NHS
Middlesbrough
Redcar and Cleveland

The NHS in England: The Operating Framework for 2010/11

1. Introduction

1.1 This paper sets out the context and background to the separation of the Primary Care Trusts (PCTs) provider arm; briefly up-dates on the current position; and, sets out a proposed way forward and Next Steps.

1.2 Members are invited to consider the proposed way forward and next steps, including the identification of 'requirements' that should be set to ensure that the significant work and progress that has been achieved in the management and organisation of community services is not lost and that services and staff are not disadvantaged.

2. Context

2.1 The Operating Framework for 2007/08 directed PCTs to make arrangements to separate service provision (largely in the form of community services) from their commissioning functions. This separation is to be accompanied by a contractual relationship between the commissioner for and provider of services. The separation of the PCTs commissioner and provider functions has been repeated in subsequent guidance following the Next Stage Review of the NHS and the Transforming Community Services (TCS) programme launched in January 2009. The expected conclusion of such a separation is that PCTs will not provide services.

2.2 The Operating Framework for 2010/11 requires a definitive organisational form for PCT provider arms to be agreed by March 2010 with a 12 month transition path to implement. This is recognised as a challenging timescale and the North East SHA has established an assurance regime to ensure compliance with the national requirements.

3. Background

3.1 Locally the PCTs have considered the options for an organisational form for their provider of community services on many occasions since the original guidance was published in 2006. This resulted in Middlesbrough, Redcar & Cleveland Community Services (MRCCS) first being set up on a semi autonomous basis operating at arms length from the commissioning organisations. MRCCS embarked on the Community Foundation Trust (CFT)

Programme in April 2007. MRCCS have led the way nationally within the CFT pathway and has operated as an autonomous provider since April 2008. The Tees patch is considered to be the most advanced community services economy within the region and an exemplar for other organisations to follow.

3.2 As part of the CFT pathway in November 2009 the Board considered a proposal to progress the submission to the Transactions Board for MRCCS to seek NHS Trust status.

3.3 Members will recall that at the meeting a number of issues were raised in discussion. These included likelihood of the eventual future destination in the light of the CFT business model, the robustness of the assumptions on growing the business, the prevailing financial climate and the impact of MRCSS not having the estate vested with it. Furthermore there must now be additional concern in the light of the public sector financial settlement and the pressure on management costs. These are reflected in SHA concerns that a relatively small organisation might not be financially sustainable in what is an increasingly competitive and much lower resourced environment than has existed previously.

4. Current Position

4.1 The Operating Framework 2010/11 set a deadline for expressing interest in progressing CFT status of 12 February 2010 and additional guidance on TCS has now been issued to supplement the previous guidance.

4.2 In the light of the background and context outlined above, a contingent arrangement must be put into place in order that services are not put at risk or staff unnecessarily disadvantaged. In so doing it is important that the process to deliver that arrangement does not distract MRCCS from addressing the transformation agenda for community services.

4.3 Responsibility for managing the process for ensuring the separation of PCT provider arms from PCT commissioning functions rests with the SHAs. In the North East staged process has been devised. This provides for PCTs to agree with the SHA plans for the future organisational form which will subsequently agreed with DH by 31 March 2010 with a view that the full transfer of undertakings, including all legal, financial, HR, contractual and regulatory requirements are met by 31 March 2011.

4.4 The guidance identifies a range of organisational solutions for the provision of community services. However, as a result of the work done to date as part of the CFT pathway indicates that many of the options set out in ‘Enabling new patterns of provision’ and the Operating Framework are not ones that we would wish to pursue locally. The remaining option for the PCTs would be to divest themselves of MRCCS and secure their organisational placement with an existing an NHS Foundation Trust [FT] for an agreed period. This could not be a long term guarantee for that NHS FT, but could importantly provide stability for services and staff in the short and medium term.

4.5 This placement or 'hosting' of MRCCS with an existing NHS FT option would represent essentially an NHS management change, as stressed by the SHA and not a service change or procurement. Accordingly it would be guided through adherence with the Transactions Manual.

5. Way Forward

5.1 The process of divestment services within the NHS is not necessarily a swift process and therefore it is critical to identify that partner at the earliest opportunity, and certainly no later than 31 May 2010 to meet the target date for separation of 31 March 2011 is to be achieved.

5.2 In order to ensure the continued provision of Community Services with an NHS Foundation Trust a means of identifying a preferred partner from local Foundation Trusts needs to be undertaken. This will require clear criteria/tests need to be determined. It is anticipated there will be a common process across the North East.

The DH has already set in its guidance on the approvals process a baseline that any plans must:

- be needs and pathway-driven;
- provide more integrated and sustainable primary, community and secondary care services which have the support of primary and social care;
- deliver improved quality, including better patient experience as well as increased productivity;
- are affordable, reducing management costs and transaction costs; and,
- help to manage the demand for services more effectively (for example, reducing acute admissions and lengths of stay).

5.3 The DHs guidance on the approvals process for PCT-provider community services sets out eight 'tests' based around the critical areas of delivery of improved quality, service efficiency and assured stability and these are attached in the Annex.

5.4 It would also be reasonable that the NHS FT and MRCCS have a clear 'strategic fit' and that the NHS FT has a demonstrable track record of leadership capability, governance structures and culture to engage and empower staff to lead service transformation. Further that MRCCS should be 'hosted' for an agreed term as a separate 'operating' unit that retains the integrity of its brand.

5.5 It is proposed that the baseline requirements set out above and tests detailed in the annex be used as the basis for identifying a preferred NHS FT for MRCCS no later than 31 May 2010.

6. Next Steps

6.1 In order to deliver the separation of the PCTs provider arm in line with national timelines whilst ensuring that services and staff are not disadvantaged the following steps are required:

- to accept that it is not possible for MRCCS to continue on the CFT pathway for the foreseeable future and that another organisational solution is required;
- to identify an NHS FT through assessment based upon the baseline set out by the DH and the tests set out in the Annex; and,
- establish a time limited project to determine the preferred Foundation Trust and subsequently secure agreement with the SHA and mange the divestment.

7. Recommendation

7.1 The Board is recommended to:

- note the background, context, current position and to consider the way forward; and
- to approve the next steps as set out and request regular updates on progress to assure the formal separation of the PCT-provider arm by March 2011.

Health Systems Development
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Annex

Transforming Community Services
Tests to Assure the Greatest Benefit from Organisational Solutions for PCT Provided Services

No	Test	Themes
QUALITY IMPROVEMENT		
1	**Improving Outcomes** Will it meet patient needs and deliver improved local health outcomes as identified in the PCT strategic commissioning plan and Local Area Agreement (LAA), and significantly better patient experience (including Choice)?	• Fit with the PCT Strategy • Impact on health outcomes • Impact on patient experience • Impact on inequalities.
2	**Improving Quality** Will it deliver significant improvements in quality of service and outcomes delivered?	• Sustainable improvements to quality of service • Capability to shift from acute to out of hospital care
3	**Service Integration** Will it deliver significant improvements in service integration and quality of health and social care?	• Enhanced service integration and improved care • Increased prevention across partners through more integrated approach
4	**Stakeholder Engagement** Has it got the engagement and support of key stakeholder groups?	• Support from key stakeholders • Support from and partners • Support from Staff • Support from patients
INCREASED EFFICIENCY		
5	**Efficiency Improvements** Will it deliver substantial improvements in the technical and allocative efficiency of the services being delivered?	• Deliver the sustainable technical efficiency improvements • Deliver the sustainable allocative efficiency improvements set out in the NHS Operating Framework 2010/2011 • Impact on management and transaction costs
6	**Infrastructure Utilisation** Will it maximise utilisation of own (and any integration partners) estate and infrastructure?	• Increased utilisation of back office estate and other infrastructure. • Better integration with partners

SUSTAINABILITY		
7	**Sustainability** Will it be clinically and financially sustainable?	• Sustainable in the long and short term, clinically, financially and in the terms of infrastructure • Increased leverage in the local health economy to deliver - Strategic commissioning plans - Transformation & realignment - Contestability and innovation • Retains a sufficiently skilled workforce to lead, develop and deliver new service models
8	**Whole System Fit** Will it fit into and enable delivery of wider health economy service transformation and shifts in care?	• Whole health economy effectiveness and efficiency • Strategic fit with future patterns of acute and out of hospital provision • Delivery of significant wider health system improvements • Impact elsewhere in the wider care system.

NOTE: The principles and rules for cooperation, competition and NHS preferred provider policy shall also be respected.

[From: Transforming Community Services: The Assurance and Approvals Process for PCT-provided Community Services, January 2010]