CONSULTATION AND ENGAGEMENT WITH REGARD TO EAST CHESHIRE AND KNUTSFORD

VISION FOR FUTURE CARE IN KNUTSFORD

"The bed I want to be cared in is my own." (Mrs. Cranford)

'**Your GP, Your Specialist and their teams working together for Your care in Your town**'

The Health and Well Being Centre will be a purpose designed and built facility housing your GP and other professionals, with a wide range of services under one roof, supporting them to work differently together with you, to care for you, in your town.

The centre will provide a great opportunity for communal access to all the professionals who can meet your health and social care needs. It will facilitate those people to share information and their different skills to care for you more effectively through a team approach that is enhanced by being in the same building.

It will ensure direct access to services in Knutsford that are aimed at helping you to get the best health and life outcomes that you can with a team of people who you know, and who know you.

"My GP knows about my condition better than anyone else." (Mr. Cranford)

PURPOSE

This document seeks the support of the Overview and Scrutiny Committee (Health and Well Being) to an agreed methodology to enable the legal, efficient and effective engagement and consultation with the population of East Cheshire with regard to proposed changes planned in healthcare provision, these planned changes include:

1. The application of East Cheshire NHS Trust to become a foundation trust, which is a statutory requirement of the process as set out by Monitor, the Independent Regulator of Foundation Trusts

2. The permanent closure of Tatton Ward which is an intermediate care ward consisting of 18 beds at Bexton Hospital site Knutsford based on it being economically unaffordable and not sufficiently able to meet the needs of the local population as currently configured and provided

3. The creation of a Health and Well Being Centre (contracted for a number of years) at a site in Knutsford, which will include the co-location of 2-3 GP practices on a single site and enabling extended primary care supported by hospital specialists, access to therapy services (i.e. physiotherapy, speech and language, occupational therapy etc.), community and social care services and diagnostic facilities, such as imaging and pathology, and possibly other services such as pharmacy.

BACKGROUND:

The requirement for a Health and Well Being Centre to be procured and located in Knutsford is driven by the needs of the local population for care services that are fit for the 21st Century. The current legislation for hospitals to become foundation trusts and the challenge to provide health and social care to meet ever increasing demands in difficult economic circumstances, alongside public expectations frame the procurement process for the physical building.

In deciding how to proceed to consult and/or engage with the local population the Overview and Scrutiny Committee (OSC) will need to understand that the consultation and engagement process will

need to be matched to the processes involved in carrying out a legal procurement of a physical building for the Health and Well Being Centre and the services to be provided..

It is recommended best practice that before any significant change in respect of health and social care services there should be a process to consult with and/or engage with the public who may be affected by the changes.

Formal consultation is required to be undertaken by East Cheshire NHS Trust as part of its application to become a foundation trust. Formal consultation is also required to seek to permanently close the intermediate care beds provided on Tatton Ward, at Knutsford Hospital (see report attached).

It is proposed that there is a period of public engagement around the co-location of the three GP practices in Knutsford and the redesign of existing health and social care services into a single Health and Well Being Centre providing integrated health and social care services. The current emphasis on integration of services is assumed to deliver higher quality care at a lower appropriate cost, through reducing duplication, and waste and bringing about consistency, it improves the experience for patients, carers, staff and the health and social care outcomes. The focus of such integrated working is on supporting people to manage their own conditions more effectively and working with people to put in place care plans that provide more effectively for peoples' needs.

It would therefore, seem sensible to run this engagement process and the required formal consultation processes in tandem with the procurement process for the building.

PROCUREMENT OF A HEALTH AND WELL BEING CENTRE

The diagram below attempts to show why there is a requirement to engage with the public on this and that this process will be more complex and different than previously because the collective NHS (coloured blue) and Social care community (in orange) will need to procure a developer (or External Development partner- coloured green) to deliver and take the risks on the property and its utilisation.

The developer will use the rental income from the building to access capital funds, design and construct buildings, market for its tenants and have the operational skills of building service management, and to manage the risks of occupancy of the building.

The rental income comes from a mix of public and non-public sectors payers (coloured yellow or white). It is possible to see from the diagram that each colour appears more than once and therefore has multiple roles.

The development partner will receive income in two ways:

- Guaranteed rent for GP services and integrated services (the first funded from the new NHS Commissioning Board and represented by NHS Cheshire, Warrington & Wirral (NHS CWW)) and the latter indirectly from the commissioners at the top (Clinical Commissioning Groups (CCG), Cheshire East Council (CEC) Commissioning and from personalised budgets). Note that the commissioners will not pay the rent directly but pay multiple providers who will be tenants of the building and use their income from services provided to pay a rent;
- The income more at risk is that which is gained from the rental by the Developer to other tenants (other than NHS) that may occupy the building.

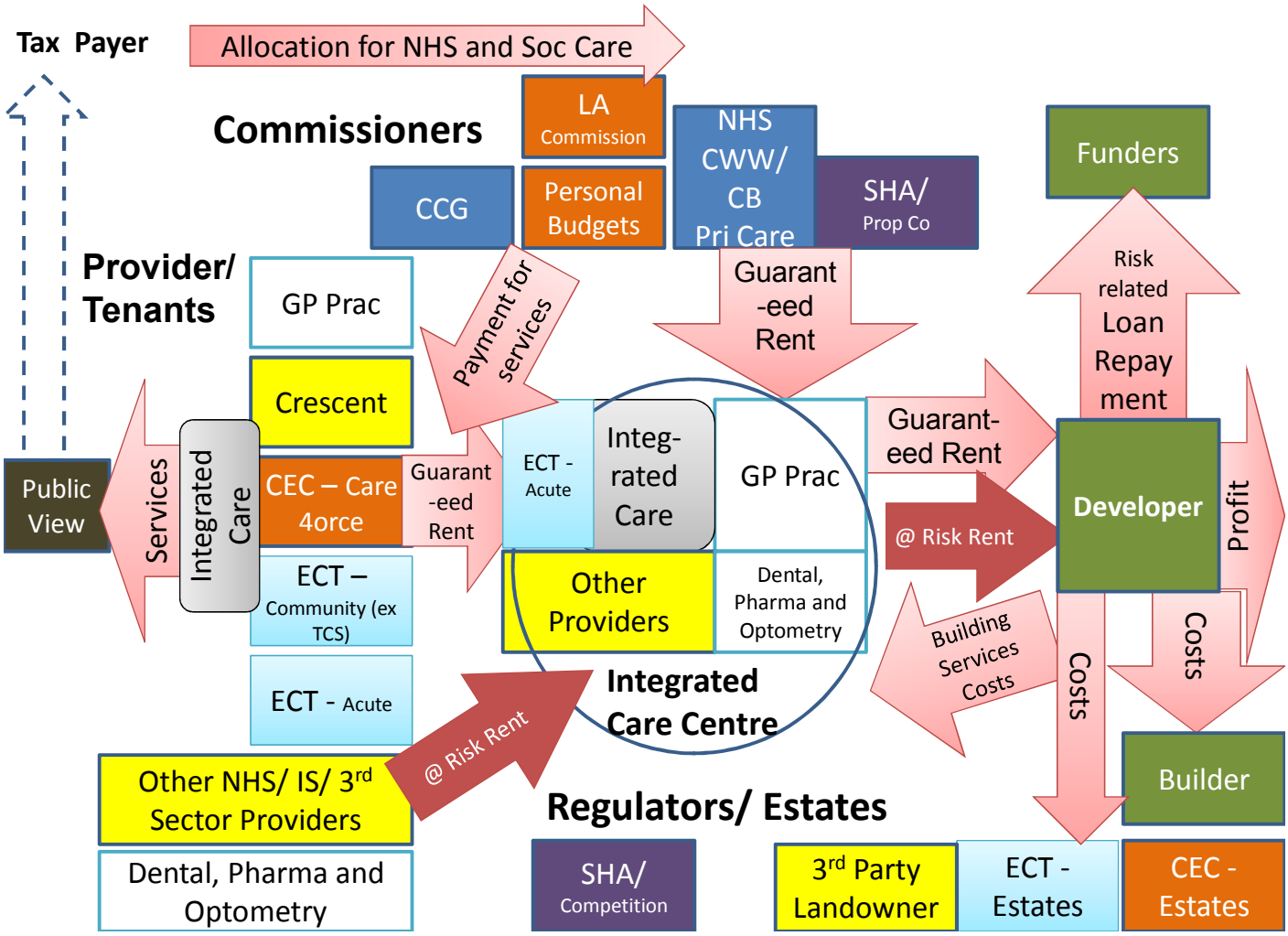

Diagram Key:

Green – the developer
Yellow and White – Public sector and non public sector payers
Blue – East Cheshire NHS Trust
Pink Arrows – show financial flows

Any engagement and consultation needs to be coordinated with the procurement process, such that the public's views can be taken into account before irrevocable procurement decisions are made. A separate paper has been written on procurement options for another Board and is appended for information (see Annex A). It concluded that there should be a joint public sector procurement that would be led by the NHS Commissioning Board and NHS Eastern Cheshire Clinical Commissioning Group and involving other public sector interested parties.

The procurement process will be in phases which will include:

<u>Bid Specification</u>

1. Public Consultation and Prior Information Notice (PIN) and Pre-Qualification Questionnaire (PQQ).
2. Advertisement
3. Bid Submission.
4. Bid Evaluation.

LEGALITY & PROCESS RULES OF CONSULTATION

In considering the links between the formal consultants and the engagement process running alongside the procurement process it is important to take note of the legal requirements for consultation. The following section sets them out briefly:

Tests of reconfigurations:
The Secretary of State for Health has determined 4 ("Lansley's") Tests of Reconfigurations, these are:

1. Clarity about the clinical evidence base underpinning the proposals
2. Support of the commissioning GPs involved ensuring that the local CCG supports these changes
3. Genuinely promote choice for their patients
4. Process must have genuinely engaged the public, patients, and local authorities

In respect of the Knutsford proposal the clinical evidence base and learning is extensive, not only from twenty years of experience in the USA, but more recent European and British examples, around integration of teams and models of care that espouse self management, care planning, closer interface working that reduces duplication, improved medicines management and use of protocols and training to reduce variation and waste. In most exemplars the individual's health and social care needs are known and understood and the models of service provision are built around these needs.

ECCCG has most recently on behalf of the health and social care system, appointed a Programme Director for Integrated Care to support the development of integrated care at scale and pace across Eastern Cheshire, recognising it as one of their key commissioning intentions.

A health and wellbeing centre in Knutsford would support patients being able to access services locally these would include primary, secondary health services along side community services and social care. The choice agenda would not be limited through this development, and indeed could provide many opportunities for providers of services to be co-located.

Legal requirements for consultations and engagement that are at Sections 242 & 244 of National Health Service Act 2006 (as amended by the Health and Social Care Bill 2012):

Again for clarity these are referenced below:

- s242 - The right to be consulted over substantial change in services.
- s244 – The right to be engaged in changes in ownership and service redesign

It should be noted that Overview and Scrutiny Committees have some discretion over what they choose to consult on and how and further details about this are attached at Annex B.

COST EFFECTIVENESS OF ENGAGEMENT AND CONSULTATION

The population of Knutsford/East Cheshire have been consulted on a number of times recently and this process of engagement and consultation is costly and does not necessarily bring about any of the expected benefits. In the last six months or so the following consultation and engagement exercises around health and wellbeing have been undertaken:

- CEC Consultation on Building Based services (Stanley Centre, Bexton Court, etc.) in March 2012
- Knutsford Community Hospital Consultation in March 2009 and two other questionnaires
- Engagement events have sought the views of:
    1. Knutsford Residents:
        - A formal meeting of the Town Council October 2011

- Town Council/Plan Group Listening Events of Dec 2011

2. Local Elected Representatives:
   - Meetings with Rt Hon G Osborne MP (in Dec 2011 and Mar 2012)
   - Meetings with Health & Wellbeing OSC on 10 Nov 2011 and 12 Jan 2012
   - Meetings with interim Health and Wellbeing Board on 29 Nov 2011

There is however, a legal requirement for ECT to consult over the whole East Cheshire footprint in respect of their application to become a foundation trust.

In respect of the closure of a ward it is anticipated that this will almost certainly require formal public consultation.

It is expected that engagement will be required over the redesign of services.

Recognising the need to ensure cost effectiveness and to not increase confusion the following options for engagement and consultation are proposed for your consideration.

Options for Number of Consultations (See Table Below):

Option One

To hold just a single consultation for all the issues that require consultation as set out above.

Option Two

To have a co-ordinated consultation on five issues -

- East Cheshire Hospital's foundation trust application, which is a statutory requirement of the application process and will need to be conducted across the whole of East Cheshire
- Closure of Tatton ward which affects Knutsford residents predominantly
- Co-location of the three GP practices in Knutsford into the Health and Well Being Centre
- The proposed clinical model and the redesign of services to support more integrated care provision
- The physical/geographical location of the new Health and Well Being Centre.

Option Three

To hold a co-ordinated consultation on three of the issues after the bids through the procurement process have been received, these would be:

- Foundation Trust application consultation
- Tatton ward closure
- The proposed clinical model

Option Four

To hold the consultations as set out in Option Three but, to hold them before the final bids have been received.

Option Five

This option has a single consultation that incorporates the proposals for the closure of Tatton Ward with the clinical model. This option sets out how existing resources will be redesigned to provide more integrated care and to support people to self manage most effectively, and to have in place care

plans that support them and their families more effectively to manage their conditions, utilising professional expertise in different ways to bring about increased efficiency.

This would then involve holding two separate consultations before the final bids are received:

- Foundation Trust application

Knutsford Integrated Care Centre (including Ward Closure)

The following factors should be considered when considering which option to choose. Each option should be evaluated against these and a preferred option agreed:

The preferred option should be able to demonstrate that it ensures:

- a full and representative range of public views being heard from all parts of the town's (and sub-region's) population that maximises public understanding and minimises confusion
- value for money in respect of the consultation and engagement process
- professional and technical input
- democratic accountability
- legality

The table below sets out the options for ease of reference against these factors and gives some opinion in respect of their application.

	Option I (1 consultations)	**Option II (5 coordinated consultations)**	**Option III (3 Consultations plus additional engagements) Main consult after bids received**	**Option IV (3 Consultations plus additional engagements) Main Consult before bids received**	**Option V (2 Consultations plus aditional engagements) Main Consult before bids received**
Full capture of (representative and informed) views	Variation in catchment areas	Theoretical maximisation but confusion is very likely and could be used to deliberately undermine effect of public consultation	Engagement will ensure that views are appropriately captured. Some loss of key stakeholder involvement and accountability.	Engagement will ensure that all views are appropriately captured. Key stakeholders accountable for final decisions.	Engagement will ensure that all views are appropriately captured. Key stakeholders accountable for final decisions.
Value for Money	Maximum	Minimum	Moderate	Moderate	Moderate
Genuine Choices and influence for the Public	Single Consultation does not allow public to express clear views on separate but related areas.	Traditional Consultation maximises the influence of activists at public meetings but minimises rational debate and the engagement of the "harder to hear" groups	If public have direct influence on the selection of the bidder, bidders will need to be mindful of public views in their proposals.		
Full professional and technical input	Likely to be lost in the mass of other data	May be reduced as noise of many complex processes may undermine visibility	Separate engagement themes can be discussed and managed within the whole	Separate engagement themes can be discussed and managed within the whole	Separate engagement themes can be discussed and managed within the whole
Democratic accountability	All offer acceptable levels of democratic oversight				
Timeliness	12 weeks	12 weeks (but risk of more)	36 weeks	42 weeks	42 weeks
Legality All are legal but subject to OSC agreement	High Risk	Very Low risk	Moderate risk	Moderate risk	Moderate risk

PREFERRED OPTION

In undertaking the review of the options against the proposed factors for selection it seems that Option 5 could be the preferred option. This option appears to maximise public engagement and also their input into the evaluation criteria of the procurement but, still holds professionals accountable for the key decisions that they must deliver.

CONCLUSIONS

There is a need to formally consult with the public in respect of:

- The foundation trust application
- The permanent closure of Tatton Ward

There is also a need to engage with the public in respect of the proposals to co-locate the GP practices in Knutsford and the designing of existing health and social care services to ensure maximum efficiency and effectiveness through more integrated working. Both of which would be facilitated better housed under a single roof.

The formal consultation processes and the engagement process should be in line with all legal requirements and should be matched to the procurement process.

RECOMMENDATION

It is recommended that the OSC support the preferred option for consultation and engagement that is detailed above in Option Five.

APPENDICES

The appendices are for information only.

Annex A: Procurement Options (for Information)
Annex B: Legal Issues with Regard to Consultation and Engagement

ANNEX A

PROCUREMENT OPTIONS FOR THE KNUTSFORD INTEGRATED HEALTH AND CARE CENTRE.

OPTIONS

Who. There would appear to be 4 options for the leadership of the procurement, whose advantages and disadvantages are set out below.

1. NHS Leadership. The NHS will be (in Primary Care) becoming the main (anchor) tenant. However the body that will procure primary care in the future (NHSCB) is in the process of formation and that which is responsible for the leasing of properties is not yet formed (NHS Prop Co). ECT is also in the process of becoming a Foundation Trust and is a co-owner of the preferred site (with CEC) and so this would have to involve the SHA (which is to be disbanded in Apr 2013). The co-ownership of the site and of the commissioning and delivery of integrated services will mean that exclusion of CEC would not be advisable. The CCG can (on behalf of the NHS CB) manage the programme but is not in a position to commit to becoming a guarantor of tenancy income. Conclusion. The NHS is not on its own a suitable procurement leader.
2. CEC Leadership. CEC has co-ownership of the site and of the commissioning and delivery of integrated services will mean that exclusion of NHS would not be advisable. Conclusion. CEC is not on its own a suitable procurement leader.
3. GP Procurement. GP Practices and independent legal entities and are exempt some (public sector and EU) procurement laws. However whilst avoiding these rules may save time and money, avoiding these rules on such a large procurement is unwise and the basic principles of good procurement are embedded in the rules. Whilst the GPs may be the Anchor tenants, they are not likely to represent the wider interests of the scheme. Conclusion. GP practices are not a suitable procurement leader as they are only a small element of the Public Sector commissioned services and as separate businesses their interests and those of the wider public sector are not identical.
4. A Public Sector Grouping led by one Party. A consortium adds to complexity but is the only way that the interests of the 6 parties can make sure that their (potentially competing) interests are met. Conclusion. A grouping or consortium from the public sector is one of the most suitable procurement vehicles as this will ensure that all parties' interests are reflected to allow the deal to be done. This may be a legal entity or could be an agreement to have one party act as a lead on behalf of all (with suitable governance). The NHS will be the lead tenant and so should have primacy.
5. Final Sign Off. At a later date it will be necessary to agree who will sign off the deal and it is most likely that this will be NHS Prop Co – though this decision cannot (and need not) be made yet.

How

1. EU/Non EU. As stated above an EU procurement is recommended.
2. With/without PIN/PQQ. There is likely to be significant market interest in this procurement, but in order to be able to realistically assess bids (at the level of detailed required) these will need to be at a high level of detail. Bidders will not provide such detail if they are in competition with too many competitors. Therefore a period of pre-engagement using a PIN and short listing using PQQ is advocated to get only a few but detailed full bids with more than one site option each.
3. ITT/ITN/CD. There is likely to be significant variation in the nature of the bids and how they achieve the outcomes specified. Therefore a simple Tender is not likely to suffice. EU (and others) believes that the negotiated process leads to unfair changes in specification between advert and final service and so Competitive Dialogue is recommended, even though this is more time consuming and liked less by bidders.

Public Engagement and Consultation.

It is almost certain that the Oversight and Scrutiny Committee of CEC will deem this a substantial change and so formal Public Consultation will be needed. A separate paper recommends that this is done:

- After engagement over new service models
- Before bids are submitted
- So that the public have a say in the evaluation criteria

Timing.

- A specification should be ready within 3 months and lead to a PIN and PQQ (Jun- Aug 12)
- PQQs should be submitted whilst public consultation is underway (Sep – Nov 2012)
- PQQ evaluation and Final specification should be issued in Nov 2012
- Bids should be received Feb 2013
- Evaluation should be completed Apr 2013
- (Planning agreements should be reached c Sep 2013)

By Whom:

1. The complexity of the procurement suggests that an external partner will need to manage the procurement process under the direction of the Programme Board. The NHS has a contract with Shared Business Services for such a partnership arrangements and this is recommended.
2. The evaluation will also be complex and so the procurement agent will also need to ensure that there is sufficient expertise within the PSC or go outside for the skills to evaluate bids at PQQ and/or CD stage and to manage the dialogue.

RECOMMENDATIONS

It is recommended that the Programme Board:

- NHS Seeks legal advice to check:
  - Optimum procurement routes are chosen
  - Likelihood of legal challenges to the consultation are minimised
  - That the use of a PSC and employ SBS to manage its procurement process, using EU procurement rules. At a cost to NHS of c£70k
- Uses the PIN and PQQ to develop the market and get a small number of high quality bidders to submit detailed bids.
- Engagement on service options begins at once and a PIN is issued to start the debate with the market
- Public Consultation is used to help the evaluation of bids.

ANNEX B

LEGISLATION WITH REGARD TO CONSULTATION AND ENGAGEMENT

Consultation duty section 242

Section 242(1B) of the National Health Service Act 2006 ("2006 Act"), as amended by the Local Government and Public Involvement in Health Act 2007 ("2007 Act"), provides as Follows:

> *"Each relevant English body must make arrangements, as respects health services for which it is responsible, which secure that users of those services, whether directly or through representatives, are involved (whether by being consulted or provided with information, or in other ways) in—*
>
> *a. the planning of the provision of those services,*
> *b. the development and consideration of proposals for changes in the way those services are provided, and*
> *c. Decisions to be made by that body affecting the operation of those services."*

Subsections (b) and (c) need only be observed if the proposals would have an impact on:

a. the manner in which the services are delivered to users of those services; or
b. The NHS bodies to whom the section applies are as follows:
   - Strategic Health Authorities;
   - Primary Care Trusts;
   - NHS trusts; and
   - NHS Foundation Trusts.

This duty was previously contained in section 11 of the Health and Social Care Act 2001, so in documents prior to 2006 it is referred to as "the section 11 duty". The legal duty to consult both patients and the wider public falls both on the commissioner of health services and on to those providing services and on the range of health services available to those users.

Overview and Scrutiny Committees section 244

The Health and Social Care Act 2001 extended the scope of the local authority Overview and Scrutiny Committees ("OSC") to review and give opinions on the health services in their area. This provision is now contained in Section 244 of the National Health Service Act 2006.

Regulation 4 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 provides that where a local NHS body has under consideration any proposal for a "substantial development of the health service" in the area of a local authority, or for a "substantial variation in the provision" of such service, it shall consult the overview and scrutiny committee of that authority. The meaning of the phrase "substantial development of the health service" has not yet been tested in court but what is substantial must depend on the circumstances. The Guidance suggests that major changes in any of the following may lead to a duty to consult the OSC:

- Outdated buildings and facilities;
- New standards (such as National Service Frameworks);
- Evidence of what works;
- Workforce pressures;
- Advances in technology and technique;
- New thinking about how services are designed; and
- The needs of local people.