TFA document

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

Tripartite Formal Agreement between:

- Mid Essex Hospital Services NHS Trust
- NHS East of England
- 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 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)[1] 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.

[1] 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

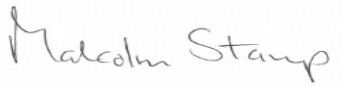
February 2012

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.

Malcolm Stamp (CEO of Mid Essex Hospitals NHS Trust)	Signature:  Date: 25/3/2011
Sir Neil McKay (CEO of SHA)	 Signature Date: 31 March 2011
Ian Dalton, Managing Director of Provider Development, DH	 Signature Date: 27/09/2011

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.

Sheila Bremner (CEO of NHS Mid Essex)	Signature  Date:

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):

The Trust registered with the CQC in January 2010 with a condition related to Outcome 8 this was removed in July 2010 so currently registered with no conditions.

Financial data (figures for 2011/12 are be based on latest forecast – July 2011)

	2009/10 £'000	2010/11 £'000
Total income	238,050	256,086
EBITDA	20,386	27,413
Operating surplus\(deficit))(FIMS code 130)	865	(19,358)
Retained Surplus\(Deficit) for year (FIMs sub code 190)	(5,114)	(29,352)
CIP target	12,889	24,000
CIP achieved recurrent	4,949	10,814
CIP achieved non-recurrent	1,853	4,831

Impairments in 2009 -10 = £7,318k
Impairments in 2010 -11 = £32,302k

The NHS Trust's main commissioners

Referring PCT	Overall
NHS Mid Essex	66%
NHS South West essex	7%
NHS West Essex	5%
NHS South East Essex	4%
NHS North East Essex	3%
All other PCTS	6%
East of England SCG	3%
London SCG	6%
Total	**100%**

Turnover: £251,659 (Forecast 2011-12 as at July 11).
Turnover: £256,086 (2010-11 outturn)

Beds: 517

Geographical area covered: NHS Mid PCT 320000

PFI Detail:

Summary of PFI schemes (if material)

The Trust has two PFI style agreements in place:

Staff Accommodation Scheme – Swan Housing - This is a PPP contract with Swan Housing Association Limited for the construction and provision of staff residential accommodation including the management of the accommodation and other related services, i.e. cleaning, estates, etc. This accommodation will transfer to the Trust at nil cost at the end of the concession period, which commenced in 2007/8 when the property construction was completed. The NBV of this portion of the site as at 31st July 2011 was £9,582K.

New Hospital Wing – By Chelmer PLC – This is a 33 year PFI contract with By Chelmer PLC for the construction and provision of hospital accommodation including the provision of related services, i.e. estates maintenance, etc. This wing will transfer to the Trust at nil cost at the end of the concession period, in 2043. The contract commenced in August 2010 when the property construction was completed. The NBV of this portion of the site is £127,948K as at 31st July 2011. As part of this contract the Trust pays an index linked monthly unitary payment that currently equates to a full year payment in 2011/12 of c. £15.3m.

CIP Detail:

As at July 11 the Trust has a current targeted CIP forecast out turn of £18,000k (estimated recurrent effect of £18,000k), against a £24,900k CIP plan reduced by £6,000k due to SHA support.

Liquidity Detail:

The Trust's current liquidity ratio, as at July 2011, is 4 days, being a Financial Risk Rating of 1 under Monitor calculations and guidelines. This low rating is linked to the depleting of our cash balances due to being behind the planned trajectory for CIPS delivery, the PFI unitary payment and delayed land sales.

Part 4 – Key issues to be addressed by NHS trust

Key issues affecting NHS Trust achieving FT	
Strategic and local health economy issues	
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	☐
Financial	
Current financial Position	✓
Level of efficiencies	✓
PFI plans and affordability	✓
Other Capital Plans and Estate issues	☐
Loan Debt	☐
Working Capital and Liquidity	✓
Quality and Performance	
QIPP	☐
Quality and clinical governance issues	✓
Service performance issues	☐
Governance and Leadership	
Board capacity and capability, and non-executive support	✓

Please provide any further relevant local information in relation to the key issues to be addressed by the NHS Trust:

- Current and longer term financial challenges
- Efficiency challenge
- Identify clear full CIP programme for 2011/12 and beyond
- Quality assess all CIP initiatives with PCT
- Maintain and improve quality while delivering CIP programme
- Liquidity concerns

- New Board needs to embed
- Embed move in to new hospital building
- Continue to improve PCT relations
- Review of quality governance
- Backlog activity clearance – 18 weeks
- Sustained delivery of A&E
- Improve hospital handover and turnaround times

The Trust appointed a new Chief Executive and Finance Director in the spring of 2011.

An SHA and Trust Board to Board meeting in May 2011. It was agreed that as well as progressing through the FT specific elements of the process (e.g. due diligence) the Trust need to demonstrate improvement and delivery in terms of their large CIP plan (10.6% of turnover in 2011/12), service and quality improvement.

It was agreed that the Trust will continue to work to the timeline outlined in the TFA drafted in March 2011 and return for a further Board to Board meeting in January 2012. An earlier Chair and CEO meeting in the autumn of 2011 will review progress with the strengthening of the fundamentals.

The KPI extract from the feedback letter is set out below:

We agreed that we would meet again in the autumn to review progress. We will need to see delivery against a set of broad indicators through the summer and these are outlined below:

Service performance – We will expect the 18 week backlog to reduce to no more than 100 by August. We expect to see A&E waiting times delivered above 95% and then the delivery of the new A&E indicators from July onwards. We will use the governance risk rating to monitor key service performance improvement and the clearance of CQC concerns. We expect you to sustain a green or amber-green governance risk rating from July onwards. The improved governance risk rating should demonstrate the sustained delivery of the actions plan to address the 62 day cancer waits including Urology.

Quality – beyond the governance risk rating we will expect the Trust to meet the deadlines for reporting Serious Incidents and to sustain the improvements made in reducing pressure ulcers, improving VTE screening and managing complaints in a timely manner. The Trust will need to clear the formal CQC concerns and maintain compliance with all outcomes. We expect the Trust to deliver the agreed peer review action plan against the agreed timeline. We also expect to see the recommendations of the intensive support teams' reports delivered.

Finance - We will need to sign off a final CIP programme by 1 July 2011 and will monitor delivery against the agreed month-by-month trajectory. We will also monitor the cash position through the CIP plan review meetings.

The delivery of the indicators above will demonstrate improvement in the basics that are necessary to be viewed as a credible FT applicant. If they are delivered we will meet again in the autumn to focus on other steps to be ready to mount an FT application in early 2012. If they are not delivered we will meet with the Chair and Chief Executive to discuss alternative plans. We will not wait until the autumn to hold a review meeting if these commitments are not being delivered.

Part 5 – NHS Trust actions required

Key actions to be taken by NHS Trust to support delivery of date in part 1 of agreement	
Strategic and local health economy issues Integration of community services	☐
Financial Current financial position	X☐
CIPs	X☐
Other capital and estate Plans	X☐
Quality and Performance Local / regional QIPP	X☐
Service Performance	X☐
Quality and clinical governance	☐
Governance and Leadership Board Development	X☐
Other key actions to be taken (please provide detail below)	☐

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

- ➔ The Trust's QIPP plan and CIP delivery work streams are quality impact assessed by the board through an established systematic gateway assessment process in accordance with Monitor's recommend analytical approach. All CIP schemes are quality impact assessed and reviewed by the Trust's Chief Nurse and Medical Director.
- ➔ Quality of care impacts are monitored by the board through an intelligent board report and regular updates on the progress against key indicators that are included in the Trust's quality accounts.
- ➔ A quality dashboard is being developed for implementation in October 2011
- ➔ A comprehensive action plan in response to peer review by East of England Governance peer review has been approved and implemented by the Board.

Part 6 – SHA actions required

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

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.

- Progress Board to Board meeting (Stephen Dunn – SD May 2011)
- Support the Trust by reviewing draft IBPs and LTFMs (SD 2011)
- Participate in Due Diligence review (SD 2011)
- Review new GRR and self assessment under Monitor Compliance Framework (SD 2011)
- Work with Trust and DH to identify solutions to PFI, liquidity and CIP challenges (SD 2011)
- Run monthly PMR meetings until authorisation (SD 2011)
- Run mock Board to Board meetings (SD 2011)
- Support improved Trust and PCT relations (SD 2011)
- Review Monitor Quality Framework self assessment (SD 2011)
- Run monthly PMR meetings with the Trust until authorisation (SD 2011)

The SHA held a Board to Board meeting with the Trust Board on 31 May to discuss issues, plans for resolution and to agree improvement KPIs.

The SHA has been working with the Trust to support their development of a financial plan for 2011/12 that delivers the 10.6% CIP challenge. Now that a plan is in place the SHA Nurse and Workforce Director will review the Quality assessment process for CIPs with the Trust and PCT in early August.

The SHA has worked with the system (including the PCT) to agree transformation funding support for the change programme planned at Mid Essex. The system also now has agreement over QIPP plan assumptions.

The SHA will monitor the risk ratings, CIP plans, broader financial delivery, quality improvement and observe the Trust Board ahead of a review meeting in autumn 2011 and a further Board to Board meeting in January 2012.

The SHA is contributing to the national work on PFI and will work with the Trust in resolving the outstanding PFI issues as a result of the national financial review.

Part 7 – Supporting activities led by DH

Actions led by DH to support delivery of date in part 1 of agreement	
Strategic and local health economy issues Alternative organisational form options	☐
Financial NHS Trusts with debt	☐
Short/medium term liquidity issues	**X** ☐
Current/future PFI schemes	**X** ☐
National QIPP work-streams	☐
Governance and Leadership Board development activities	☐
Other key actions to be taken (please provide detail below	☐

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:

Advice and support to resolve liquidity and efficiency challenge linked to PFI.

The DH Provider Development leadership team met with the Trust and PCT CEOs on 20 May to discuss the challenges ahead and committed in general terms to support the Trust to address technical financial risk rating issues if the Trust delivers the CIP challenge in 2011/12.

A national financial review of Trusts with a PFI hospital is taking place to gain a common understanding of any issues that might be an obstacle to passing the financial elements of the FT assessment process. Some elements contained within the TFA will be subject to the outcome of this review in enabling any issues outlined in this agreement to be resolved. This will be confirmed on a case by case as the PFI work is completed and communicated.

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

Date	Milestone
April 2011	Complete refresh of FT consultation
April 2011	Opening Board to Board meeting
July 2011	Consistent delivery of A&E above 95%
July 2011	Transformation funding agreement
July 2011	Liquidity support
August 2011	Due diligence phase one
August 2011	Delivery of 18 week backlog trajectory
August 2011	Joint Provider Management meetings to include PCT
October 2011	SHA Board observation
October 2011	Chair and CEO progress review meeting
November 2011	Due diligence phase two
December 2011	Formal submissions to SHA
January 2012	Sign off Board to Board meeting with SHA
February 2012	Presentation to DH
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. Any missed milestone will lead to a Chair and CEO escalation meeting between SHA and Trust.	

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
Delivery of 2011/12 financial plan (including 10.6% CIP)	• Clear plan (MS) • Transformation funding support and clarity on activity plans from PCT (SB) • Trust Medical and Nurse Directors signing off quality review of CIP plans (MD and ND) • PCT and SHA review of quality process and CIP plans (SB and RM/SW) • Gateway process for CIPs (NG) • Board over-sight of CIP delivery (SS)
Delivery and sustaining of improvement in service performance	• Board, PCT and SHA over-sight of delivery of action plans for 18 weeks and A&E – (MS, SB, VC, SD) • Clear milestones agreed between Trust and SHA following Board to Board meeting in May 2011 – review in October 2011 (MS/SS)
Phase one due diligence report identifies the need for delay	• Preparation for due diligence (NG) • Strong action plan (MS)
Quality improvement and Quality Framework	• Peer review (MS) • Trust to self assess (MS) • External review of self assessment (MS)