start of 2017/18.

Caveat letter

35. The caveat letter submitted to NHS Improvement in November 2016 set out the key risks to delivery of the control total that were not wholly within the trust's gift to address. NHS Improvement did not confirm either acceptance or rejection of the letter at the time. It was not until the end of May 2017 that NHS Improvement confirmed to the trust that the caveat letter was not accepted. We agree with the trust's assessment that it was reasonable to assume that prior to this, in the absence of any correspondence to the contrary (as was the case with all trusts), the caveat letter had been accepted by NHS Improvement.
36. However, had the letter been accepted by NHS Improvement, it would not have altered what is a significant deterioration from the agreed plan, nor would it have had an impact on the current run rate. We therefore do not view the status of the caveat letter as a material factor in this investigation.
37. It is important to emphasise that a caveat letter does not and should not absolve the Board from accountability for the trust's financial position. Nor is such a letter a substitute for adequate due diligence by the Board of external risks to the financial plan and of the actions to ensure mitigations are in place or will be put in place. We consider that the existence of this letter reduced the Board's subsequent focus on the high risk areas that were not in its direct control as a result of such thinking, and that this reduced the Board's sense of accountability for delivering the control total.

Monitoring after November 2016

38. Given the scale of risks to the 2017/18 financial plan set out above, we would have expected to see monthly monitoring of these risks by FIC and the Board, to understand the extent to which they were being mitigated or crystallising. However, the overwhelming focus of finance papers to both these forums after November 2016 was on the 2016/17 financial position. While we understand such