

**NHS VALE OF YORK CLINICAL
COMMISSIONING GROUP**



North Yorkshire and York

GOVERNING BODY MEETING

Meeting Date: 4 April 2013

Report's Sponsoring Director:

Report Author:

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Chief Clinical Officer

1. Title of Paper: North Yorkshire and York Primary Care Trust Transition and Closedown

2. Strategic Objectives supported by this paper:

1. Improve healthcare outcomes
2. Reduce health inequalities
3. Improve the quality and safety of commissioned services
4. Improve efficiency
5. Achieve financial balance

3. Executive Summary

The implementation of the Health and Social Care Act 2012 required the largest ever transition programme in the history of the NHS. As a result of the reform agenda North Yorkshire and York PCT will be dis-established on 31 March 2013 and will cease to exist as of 1 April 2013. All the PCTs current functions, properties, contracts, assets and liabilities will be transferred to new receiving organisations in accordance with the Health and Social Care Act 2012.

As part of the closedown process the PCT was required to develop a Corporate Handover Document, Quality Handover Document, Board Assurance Framework and Risk Register to facilitate knowledge transfer to the new organisations. The full suite of documents has been circulated to Governing Body members and is available on the website at

www.valeofyorkccg.nhs.uk

This report addressed the closedown requirements for the PCT Board at its final meeting on 26 March 2013 and is now presented to the Governing Body to note.

4. Risks relating to proposals in this paper

Successful handover and closedown of the PCT including;

- Staff transfer
- Assets and Liabilities transfer
- Transfer/ closedown of statutory functions
- Legacy management post March 2013
- Maintaining quality during transition
- Knowledge transfer

5. Summary of any finance / resource implications

n/a

6. Any statutory / regulatory / legal / NHS Constitution implications

Health and Social Care Act 2012

7. Equality Impact Assessment

n/a

8. Any related work with stakeholders or communications plan

The North Yorkshire and York Transition Programme Governance Board oversees the on-going programme of work.

Two Operational and Quality handover events were arranged in March, one joint event with Humber Cluster focussed on the NHS Commissioning Board Area Team, NHS Property Services Limited and Public Health England and one with Local Authority and Clinical Commissioning Groups.

9. Recommendations / Action Required

The Governing Body is asked to note the recommendations detailed in the attached paper.

10. Assurance

n/a

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NORTH YORKSHIRE AND YORK PRIMARY CARE TRUST TRANSITION AND CLOSEDOWN

1. Introduction

The implementation of the Health and Social Care Act 2012 required the largest ever transition programme in the history of the NHS. As a result of the reform agenda North Yorkshire and York PCT will be dis-established on 31 March 2013 and will cease to exist as of 1 April 2013. All the PCTs current functions, properties, contracts, assets and liabilities will be transferred to new receiving organisations in accordance with the Health and Social Care Act 2012.

The Department of Health (DH) Transfer Scheme process is the mechanism by which these functions, properties, contracts, assets and liabilities will be transferred. The PCT, as a sending organisation, has final jurisdiction over the destination of all its assets and liabilities.

2. Receiving Organisations

The receiving organisations relevant to North Yorkshire and York PCT are:

NHS Commissioning Board

Clinical Commissioning Groups (CCG)

Vale of York Clinical Commissioning Group

Hambleton, Richmondshire and Whitby Clinical Commissioning Group

Harrogate and Rural District Clinical Commissioning Group

Scarborough and Ryedale Clinical Commissioning Group

Airedale, Wharfedale and Craven Clinical Commissioning Group

Cumbria Clinical Commissioning Group

Local Authorities

North Yorkshire County Council

City of York Council

Public Health England

NHS Property Services Limited

Foundation Trusts

Harrogate and District NHS Foundation Trust

York Teaching Hospital NHS Foundation Trust

Airedale NHS Foundation Trust

South Tees Hospitals NHS Foundation Trust

Leeds and York Partnership NHS Foundation Trust

Tees Esk and Wear Valleys NHS Foundation Trust

There is no legal requirement for new receiving organisations to sign for contracts, assets and liabilities as they will be transferred by the DH under the powers invested in them by the Health and Social Care Act 2012. However, from a due diligence and corporate governance point, Operational and Quality Handover meetings have been held with local representatives of the receiver organisations and draft documentation shared.

3. The Transition Programme Governance

A Transition Programme Governance Board was established to manage the handover and closedown process underpinned by several work-streams. The handover and closedown of the statutory organisation has developed in line with DH guidelines and reporting requirements. This involved a number of work-stream including HR, Finance, Contracting, Quality and Governance, as well as direct reporting on the whole transition to the NHS North of England Cluster, for consolidation and onward reporting to the Department of Health.

There are two transfer schemes per statutory organisation: one for property, which will include buildings, land, assets and liabilities and one for people. The Guidance is clear that every Sender should receive appropriate legal advice to satisfy their respective statutory duties and internal governance requirements in respect of the closedown and handover. The PCT has engaged Hempsons to provide legal advice and oversight to the Property, Assets and Liabilities Transfer process.

4. Corporate Handover Document (10.1) and Quality Handover Document (10.2)

The Corporate Handover Document is enclosed as Item 10.1. This document is designed to provide a position statement of the health economy and provide signposting to key documents or information that will be of interest to receivers.

In line with National Quality Board guidelines, the PCT has produced a Quality Handover Document, the final version of which was submitted to the SHA on 15th March, in line with national requirements. The Quality Handover Document is shown as Item 10.2. Triangulation with the Strategic Health Authority and providers has been undertaken.

5. Transfer of Statutory Functions (10.3)

All statutory functions of SHAs and PCTs have been mapped to the new destinations. Details of these are shown in Item 10.3

6. Transfer Schemes: Property, Assets and Liabilities (10.4)

The Handover and Closure Programme, managed by the Department of Health (DH) Integrated Programme Office, has coordinated the production of detailed instructions from sending organisations (Strategic Health Authorities and Primary Care Trusts) and managed delivery into DH Legal Services, which is responsible for drafting the legal transfer documents.

This requires that senders formally agree and document the transfer of all property, assets and liabilities, which has been carried out through production of:

- Annex 2 – Detailed list of all assets and liabilities
- Annex 3 – Detailed transfer scheme instructions
- Annex A – Land and building schedules

Annex 2 has been co-ordinated with input from key staff throughout the organisation, including IM&T, contracting, finance, information governance and corporate to enable the identification of all known assets and liabilities. Annex A has been completed by estates colleagues.

All annexes were submitted to the Department of Health, who undertook some review and challenge, requiring additional amendments, prior to these being passed to the DH Legal Team for the drafting of the transfer orders/schemes.

Draft transfer schemes were received, and we had a 48 hour window on each to answer queries from the DH legal team, undertake a review of the draft scheme to ensure all entries from Annex 2 and 3 were correctly reflected, and submit any other changes. The property transfer scheme (generic provisions) for the PCT is shown as Item 10.4. The property transfer scheme (Schedule 2), containing the full list of assets and receivers may be viewed by individual Board members on request.

7. Sender Authorisation Process (10.5)

The sender Authorisation process including Annex 4 (sender authorisation) is also shown in Item 10.5, which is to be completed by the authorising officer and submitted to the Department of Health, to provide the necessary assurance to the Secretary of State, ahead of the legal transfers. These must be completed and submitted no later than midday on Monday 25 March 2013. In order to enable the documentation to be submitted by the deadline, the Board agreed that it would delegate authority for sender approval, through Chairman's action, to meet on 22 March to review and agree the property and staff transfer schemes.

Once the signed annex 4 is received by the department of Health, the transfer scheme will be signed by a Senior Civil Servant on behalf of the Secretary of State. The signed transfer scheme is the legal instrument of transfer and will take effect on 1 April 2013.

Final signed transfer schemes will be stored in a central Department of Health repository.

Sign off by national receiver bodies (such as NHSCB, PHE) will be coordinated centrally by the Department of Health. Local Authority and Clinical Commissioning Groups are not expected to carry out formal sign off although it is expected that they will be making their own arrangements in accordance with their internal governance arrangements.

8. Staff Transfer Schemes and People Tracker (10.6)

The efficient and effective transfer of staff to receiver organisations is a key element of the transition and closedown process. The details of this process is set out in two documents, the staff transfer scheme and the people tracker. A full summary of the process for the transfer of staff to receiver organisations is set out in Item 10.6

9. Post transfer modifications to Transfer Schemes after 1 April 2013

The general provisions at the front of the Transfer Schemes provide for modifications to the schemes (Part 2, 37 extracted here):

- (1) This Scheme may be modified after it comes into effect, in accordance with the following paragraphs.
- (2) A modification may be made in respect of the transfer of any property under Part 2 to either NHS Property Services Limited or Community Health Partnerships Limited so as to alter the recipient of that property, and to make any other modification in connection with that alteration, where—
 - (a) the Secretary of State has determined that—
 - (i) the proper recipient of the property should be NHS Property Services Limited instead of Community Health Partnerships Limited; or
 - (ii) the proper recipient of the property should be Community Health Partnerships Limited instead of NHS Property Services Limited; and
 - (b) in either case referred to in paragraph (a), the Secretary of State, NHS Property Services Limited and Community Health Partnerships Limited all agree that a modification should be made to the Scheme to that effect.
- (3) Any other modification must be agreed by—
 - (a) the Secretary of State;
 - (b) the transferee in respect of any property, rights or liabilities to which the modification relates; and
 - (c) any person other than the Secretary of State or a transferee whose interests appear to the Secretary of State to be interests that are or may be significantly affected by the modification.
- (4) Subject to paragraph (5), a modification to this Scheme—
 - (a) must be made before 1 April 2014; and
 - (b) may have effect from such earlier date as may be agreed.
- (5) A modification may take effect on any date, whether before or after the date of the agreement to make that modification, other than a date which is—
 - (a) before the transfer date; or
 - (b) after 1 April 2014.

The Secretary of State has the power to make a subsequent property transfer scheme in accordance with section 302 of the Health and Social Care Act 2012.

Any changes arising after senders have reviewed and submitted final changes on their draft transfer scheme will be made under these provisions.

10. Board Assurance Framework (10.7) and Risk Register (10.8)

The final Board Assurance Framework is appended as Item 10.7, along with the risk register as Item 10.8 as it stands at this point in time. The risks have been reviewed, and where these will lapse with the statutory organisation, the final column indicates that these will be closed on 31 March 2013. Where it is considered that the risk remains and needs to be transferred to one of the receiving organisation, this has been identified and local handover will take place through the ongoing handover process.

11. Legacy Management

Despite the abolition of SHAs and PCTs, the Department of Health needs to ensure that robust arrangements are maintained for the preparation and audit of all NHS accounts. This includes an appropriate mechanism for scrutiny and sign off. For the PCT this means sufficient resource must be secured locally to secure an effective account preparation and audit process. Arrangements are being finalised to secure Non-Executive Director capacity and audit advice.

DH has also advised that a Legacy Management function is being established. This will manage those residual aspects of closure which cannot by their nature be completed prior to April. It will cover responsibilities which fall, following the abolition of NHS statutory bodies, to DH or Secretary of State. This function will serve as a channel for the efficient redeployment of physical assets, such as ICT equipment, that receiving organisations decide not to retain after March or for records management, specifically in relation to archived records.

The legacy management team will be time-limited and include a small central team and four regional teams. The local arrangements are yet to be confirmed.

12. Recommendations

The Governing Body is asked to note that the PCT Board:

12.1 Noted the [draft] Generic Provisions of the Health and Social Care Act 2012 North Yorkshire and York Primary Care Trust Transfer Scheme 2013 (Item 10.5) [and further note that these may be subject to change by the Secretary of State before 1 April 2013].

12.2 Resolved that it was satisfied that North Yorkshire and York Primary Care Trust (PCT):

12.2.1 has carried out due diligence to identify all property, rights and liabilities that will be held by the PCT as at 31 March 2013;

12.2.2 has used all reasonable endeavours to identify all PCT property, rights and liabilities and has, based on the function to which such property, rights and/or liabilities are currently deployed, notified the Secretary of state of the most appropriate permitted receiver in the new post 1 April

2013 North Yorkshire and York health and social care system architecture;

12.2.3 has reviewed and agreed the draft Transfer Scheme against the information supplied by the PCT to the Secretary of State and has provided all corrections, amendments and additions as are reasonably required to ensure that the PCT's property, rights and/or liabilities transfer to the most appropriate permitted receiver in the new post 1 April 2013 North Yorkshire and York health and social care system architecture;

12.3 **Acknowledged and ratified** that Annex 4 was signed [on 22 March 2013] by a duly authorised officer of North Yorkshire and York Primary Care Trust to formally approve the [draft] Transfer Scheme for North Yorkshire and York Primary Care Trust [read in conjunction with the amendment submitted [DATE]].

12.4 **Acknowledged and ratified** that the staff transfer scheme and people tracker was approved through Chairman's action on 22 March 2013.

12.5 **Approved** the Corporate Handover Document

12.6 **Approved** the Quality Handover Document.

12.7 **Approved** the Board Assurance Framework and Risk Register

Attachments

Item 10.1 Corporate Handover Document

Item 10.2 Quality Handover Document

Item 10.3 Transfer of Statutory Functions

Item 10.4 Sender Authorisation Process

Item 10.5 Draft Transfer Scheme: Property, Assets and Liabilities

Item 10.6 Draft Transfer Scheme: People

Item 10.7 Board Assurance Framework

Item 10.8 Risk Register