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Convener  
Public Audit Committee  
Room T 3.60  
The Scottish Parliament  
Edinburgh  
EH99 1SP

12 January 2016

Dear Convener

**Auditor General for Scotland (AGS) Section 22 report: 'The 2014/15 Audit of NHS 24: Update on management of an ICT Contract'**

I refer to your letter of 14 December 2015 in which you ask me to provide the Committee with:

- a timeline of the events/decisions covered by the Section 22 report, similar to that provided in relation to the AGS report on Coatbridge College
- a summary of the reviews mentioned at paragraph 25 of the AGS report (the gateway review, an independent review by Ernst and Young, and an independent lessons learned review by PricewaterhouseCoopers)
- figures on what proportion of ICT projects in the public sector have encountered difficulties
- how much the NHS 24 Board was anticipating the cost of the IT contract would be at the time it employed a Future Programme Director.

A timeline of events and decisions relating to the ICT contract is provided in Appendix 1. Appendix 2 summarises the key findings from the Gateway, Ernst & Young and PricewaterhouseCoopers reviews.

As I have reported previously, there is no central record of all ICT projects in the public sector. This makes it impossible to provide accurate information on the proportion of ICT projects that have encountered difficulties. The Office of the Chief Information Officer within the Scottish Government collects information about all ICT projects in Central Government but not for the NHS, Further Education, Higher Education, or Local Government. The newly created Central Government Transformation and Assurance Board provides oversight for the Scottish Government of ICT projects in Central Government, including oversight of the performance and overall direction of the Central Government Digital Transformation Service.

The Health, Local Government and FE/HE sectors all have their own oversight and governance mechanisms in place; these are the E-Health Strategy Board, Local Government Digital Transformation Board and the FE/HE ICT Oversight Board, all of which sit under the Digital Public Services Sponsor Board. However, there is no overall reporting of how well projects are progressing and being implemented.

For information, in addition to the NHS 24 report, we have produced five other Section 22 reports relating to ICT contracts in the last five years:

- Registers of Scotland (2010/11)
- Disclosure Scotland (2010/11)
- Crown Office and Procurator Fiscal (2010/11)
- CAP Futures (SG) (2013/14 and 2014/15).

In relation to how much the Board of NHS 24 was anticipating the cost of the IT contract would be at the time it employed a Future Programme Director in June 2014, the cost projection is detailed below:



I hope the Committee finds this information useful.

Yours sincerely



**Caroline Gardner**  
**Auditor General for Scotland**

## Appendix 1: NHS 24: Timeline of events/decisions

Date	Event	Ref in AGS report
January 2009	NHS 24 work on Future Programme started. At this time, it was expected the technology would be implemented in June 2013.	Paragraph 4
July 2010	Procurement commenced. NHS 24 procured the new technology in two lots: Lot 1 tender related to clinical and patient handling applications together with a ten-year contract for on going support once the system was operational. Lot 2 related to the provision and implementation of hardware and underlying infrastructure with ten year contract for support.	Paragraph 5
Aug 2011	Omissions in tender document discovered by NHS 24 staff member.	
October 2011	Contract awarded: NHS 24 appoint Capgemini to deliver lot 1; and BT to deliver lot 2.	Paragraph 5
March 2012	Lot 1 and Lot 2 contracts signed.	
April 2012	NHS 24 staff identified that some sections were missing from the signed contract.	
June 2013	Original (2009) scheduled time when the new technology was expected to be implemented.	Paragraph 4
July 2013	Gateway Review by the Scottish Government was undertaken.	Paragraph 25
July 2013	Board decided to postpone implementation to October 2013.	Paragraph 6
October 2013	Capgemini supplied version of the application.	
October 2013	The Board decided to postpone implementation indefinitely.	Paragraph 6
October 2013	Capgemini disputed that the application was not meeting the requirements specified in the contract.	Paragraph 7
November 2013	The Scottish Government agreed to provide additional loan funding (brokerage) to help NHS 24 manage unexpected changes in planned expenditure.	Paragraph 21
January 2014	NHS 24 Chief Executive and Director of Finance made aware of size and nature of flaws	Paragraph 7

Date	Event	Ref in AGS report
	within the contract documentation.	
January 2014	Omissions reported to the Board. Chair requested PricewaterhouseCoopers review of contract management.	
January 2014	Board agreed to progress with Declaration and Rectification action against Capgemini. A Declaration is a judgment of a court which determines the rights of parties without ordering anything be done or awarding damages. NHS 24 requested this Declaration to seek the legal interpretation of the existing contract with Capgemini, particularly in relation to the procurement "intention" of parties regarding the missing performance section.	Paragraph 8
March 2014	Scottish Government and NHS 24 jointly commissioned Ernst and Young to carry out an independent review.	Paragraph 25
March 2014	NHS 24 raised a Declaration and Rectification action against Capgemini to address the contractual flaws.	Paragraph 8
April 2014	Capgemini provided a further version of the systems application which was subjected to a six-week technical evaluation.	Paragraph 8
May 2014	An independent lessons-learned review by PricewaterhouseCoopers of the Minute of Amendment process for both the BT and Capgemini contracts was carried out at the request of the NHS 24 Chair.	Paragraph 25
May 2014	Following the six-week technical evaluation, NHS 24 concluded that the system was not delivering a safe patient handling application.	Paragraph 8
June 2014	NHS 24 used the findings of the Ernst & Young and PricewaterhouseCoopers reviews to improve its programme governance and focus on constructive negotiation with its suppliers.	Paragraph 26
June 2014	NHS 24 served a Default Notice on Capgemini requiring action to rectify the performance problems within 20 days.	Paragraph 9
June 2014	NHS 24 appointed a new Future Programme Director.	Paragraph 9
July 2014	The Future Programme Director carried out a risk assessment and the Board agreed to further diagnostic work to identify a way forward.	Paragraph 9

Date	Event	Ref in AGS report
September 2014	At the request of the Future Programme Director, NHS 24 commissioned an internal audit review to ensure the actions arising from the various reports and reviews were being implemented in line with agreed timescales.	Paragraph 27
October 2014	Section 22 report on NHS 24 published 24 October 2014.	Paragraph 2
November 2014	NHS 24, Capgemini and BT undertook a forward planning review.	Paragraph 27
November 2014	During the detailed planning for the October 2015 implementation, NHS 24, Capgemini and BT found differences in their understanding of their respective roles.	Paragraph 10
November 2014	The Future Programme Director identified that the Board of NHS 24 needed to recognise and address its role as Systems Integrator. The Future Programme Director also highlighted to the Board the requirement to engage more with NHS National Services Scotland as its strategic technical partner to ensure the availability of expert advice on IT, procurement and contracts and negotiation.	Paragraph 17
January 2015	A review into the contractual obligations of NHS 24, Capgemini and BT began. This is still ongoing. They are working to move to direct contracts (rather than contractual relationships through BT as the prime contractor) from June 2016.	Paragraph 10
February 2015	NHS 24 assembled a specialist team including systems architect and test manager. The team established a Programme Management Office within Capgemini's offices.	Paragraph 18
February 2015	An implementation plan for the Future Programme was agreed by the Board. This is a two phase approach with the first phase operational in October 2015 and the second phase operational in March 2016.	Paragraph 11
May 2015	Mediation process initiated between NHS 24 and Capgemini.	
June 2015	Following the mediation process, NHS 24 and Capgemini signed an agreement in relation to outstanding issues arising from the contract documentation. As part of this agreement, NHS 24 withdrew its legal action.	Paragraph 12
October 2015	The first phase of the Future Programme was implemented. The system experienced performance issues.	n/a

<b>Date</b>	<b>Event</b>	<b>Ref in AGS report</b>
November 2015	On 3 November 2015, NHS 24 decided to revert to the old system while it worked to resolve performance issues.	n/a
2020/21	Originally, NHS 24 expected to have repaid all the brokerage it received from the Scottish Government in 2019/20. This has now changed to 2020/21 to as a result of a finance impact assessment.	Paragraph 22

Appendix 2: Summary of reviews undertaken on NHS 24's management of its Future Programme as highlighted in Section 22 report.

Review	Undertaken by	Date	Scope	Conclusions/Recommendations from the reviews
Gateway Review	Scottish Government	Reported Aug 2013	Readiness for service review including capabilities of delivery partners and service providers	<ul style="list-style-type: none"> <li>- Successful delivery appears feasible but significant issues already exist requiring management attention. These appear resolvable at this stage and if addressed promptly, should not present a cost/schedule overrun.</li> <li>- The Future Programme is a particularly strong exemplar of good practice that would be transferable to other programmes. The decision to allocate a high proportion of very senior (in some cases dedicated) resource to the Programme has proved to be an immensely effective approach, leading to fast decision taking, and the presence of skills and personal qualities within the Programme that have maintained a clear focus and positive energy.</li> </ul>
Independent review	Ernst & Young Commissioned by Scottish Government and NHS 24	March 2014	<p>A rapid three week high level review of the NHS 24 Future Programme. It was not intended to be an audit of the programme, nor a detailed technical investigation of the root causes of the performance problems NHS 24 was facing. Key objectives:</p> <ul style="list-style-type: none"> <li>Obtain an independent assessment of the situation</li> <li>Provide advice to the SRO/Chief Executive of</li> </ul>	<ul style="list-style-type: none"> <li>- Develop commercial strategy and negotiation plan to prepare for discussions with the suppliers. As a first step in the review of available options, there is a need to gain consensus on and confirm the criteria against which to evaluate the available options.</li> <li>- Begin to refresh the Programme, so that NHS 24 are ready to mobilise as required, considering also appropriate interim options. Reconsider the expected benefits within the business case.</li> <li>- Review programme and technical support and continue to finalise the potential year-end provision and subsequent financial impact of Go Live delay.</li> </ul>

Review	Undertaken by	Date	Scope	Conclusions/Recommendations from the reviews
			<p>NHS 24 on possible routes to resolution, and then assist where appropriate</p> <p>Provide assurance to the Board of NHS 24 and to Scottish Government Health and Social Care that there was appropriate governance in place to address the evolving circumstances to ensure successful implementation</p>	
Independent lessons learned review	PWC, at the request of the NHS 24 Chairman	May 2014	<p>To review the Minute of Amendment process for both the BT and Capgemini contracts: the precise dates it became known that there were omissions in the contracts;</p> <p>the circumstances around how these omissions were discovered;</p> <p>when Pinsent Masons (NHS 24's legal advisors) were advised of these omissions, by who, and what the handling advice</p>	<p>Procurement process:</p> <ul style="list-style-type: none"> <li>- Full version of performance criteria issued to suppliers as part of Invitation to Participate in Dialogue Stage on 29/10/10.</li> <li>- 18/7/11 Invitation to Submit Final Tender contains truncated version of performance criteria – system error caused text to stop mid paragraph</li> <li>- Potential suppliers had responded to truncated version by 1/8/11</li> <li>- 4/8/11 NHS 24 identified truncated text uploaded onto system and so included in Output Based Spec for both lot 1 and 2</li> <li>- Suppliers contacted to advised, system copy corrected</li> </ul> <p>Construction of contract:</p> <ul style="list-style-type: none"> <li>- Contract finalisation was overseen by NHS 24 Core Team. Due to size and complexity, it was broken down into 6 work-streams each with an NHS 24 and Pinsent Masons (PM) lead.</li> </ul>

Review	Undertaken by	Date	Scope	Conclusions/Recommendations from the reviews
			<p>was, and; the subsequent processes which led to the BT Minute of Amendment being signed, but the Capgemini not being signed.</p>	<ul style="list-style-type: none"> <li>- Contract and supporting schedules maintained within Pinsent Masons extranet site and subject to ongoing clarification and amendment.</li> <li>- Truncated version was used as part of final contract in error</li> <li>- No complete page turning exercise performed due to time constraints</li> </ul> <p>Signing:</p> <ul style="list-style-type: none"> <li>- Lots 1 and 2 signed 2/3/12, 2 months later than planned – Capgemini, at own risk, had already initiated design work</li> <li>- 19/4/12 NHS 24 identified some sections missing from signed contract</li> <li>- 3/5/12 NHS 24 outline that now aware that in Lot 1 part of sections on Consent, Confidentiality, Security and Data Integrity; Technical Performance and Standards; Management Reporting; Documentation, Usability; and PatientContract Management were omitted. This was a printing error from the PM's extranet – this is separate from the original performance criteria truncation error.</li> <li>- No complete read through undertaken before signing as amendments being made up to and including date of signing. Advised read through not possible due to size and complexity of contract which would take several days</li> <li>- If the contract had been properly printed it would still have contained the truncated as the full version had not been included in the final file.</li> </ul> <p>Progressing Memorandum of Amendment:</p> <ul style="list-style-type: none"> <li>- 23/5/12 missing sections identified</li> </ul>

Review	Undertaken by	Date	Scope	Conclusions/Recommendations from the reviews
				<ul style="list-style-type: none"> <li>- PM advised omissions 'not an unusual event' so matter not escalated to Chief Executive or Board</li> <li>- 9/7/12 PM prepared MoAs and shared with Capgemini 13/7/12 containing truncated version</li> <li>- 3/8/12 NHS 24 second review of Lots 1 and 2 MoAs. Advises need to include non truncated version</li> <li>- 17/4/13 confirmation Capgemini satisfied with process to finalise MoA</li> <li>- 9 to 22/5/13 NHS 24 confirm had completed a final page turn and happy with Lot 1 MoA. This review did not pick up truncated version included even though this was identified on 3/8/12</li> <li>- 18/6/13 NHS 24 signed version issued to Capgemini</li> <li>- 27/7/13 both lot MoA contracts signed by NHS 24 but neither returned by Capgemini or BT</li> <li>- PWC understand BT signed but there was no further chasing of Capgemini to sign after 27/7/13</li> <li>- Milestone payment effectively signing off the blueprints was paid without caveats</li> <li>- The blueprints supersede aspects of the Output Based Specification and were approved without the traceability matrix being completed. The purpose if the traceability matrix is to ensure that all the requirements outlined in the contract can be mapped to the final design.</li> <li>- The design includes references to the truncated versions that constituted the original contract</li> <li>- Issues were not escalated beyond the Director of Finance and Technology. No mention of discussion of contract errors and omissions in the Contract Implementation Board minutes</li> <li>- At no point from April 2012 when errors first identified in the</li> </ul>

Review	Undertaken by	Date	Scope	Conclusions/Recommendations from the reviews
				signed contract, were the CE and incoming Director of Finance made aware of those omissions and MoA handling  - Full nature of issues became evident to CE and Director of Finance w/c 13/1/14.