Questions for NHSI about the investigation processes

1. *Please can you provide a full copy of the brief/scoping document that NHSI provided to Deloitte, in order to instruct their review?*
2. *Why did Deloitte only look at the trust's financial governance and management from April 2017 onwards (when the Grant Thornton report found that issues emerged prior to this)?*
3. *Why did NHSI not commission an independent review concerning Jeff Buggle - as it did earlier this year for the concerns surrounding the secondment of Bernie Cuthel (former chief executive of the scandal hit Liverpool Community Health Trust)?*
4. *Can you provide a list of people Richard Douglas interviewed, and documents he considered?*
5. *What conclusion does NHSI draw about Jeff Buggle's apparent shortcomings/failures highlighted by the GT and Deloitte reviews?*
6. *Where significant financial failings have happened at other trusts (such as Doncaster and Bassetlaw, Gloucestershire, King's College Hospitals, Bolton) – it has led to the departures of senior execs including the finance directors. Given that Mr Buggle was finance director and acting CEO of BHRHT for most of the relevant period, does NHSI believe he would have stayed in his job had he still been working for the trust?*
7. *Is NHSI willing to publish the findings of Richard Douglas's review?*
   (Although it concerned an individual employee, the Information Commissioner's Office says it is reasonable to expect disclosure of more information relating to senior employees. Also, the findings of the recent review into the secondment of Ms Cuthel concerned the actions of individual employees at NHSI, and these were published)

Findings from Grant Thornton which prompt questions for Jeff Buggle

- There were shortcomings in the following areas in which Mr Buggle will have been heavily involved and had oversight; transparency of the 2016-17 annual accounts; the robustness of the budget-setting process for 2017-18; the trust's focus on income and expenditure to the detriment of the balance sheet; a lack of additional financial analysis such as underlying earnings that would be consistent with prudent financial management; and weak working capital management processes.
- Several instances of significant delay in payments to suppliers were raised by divisional management to a senior member of the finance team from August 2016 onwards.
- Instances of creditors threatening and eventually discontinuing to supply after a prolonged period of late payments were communicated to senior members of the finance team from November 2016. From around the same period, the credit control team altered the processing of the weekly creditors payment runs. Despite this evidence and mounting pressure on the delivery of services, no additional analysis or KPIs (such as BPPC compliance, or creditor/debtor days) was introduced to inform the Trust of the emerging risks posed by the timing of cash flows. The communication to this effect was confined to the exchange between clinical management affected and the relevant finance business partner. Even as clinical divisions escalated their concerns directly to the director of finance, GT is not aware that any exceptional remedial actions were put in place by the finance team.

- In January 2017 a clinician affected asked whether cash flow should be added to the risk register, due to the potential impact on delivery of clinical services. But a senior member of the finance team said the delay was attributable to the timing of the payment run, rather than being a systemic liquidity issue. The matter was escalated to Mr Buggle late January 2017 but the risk was not recorded on the divisional/corporate risk register at this time.
- Further instances of non-payment or delayed payment to suppliers were flagged to the finance team in late January 2017 and in the subsequent weeks. In response, senior members of the finance team recognised the need to prioritise certain creditors due to the deferral in the receipt of income, but at the time, it did not highlight that there was unmanageable pressure on cash.
- The practice of stretching creditor payments to manage cash flow challenges had been the norm since 2015. There was inadequate financial reporting, such that the trust-wide finance report lacked basic information, metrics and KPIs that would be expected in finance reports, particularly in respect of balance sheets and cash flows.
- The style of commentary in the finance report, which was sometimes difficult to follow or contradictory, contributed to an underplaying of financial risks and issues…. Prior to July 2017, commentary in relation to cash flow did not feature in the executive summary of the finance report. This meant the board was not adequately informed about the extent of the liquidity challenges.
- The trust's director of finance is the only board officer with direct access to analysis performed on the working capital balances, so it would be his responsibility to provide a summary of this analysis and its implications to the board.

1. ***To what extent does Mr Buggle accept responsibility for the failures/shortcomings identified by Grant Thornton?***
2. ***When did Mr Buggle first learn about the concerns being raised by divisional management from August 2016 onwards?***
3. ***Why did Mr Buggle not put in place any remedial actions or highlight/escalate the cash issues to the board?***
4. ***Why did the trust stop reporting performance against the Better Payment Practice Code within its monthly board papers in June 2016?***

Findings from Deloitte which prompt questions for Jeff Buggle

- The extent of the accounting practices (including non-recurrent adjustments and stretching creditor payments) had not been shared with the board prior to August/Sept 2017 and there were poor levels of transparency in reporting.
- Chris Bown became interim CEO on 27 July 2017 (when Mr Buggle departed for NHSI) and three weeks later he made the financial and cash flow problems clear in an email to NEDs.
- Practices in the finance team did not deviate from accounting practices, but some were more pronounced than at other NHS trusts, especially in relation to creditor payment times. The level of transparency with the board was inadequate.
- There was a financial culture within the trust in which divisions would underperform against plans, but deficits would be recovered through adjustments and reserves to achieve control total. This

created complacency and meant performance and cost improvement targets were low on the agenda.

- There was only one month since October 2016 where the trust paid more than 30% of invoices within the statutory 30 days. Yet the link was not necessarily made between suppliers raising concerns and cash flow problems. Interviewees under the impression that delayed payments were due to process issues.
- The trust was known, both internally and externally, to be historically poor at paying supplier invoices in a timely way, but this was not consistently clear to board members.
- The financial reporting from at least April to August 2017 did not clarify the extent of reserves available, or how accounting adjustments had been used to support the run rate challenges.
- The trust's coverage of financial performance within the risk management process was poor and inconsistent – representing another factor in the general lack of awareness of the deteriorating position.
- Despite Mr Bown's email in August 2017, NEDs took assurance that in previous years emerging deficits at divisional levels had been recovered at year end by the finance department.
- There was very little discussion at finance and investment committee in June 2017 (which Mr Buggle attended) in relation to cash flow, underlying run rate and supplier payment issues. The primary focus was on I&E and a positive slant in relation to achievement of control total.
- There was an absence of monthly rolling cash flow in the trust's financial reporting until September 2017, described as a very basic omission.
- The extent of non-recurrent measures was historically not made explicit, which made it difficult to get a view of underlying financial position.
- There was a culture/sense that trust would regularly seek to improve financial performance through activity growth, as opposed to a combination of income growth and cost reduction.
- There was pronounced and historical silo working by the finance department – with other executive directors having little involvement.
- Steve Collins, who was recruited as interim finance director from March to December 2017, was too inexperienced for the role and had a lack of support.
- Once working for NHSI as regional director, Mr Buggle met with Chris Bown in August 2017 and discussed some of the financial concerns. As well as a lack of urgency in the communications from the trust, there was an absence of proactive triangulation and challenge from NHSI.

5. ***To what extent does Mr Buggle accept responsibility for these shortcomings/failings?***
6. ***Was Mr Buggle aware of the extent of the cash flow problems while he was acting CEO? Why did he not make the problems clear to senior colleagues?***
7. ***Why did Mr Buggle not ensure that the trust planned to draw down higher levels of working capital support, to ensure that invoices could be paid on time?***
8. ***To what extent does Mr Buggle believe he was effective and transparent in communicating the trust's underlying position to senior colleagues in 2015-16 and 2016-17?***
9. ***To what extent does Mr Buggle accept responsibility for the focus on income generation and the dispute with local commissioners (which the trust lost)?***
10. ***Was Mr Buggle involved in the recruitment of Steve Collins as interim finance director?***

11. ***Re the meeting with Chris Bown in August 2017, wouldn't Mr Buggle have had a conflict of interest here, given that he had been running the trust just a few weeks prior? Does he accept he should have provided greater challenge?***

Response from NHS Improvement (which confirmed that Mr Buggle had seen the questions)

The scope of Deloitte's review is stated as being "of board governance arrangements at Barking, Havering and Redbridge University Hospitals NHS Trust (BHRUT)." This was in the context of the financial concerns that developed at the trust during the course of 2017.

The review was not commissioned to explore further what happened at the trust to contribute to its operational problems.

For obvious practical reasons, and in the context of this focus, the report needed to start somewhere and the commencement of the 2017/18 financial year, (during which the cash emergency emerged) was a reasonable and sensible starting point.

That being said, Deloitte's review drew on a range of evidence, including the earlier investigation carried out by Grant Thornton, which as you know, had a much broader timeframe.

As both of these concluded, there were a number of factors that contributed to the financial situation of BHRUT. In consequence, the responsibility for the failings did not lie at the feet of any one individual…

Following the conclusion of Deloitte's independent investigation into BHRUT, we asked our Deputy Chair, Richard Douglas to examine the roles played by Jeff Buggle in his senior positions at the trust.

This work was based heavily on the Deloitte review - which we have published on our website - as well as interviews with staff, other documentation and Mr Douglas's own experience as the former Director General of Finance at the Department of Health and as the Head of the Government Finance Profession.

As Mr Douglas's review was specifically about an individual employee of our organisation and undertaken for a limited internal audience, we consider it would be inappropriate to share any further details of it externally.

Doing so would draw further unwarranted attention to an individual who has already had his professional conduct prematurely and unfairly judged by the media and its commentators.

We are entirely satisfied with the appropriateness and thoroughness of this and the evidence that was taken into account.

This included the reports prepared by both Grant Thornton and Deloitte, which amongst other things, were based on interviews with staff from BHRUT and elsewhere.

Also, it included a review of BHRUT's accounts for 2016/17 and 2017/18 and other relevant documentation, and interviews with NHS Improvement staff.

In his review, Richard Douglas found no evidence that in his time as chief finance officer of BHRUT that Jeff Buggle crossed a professional line in the published reporting of the Trust's results.

Also, he found no evidence that Jeff withheld or hid, either deliberately or inadvertently, information from either the BHRUT Board or NHS Improvement. Richard concluded that he found nothing which should impact upon Jeff's role at NHS Improvement.

We are therefore pleased that Jeff will remain in post as the regional director of finance for the London region and as already stated, he has the full confidence and support of NHS Improvement. We have followed due process in investigating the issues which arose, and we consider this matter resolved.