

## TFA document



### Supporting all NHS Trusts to achieve NHS Foundation Trust status via Acquisition by April 2014

#### *Tripartite Formal Agreement between:*

- Trafford Healthcare NHS Trust
- NHS North West
- Department of Health

#### **Introduction**

This tripartite formal agreement (TFA) confirms the commitments being made by the NHS Trust, their Strategic Health Authority (SHA) and the Department of Health (DH) that will enable achievement of NHS Foundation Trust (FT) status via Acquisition before April 2014.

Specifically the TFA confirms the date (Part 1 of the agreement) when the NHS Trust will submit their “FT ready” application to DH to begin their formal assessment towards achievement of FT status.

The organisations signing up to this agreement are confirming their commitment to the actions required by signing in part 2a. The signatories for each organisation are as follows:

NHS Trust – Chief Executive Officer  
SHA – Chief Executive Officer  
DH – Ian Dalton, Managing Director of Provider Development

Prior to signing, NHS Trust CEOs should have discussed the proposed application date with their Board to confirm support.

In addition the lead commissioner for the Trust will sign to agree support of the process and timescales set out in the agreement.

The information provided in this agreement does not replace the SHA assurance processes that underpin the development of FT applicants. The

agreed actions of all SHAs will be taken over by the National Health Service Trust Development Authority (NTDA)<sup>1</sup> when that takes over the SHA provider development functions.

The objective of the TFA is to identify the key strategic and operational issues facing each NHS Trust (Part 4) and the actions required at local, regional and national level to address these (Parts 5, 6 and 7).

Part 8 of the agreement covers the key milestones that will need to be achieved to enable the FT application to be submitted to the date set out in part 1 of the agreement.

### **Standards required to achieve FT status**

The establishment of a TFA for each NHS Trust does not change, or reduce in any way, the requirements needed to achieve FT status.

That is, the same exacting standards around quality of services, governance and finance will continue to need to be met, at all stages of the process, to achieve FT status. The purpose of the TFA for each NHS Trust is to provide clarity and focus on the issues to be addressed to meet the standards required to achieve FT status. The TFA should align with the local QIPP agenda.

Alongside development activities being undertaken to take forward each NHS Trust to FT status by April 2014, the quality of services will be further strengthened. Achieving FT status and delivering quality services are mutually supportive. The Department of Health is improving its assessment of quality. Monitor has also been reviewing its measurement of quality in their assessment and governance risk ratings. To remove any focus from quality healthcare provision in this interim period would completely undermine the wider objectives of all NHS Trusts achieving FT status, to establish autonomous and sustainable providers best equipped and enabled to provide the best quality services for patients.

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<sup>1</sup> NTDA previously known as the Provider Development Authority – the name change is proposed to better reflect their role with NHS Trusts only.

**Part 1- Date when NHS foundation trust application will be submitted to Department of Health**


**Project Track 1 - 1 April 2012**  
**Project Track 2 – 1 December 2012**

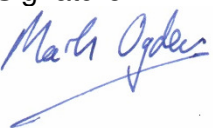
**Part 2a - Signatories to agreements**

By signing this agreement the following signatories are formally confirming:

- their agreement with the issues identified;
- their agreement with the actions and milestones detailed to support achievement of the date identified in part 1;
- their agreement with the obligations they, and the other signatories, are committing to;

as covered in this agreement.


Morag Olsen, (Interim CEO of NHS Trust)	Signature  Date: 20/09/2011
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Mark Ogden, (CEO of SHA)	Signature  Date: 21/09/2011
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Ian Dalton, Managing Director of Provider Development	 Signature Date: 27/09/2011
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**Part 2b – Commissioner agreement**

In signing, the lead commissioner for the Trust is agreeing to support the process and timescales set out in the agreement.

Mike Burrows, (CEO Greater Manchester Cluster)	Signature 
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	Date: 21/09/2011
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## Part 3 – NHS Trust summary

### Short summary of services provided, geographical/demographical information, main commissioners and organisation history.

#### Required information

Current CQC registration (and any conditions):

Registered with no conditions

#### Financial data

	2009/10 £'000	2010/11 £'000
Total income	94,812	96,248
EBITDA	761	6,351
Operating surplus/deficit	(6,048)	319
CIP target	7,822	5,976
CIP achieved recurrent	3,952	4,590
CIP achieved non-recurrent	1,077	1,397

#### The NHS Trust's main commissioners:

NHS Trafford, working closely with the Trafford Commissioning Consortium (the pathfinder GP commissioning Consortium for Trafford)

Trafford Healthcare NHS Trust provides high-quality district general hospital services to a population of around 212,000 people in the metropolitan borough of Trafford, Greater Manchester.

The Trust was founded in 1994, has an annual turnover of around £94M and has three hospitals, as well as providing services in the community. It is also a partner in the borough's Children & Young People's Service, along with NHS Trafford and Trafford Council. Its hospitals are:

- **Trafford General Hospital** in Davyhulme is the Trust's main site, with inpatient and outpatient services. It has a full A&E.
- **Altrincham General Hospital**, providing a wide range of outpatient services and a popular minor injuries unit.
- **Stretford Memorial Hospital** in Old Trafford, providing some outpatient services.

The Trust performs strongly on quality measures. It is meeting all its clinical targets, has one of the lowest incidences of HCAs in the country with no MRSA bacteraemia since 17 April 2009, and is in the top quartile or middle tier for all Better Care, Better Value indicators other than length of stay.

It has also realised significant cost improvements (CIPs) in recent years, making efficiency savings of 8% in 2008/9, 5% in 2009/10 and a further 6% in 2010/11.

#### Altrincham General Hospital

At present the SHA is working with the Trust to finalise some outstanding issues on AGH prior to approval of their outline business case. Delegated authority for approval of the ABC has been given to the SHA Chair and Chief Executive. The SHA remains fully committed to the development of new facilities in Altrincham.

## Part 4 – Key issues to be addressed by NHS trust

Key issues affecting NHS Trust achieving FT	
<b>Strategic and local health economy issues</b> Service reconfigurations Site reconfigurations and closures Integration of community services Not clinically or financially viable in current form Local health economy sustainability issues Contracting arrangements	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
<b>Financial</b> Current financial Position Level of efficiencies PFI plans and affordability Other Capital Plans and Estate issues Loan Debt Working Capital and Liquidity	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
<b>Quality and Performance</b> QIPP Quality and clinical governance issues Service performance issues	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<b>Governance and Leadership</b> Board capacity and capability, and non-executive support	<input type="checkbox"/>
Please provide any further relevant local information in relation to the key issues to be addressed by the NHS Trust:	
<b>Acquisition Partner Project</b>  The Trust has long recognised that its size – in particular, the ratio of turnover to fixed costs – presents a viability issue. It had been working with its health economy partners on a ‘whole system’ QIPP solution predicated on integrated care services leading to improved clinical outcomes and value for money. The proposal included a new integrated care organisation formed by the merger of Trafford Healthcare and Trafford Provider Services (the PCT’s provider arm). The business plan for this ICO sought to demonstrate it could achieve foundation trust status over five years.  However, the new timeframes requiring trusts to achieve FT status earlier or seek alternative solutions and the ongoing financial pressures on the trust meant that the ICO was not a viable option. It is clear that the Trust does not have a viable future as an independent entity. As a result, the Board of the Trust made the decision to seek an acquisition from a neighbouring Foundation Trust. A project to seek an acquisition partner was commenced in December 2010.  A stakeholder Board, made up of representatives from the Trust, the PCT, the Borough Council, Pathfinder GPCC and patient representatives, chaired by the SHA, advises the process to find an acquiring organisation.	
<b>Finance</b>  The Trust’s financial position remains extremely challenging and after two years of balanced budgets, it delivered a deficit of £6.1m for 2009/10 due to a combination of tariff changes, reduced commissioned activity and Market Forces Factor. Maternity and inpatient paediatrics transferred to other trusts in early 2009 under the Making it Better proposals for Greater Manchester. In 2010-11 the Trust broke even with an additional £7m of non-recurrent income	

after delivering a 6% CIP.

The current assessment of the structural deficit is circa £18m. Further transitional support has been earmarked by NHS Northwest of £9m in 2011-12 and £4.5m in 2012-13. Commissioning intentions indicate aspirations to reduce investment in the Trust over the next 5 years from c£75m to c£47m, although it is also expected that commissioners will transfer investment into more innovative forms of service delivery, including integrated care. The Trust has not yet been able to agree its contract with NHS Trafford its principal commissioner, with resolution of a £7.4m gap referred for SHA arbitration.

## Part 5 – NHS Trust actions required

### Key actions to be taken by NHS Trust to support delivery of date in part 1 of agreement

<b>Strategic and local health economy issues</b>	
Integration of community services	<input type="checkbox"/>
<b>Financial</b>	
Current financial position	<input checked="" type="checkbox"/>
CIPs	<input checked="" type="checkbox"/>
Other capital and estate Plans	<input checked="" type="checkbox"/>
<b>Quality and Performance</b>	
Local / regional QIPP	<input checked="" type="checkbox"/>
Service Performance	<input checked="" type="checkbox"/>
Quality and clinical governance	<input type="checkbox"/>
<b>Governance and Leadership</b>	
Board Development	<input type="checkbox"/>
Other key actions to be taken (please provide detail below)	<input checked="" type="checkbox"/>

Describe what actions the Board is taking to assure themselves that they are maintaining and improving quality of care for patients.

The Trust has a robust assurance and governance framework this is based on a committee structure that reports directly to the Trust Board. It also considers a number of reports at each board meeting related to Quality and Patient Care, the reports are:-

DNS and Operations Report  
Quality Dashboard  
Medical Director Report

Presentations from staff – this is related to the following:-  
Clinical effectiveness  
Patient Safety and Patient experience.

The Trust is also involved in the executive Patient Safety First project, as part of the integrated governance and patient experience. Non Executive Directors take part in monthly ward visits.

Please provide any further relevant local information in relation to the key actions to be taken by the NHS Trust with an identified lead and delivery dates:

#### **Ron Calvert (CEO), Acquisition April/December 2012**

A project to seek a foundation trust to acquire Trafford Healthcare NHS Trust was set up in December 2010. Details of the milestones of this project are detailed in section 8 of this agreement.



## Part 6 – SHA actions required

Key actions to be taken by SHA to support delivery of date in part 1 of agreement	
<b>Strategic and local health economy issues</b>	
Local health economy sustainability issues (including reconfigurations)	<input checked="" type="checkbox"/>
Contracting arrangements	<input checked="" type="checkbox"/>
Transforming Community Services	<input type="checkbox"/>
<b>Financial</b>	
CIPs\efficiency	<input type="checkbox"/>
<b>Quality and Performance</b>	
Regional and local QIPP	<input type="checkbox"/>
Quality and clinical governance	<input type="checkbox"/>
Service Performance	<input type="checkbox"/>
<b>Governance and Leadership</b>	
Board development activities	<input type="checkbox"/>
Other key actions to be taken (please provide detail below)	<input checked="" type="checkbox"/>

Please provide any further relevant local information in relation to the key actions to be taken by the SHA with an identified lead and delivery dates.

Local milestones will be monitored by the Transition Director.

Weekly stakeholder group meetings will be chaired by the Transition Director.

SHA facilitating the agreement of transitional support requirements for the acquisition within an agreed timetable. Key milestones for SHA involvement:-

- Chairing weekly stakeholder Board.
- SHA continues to lead the current process to finalise the likely amount of available transitional funding over and above the £9m and £4.5m for 2011-12 and 2012-13 respectively taking into account, among other things, commissioning priorities and spending plans for the Trafford NHS and potential sources of further funding (repayable and non-repayable) from NHS Trafford and elsewhere.
- SHA assessment of acquisition bids, to include both financial and clinical input, needs to be completed before 26 July for Trust board to take into account in agreeing the preferred FT acquirer.
- Trust board (with SHA and advisors) interview bidders, and agree recommended acquirer FT.
- SHA leads process to negotiate away any gap between the successful bidder's transitional financial support requirements and the amount of transitional support actually available. Process to include:
  - Chosen FT
  - Cluster and Trafford commissioner
  - Trust

All would be required to agree the outcome.

## Part 7 – Supporting activities led by DH

Actions led by DH to support delivery of date in part 1 of agreement	
<b>Strategic and local health economy issues</b> Alternative organisational form options	<input checked="" type="checkbox"/>
<b>Financial</b> NHS Trusts with debt	<input type="checkbox"/>
Short/medium term liquidity issues	<input type="checkbox"/>
Current/future PFI schemes	<input type="checkbox"/>
National QIPP workstreams	<input type="checkbox"/>
<b>Governance and Leadership</b> Board development activities	<input type="checkbox"/>
Other key actions to be taken (please provide detail below)	<input type="checkbox"/>
Please provide any further relevant local information in relation to the key actions to be taken by DH with an identified lead and delivery dates:	

**Part 8 – Key milestones to achieve actions identified in parts 5 and 6 to achieve date agreed in part 1**

Date	Milestone	
PROJECT TRACK 1 PHASE 1	Start Date	End Date
<p><b>Project Track 1 Phase 1</b>  The scope of Phase 1 is:  In conjunction with partners and stakeholders, to determine the entity to be acquired and to design and implement a process for the procurement, receipt and evaluation of acquisition bids resulting in the selection of a preferred bidder.</p> <p>Phase 1 of the project has been planned in detail and a description of the project stages contained within this phase is as follows:</p>	1 December 2010	31 July 2011
<p><b>Stage 1: Project Set Up</b>  This stage is concerned with ensuring the appropriate infrastructure is in place to manage and input into the project. The activity within this stage is as follows:</p> <ul style="list-style-type: none"> <li>• Appointment of Project Director and Project manager</li> <li>• Appointment of 'Dealmaker' to facilitate discussions with potential bidders and key stakeholders</li> <li>• Set up of internal and external reference groups to input into the project and provide views and recommendations to THT Board</li> <li>• Set up communications framework</li> <li>• Appointment of legal and financial advisors to the project</li> </ul>	1 December 2010	Completed
<p><b>Stage 2: Determining the Entity for Acquisition</b>  This stage is concerned with ensuring there is clarity regarding the entity to be offered for acquisition. The activity within this stage is as follows:</p> <ul style="list-style-type: none"> <li>• Clarification of Commissioners intentions prior to acquisition</li> <li>• Identification of services to be decommissioned/transferred prior to acquisition</li> <li>• Identification of receiving organisations or process for identification</li> <li>• Analysis of asset and liability transfer issues relating to decommissioned services and impact on final entity for acquisition</li> <li>• Analysis of liabilities and assets to be transferred to receiving organisation</li> <li>• Identification of process and timescale for service transfer</li> </ul>	4 January 2011	Completed

<p><b>Stage 3: Information and Process Development</b></p> <p>This stage is concerned with developing the information required to inform a bidder process and designing the bid process and assessment, evaluation and selection process. The activity within this phase is as follows:</p> <ul style="list-style-type: none"> <li>• Development and approval of a Prospectus to be issued to potential bidders which describes the entity to be acquired and the potential opportunities</li> <li>• Development and approval of the detailed process for bidder clarifications</li> <li>• Development and approval of the assessment and evaluation criteria for bids</li> <li>• Development and approval of the bid submission questionnaire</li> <li>• Development and approval of the detailed process for bid assessment and evaluation</li> <li>• Set up of a vendor due diligence information streams</li> <li>• Set up and population of a bidder information data room</li> <li>• Completion and approval of a vendor due diligence report</li> </ul>	4 January 2011	Completed
<p><b>Stage 4: Bidder Clarifications Period and Bid Submission</b></p> <p>This stage of the project will enable bidders to clarify questions and seek more information to inform their bid submissions. The activity in this stage is as follows:</p> <ul style="list-style-type: none"> <li>• Submission of bidder questions to the data room and co-ordination and issue of organisational response</li> <li>• Submission of bidder clarifications regarding vendor due diligence report and issue of advisors response</li> <li>• Bidder meetings with Commissioners, GP's, TMBC, SHA, all reference groups and key stakeholders</li> <li>• Site Visits</li> <li>• Exec to Exec meetings</li> <li>• Final Bids to be submitted</li> </ul>	1 April 2011	24 June 2011
<p><b>Stage 5: Bid Assessment and Evaluation Period</b></p> <p>This stage of the project will produce a technical assessment and reference group recommendations for THT Board. The activity within this stage is as follows:</p> <ul style="list-style-type: none"> <li>• Received bids to be circulated to reference groups</li> <li>• Received bids to be circulated to evaluation leads and panels</li> <li>• Received bids to be circulated to the SHA and PCT to enable financial evaluation</li> <li>• Received bids sent to the PCT for</li> </ul>	24 June 2011	20 July 2011

<p>threshold evaluation and report received back from the PCT by the Project Director</p> <ul style="list-style-type: none"> <li>• Evaluation panel meetings to be held</li> <li>• Bidder presentations to be given to reference group forum</li> <li>• Clarifications on bid submissions to be sought from bidders</li> <li>• Each reference group to meet to discuss bids and agree a recommendation</li> <li>• Project Director to receive reference group recommendations and collate into a stakeholder views and recommendations paper for THT Board</li> <li>• Outcome of evaluation panels to be moderated and collated in to an evaluation report for THT Board</li> <li>• Technical assessment of bids to be undertaken by Project Director with support of legal and financial advisors. Technical assessment report to be produced for THT Board</li> </ul>		
<p><b>Stage 6: Preferred Bidder Selection</b> This stage of the project will produce a THT Board recommendation on a preferred bidder. The activity within this stage is as follows:</p> <ul style="list-style-type: none"> <li>• Submission to THT Board of evaluation panel report on all bids</li> <li>• Submission to THT Board of the technical assessment report on all bids</li> <li>• Submission to THT Board of the recommendations of all reference groups</li> <li>• Submission to THT Board of the PCT threshold evaluation</li> <li>• Submission of SHA/PCT financial evaluation to THT Board (if available)</li> <li>• Clarification of THT Board questions to bidders</li> <li>• Bidder presentations to THT Board</li> <li>• Bid evaluation by THT Board</li> <li>• Preferred bidder recommendation agreed by THT Board</li> <li>• Confirmation of outcome to all bidders</li> </ul>	26 July 2011	Completed – Central Manchester Foundation Trust have been chosen as the Preferred Bidder subject to final agreement on financial transaction costs
<p><b>Stage 7: SHA Led Process to Confirm Finances</b> This stage of the process will allow time for the SHA to lead a process involving the PCT and the recommended preferred bidder to confirm the affordability of the transitional support requirement.</p> <p>A preferred bidder can only be confirmed once this process is complete.</p>	31 July 2011	1 September 2011
<p><b>Stage 8</b> THT/GM Cluster/SHA review of process and assessment of progress. It is anticipated that Project Track 1 will produce a successful outcome. However, in order to ensure a</p>	22 August 2011	31 August 2011

robust process is in place should other issues arise, a review of progress to date will be undertaken. Decision to be taken at this point whether THT move to Project Track 2.		
<b>Phase 2</b> The scope of Phase 2 is:  To agree heads of terms with the preferred bidder and complete negotiation of the final business transfer agreement.  In conjunction with the preferred bidder to design and implement the mobilisation of the business transfer and the approvals process required prior to transfer.  The detailed planning of Phase 2 stages will need to be done in conjunction with the preferred bidder and will therefore be undertaken as a priority action once we reach preferred bidder stage.	31 August 2011	1 April 2012
<b>PROJECT TRACK 2</b>		
<b>Milestone</b>		<b>Milestone Date</b>
Confirm THT Board decision to move to alternative process		31 August 2011
Confirm and gain agreement to viable alternatives		30 September 2011
Develop and agree revised project plan to deliver alternative		31 October 2011
Commence plan implementation		1 November 2011
Dissolution of THT, Transfer of all assets and liabilities		30 November 2012
<p>Provide detail of what the milestones will achieve\solve where this is not immediately obvious. For example, Resolves underlying financial problems – explain what the issue is, the proposed solution and persons\organisations responsible for delivery.</p> <p>The milestones are the key stages of the process to identify a preferred bidder to acquire Trafford Healthcare NHS Trust and to implement the acquisition.</p> <p>The acquisition of THT by a foundation trust resolves the issue regarding THT’s inability to reach foundation trust status within the required period.</p> <p>The criteria for evaluating bids for acquisition will include clear financial criteria which will require the successful bidder to identify how it will resolve the current financial viability issues in the context of the commissioners requirements for the future.</p> <p>Responsibility for delivering the process to bring about an acquisition rests with THT with the support and involvement of the NHS Trafford and other stakeholders. Describe what actions\sanctions the SHA will take where a milestone is likely to be, or has been missed.</p> <p>SHA escalation policy will be implemented</p>		

Key Milestones will be reviewed every quarter, so ideally milestones may be timed to quarter ends, but not if that is going to cause new problems. The milestones agreed in the above table will be monitored by senior DH and SHA leaders until the NTDA takes over formal responsibility for this delivery. Progress against the milestones agreed will be monitored and managed at least quarterly, and more frequent where necessary as determined by the SHA (or NTDA subsequently). Where milestones are not achieved, the existing SHA escalation processes will be used to performance manage the agreement. (This responsibility will transfer to the NTDA once it is formally has the authority)

### Part 9 – Key risks to delivery

Risk	Mitigation including named lead
No Bids received from initial bidder population	<ul style="list-style-type: none"> <li>• Bid process designed to provide maximum information to potential bidders and view of the acquisition potential.</li> <li>• Deal Maker appointed to liaise with the bidder population.</li> <li>• Clarity being sought from bidders on the need for transition financial support as part of the acquisition process. This will form part of the competitive process.</li> </ul>
Bids received but not viable/acceptable	<ul style="list-style-type: none"> <li>• Clear criteria and process for bid evaluation</li> <li>• Clarity from provider regarding responsibility for decision making in bidder selection</li> <li>• Expectations of stakeholders managed. SHA facilitation and negotiation around transitional financial support.</li> <li>• Project Track 2 identified as fall back position</li> </ul>
If required to switch to Project Track 2 the potential for a delay in agreeing and gaining approval for the transaction type to be pursued through open tender	<ul style="list-style-type: none"> <li>• Legal advice for Track 2 already in place.</li> <li>• Discussions to be initiated with SHA/DoH prior to Track 2 trigger date to ensure clarity and avoid delay</li> </ul>
Once preferred bidder is identified the project will have a high dependence on their input and will not be within the full control of Trafford Healthcare NHS Trust	<ul style="list-style-type: none"> <li>• The prospectus and bidder instructions will be strengthened to secure commitment from the acquiring FT to Trafford's proposed commissioning intentions and five year resource envelope, which will be made available to bidders.</li> <li>• A legal agreement will be drafted to ensure commissioner and FT compliance with pursuing service change including the associated timescales</li> </ul>
Negative publicity	<ul style="list-style-type: none"> <li>• Detailed discussions with prospective NHS bidders to encourage bids.</li> <li>• Communications plan agreed with Trust.</li> <li>• Close involvement of Borough Council and local MPs in process.</li> <li>• Communications lead recruited to Provider Development team.</li> </ul>