

TRUST BOARD

Date of Meeting: 05/04/2011		Enclosure: 5
		Agenda Item No: 7.1
Title of Report: Merger and Acquisition Update		
<p>Aims:</p> <p>This report informs and updates the Board on the development of the process for Merger and Acquisition and the next steps for Board confirmation of the plans.</p>		
<p>Summary</p> <p>Following the Board's decision to seek to be merged or acquired by an existing Foundation Trust initial scoping work has been completed in association with the SHA lead Director for the process. This work includes;</p> <ul style="list-style-type: none"> • Finalising the formal tripartite agreement (TFA) signed by the Department of Health, NHS North West and our Trust • Confirming the timeframe and key milestones for the merger process outlined in the TFA • Defining the process and project governance for successfully securing a preferred option which will meet key evaluation criteria and involve all relevant external and internal stakeholders • Identifying key inputs from external advisers which are required to ensure the process is compliant with DH requirements 		
<p>Specific implications for consideration (Financial/Workforce/Risk/Legal/Race Equality etc):</p>		
Financial	Financial implications relating to management resources and capacity and external advisors will be confirmed once negotiations on scope of work and fee rates have been agreed	
Other	Sets out the proposed timeframe and project management framework to progress with the M&A.	
<p>Recommendations:</p> <p>That the Board:</p> <ol style="list-style-type: none"> a) Notes the Tripartite Formal Agreement and timescales b) Notes the need for an accelerated transparent option appraisal process involving all interested parties 		

- c) Notes the proposed project architecture and governance framework
- d) Approves the over arching strategic vision
- e) Notes the key roles of the SHA Director of Provider Development, the 'neutral' third party to manage stakeholder relationships and Deloitte as external advisors on process

Document previously approved by:

Report directly to the Trust Board.

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Company Secretary

Presented by:

Carole Heatly
Chief Executive

<p style="text-align: center;">TRUST BOARD MERGER AND ACQUISITION UPDATE APRIL 2011</p>
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1. INTRODUCTION

Following the Trust Board's decision to seek to merge with or be acquired by an existing NHS Foundation Trust, this report updates the Board on the key areas of work which have been completed.

The report outlines the tripartite formal agreement (TFA) which confirms the Trust's responsibilities and key milestones in relation to becoming an NHS Foundation Trust through a merger or acquisition. The TFA has been agreed by the SHA.

The report describes the proposed approach to managing the overall process which has been developed with the SHA lead Director for Provider Development. This process must be robust in terms of any DH or external scrutiny at any stage in the future.

The process needs to be involve all interested parties and stakeholders from an early stage. Selection of a preferred option will be driven by the Trust's strategic objective and the use of evidence-based criteria which reflect the economic and clinical benefits for merger or acquisition.

2. CURRENT POSITION

During the last six weeks there has been significant engagement with NHS North West in relation to three specific aspects of work:

- Completing the Tripartite Formal Agreement (TFA) and agreeing the content with the SHA Director of Provider Development
- Developing the overall project governance for the merger and acquisition process
- Agreeing the process to be followed in identifying potential partners and the preferred option based on the overarching strategic vision and selection criteria

NHS North West is managing a similar process in Trafford and lessons learned from this project which is at a more advanced stage will be incorporated in the North Cumbria plan. I have therefore been liaising with NHS North West to work through the initial planning phase based on Trafford experience.

In addition I have undertaken a series of briefing meetings with all north Cumbria MPs. This was extremely well received and I will continue to ensure they are updated on progress and key issues through out the process.

2.1 Process for identifying potential partners

Selection of a preferred approach has a significant impact on the timescale for the M&A process. As the Board is aware from the away day in March there are a number of routes which the Trust can take in managing the M&A process based on similar initiatives such as Trafford, Barts, The London and Whipps Cross, Ealing and North West London. SHA support for the preferred approach is also key to ensuring the timescales set out in the TFA are achieved.

The Trust Board has previously discussed the relative benefits and risks associated with a competitive and non-competitive approach for identifying potential partners. Through these discussions the Board wanted to ensure that the process was swift and managed effectively with a clear identification of a preferred partner in a reasonable timeframe. The Board felt however that this should not be compromised by any risk of external challenge which could potentially delay the overall process. It was agreed therefore that further information and soundings would be required before a final decision on the approach is agreed.

To date the Trust has identified a number of neighbouring Foundation Trusts which may respond positively to an invitation to partner with our Trust. Informal discussions have taken place and are ongoing with all interested parties to ensure they are aware of the Board decision and the current development of the M&A process which is being agreed with the SHA. This initial briefing also includes confirmation of each organisations strategic position and priorities for the next 3-5 years.

The Trust has therefore given careful consideration as to how arrangements have been managed in other M&A plans and has sought external advice on the options available. The advantages and disadvantages of a full open competitive process and a non competitive process have been discussed in detail with NHS North West. In line with the Trust Board's preference to identify a suitable partner at the earliest opportunity we have agreed an accelerated option appraisal process with the SHA which engages, assesses and selects a preferred partner in a fully transparent and inclusive way involving key stakeholders and our commissioner NHS Cumbria.

The M&A process must be sufficiently robust and able to sustain external scrutiny by ensuring any risks associated with external challenges either by potential partners or stakeholders are effectively managed throughout the process. Clarity about the process is therefore required at an early stage and briefings will be conducted internally during April and externally during May. This will avoid unnecessary delays associated with challenges in later stages in the process which could be expensive and compromise the timescales agreed in the TFA.

The key requirements for a robust process are;

- An approach based on local needs and the lessons learned nationally from projects at a more advanced stage
- Clear project governance which includes external assurance
- Inclusive approach to all interested parties
- Robust criteria which reflect 'must do' requirements for the future delivery of acute healthcare in north Cumbria e.g. financial viability, patient safety and quality of service, pathway development, clinical synergies and ability to achieve economies of scale and maximise the use of current estate
- Regular briefings on process for relevant MPs
- Stakeholder engagement at an early stage in process – internal and external
- Management of key external relationships through a 'neutral' third party

The Board has a key role in confirming the strategic objective for the merger or acquisition and in developing a robust set of criteria which will be critical to ensuring the future organisational form provides high quality acute care for the people of north Cumbria.

3. TRIPARTITE FORMAL AGREEMENT (TFA)

The TFA document confirms the commitments being made by our Trust, NHS North West and the Department of Health (DH) that will enable achievement of NHS Foundation Trust (FT) status before April 2014. It confirms the date when our Trust will submit its "FT ready" application to DH to begin the formal assessment towards achievement of FT status through a merger or acquisition. The objective of the TFA is to identify the key strategic and operational issues facing the Trust and the actions required at a local, regional and national level to address these.

The TFA which we have agreed with the SHA confirms the key milestones which will be achieved in an accelerated timescale. This reflects the need for all organisations involved in the process to manage 'business as usual' and ensure that whilst the process is ongoing there is continued focus on maintaining the quality, performance and safety of clinical services for patients.

3.1 Proposed timescales

The TFA will be formally signed by the Department of Health, NHS North West and I, as the Accountable Officer. The PCT are also requested to confirm that they support the process and timelines set out in the agreement.

The TFA outlines the following proposed timeline for the overall process:

	Start Date	End Date
Key milestones - phase 1		
Establishment of Project	March 2011	May 2011
Determining entity for acquisition	April 2011	May 2011
Board agreement on criteria for partner selection	May 2011	May 2011
Information process and development	May 2011	September 2011
Partner selection move to phase 2	September 2011	October 2011
Key milestones - phase 2		
		End Date
Confirm Board decision to move to phase 2		1 st November 2011
Confirm and gain agreement to and approvals for transaction type (<i>formal acquisition by contract or franchise</i>)		January 2012
Develop and agree revised project plan to deliver phase 2		January 2012
Agree process for phase 2		January 2012
Commence process		February 2012
Commence transaction development and approvals period		May 2012
Approvals achieved – Monitor, CCP, DoH Contract exchange		September 2012
Dissolution of North Cumbria University Hospitals NHS Trust Contract Completion Transfer of all assets and liabilities		31st October 2012

The initial steps in Phase 1 are expected to take 3 months given the Easter Holiday period and availability of key Executives involved in the process. As the project evolves the May deadlines could extend to June with the approval of the SHA and DH.

4. PROJECT MANAGEMENT ARRANGEMENTS

It is proposed that the overall project management framework for the M&A process will broadly function as per the diagram outlined in appendix 1. the Terms of Reference for each Board, workstream and reference group will be developed and agreed for each phase of the process once the overall project architecture has been finalised.

4.1 Project Governance

The overall project governance framework for the M&A process is shown in appendix 1. The structure is designed to ensure that there is;

- An internal project Board led by the Chief Executive
- External Assurance through the SHA Director of Provider Development
- Internal stakeholder engagement in the development of evaluation criteria
- External stakeholder group and relationships managed by a 'neutral' third party
- Clinical and functional workstreams for integration and implementation once a preferred option has been identified

4.2 Trust Capacity and Roles

To ensure the appropriate leadership and focus is placed on the M&A process internally, I have reviewed the existing roles within the Executive Management Team (EMT). Whilst it is important to recognise that all of EMT members will have an important role in developing and delivering the M&A plan, I have also identified specific roles to assist me on leading the project during the next 12 months which will help me to successfully deliver the plan.

The key roles are defined as below:

As the Chief Executive I will be the Responsible Officer for delivering the M&A plan and will therefore Chair the Trust Project Board. I will also take responsibility for regularly briefing the CEOs of interested parties and our MPs who are critical in terms of stakeholder engagement. I will liaise directly with the SHA Director of Provider Development on key aspects of the plan and ensure there is SHA support at all stages.

I will be assisted by the Director of Strategic Planning who will assist me in managing the external relationship with the SHA and key aspects of project management including monitoring progress and reporting this to the SHA. In addition our Company Secretary has a key role to play in terms of ensuring the process is consistent with governance, assurance and regulatory requirements. In addition the Company Secretary will ensure that the process is core business for the Board and that it is fully briefed at all stages of development.

In addition there are very specific tasks to achieve as part of the overall project plan, which will naturally evolve in terms of specifics from the transition phase to the full integration and implementation phase.

5. STRATEGIC VISION AND SELECTION CRITERIA

A successful outcome from the M&A process will be determined by the extent to which we achieve and maximise the strategic fit between our organisation and another provider which is evidenced through 'added value' for both parties and the services they provide for patients. In essence we need to ensure that the 'sum' of the new organisation is greater in terms of the economic, quality, clinical safety etc. parameters than the two organisations entering into the new organisational form.

Clarity therefore in terms of our strategic vision and what we want to achieve through M&A and the subsequent evaluation criteria used in the process are critical success factors.

5.1 Strategic Vision

The proposed strategic vision for the M&A is;

'We will deliver clinically sustainable and high quality acute services from two Hospitals in North Cumbria by becoming part of an existing Foundation Trust which delivers high quality safe patient care, and is financially strong. Together we will develop an organisational approach and critical mass which will enhance access to acute healthcare for all patients across our combined catchment areas (north Cumbria and other) by combining the synergies of our clinical services and teams, developing high quality innovate service models and new integrated patient pathways.'

5.2 Evaluation Criteria

As stated above the development of the evaluation criteria used in the assessment and selection of a preferred partner is a critical success factor and must therefore be developed in a robust way involving key internal stakeholder groups.

It is one aspect of the process which will be subject to a great deal of scrutiny in terms of whether the criteria are evidence based and how the Trust has applied the criteria in selecting a preferred partner. The process needs to be transparent and able to respond confidently to any challenge from a potential partner which has been unsuccessful. There are a number of lessons learned from other M&A projects engaged in this process and I have taken soundings from both the SHA and Deloitte. I am therefore proposing that we develop the assessment criteria with external support from Deloitte.

The process for developing the criteria will be;

- Initial development of evidence based criteria by the Executive Management Team
- Road testing criteria and weightings and refining them to ensure they are robust and fit for purpose
- A high level independent performance assessment of potential partners using evidence-based economic KPIs
- External questionnaire for potential partners relating to core financial, quality and performance information
- Internal workshops involving Board members and key staff in an initial option appraisal – excluding organisations which cannot meet minimum criteria

- Briefing external stakeholders in process including commissioners through SHA Director for Performance Development in early May

Whilst we are cognisant of the need to consider essential economic criteria (and that these will play a key part of the evaluation) however we intend to extend the criteria to include other key factors such as;

- Quality of service currently provided and patient safety including clinical outcomes and patient satisfaction
- Pathway requirements including cancer pathways
- Accessibility of future services for the population in north Cumbria
- Providing high quality services - outcomes, patient satisfaction etc.
- Potential for redesigning and modernising services through larger multidisciplinary clinical teams
- Potential for workforce development including new roles and ways of working
- Understanding and experience of rural population health needs and culture
- Proposal for delivering the WCH redevelopment
- Potential for efficiency, productivity and asset utilisation including high cost capital equipment
- Training and education strengths and ability to sustain training programmes
- Success in commissioning and contracting
- Organisational capacity and impact on exiting services

6. NEXT STAGES AND KEY PRIORITIES

The key steps in the process are as follows;

- We will finalise details of the project structure, governance framework and process having agreed these with the SHA. External advice will be provided by Deloitte which will also undertake an independent high level assessment of potential partners.
- The M&A Board will be established and terms of reference developed for all other groups engaged in the process. It will be chaired by the Trust Chief Executive.
- Strategic objectives and evaluation criteria will be developed by the EMT ensuring these can be assessed on evidence and using quantifiable data sources

- External supporting roles in particular the 'neutral' third party which will manage external stakeholder groups and relationships will be confirmed and agreed with the SHA.
- A briefing meeting will be arranged with the Chief Executive of NHS Cumbria covering the overall process and external assurance provided by the SHA.
- We will organise and develop internal stakeholder workshops for May.
- The Chief Executive will continue to manage regular communications with the Chief Executives of all interested parties and the north Cumbria MPs.

7. RECOMMENDATIONS

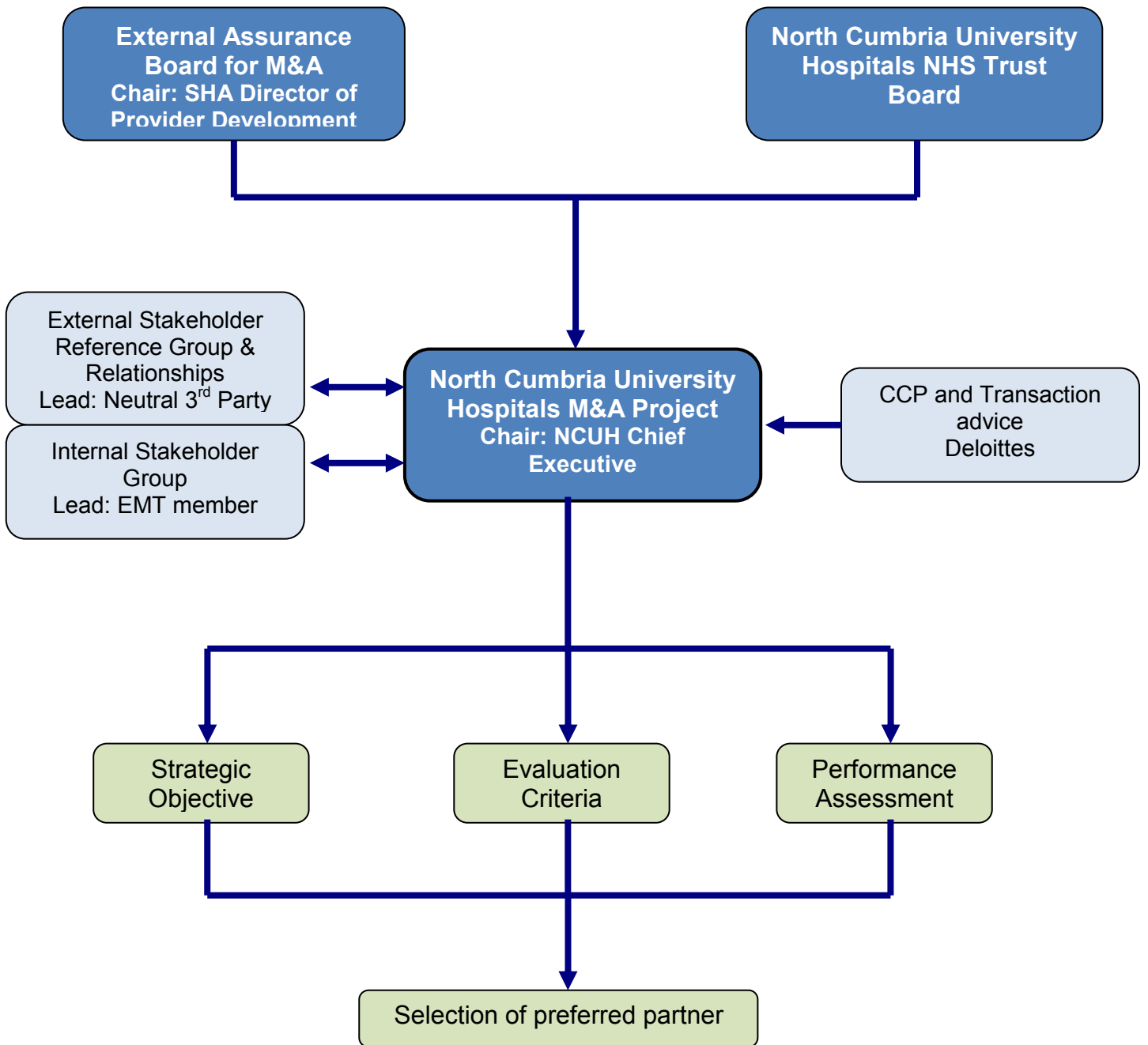
That the Board:

- a) Notes the Tripartite Formal Agreement and timescales
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Carole Heatly
CHIEF EXECUTIVE

APPENDIX 1 – PROPOSED PROJECT GOVERNANCE STRUCTURE

PHASE 1



PHASE 2

