



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

Tripartite Formal Agreement between:

- Northern Devon Healthcare NHS Trust
- NHS South West
- Department of Health

Introduction

This Tripartite Formal Agreement confirms the commitments being made by the NHS Trust, their Strategic Health Authority and the Department of Health that will enable achievement of NHS Foundation Trust status before 1 April 2014.

Tripartite Formal Agreements are made up of nine parts, each of which is introduced below.

Part 1

Part 1 confirms the date when the NHS Trust will submit its 'NHS Foundation Trust ready' application to the Department of Health to begin their formal assessment towards achievement of NHS Foundation Trust status.

Part 2

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;
- Strategic Health Authority – Chief Executive;
- Department of Health – Ian Dalton, Managing Director of Provider Development

Prior to signing, NHS Trust Chief Executive Officers should have discussed the proposed application date with their Board to confirm support. In addition the lead commissioner for the NHS Trust will sign in part 2b 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) NTDA previously known as the Provider Development Authority – the name change is proposed to better reflect their role with NHS Trusts only when they take over the SHA provider development functions.

Part 3

Part 3 sets out the services provided by the NHS Trust, its commissioners, the financial context and key quality and performance issues.

Part 4

Part 4 sets out the key strategic and operational issues facing each NHS Trust.

Part 5

Part 5 sets out the key actions to be taken by the NHS Trust to address the key strategic and operational issues facing the NHS Trust.

Part 6

Part 6 sets out the key actions to be taken by the Strategic Health Authority to address the key strategic and operational issues facing the NHS Trust.

Part 7

Part 7 sets out the key actions to be taken by the Department of Health to address the key strategic and operational issues facing the NHS Trust.

Part 8

Part 8 of the agreement sets out the key milestones that will need to be achieved to enable the NHS Foundation Trust application to be submitted to the date in part 1 of the agreement.

Part 9

Part 9 sets out the key risks to delivery of the NHS Foundation Trust application to the date set out in part 1 of the agreement.

The guidance provided by the Department of Health for the preparation of Tripartite Formal Agreements is set out in Appendix 1.

Standards required to achieve NHS Foundation Trust status

The establishment of a Tripartite Formal Agreement for each NHS Trust does not change, or reduce in any way, the requirements needed to achieve NHS Foundation Trust 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 NHS Foundation Trust status. The purpose of the Tripartite Formal Agreement for each NHS Trust is to provide clarity and focus on the issues to be addressed to meet the standards required to achieve NHS Foundation Trust status. The Tripartite Formal Agreement should align with the local quality and productivity agenda.

Alongside development activities being undertaken to take forward each NHS Trust to NHS Foundation Trust status by 1 April 2014, the quality of services will be further strengthened. Achieving NHS Foundation Trust 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 NHS Foundation Trust status, to establish autonomous and sustainable providers best equipped and enabled to provide the best quality services for patients.

Part 1 - Date when NHS Foundation Trust application will be submitted to Department of Health

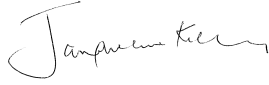
1 May 2012

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.

Jac Kelly, Chief Executive, Northern Devon Healthcare NHS Trust	Signature  Date: 27.05.11
Sir Ian Carruthers OBE, Chief Executive, NHS South West	Signature  Date: 27.05.2011
Ian Dalton, Managing Director of Provider Development, Department of Health	Signature  Date: 6 July 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.

Ann James, Chief Executive, NHS Devon	Signature  Date: 27/05/2011
---------------------------------------	---

Part 3 – NHS Trust summary

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

Services

From April 2011, Northern Devon Healthcare NHS Trust comprises an acute District General Hospital in Barnstaple, 17 community hospitals and a wide range of adult community health and social care services across north, east, mid Devon, and Exeter. The Trust also provides a range of specialist services such as sexual health, community podiatry and community dental services on a pan-Devon basis.

The community catchment population of the Trust will be 484,000 (913,000 for pan- Devon services) with an overall annual budget in the region of £206 million (excluding social care budgets) including the services transferring from NHS Devon on 1 April 2011.

Commissioners

The main commissioners of the NHS Trust are NHS Devon, NHS Cornwall and Isles of Scilly, NHS Somerset, the Northern Devon and Eastern Devon GP Consortia and Devon County Council.

Financial context

Financial data (figures for 2010/11 should to be based on latest forecast)

All in £000's	2009/10	2010/11
Total income	204,665	201,788
Earnings before interest, taxes, depreciation and amortisation	15,441	11,899
Operating surplus	39	292
Cost improvement plan target	11,151	11,238
Cost improvement plan achieved recurrent	9,271	8,959
Cost improvement plan achieved non-recurrent	1,880	2,279

The financial information incorporates Eastern locality and universal services formerly part of the NHS Devon Provider Arm.

Private Finance Initiative schemes: Under Transforming Community Services, there is no transfer of buildings assets. Tiverton Hospital is a Private Finance Initiative scheme that will remain the responsibility of NHS Devon at this time.

Quality and performance

Services have been registered with the Care Quality Commission without conditions.

Part 4 – Key issues to be addressed by the NHS Trust

Key issues affecting NHS Trust achieving FT	
<p>Strategic and local health economy issues</p> <p>Service reconfigurations <input type="checkbox"/></p> <p>Site reconfigurations and closures <input type="checkbox"/></p> <p>Integration of community services <input checked="" type="checkbox"/></p> <p>Not clinically or financially viable in current form <input type="checkbox"/></p> <p>Local health economy sustainability issues <input type="checkbox"/></p> <p>Contracting arrangements <input type="checkbox"/></p> <p>Financial</p> <p>Current financial Position <input type="checkbox"/></p> <p>Level of efficiencies <input checked="" type="checkbox"/></p> <p>PFI plans and affordability <input type="checkbox"/></p> <p>Other Capital Plans and Estate issues <input checked="" type="checkbox"/></p> <p>Loan Debt <input type="checkbox"/></p> <p>Working Capital and Liquidity <input type="checkbox"/></p> <p>Quality and Performance</p> <p>QIPP <input checked="" type="checkbox"/></p> <p>Quality and clinical governance issues <input type="checkbox"/></p> <p>Service performance issues <input type="checkbox"/></p> <p>Governance and Leadership</p> <p>Board capacity and capability, and non-executive support <input type="checkbox"/></p>	
<p><i>Please provide any further relevant local information in relation to the key issues to be addressed by the NHS Trust:</i></p> <p>Integration of community services Ongoing issues following the transfer of Provider Services from NHS Devon are being followed up by the Trust.</p> <p>Levels of efficiency/QIPP The Trust recognises that demographic growth will continue to impact on demand, but assumes that this will be significantly reduced by the Devon QIPP programme. As an integrated provider of acute and community services, the risk of reduced demand for acute services resulting in unavoidable fixed costs will be significantly mitigated by the overhead and surplus element included within investments in community services. This issue is being led by the Trust.</p> <p>Other Capital Plans and Estate Issues As part of the Transforming Community Services exercise, the Trust has taken on community services across the eastern Devon area. The process and ownership for transferring these assets to the Trust and the implications for capital planning for investment into and maintenance of the assets has yet to be decided. This issue is being led by the Director of Facilities of the Trust.</p>	

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	<input checked="" type="checkbox"/>
Financial	
Current financial position	<input type="checkbox"/>
CIPs	<input type="checkbox"/>
Other capital and estate Plans	<input checked="" type="checkbox"/>
Quality and Performance	
Local / regional QIPP	<input checked="" type="checkbox"/>
Service Performance	<input type="checkbox"/>
Quality and clinical governance	<input type="checkbox"/>
Governance and Leadership	
Board Development	<input type="checkbox"/>
Other key actions to be taken (please provide detail below)	<input type="checkbox"/>
<p><i>Describe what actions the Board is taking to assure themselves that they are maintaining and improving quality of care for patients.</i></p> <p>Integration of community services The Trust is a member of the Transforming Community Services Adult and Specialist Services Project Group which includes representatives from Torbay Care Trust, Children's Services and NHS Devon. The Group has been established to oversee and manage the due diligence process for the transfer of services. The Group continues to meet after 1 April 2011 to continue to determine other unforeseen issues which may emerge.</p> <p>The Northern Devon Healthcare NHS Trust has established a Mergers and Acquisitions Committee to manage and to monitor all aspects of the Transforming Community Services arrangements within the Trust. This Committee continues to meet after 1 April 2011. It is a committee of the Trust Board and is chaired by the Trust Chair.</p> <p>Levels of efficiency/QIPP Routine financial, performance and quality indicators reports are presented to the Trust Board for discussion. The impact of the QIPP programme will be monitored as part of the financial and performance monitoring arrangements of the NHS Trust. Quarterly meetings will be established with the commissioners to agree quarterly objectives and to monitor progress. This work will be led by the Executive Team.</p> <p><i>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:</i></p> <p>Other capital and estate plans The Director of Facilities is responsible for monitoring national guidance in relation to transfer arrangements for assets from the transferred services. Once guidance has been published, appropriate action will be taken.</p>	

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)	<input type="checkbox"/>
Contracting arrangements	<input type="checkbox"/>
Transforming Community Services	<input checked="" type="checkbox"/>
Financial	
CIPs\efficiency	<input type="checkbox"/>
Quality and Performance	
Regional and local QIPP	<input type="checkbox"/>
Quality and clinical governance	<input type="checkbox"/>
Service Performance	<input type="checkbox"/>
Governance and Leadership	
Board development activities	<input type="checkbox"/>
Other key actions to be taken (please provide detail below)	<input type="checkbox"/>
<p><i>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.</i></p> <p>NHS Devon is working with Northern Devon Healthcare NHS Trust and Royal Devon and Exeter Hospital NHS Foundation Trust to secure the vertical integration benefits from whole system working. South West Strategic Health Authority is monitoring this process.</p> <p>Work is being undertaken to address the underlying deficit in Devon Provider Services.</p> <p>The South West Strategic Health Authority is supporting Northern Devon Healthcare NHS Trust to plan for risk management of market share from the Any Qualified Provider policy.</p>	

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	<input type="checkbox"/>
Financial	
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"/>
Governance and Leadership	
Board development activities	<input type="checkbox"/>
Other key actions to be taken (please provide detail below)	<input type="checkbox"/>
<p><i>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:</i></p>	

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

Date	Milestone
30 June 2011	Review of due diligence process for integration of services following Transforming Community Services
30 June 2011	Established schedule of quarterly meetings with all commissioners to monitor progress of quarterly QIPP reports
30 June 2011	Agree resolution to underlying deficit with NHS Devon
31 July 2011	First draft of Integrated Business Plan and Long Term Financial Model to Strategic Health Authority
30 September 2011	Review of due diligence process for integration of services following Transforming Community Services
30 September 2011	Start of public consultation exercise
30 September 2011	Publication of 5 year Service Strategy
30 September 2011	Re-commissioning strategy agreed with NHS Devon and clarity of which services following Transforming Community Services will remain integrated with Trust
30 September 2011	Trust, NHS Devon and SHA review of likely impact of risk management of market share from Any Qualified Provider in light of the Department of Health listening exercise
1 October 2011	Start of Historical Due Diligence Part 1
30 November 2011	Second draft of Integrated Business Plan and Long Term Financial Model to Strategic Health Authority
31 December 2012	Letter of support from lead commissioners for FT application
17 February 2012	Legal letter of approval of Constitution
28 February 2012	Final Integrated Business Plan and Long Term Financial Model to Strategic Health Authority
31 March 2012	Letter of support from SHA for Foundation Trust application
<p><i>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.</i></p> <p>The progress of the Foundation Trust Application project plan will be monitored by the monthly Foundation Trust Steering Group of the NHS Trust, which includes the Chair, the Chief Executive, Executive Directors, Non-Executive Directors and the Foundation Trust Lead. Where it appears that a milestone may be missed, this will be raised as an exception report and presented to the weekly Executive Directors' Group to agree the mitigation action(s) with specified due date and a nominated lead. This will be reported to the next Foundation Trust Steering Group, which is a committee of the Trust Board and is chaired by the Trust Chair.</p> <p>Where a milestone is missed, an exception report will be provided to the Executive Directors' Group for review and immediate action. Routine update reports on the Foundation Trust application will be provided to every Trust Board meeting.</p> <p><i>Describe what actions/sanctions the SHA will take where a milestone is likely to be, or has been missed.</i></p> <p>The SHA will hold quarterly iterative meetings with the Trust to monitor progress and agree remedial action.</p>	

Key milestones will be reviewed every quarter, so ideally milestones may be timed to quarter ends. The milestones agreed in the above table will be monitored by senior Department of Health and Strategic Health Authority leaders until the NHS Trust Development Authority 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 Strategic Health Authority (or NHS Trust Development Authority 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 NHS Trust Development Authority once it formally has the authority).

Part 9 – Key risks to delivery

Risk	Mitigation including named lead
Lack of certainty around the medium to long-term integration of the Transforming Community Services has a significant impact on the Trust's 5-year Service Strategy and IBP	There is ongoing discussion with NHS Devon with regard to the re-commissioning strategy. This work is being led by the Chief Executive.
Development of the Trust's strategy and financial model is dependent on understanding the commissioners' intentions and financial risk sharing arrangements	<p>There is ongoing discussion with NHS Devon to clarify commissioning intentions and to develop arrangements to agree and performance monitor agreed quarterly objectives.</p> <p>There are ongoing discussions with the Northern and Eastern GP Consortia.</p> <p>This work is being led by the Chief Executive.</p>
Following the transfer of services on 1 April 2011, unforeseen risks may be identified.	<p>Work will be undertaken jointly with Torbay Care Trust and NHS Devon to determine unforeseen issues which may emerge and to agree how they will be resolved. This will be managed via the Transforming Community Services Adult & Specialist Services Project Group. The Due Diligence work will continue until October 2011.</p> <p>This work is being led by the Chief Executive.</p>
Lack of clarity of process for transferring assets	Once national guidance has been published, the Director of Facilities will review the implications and develop an action plan.
Potential lack of funding available to invest in and to maintain transferred assets	<p>Once clarity regarding future capital funding is published, the Director of Facilities will review the implications, develop an action plan and inform the Trust Board.</p> <p>Director of Finance and Performance will review the financial implications to the Trust and inform the Trust Board.</p>

Appendix 1

Guidance to support completion of Tripartite Formal Agreements

This appendix sets out the guidance provided by the Department of Health in support of the completion of the Tripartite Formal Agreements being established to support the delivery of the NHS Foundation Trust pipeline by April 2014.



Guidance to support completion of Tripartite Formal Agreements

Introduction

1. This guidance is provided in support of the completion of the Tripartite Formal Agreements (TFAs) being established to support the delivery of the NHS Foundation Trust (FT) pipeline by April 2014.
2. The main purpose of each TFA is to confirm an agreed date by which the NHS Trust will submit their FT application to the Department of Health (DH).
3. Alongside this, the TFA will provide information about the issues to be addressed by the NHS Trust to enable them to submit their application, to the agreed date, and ultimately achieve NHS Foundation Trust (FT) status by April 2014. The TFA should align with the local QIPP agenda.
4. The three parties signing up to each agreement are:
 - NHS Trust – Chief Executive Officer
 - SHA – Chief Executive Officer
 - Department of Health – Ian Dalton, Managing Director of Provider Development, DH

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

5. SHAs will lead the process for completing and agreeing the TFA locally. For each of the signatories the actions they are agreeing to undertake to support the issues being addressed by the NHS Trust will be included in the document. The milestones towards submitting an application to DH should be provided. Associated risks may be identified in Part 9.
6. This guidance is by section as organised in the TFA. Each NHS Trust and SHA is asked to keep to the guidance provided when completing the TFAs to enable an efficient and effective process to finalise them.

7. A TFA needs to be completed for **all remaining NHS Trusts**. This includes those NHS Trusts who have already submitted an application to DH and are either still to be considered for Secretary of State support or have received this and are currently being assessed by Monitor. For these organisations, it is expected there will be little detail in their TFA but it is still required to ensure we have clear and consistent information about all the remaining NHS Trusts.
8. Correspondence to the DH on all TFAs should be addressed to the DH Foundation Trust Team mailbox ftapplication@dh.gsi.gov.uk

TFA step-by-step guidance

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

- This is the date agreed by the NHS Trust, SHA and DH when the NHS Trust will submit its “FT ready” application to DH seeking Secretary of State support approval before commencing assessment with Monitor.
- The latest date this can be for any NHS Trust is **April 2013**
- For those organisations that have already submitted an application to DH and are either still being considered for Secretary of State support or are with Monitor, this box should be marked ‘Application submitted’

Part 2a - Signatories to agreements

- This section requires the name, job title and signatures of each NHS Trust CEO, the SHA CEO and Ian Dalton, Managing Director of Provider Development, DH.
- It is requested that electronic signatures are provided for the agreement for all signatories. Where this is not possible, a formal audit needs to be provided confirming the signatory’s sign-up to the agreement.

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.

Part 3 – NHS Trust summary

- This section requests a short summary of services provided, geographical/demographical information, CQC registration, main commissioners and organisation history. Standard financial information is also required. Latest management information should be used to forecast 2010/11 position.
- It is requested that this summary be no more than half a page of A4.

Part 4 – Key issues to be addressed by NHS trust

- The agreed issues to be addressed by each NHS trust need to be marked on the check-boxes provided. These issues were determined following analysis of the November 2010 returns so should cover most issues faced by NHS Trusts.
 - These can be marked by right-clicking on the box, selecting properties and then changing the default value to 'checked'
- The free text box in part 4 needs to be used to provide any further information about the key issues that the NHS Trust needs to address.
 - Every attempt should be made to keep this further information brief and high-level and it is suggested that no more than half a page of A4 is used for this. Where necessary extra space can be used.

Part 5 – NHS Trust actions required

- The agreed actions to be taken by each NHS trust need to be marked on the check-boxes.
 - These can be marked by right-clicking on the box, selecting properties and then changing the default value to 'checked'
- Describe what actions the Board is taking to assure themselves that they are maintaining and improving quality of care for patients.
- The free text box in part 5 also needs to be used to provide a summary of other actions being taken by the NHS Trust to address the issues agreed in part 4.
 - Every attempt should be made to keep this further information brief and high-level. Where necessary extra space can be used.

Part 6 – SHA actions required

- The agreed actions to be taken by each SHA need to be marked on the check-boxes.
 - These can be marked by right-clicking on the box, selecting properties and then changing the default value to 'checked'
- The free text box in part 6 needs to be used to provide a summary of other actions being taken by the SHA to address the issues agreed in part 4.

- Every attempt should be made to keep this further information brief and high-level. Where necessary extra space can be used.

Part 7 – Supporting actions led by DH

- The agreed actions DH is supporting to deliver the application date need to be marked on the check-boxes. In the first instance, SHAs should identify the issues for DH to consider.
- These can be marked by right-clicking on the box, selecting properties and then changing the default value to 'checked'
- The free text box in part 7 needs to be used to provide a summary of other actions being taken by DH to address the issues agreed in part 4.
- Every attempt should be made to keep this further information brief and high-level. Where necessary extra space can be used.

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

- Milestones will be reviewed quarterly. Dates and key milestones need to be provided in the table, ideally timed to the quarter ends but not if that is going to cause new problems.
- Milestones to be determined as appropriate for each individual case. General rule for a milestone is that if it were not achieved it would put delivery of the date agreed in part 1 at risk.
- Detail should be provided on what the milestone will achieve, for example, underlying financial problem resolved.
- Describe what actions\sanctions the SHA will take where a milestone is likely to be, or has been missed.
- For NHS Trusts who have already submitted their applications to DH, no milestones are required in this section, as the date agreed has already passed.
- Free text box allows short description of actions to take if a milestone is missed.

Part 9 – Key risks to delivery

- Key high level risks and mitigations to be provided at this table
- Risks to be determined as appropriate for each individual case but requested to be not more than five risks.

