

# STRONGER *together*

Friday 6 July 2012

## **Update on the proposed merger of Ealing Hospital NHS Trust and The North West London Hospitals NHS Trust for Brent Health Partnership Overview and Scrutiny Committee meeting on 18 July 2012**

---

### **1. Introduction**

This report provides an update for the panel on the proposed merger of Ealing Hospital NHS Trust (EHT) and The North West London Hospitals NHS Trust (NWLHT) and the development of the Full Business Case (FBC).

This report is essentially the same paper which was provided to the Trusts' Boards on 19 and 20 June as part their considerations of the draft Full Business Case. A short briefing for stakeholders providing an overview of the draft FBC, the next steps and clinical benefits is attached (appendix 2).

Specifically this report provides information about:

- Final draft Full Business Case – it's content and on-going work to underpin the business case (an executive summary of FBC is attached – appendix 3)
- Internal and external processes
- Transactions agreement (to support the financial agreements for merger)
- Next steps including provisional timeline and processes
- Equalities Impact Assessment
- Communications and engagement

Since the Trust Boards met on 19 and 20 June, NHS London's Board has considered the draft FBC on 28 June as planned and provided their support for the final draft of the business case and the proposed timeline (see paragraph 7).

The draft FBC makes the case for the organisational merger of the two Trusts without any major service change. Decisions about how services will be provided across north west London in the future are subject to a public consultation as part of the Shaping a healthier future programme which is being led by NHS North West London.

### **2. Background**

The Outline Business Case (OBC) for the proposed merger was approved by the Trust Boards and NHS London in October 2011. In December 2011 the merger

# STRONGER *together*

programme was strengthened and the nine project work-streams were formalised with Executive leads from one of the two Trusts.

Since then the programme has been working towards producing the FBC for Trust Boards and NHS London (NHSL) approval prior to its formal submission to the Department of Health's Transactions Board (DHTB). It is the DHTB, which has the authority to recommend approval to the Secretary of State for the dis-establishment of the two Trusts and establishment of the new organisation. DHTB will only do this when all issues are resolved. This includes clarity around funding.

The original FBC submitted to NHSL in March 2012 was not formally considered by the Trust Boards or NHSL because of concerns raised as part of the Due and Careful Enquiry (DCE) process undertaken by KPMG relating to the scale of merger savings/synergies and the level of detail to support cost improvement plans (CIPs) in particular at NWLHT.

As a result PwC were commissioned to support the Trusts; identify the total potential merger synergies/savings, identify and develop further CIP opportunities, update the LTFM and finance chapter to reflect these additional opportunities and the current year financial agreements with Commissioners.

A final draft FBC was completed on 6 June 2012 and submitted to NHS London. The Organisational Futures Programme Board (OFPB) and both Trust Boards have approved this final draft in principle. NHSL's Board are due to consider the final draft FBC on 28 June 2012 at their private meeting.

## **3. The final draft Full Business Case (FBC)**

### **3.1 Summary**

The overall conclusions of the final draft FBC have not substantially changed from the version prepared in March 2012. It remains clear that the two trusts are 'Stronger Together' and that by 2015/16 the merged Trust could deliver a 1% surplus of £6.3m, putting it in a position to apply for Foundation Trust status.

However, this broad conclusion is conditional upon:

- The full realisation of merger synergies (clinical and financial)
- The incorporation of robust management processes, with full clinical engagement at NWLHT and EHT to provide confidence in the delivery of the challenging Cost Improvement Programmes (CIPs) requirement for the new organisation
- Securing £96.5m additional funding from NHS Commissioners and Department of Health (DH), to underpin the transformation and transition to 2015/16.

# STRONGER *together*

Implicit in the above, but no less critical to success, is to sustain the momentum and engagement of key stakeholders, within both the Trusts and the continued support of NHS North West London (NHS NWL) and Clinical Commissioning Groups (CCGs).

## 3.2 Detailed changes in the final draft FBC

Following the Trust Boards' approval of the OBC, the FBC development has progressed to a final draft.

We have acknowledged and reflected the NHSL feedback (highlighted in their draft assurance report based on the March 2012 submission) and the findings of the KPMG Due and Careful Enquiry (DCE) report in refreshing this latest version of the FBC. For example, some refinements have been made to chapter 9 (governance) in line with feedback and includes a clearer Board sub-committee structure.

The final draft FBC has the following content updates from the OBC to bring to your attention:

- The clinical vision is aligned closely with the challenge set by the 2012 commissioning intentions received from NHS North West London.
- Clinical and patient benefits resulting from the merger are described with a phased approach detailing benefits within the first two years with more explicit examples of what will be different.
- Throughout the document reference is made to the proposed name of the new Trust which is **London North West Healthcare NHS Trust**.
- Performance information is refreshed in chapter 3 so that the Trusts' profile includes April 2012 data.
- Chapter 8 on finance and the supporting LTFM has been amended to reflect; 2012/13 agreed financial plans and income levels, the latest Monitor financial planning assumptions, the further work undertaken on merger savings and synergy opportunities and the further progress made detailing the CIP schemes to be delivered in 2012/13 and 2013/14.
- A new organisational vision is articulated based on a joint Executive Director Workshop hosted in February 2012 along with a new proposed organisational structure.
- A new chapter 11 has been added describing the planning and implementation plans and milestones to ensure a successful merger, which were subsequently scrutinised as part of the Due & Careful Enquiry led by KPMG.

## 4. On-going work to underpin and support the FBC

The final draft of the FBC now reflects the latest position in respect of the Commissioner plans for Shaping a Healthier Future (SaHF) in north west London, the true scale and potential of merger synergy and savings and the maximum scale of CIP and efficiency the merged trust can deliver in its base case for organisational

# STRONGER *together*

merger. We now have confidence that the scale of these savings plans is realistic and achievable based on appropriate benchmarking of services led by PwC and agreed with senior clinicians.

The benchmarking included; review of HRG costs by specialty, clinical quality and efficiency analysis (length of stay, day case and re-admission rates) as well as detailed workforce analysis (staff grade, cost, and productivity). This analysis has assisted the development of £72 million of CIPs. PiDs (Project Initiation Documents) have been produced that outline savings schemes to be delivered in 2012/13 and 2013/14. The PiDs provide the rationale for why the schemes are feasible, the high level actions required to deliver them, who is leading and the scale of saving to be delivered.

It is clear therefore, that the schemes and opportunities exist but given the short time scale to identify them, there is on-going work required to fully develop and strengthen these. At the same time, given the scale of the challenge, there is the need to further strengthen and resource the role of the Quality, Innovation, Productivity and Performance Programme Management Office (QIPP PMO) and overall clinical governance arrangements for signing off the schemes and then monitoring and holding to account the scheme owners for delivery. This further work and revised arrangements will take place and be implemented over the next eight weeks and should give confidence to the Boards that the financial assumptions and plans that underpin the FBC modelling assumptions can and will be delivered.

## 5. Assurance processes

A number of internal and external assurance processes have been instigated to ensure that the merger is delivered safely. The below provides an update on these.

### 5.1 Internal Trust-led assurance process

As part of the Trust-led assurance process the merger programme has commissioned three areas of due diligence:

- Due and Careful Enquiry (DCE)
- Legal Due Diligence (LDD)
- Clinical Due Diligence (CDD)

**DCE:** The Due and Careful Enquiry incorporates an independent detailed review of the FBC's financial modelling and assumptions, as well as a review of the state of readiness of all the implementation planning undertaken by the existing work-streams. KPMG were commissioned to undertake this work and completed a first review in March 2012 of the original FBC as described above.

KPMG fully commenced a refresh of the DCE process on the 6 June 2012 and at the time of writing aim to complete their review by 15 June. We are awaiting their final report.

# STRONGER *together*

**LDD:** Legal Due Diligence includes a detailed review of the legal agreements that underpin the merger transaction as well as ensuring appropriate legal title is held by the existing Trusts to their current asset base, that appropriate arrangements are in place for all trading and lease arrangements and that there is an up to date record of all potential legal liabilities faced by the Trusts.

The LDD has also been refreshed to support the Final Draft FBC and was submitted to NHSL on 29 May and to both Trust Boards. It is the initial assessment of both Trust CEOs that there are no significant issues identified which would prevent the merger progressing as planned, although there are a number of recommendations requiring action both before and after the merger which relate to leases and community property transfer etc. A copy of this report can be viewed on our website: <http://www.nwlh.nhs.uk/stronger-together/documents/>

**CDD:** The Clinical Due Diligence process has completed phase one, which was a review of hard data for both Trusts and this was submitted to NHS London on 9 March with a draft FBC and is now part of the NHSL assurance process.

The full CDD includes a further two phases with soft data collection, peer review and independent 'confirm and challenge' sessions culminating in the phase three handover report to the new Trust Board. This work is managed through the ninth work-stream which reports directly to the Merger Programme Operating Board (MPOB) with a clinical chair and under the leadership of the chief executive of EHT. Phase 2 is on track for completion at the end of July 2012 and the report will be considered by both Trusts and then used to inform the future governance arrangements of the new Trust which will be reflected in the Phase 3 handover report.

## 5.2 External NHSL assurance process

NHSL commenced a detailed assurance process in February 2012 which reviewed quality and safety, patient experience, governance, financial plans, integration planning and readiness in respect of key areas; IT, finance, HR/OD and estates. A draft report was produced and shared with the merger programme and the findings have been reflected in the final draft FBC for progression and development of integration plans as appropriate.

NHSL have formally recommenced the refresh of their assurance process, which has primarily focussed on the revised finance chapter, LTFM and the plans that underpin these. This process was due to complete on 15 June 2012. Given the current position in regard to the CIPs programme (described in 4.0 above) and definition of financial benefits through merger, the NHSL assurance process also remains incomplete and will only be finalised when all the outstanding work and processes are complete.

# STRONGER *together*

## 6. Transactions Agreement (TA)

As part of the FBC submission to NHSL and ultimately the DH Transactions Board a legal agreement in the form of a formal Transactions Agreement (TA) is required. The TA is signed by the Trusts and respective funders, and outlines the financial agreements incorporated to support the merger transaction. At the OBC stage this was referred to as the Heads of Terms.

The FBC concludes the merged Trust will need significant one-off support funding to implement the change, underwrite the early years trading deficits and improve its liquidity position in advance of an FT application. Included in these costs are the merger programme costs (2012/13 and 2013/14) of developing the FBC and preparing for and implementing the integration.

Overall the level of support totals £96.5m and to date there has been in principle agreement to fund £33m (the balance to be negotiated with Commissioners, NHSL and DH following approval of the FBC by the Trust Boards but prior to formal submission to the DH). The Transactions Agreement has been drafted and highlights the financial support required for a successful merger (£96.5m) as described above and will now need to be shared and negotiated with the NWL Cluster and NHS London.

## 7. Approval processes and timelines

Before the FBC can be considered at an NHS London Board meeting held in public it will need to be supported by the Board of NHS North West London who will be required to provide a letter of support for the FBC and agree their share of any financial commitments to the funding arrangements to support the merger. The programme has therefore been working closely with NHS colleagues in the commissioning team to ensure there is alignment of plans between the Cluster and the merger programme. The funding arrangements will also require the support of the NHS NWL Challenged Trust Board (CTB).

Given the short timescale to undertake the additional work, produce the final draft FBC and subject it to the rigours of both the DCE and NHSL assurance process, both Trusts Boards considered the final draft FBC on 19 and 20 June, in advance of it being considered by NHS North West London and NHS London Boards. As a consequence it is now recognised that given the requirement for the FBC to be considered at an NHS London public Board (only once the Transaction Agreement is finalised and any further assurance NHSL may require is addressed to support the FBC) and then gain DH Transactions Board approval, the existing proposal for 1st October 2012 merger referred to in the FBC will not be achieved. A revised provisional timeline for the approvals process to establish the merged Trust is as follows:



# STRONGER *together*

## **Final draft FBC**

- NHS London Board (private session) - 28 June
- Department of Health Transactions Board - 26 July

## **Final Full Business Case**

- Trust Boards (public session) - early September
- NHS North West London Board (public session) – early September
- SHA Board (public session) – September
- Department of Health Transactions Board - October

## ***Merger completed early 2013 at the earliest***

## **8. Co-operation and Competition (CCP) panel review**

The role of the CCP in respect of potential mergers of organisations is to assess whether there are material costs to the public and patients as a result of restricting choice or competition. A final CCP panel meeting was held on 13 June 2012 and concluded:

*“Overall, we concluded that the merger of Ealing Trust and North West London Trust is unlikely to give rise to a material cost for patients and taxpayers because there will remain sufficient patient choice and competition. We concluded therefore that the merger is consistent with Principle 10 of the Principles and Rules.”*

The final report from the CCP is now available on their website

[http://www.ccpanel.org.uk/cases/Merger\\_of\\_Ealing\\_Hospital\\_NHS\\_Trust\\_with\\_North\\_West\\_London\\_Hospitals\\_NHS\\_Trust.html](http://www.ccpanel.org.uk/cases/Merger_of_Ealing_Hospital_NHS_Trust_with_North_West_London_Hospitals_NHS_Trust.html)

## **9. Equalities Impact Assessment of the FBC**

In response to a request from the three local Overview and Scrutiny Committees (OSC) an Equalities Impact Assessment (EIA) of the FBC has been completed and was submitted to NHSL with the FBC on 29 May 2012.

Overall the assessment of the FBC was positive when reviewed chapter by chapter, with recommendations for the new Trust to ensure a strong and visible commitment to equalities is maintained. Some areas of negative impact were highlighted, mainly in response to the level of merger savings which need to be achieved and the potential impact on different staff groups. In addition, there were concerns about how the new organisation’s governance arrangements might not be as strong as the existing ones in recognising Equality and Diversity in the senior committee governance structures and this will now be reviewed.

A copy of the Equalities Impact Assessment and cover letter as submitted to NHS London on 29.05.12 is attached as Appendix 1.

# STRONGER *together*

## 10. Communications and Engagement

Chapter 10 of the final draft FBC highlights the engagement undertaken with stakeholders since April 2011 and formal consultation with Local Involvement Networks (LINKs) as required by the NHS Act (section 25). It highlights the key themes and issues raised by stakeholders, the Trusts' response to them, and includes formal letters giving views on the merger from LINKs, Overview and Scrutiny Committees, Councils and other organisations.

In support of the publication of the FBC both Trusts will be continuing to engage and communicate with key stakeholders, including staff, regarding the Full Business Case, the next steps in the merger approvals process and also as the Trusts prepare for day one and beyond.

A series of open events have been arranged for staff to hear about and discuss the draft FBC with senior leadership from the two Trusts. A detailed staff engagement programme is now being developed to ensure staff continue to be fully involved as the Trusts begin to implement their plans for integration. Staff have also been provided with a short briefing explaining the FBC and the next steps.

Letters were issued to key stakeholders to advise them of the Trust Board meetings which are held in public and stakeholders are still able to email their views to the [merger@nhs.net](mailto:merger@nhs.net) email address or contact the merger programme office if they would like someone to attend one of their meetings.

The Full Business Case (which includes an executive summary) has been placed on the Trusts and dedicated merger website [www.nwlh.nhs.uk/stronger-together](http://www.nwlh.nhs.uk/stronger-together) and the Trusts will also continue to attend this committee to discuss the FBC and explain the plans for integration. A stakeholder briefing paper is also available on the Trusts' websites and is attached (appendix 2).

## 11. Conclusions

The final draft FBC demonstrates that the two trusts are 'Stronger Together' with clear benefits for patients and staff and that by 2015/16 the merged Trust would deliver a 1% surplus of £6.3m putting it in a position to apply for Foundation Trust status.

Following the review of the final draft FBC by NHS London on 28 June the aim will be to progress with the establishment of shadow management arrangements at the earliest opportunity to maintain momentum on integration planning and to start to realise the benefits of the merger.

**Simon Crawford, Senior Responsible Officer**



# STRONGER *together*

## Ealing and North West London Organisational Futures Programme

### APPENDICES:

Appendix 1: Equalities Impact Assessment and cover letter as submitted to NHS London on 29.05.12



E & D Form.doc



Assessing the Impact  
of the Merger FBC on

Appendix 2: Stakeholder briefing (see attached file).



fbc stakeholder  
briefing final version.

Appendix 3: Executive summary from final draft FBC (see attached file)



final draft fbc  
executive summary.ju