



Mersey Care

NHS Foundation Trust

Community and Mental Health Services

12 February 2019



NHS England

Sent by email

Chief Executive Office Trust
Headquarters V7 Building
Kings Business Park Prescot
L34 1PJ

Dear 

As you are aware, Mersey Care NHS Foundation Trust acquired Calderstones Partnership NHS Foundation Trust in July 2016. Throughout this period, we have worked hard to develop a new clinical model for the treatment of people with learning disabilities across the North West of England and have been a strong and very corporate supporter of Transforming Care. To date, we have successfully discharged 127 service users into alternative care provision, closing c100 beds on the Whalley site in the process. This now leaves the most complex patients on site that require the very best clinical support and care from the most highly qualified staff. For clarity only 4 remaining service users are non secure, challenging behaviour clients. The remaining LD service users are offenders with long-term and exceptionally complex mental disorders requiring long term multi-disciplinary treatment and care needs. Indeed, their need for physical and procedural security is not very different from service users who access core and mainstream forensic services. However, the clinical expertise that is required to care for this group of people is niche. There are only a handful of NHS services across the whole country including the devolved nations with access to the specialist forensic learning disability multidisciplinary teams. (NHS Scotland and NHS Wales have placed two service users each in our Whalley services).

When coupled with the significant progress that we have made in building the new state of the art medium secure unit in Maghull, which is on track to open in autumn next year, we believe this to be the most significant testimony to the effectiveness of the Transforming Care programme in the country.

The central plank of the acquisition business case for the take over of Calderstones was a completely revised and updated clinical model which focussed maximum attention on preventing admissions rather than treatment in inpatient settings. We now have two highly specialised Specialist Support Teams in full operation across Lancashire and Greater Manchester whose sole focus is to prevent admission to and facilitate discharge from inpatient forensic services.

Chairman Beatrice Fraenkel

Chief Executive Joe Rafferty

Most recently we have also worked closely with NHS England and NHS Improvement to develop an outline business case for the development of a low secure unit for the final stage of discharge of service users from Whalley.

The preferred option from those included in the business case for this necessary facility, is a new build at Maghull alongside the new medium secure unit. This would enable the closure of the Whalley site to specialist learning disability inpatient services, to reflect the outcome of the 2017 NHS England led consultation. This development completes the last part of the process to enable us to close the final learning disability accommodation on site.

However, as you may be aware, we were unsuccessful in the recent STP Capital Wave 4 round for application to £35m capital for this scheme. We recognise that capital is exceptionally scarce within the NHS and now therefore believe that this requires us to think again about the current plans for full closure of the Whalley site recognising the changes that have already taken place in both Mersey Care and the North West to address the issues raised through Building the Right Support back in October 2015. These changes include the successful development of an innovative new clinical pathway, which has successfully reduced inpatient beds by c100 and has ensured that all service users have a managed length of stay in the least restrictive setting possible. This pathway redevelopment included a significant focus on the set up of Specialist Support Teams who exist solely to prevent admission to and support discharge from forensic services. This is showing great progress and has been widely supported by service users, their families and our commissioners. The radical changes to the service offer at Whalley has also been fundamentally re-shaped by the formal recognition by the CQC of the 'Outstanding' services provided on this site. We believe that these two factors now absolutely re-position the Whalley proposition for the people and communities we serve. I therefore write to you today as accountable officer for Mersey Care to ask that you re-consider your position on final development of services at Whalley for the good of service users, staff and the tax payers.

We have given considerable thought to this and believe that we can make a small adjustment to plans for the site to satisfy the needs of the widest possible group of stakeholders for these small but important services. We have previously proposed a solution via the attached paper to [REDACTED] and NHS England which we believe will deliver the full aspirations of Transforming Care whilst keeping capital costs to an absolute minimum. This solution would enable Mersey Care to develop a multi-purpose community site which co-locates low secure services with Specialist Support Teams, community crisis beds and the widest possible range of broader community facilities (GP surgery, affordable housing, office and older adult's accommodation) to ensure that people with a learning disability are supported in the best way possible to stay out of the forensic system and live independent lives in a highly supportive community. We believe that this proposal would receive strong support from Ribble Valley Council, staff side colleagues along with local and national elected representatives in the area.

Chairman Beatrice Fraenkel

Chief Executive Joe Rafferty

This potential solution **moves the community onto the Whalley site** in an exciting and innovative development programme that builds on the benefits of the previous business case, makes the very best use of tax payers' money and provides a solution in a palatable timeframe to implement the principles and spirit of Transforming Care in the most effective and efficient way possible.

Having presented this as an innovative solution to NHSE over two months ago, we have yet to receive any formal or detailed feedback from your organisation as to whether this option is one that you are prepared to consider. As a consequence, massive uncertainty over the future of services is now escalating a number of extremely pressing and significant issues and risks to these services. This poses enormous risk to service users and staff, the wider health system and also the basis of the Transforming Care programme, evidenced by two risks scoring 20 on our Board Assurance Framework. As such, they are the most significant risks that the trust holds at present and our Board have asked me, as the Accountable Officer to write directly to you in order to escalate these at the highest possible level.

These delays pose significant risks on a number of levels:

1. Our ability to continue to operate a safe service at Whalley given substantial staff attrition rates which have been prompted by the uncertainty about the future provision of services. Our highly trained and motivated staff on site in Whalley care for people in secure service settings. These staff represent a professional group that are hard to find, attract and retain and the fact that we currently employ them at Whalley but are at risk of losing them to the NHS with current uncertainty is causing the risk to current and future services to become unsustainable. We have learnt from other service reconfigurations elsewhere in Europe that it takes a minimum of ten years to re-train staff if we lose niche services. A legislative change in Norway moving care away from institutions with access to specialist staff input led to the loss of their expertise, which took ten years to re-coup. The ideal solution would be to consolidate the current scarce workforce skills in centres of excellence. The service user cohort are the most complex group of people in the learning disability care community because of their profound co-morbidities and the fact that they present a significant safety risk to themselves and others. They are service users that have been detained under Ministry of Justice regulations as offenders with mental disorders and significant and long-term multi-disciplinary treatment and care needs in a secure setting. We are now facing a likelihood that we have at least 2 years where only 40 low secure beds will be provided from the Whalley site as an isolated service. Not only does this disrupt the clinical model on which we had built the acquisition business case, it also does not provide the best therapeutic environment for service users and does not fit with the principles within 'Building the Right Support.'

2. At present, Mersey Care is operating a safe service at the site through a rigorous process of staff management and support. However, we now feel that we are at the outer limits of being able to keep this site safe and even small incremental drifts in staffing numbers would pose a significant threat to the running of safe services at Whalley for some of the most vulnerable people in our society. We continue to face demand to for our beds (which is assessed and scrutinised with rigor) and the only current alternatives to our service include placements hundreds of miles away from their families, which goes against the intentions of 'Building the Right Support'. We are aware that the access to a full complement of specialist multidisciplinary teams in the wider forensic LD system is limited (the evidence is available through CQC ratings) and this reduces the outstanding care that we currently provide with these placements. We are concerned that a cohort of out of area placements would lead to further fragmentation of care and prolong the pathways for one of the most vulnerable sections of our population as they continue to face the dual stigma of offending and disability. The risk is that future commissioning might be adversely influenced by the current developments leading to an artificial increase in demand as opposed to implementing the new care model to achieve better outcomes. This would also put significant financial pressure on the trust which we would require NHS England's support to ensure this does not detrimentally affect wider Mersey Care sustainability. At present we feel that we are in limbo and are being put in a position where we have done everything that you have asked of us and yet we now find ourselves stuck between a past that we have fundamentally and unequivocally changed but that has not been recognised, and a future mired in uncertainty and distress for the people we care for and employ.
- 3 Our continued inability to give our staff any clear roadmap of the future of services, and as such any options for them for their future employment, means that many have already left the organisation and many of these have also left the NHS altogether. This is at a time when staffing need has never been greater and we experience a paucity of specialist learning disability capacity on a daily basis. We therefore now run an increased risk of damaging our future sustainability across Mersey Care LD services as well as those of the wider NHS. Our loyal staff at Whalley are being forced to operate in a landscape of daily challenge and uncertainty and we feel that it is both unfair and unjust that valued and loyal NHS colleagues are being treated in this way.
- 4 Throughout this process we have continued to work extremely hard to manage the expectation of our staff side colleagues. This latest set back for the programme may mean that we are unable to contain any external reaction from them including the possibility that they may take legal or other action.

- 5 Continued uncertainty for service users and their carers about the future of services is causing additional and significant worry and significant distress to our service users and their families (see letter from [REDACTED] to you in December 2018). This is a real and very pressing issue for us all at the trust. I am unable to explain to our families in any meaningful way either a) what a proposed future might look like for their loved ones or b) where that future may lie. For families such as the [REDACTED] this means that the peace of mind that they have had since their son was settled and making good progress at Mersey Care has now become uncertain and they are extremely anxious and upset about what this might mean for their own and other family members who are receiving outstanding care at Mersey Care Whalley.
- 6 Our service users are more vulnerable than other patient groups as a section of them are extremely vulnerable to the instability caused by uncertainty with their futures. This has to be viewed in the context of some of the extreme behaviours that can cause harm to others and themselves in response to minor changes in the structure or functioning of the ward or change of a particular staff member in a shift or an increase in the temporary staffing. They are sensitive to the emotional responses of their staff members who care for them on a daily basis and work with them closely and their family members. Prolonged uncertainty for family and the staff working in the wards is likely to have a disproportionately negative effect on their mental states and compromise the clinical progress made so far, setting them back by months and sometimes years in their recovery.
- 7 Our experience in other recent and current building projects shows us that costs are rising on a daily basis for building materials and contractors; this has been significantly exacerbated by the effects of Brexit uncertainty within the building and construction sector. Obviously the longer it is before we can negotiate a Guaranteed Maximum Price for the new build then the more the cost will rise and this will provide a more uncertain future for the staff at Mersey Care Whalley, the local health systems across the North West and it also will provide significantly worse ROI for the tax payer.

The Transforming Care programme was a national priority back in 2016 when it was launched and yet we at Mersey Care, who have been one of the biggest supporters of its operationalisation, now find ourselves in an untenable position carrying significant risks to our services. In addition, our Council of Governors has formally requested assurance on the quality of care and service provision in community services when people are discharged from the site. We have sought assurance on this over the past two years from NHSE's Strategic Partnership Board and have yet to receive any form of satisfactory response from your organisation.

The Mersey Care Board has therefore requested that I seek formal assurance from you on all of the issues I have raised in this letter. I have previously offered you the opportunity to discuss this with you and show you around the Whalley site and would like to extend this offer to you once again in order that we can bring matters to a successful and timely conclusion.

I look forward to your response

Yours sincerely

A handwritten signature in black ink, appearing to read 'Joe Rafferty'.

Joe Rafferty
Chief Executive
Mersey Care NHS Foundation Trust

Cc: [REDACTED] Chair, NHS England