

**LONDON BOROUGH OF HAMMERSMITH AND FULHAM,  
ROYAL BOROUGH OF KENSINGTON AND CHELSEA, AND  
WESTMINSTER CITY COUNCIL**

**OVERVIEW AND SCRUTINY COMMITTEES ON HEALTH**

**REPORT FROM THE TRI-BOROUGH EXECUTIVE DIRECTOR FOR  
ADULT SOCIAL CARE**

**CONSULTATION: CENTRAL LONDON COMMUNITY HEALTHCARE  
NHS TRUST APPLICATION FOR FOUNDATION TRUST STATUS**

Central London Community Healthcare NHS Trust (CLCH) wishes to become a foundation trust. The public consultation on their plans for becoming a foundation trust is between 8 May and 31 July 2012.

A draft response has been prepared for the three Overview and Scrutiny Chairmen (London Borough of Hammersmith and Fulham [LBHF], Royal Borough of Kensington and Chelsea [RBKC] and Westminster City Council [WCC]) as set out in Appendix A.

**FOR DECISION**

## **1. BACKGROUND**

- 1.1 Central London Community Healthcare NHS Trust (CLCH) was established, by the Department of Health, as an NHS Trust on 1 November 2010.
- 1.2 CLCH is the community healthcare provider in the boroughs of Barnet, Hammersmith and Fulham, Kensington and Chelsea, and Westminster.
- 1.3 CLCH is the largest community healthcare organisation in London and the first in London to be awarded NHS Trust status. Over 2,600 community health professionals provide services to over 900,000 local people including:
  - Adult community nursing services – Including 24 hour district nursing, community matrons and case management
  - Children and family services – Including health visiting, school nursing, children’s community nursing teams, speech and language therapy, blood disorders, and children’s occupational therapy

- Continuing care services - For older people who can no longer live independently due to a disability or chronic illness, or following hospital treatment
- End of life care – For people with complex, substantial, on-going needs caused by disability or chronic illness
- Offender health services – At HMP Wormwood Scrubs
- Rehabilitation and therapies – Including physiotherapy, occupational therapy, foot care, speech and language therapy
- Specialist services – Including elements of long-term condition management (diabetes, heart failure, lung disease), community dental services, sexual health and contraceptive services
- Walk-in and Urgent Care Centres – Providing care for people with minor illnesses, minor injuries and providing a range of health promotion activities and advice.

1.4 CLCH sets out their plans within a public consultation document<sup>1</sup> - details set out in Appendix B.

## **2 CHARACTERISTICS OF A FOUNDATION TRUST**

2.1 A Foundation Trust is:

- An independent legal entity with greater freedom to manage its own affairs, with freedom from central government, Department of Health and Strategic Health Authority control
- Authorised by, accountable to, and regulated by the independent regulator Monitor
- Managed by a board of directors, with its Chief Executive, Chairman and non-executive directors appointed/sacked by the board of governors, who are elected by members
- Free to retain any surpluses to re-invest in organisation.

## **3. LOCAL AUTHORITY POSITION ON FOUNDATION TRUSTS**

3.1 Local authorities may not be able to veto applications, however, their views on budget management and the financial viability of proposals could have a significant impact, and may guide the Government appointed regulator.

3.2 LBHF and WCC, like RBKC<sup>2</sup>, will need to be satisfied that the time, expense, diversion of management energies and the inevitable upheaval will all be justified in terms of:

- Improved provision for health care

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<sup>1</sup> Central London Community Healthcare NHS Trust: Foundation Trust consultation <http://www.clch.nhs.uk/get-involved/foundation-trust/foundation-trust-consultation.aspx>

<sup>2</sup> This was agreed by RBKC's Cabinet on 23<sup>rd</sup> February 2004.

- The maintenance of good working relationships with other local health partners
- Improved accountability to local people (e.g. the Council will be looking for evidence of real opportunities for residents to contribute to the management [governance] of foundation trusts).

#### **4. THE ONGOING RELATIONSHIP WITH A FOUNDATION TRUST**

4.1 Several areas are identified where an overview and scrutiny committee will have an active role in monitoring (and guiding) the work of a local foundation trust. Thus:

- If the trust wants to make a substantial change to its provision of goods and services, as agreed under its initial authorisation, then it will have to consult with qualifying overview and scrutiny committees before applying to the regulator
- An overview and scrutiny committee may be represented on the board of governors
- An overview and scrutiny committee can examine and report on any issues pertaining to the operation of a foundation trust, and the regulator would be expected to take note of these views
- An overview and scrutiny committee can monitor the degree of local involvement in the membership of the trust, and of the board of governors.

#### **5. NEXT STEPS**

5.1 It is planned that The Secretary of State for Health will review CLCH's application in the early part of 2013. If approved by the Secretary of State, CLCH's application will then be assessed by Monitor, the Independent Regulator for NHS Foundation Trusts, who will decide if they can become a Foundation Trust. They hope to gain Foundation Trust authorisation during summer 2013.

#### **6. RECOMMENDATION**

6.1 The Overview and Scrutiny Chairmen are asked to approve the consultation response, as set out in Appendix A (subject to additionally suggested changes).

6.2 The 12 week consultation ends on the 31 July 2012. The finalised consultation response can be submitted to: [ft.consultation@clch.nhs.uk](mailto:ft.consultation@clch.nhs.uk)

**FOR DECISION**

**Andrew Webster**  
Tri-borough Executive Director of Adult Social Care

**Background papers used in the preparation of this report:** None

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## **APPENDIX A:**

**LONDON BOROUGH OF HAMMERSMITH AND FULHAM,  
ROYAL BOROUGH OF KENSINGTON AND CHELSEA, AND  
WESTMINSTER CITY COUNCIL**

**OVERVIEW AND SCRUTINY COMMITTEES ON HEALTH**

**CONSULTATION RESPONSE**

**CENTRAL LONDON COMMUNITY HEALTHCARE NHS TRUST  
APPLICATION FOR FOUNDATION TRUST STATUS**

### **1. INTRODUCTION**

- 1.1 We welcome this opportunity to comment on Central London Community Healthcare NHS Trust (CLCH) application for foundation trust status.

### **2. BUSINESS CASE AND FINANCE**

- 2.1 The Overview and Scrutiny Committees have asked to view CLCH's full application including: Integrated Business Plan, Long Term Financial Model and analysis of risks. We have also asked to see CLCH's Accountability Agreement. These are yet to be forthcoming. We are disappointed that the trust has not sought our views on their full plans.
- 2.2 In the coming years, there are many things that will affect CLCH's projected financial figures.
- 2.3 There is less money available in the public sector due to the state of UK finances. Large savings are being sought by NHS North West London so the sector is planning significant changes in service configuration many of which will impact on the services and patient flows.
- 2.4 In the past, CLCH was commissioned to provide blocks of community NHS services on a geographic basis. In the future particular streams of work are going to be commissioned from "any qualified provider". CLCH will face competition for the provision of community NHS services from other NHS trusts and the private sector. The private sector could secure a fifth of the annual £8.5bn market for NHS community services by 2016, the analysts Laing and

Buisson have predicted.<sup>3</sup> There are also new commissioners (e.g. CCGs and the NHS Commissioning Board) to consider. It is a concern that the impact of competition on the Trust's finances is so uncertain.

- 2.5 All this will significantly impact on the CLCH's business model. We would like to know how good CLCH think their financial predictions are? What are the margins of error?
- 2.6 Foundation trust status will mean that CLCH will have greater freedom to raise money for projects. However, we have yet to see any explanation of risks to the trust (e.g. failure to control costs sufficiently to generate surplus to fund borrowing requirements). Repayments must be supported by streams of income, so there is a crucial link with the way that the trust is able to develop its business. It would also be helpful to know the extent to which investment might take place without foundation trust status.
- 2.7 The trust's plan must be clear on the risks to fund borrowing. The trust should not be taking more risk than is sensible, and so its business plan needs to reflect this.

### **3. IMPACT ON THE LOCAL HEALTH AND SOCIAL CARE ECONOMY**

- 3.1 We would like to know how the trust will make savings over the next 5 year period (e.g. increased efficiencies, improved procurement, reducing overheads and reconfiguring services) and how the trust will be able to retain surpluses.
- 3.2 We ask CLCH to give specific examples (both positive and negative) of the anticipated impact of gaining foundation status on the local health economy?
- 3.3 What specifically do your partners and other local providers think about your application for foundation status?
- 3.4 We are unsure of the level of healthcare organisation co-operation on the development of the foundation trust. For example, the service offered by the foundation trust will affect the Central and North West London Foundation Trust (CNWL). How much discussion has there been with CNWL in regard to the impact of the development of the foundation trust?

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<sup>3</sup> HSJ (30 November 2011): Private sector could take £2bn slice of community services <http://www.hsj.co.uk/news/finance/private-sector-could-take-2bn-slice-of-community-services/5038555.article>

- 3.5 CLCH's relationship with other trusts may be crucial for the development of the trust's business. What relationships does the trust see emerging ultimately with other local trusts that are not in direct competition with CLCH? How is the trust intending to prevent direct conflict with neighbouring trusts? What relationships does the trust see emerging ultimately with local trusts that are direct competitors (e.g. CNWL)? What relationship does the trust see developing with the NHS NWL?

#### **4. THE CONSULTATION PROCESS AND QUESTIONS RAISED IN THE CONSULTATION DOCUMENT**

##### Unfortunate timing

- 4.1 We were originally told that public consultation on CLCH's FT application was planned to start on 2 April. The delay to the 8 May is doubly unfortunate as it is the summer period and coincides with the "Shaping a healthier future" consultation on the reorganisation of NHS services in NWL.

##### Foundation Trust vs. NHS Trust

- 4.2 CLCH's public consultation document would have been far stronger if it had clearly shown to what extent CLCH's continued excellence requires foundation trust status - how foundation trust status was expected to produce different outcomes from what would happen if the trust remained as an ordinary NHS trust. For example, how many future initiatives, as set out in the consultation document, could not take place without foundation trust status arrangements? The trust's application could have provided specific examples of the patient benefits that they anticipate will be delivered as a result of having foundation status that could not be delivered otherwise. We would be more convinced that the inevitable disruption was worthwhile by examples of measures that improve health that need foundation trust status.

##### The questions raised in the consultation document

- 4.3 This consultation was a great opportunity to give and receive information from local people about CLCH's future plans. Thirteen questions are asked in the consultation document: Eleven questions are about the way the new organisation will run (Q.3 - Q13). Two questions are insufficient to cover everything else (Q.1 - Q2). Sadly, this consultation is limited because CLCH has not given the local community much information about its future plans.

*Q1. To what extent do you agree with our plans to improve integration across health and social care?*

- 4.4 We strongly support integration between health and local government, in particular the moves planned between CLCH and tri-borough adult social care.

*Q2. To what extent do you agree with our plans to adapt the way we work to be more centred around our patients?*

- 4.5 We would have liked to have seen CLCH's business plan to get a better understanding of what goods and services the foundation trust intends to offer in the longer term and the rationale for this. We are disappointed this has not been shared with us.
- 4.6 Local people need to be fully involved early in planning for changes in the pattern of service provision. We believe the trust has missed an opportunity to involve local people more fully, as they too have not been given better access to the future plans.

*Q3.-Q13. Governance arrangements*

- 4.7 The governance arrangements for the foundation trust are of special interest to the Councils given our "community leadership" role.
- 4.8 The Trust asks, "Q8. To what extent do you agree with our minimum age for governors?" Given the responsibilities of a governor, we believe 16 has to be the minimum age allowed for a member to be able to apply to become a governor - this is in line with the guidance<sup>4</sup>. As CLCH provides services for children and young people, where appropriate, you should provide systems that take into account the views of younger people.
- 4.9 The Overview and Scrutiny Committees believe the Council of Governors can work effectively given the proposed composition: Public – 5, Patient – 10, Staff – 5, Local Authority - 4, PCTs – 1, Council for Voluntary Services – 4. A total of 29 people is a manageable size for a board of this type.
- 4.10 We agree with the proposal for four of the appointed Governors to come from the four local authorities (Barnet, Hammersmith & Fulham, Kensington & Chelsea and Westminster). Councillors are representatives of the local constituency who have democratically elected them.

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<sup>4</sup> Appendix B8: Applying for NHS Foundation Trust Status - Guide for Applicants (November 2008)  
[http://www.monitor-nhsft.gov.uk/sites/default/files/publications/Guide\\_for\\_applicants\\_Nov2008.pdf](http://www.monitor-nhsft.gov.uk/sites/default/files/publications/Guide_for_applicants_Nov2008.pdf)

- 4.11 One of the conditions for our support of CLCH’s application is that we expect as a foundation trust that it will be at least as transparent with its decision making as it currently is as a NHS trust (i.e. that papers to the “Board of Directors” [as well as the new “Council of Governors”] will be in the public domain. We do not expect this to include commercially sensitive or patient information which can always be dealt with in a part “b” of meetings).
- 4.12 The new governance arrangements are complex, and in the immediate future do not appear to offer much advantage to local people in terms of more say in the running of the trust. We understand that the “Council of Governors” will only act in an advisory capacity – therefore its impact on the level of public participation in decision-making will be limited. Where does the hospital believe the patient and public power really lie? For example we would expect the foundation trust to have good relations with the local HealthWatches and three Overview and Scrutiny Committees for Hammersmith and Fulham, Kensington and Chelsea and Westminster.
- 4.13 We would be interested to learn what plans the trust will be making to ensure that any new accountability arrangement does not create more bureaucracy than its predecessor. Are there figures on the cost of the new governance arrangements available (including the transition period)?

**5. OUR FULL SUPPORT**

- 5.1 The comments made in this consultation response should not in any way be construed as negative towards CLCH’s overall application. Overview and Scrutiny Committees have been described by NHS trusts as “critical friends” and our comments should be seen in this light. Overall, we fully support the Trust’s move towards achieving foundation trust status.
- 5.2 We look forward to continuance of our positive working relationships with the Central London Community Healthcare when it is a foundation trust.

<i>Councillor Lucy Ivimy, Chairman, Housing, Health And Adult Social Care Select Committee, London Borough of Hammersmith and Fulham</i>	<i>Councillor Mary Weale, Chairman, Health, Environmental Health and Adult Social Care Scrutiny Committee, Royal Borough of Kensington and Chelsea</i>	<i>Councillor Sarah Richardson, Chairman, Adult Services and Health Policy Scrutiny Committee, Westminster City Council</i>
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**APPENDIX B: CENTRAL LONDON COMMUNITY HEALTHCARE -  
FOUNDATION TRUST PLANS**