AGENDA ITEM 5

HOSC/44/10

Committee Health Overview and Scrutiny

Date 3 December 2010

NHS Mid Essex: Purchaser/provider split

Report by: Graham Redgwell, Secretary

At the last meeting, the Committee received details from four PCTs on how they proposed to carry out their respective purchaser/provider split. Mid Essex PCT wished to undertake some further consultation before coming forward with its proposals.

These proposals are now attached and will be supplemented orally at the meeting by Carol Winser, Interim Commercial Director.

Report to: **Health/NHS Overview and Scrutiny Committee**

From: **Carol Winser, Interim Commercial Director, NHS Mid Essex**

John Niland, Managing Director, Central Essex Community Services (CECS)

Date: **3 November 2010**

Subject: **Transforming Community Services – Update on the separation of the community services provider arm from NHS Mid Essex, the commissioning PCT**

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1. Purpose

This paper provides a briefing for the Committee on the plans to transfer Central Essex Community Services (CECS), the provider arm of NHS Mid Essex (the PCT) to a Community Interest Company (CIC), which is a form of social enterprise, with effect from April 2011.

The paper covers:

- The NHS policy context
- The options considered by the PCT, how these options were evaluated and the outcome of the evaluation
- The engagement process that is taking place
- The next steps and implementation issues.

2. Summary – no change in service or ethos because of change of form

Central Essex Community Services (CECS), the community services provider arm of NHS Mid Essex, is preparing to become a provider of NHS services as a separate organisation in its own right from 1 April 2011. Currently, it is part of the established primary care trust, NHS Mid Essex.

The separation and establishment of the new organisation will not in itself mean a change in services**.** All of the current services provided by CECS will transfer to the new organisation (except that community dentistry is currently subject to further discussion regarding governance details). Neither will there be a change in staffing (unless individual members of staff decide to opt out of the transfer). The current staffing establishment and NHS terms and conditions of employment will transfer to the new organisation.

The transfer is a means of establishing a legal entity to ensure the continued provision of local, high quality community healthcare services within a successful organisational form. This is required by national policy to separate healthcare provision from healthcare commissioning. This policy, which was set by the previous Government, continues under the Coalition Government with the proposal to establish GP Commissioning and to disestablish PCTs by 2013, subject to

parliamentary approval.

In determining the future form of the community services provider, the PCT considered several options before concluding that a Community Interest Company offered the best organisational form for CECS, the local NHS economy and the needs of local people.

As a social enterprise, CECS will remain part of the NHS economy, retaining its NHS values and public service ethos. While the transfer to the new organisational form does not in itself change services, it offers significant potential benefits to the future strength and improvement in health and social care services for the residents of mid Essex and other areas. These are explained further in the sections below.

3. Introduction

Central Essex Community Services (CECS) provides a range of community services across mid Essex and beyond, including community and specialist nursing, health visiting, community hospital clinical services and a range of children's services. It has a turnover of over £45m and employs 1,100 staff.

Planning for the future of community services in mid Essex started in 2009 and developed through an option appraisal exercise carried out during early 2010.

NHS Mid Essex has been working with staff, partners and service users to select the best organisational form for community services that maintains high quality services and brings added value to the health and well-being of the people of Mid Essex.

The national policy context for these plans was the *NHS Next Stage Review: Our Vision for Primary and Community Services* (September 2008), which gave a clear commitment to responsive community services that are modern, fit for purpose and of a high standard. The policy direction was largely unchanged by the new Coalition Government. The '*Revision to the Operating Framework for the NHS in England 2010/11'* was issued on 21 June 2010*.* This confirmed that separating PCT commissioning from the provision of services remained a priority and set deadlines for signing off and delivering the organisational form models for community services provider arms:

- By 31 March 2010 – future organisational form to be agreed
- By April 2011 – new provider forms to be implemented

The White Paper on the NHS, '*Equity and Excellence: Liberating the NHS',* published on 12 July 2010 reinforced this approach stating - "*We will complete the separation of commissioning from provision by April 2011 and move as soon as possible to an 'any willing provider' approach for community services, reducing barriers to entry by new suppliers. In future, all community services will be provided by foundation trusts or other types of provider*."

In March 2010, the PCT Board considered the options for a new organisational form for Central Essex Community Services (CECS), the PCT provider arm, and agreed to work towards establishing a Community Interest Company (CIC - social

enterprise) for the provision of community services for mid Essex, to be in place by April 2011.

CECS has developed a business plan and long term financial model, which the PCT Board approved on 29 September 2010. An independent due diligence assurance review is in progress. At the same time, we are listening to the views of staff, trades unions, partner organisations and local people on the plans to transfer community services provided by CECS into a Community Interest Company with effect from April 2011.

4. Options considered by the PCT

Four options were initially identified as the future organisational form for CECS:

- **Social Enterprise** - this was originally considered as part of a merger with NHS South East Essex provider services. NHS Mid Essex subsequently approved a proposal to determine a stand-alone social enterprise for CECS after NHS South East Essex decided against the merger.
- **Integration** with other existing NHS providers – either through 'managed dispersal' or 'open market procurement'
- **Direct provision** of community services by the PCT – this option was discounted at an early stage as Department of Health policy made it clear that continuing to directly provide community services from within a PCT would only be permissible in exceptional circumstances
- **Community Foundation Trust** (CFT) – this option was not actively developed as the Department of Health indicated that only a few community providers were expected to be granted CFT status nationally.

The two viable options of social enterprise and integration with existing NHS providers were subject to a full evaluation.

5. How the options were evaluated

The DH Transforming Community Services (TCS) guidance established eight tests against which proposals for community services must be tested. These are attached at Appendix A.

The two remaining options of social enterprise and integration with other local NHS providers were considered against each of these tests through work with NHS East of England, the Strategic Health Authority, neighbouring provider arms, local authority partners, local NHS organisations, staff, service users and other interested parties. The option of a merged social enterprise with NHS South East Essex formed part of the original options appraisal with the stand-alone social enterprise for Mid Essex being considered in the final analysis when South East Essex withdrew. Mid Essex and South East Essex PCTs carried out a comprehensive discussion and involvement programme between December 2009 and March 2010 with a schedule of 46 meetings, including open discussion meetings with the public, 29 stakeholder presentations and 11 staff events.

6. Outcome of evaluation

After an assessment against each of these tests, as set out in Appendix A, with particular focus on the opportunity for creating strong community focused services, the creation of a social enterprise was selected as the preferred organisational form.

The best option, given CECS track record and proven abilities

The social enterprise option, as opposed to the alternative which was to transfer services to another provider Trust, was considered the right way forward for CECS, an organisation that has a strong track record in maintaining financial balance, achieving performance targets and delivering high quality services as recognised by the independent Care Quality Commission and the Strategic Health Authority.

CECS' ability to function as a standalone organisation that can compete and win tenders is already evident; CECS having won a sub contract to provide community services from the new Braintree Community Hospital, and a contract to provide pulmonary rehab in south west Essex. Since Braintree Community Hospital opened in April 2010, CECS has provided excellent services and is already having a positive impact on the strategic reduction in main hospital admissions. There are examples of leading edge services across the organisation; such as telehealth systems, community matrons providing care for people at home and employed GPs with special interests providing faster, more convenient specialist services in the community that avoid people having to go into hospital.

In summary, the PCT Board chose the social enterprise option because this is the option that best supports and empowers CECS to continue as the main community services provider in mid Essex and an up and coming provider in the south east of England. Not only does this option allow CECS to become a legal entity in its own right, it offers freedoms and flexibilities for CECS to provide both health and social care. This presents an exciting new opportunity to realise the aspirations of local professionals, stakeholders and local people to have joined up health and social care.

The best option for future joined up health and social care

CECS as a future social enterprise could be one of the few organisations that could offer whole packages of health and social care to individuals and families, which would be attractive to both individuals with personal budgets in the future and future GP and local authority commissioners.

The social enterprise option was considered best placed to:

- Maintain the values of the NHS: As a social enterprise, a not-for-profit organisation, CECS will be part of the NHS economy, with the ability to reinvest any surpluses in order to embrace change and technology at a pace that is often outside the grasp of existing NHS bodies.
- Provide patient centred outcomes where the patients' needs and views are integral to the organisation.

- Empower staff, and in particular clinicians, to ‘’own’ their services and have the flexibility to change services to better meet patient needs
- Maintain and improve patient care pathways.

7. The preferred option – creating a social enterprise

An important characteristic of a social enterprise is a clear social purpose at the core of the organisation. Any surpluses generated are reinvested to develop and improve services. Social enterprises also have strong connections with their communities, service users and staff and these drivers are built into the governance structures of the new organisation.

The specific benefits of creating a social enterprise include:

- Putting people in control of their care by involving patients, carers and users in the governance structures. All staff and GPs are eligible to be owner-members with a say in the running of the business. Alongside the Board of Directors there is a board of Governors with representatives from staff, stakeholders and patients, who have a range of powers, including the power to appoint and dismiss executive directors. The new governance arrangements will encourage greater participation in key service development and investment decisions, which benefit patients and/or communities.
- Being able to form partnerships with third sector organisations (Joint Ventures) offering the opportunity to provide different patterns of care orientated to specific needs and build community capital.
- Empowered staff with more flexibility to innovate and more rapidly respond to the changing needs of patients and cares to improve outcomes for patients.
- Positive effects on staff morale resulting in reduced sickness and absence, leading to greater continuity of care provided by motivated staff who provide higher quality benefiting patients overall
- Being wholly focused on community services, building close relationships with GPs and strengthening the interface between primary and community services
- Being better placed to develop integrated personalised care plans with and for patients.

Robust governance and legal structures are being put in place to ensure that strong levels of public accountability are maintained.

8. Engagement processes

<u>Previous staff and internal engagement</u>
CECS has been involving staff in decisions about the future of the organisations since 2008 when there was a comprehensive programme of workshops and discussion meetings under a programme entitled “Our Future”.

Specific programmes for staff engagement in the move to a social enterprise:

- Discussions to consider possibilities of a merged social enterprise with other provider services: Jul – Sep 2009
- Consultation period on options for future organisational form: 7 Dec 2009 – 8 Mar 2010

Summary of current staff engagement

- Staff workshop sessions in September and November 2010
- Written feedback by email
- Consultation on the transfer under TUPE: from 1 Sept – 30 Nov 2010 and ongoing until March 2011
- Monthly meetings with managers until 31 March 2011
- Regular meetings with trades union and professional representatives (including LMC, BMA) until 31 March 2011
- Union representation on Transition Project Group
- Discussions with Staff Partnership Forum
- Open door meetings for individual staff and teams with the Managing Director
- Team meetings

Previous stakeholder engagement

NHS Mid Essex has run two previous discussion and involvement programmes for stakeholders and local people:

- Stakeholder discussion programme to consider possibilities of a merged social enterprise with other provider services: Jul – Sep 2009
- Stakeholder discussion and engagement programme on options for future organisational form: 7 Dec 2009 – 8 Mar 2010

Summary of current stakeholder engagement

- Discussion document to be published in w/b 25 October 2010 with deadline for feedback 3 January 2011. Involves wide distribution to stakeholders including Essex and Southend LINk, voluntary sector organisations, CVSs, local authorities, LSPs, NHS service providers, practice-based commissioners and GPs, NHS Mid Essex Residents' panel and other patient groups, MPs and local media.
- Meeting with HOSC - Nov 2010
- Meetings with local GPs and practice-based commissioners – Oct/Nov 2010
- Open stakeholder meetings at local authority venues – Nov 2010
- Meeting offered to Essex and Southend LINk – Tbc
- Information available and access to downloadable documents from PCT website
- Online feedback questionnaire and postal channel for written feedback

- Press releases explaining key points and promoting discussion opportunities and feedback
- PCT Board consideration of feedback – Jan 2011

9. Implementation

Implementation is mainly concerned with establishing governance structures and the administrative separation of financial and corporate systems. It does not involve setting up new service procedures or any physical transfer of services and staff.

The key dates are:

- Outcome of independent due diligence review and assurance – to be reported to PCT Board in Nov 2010
- Discussion between the CECS Board and SHA Board – 1 Dec 2010
- Final approval of detailed transfer arrangements by PCT Board and SHA – early January 2011
- Appointment of chair and Non-Executive Directors by January 2011
- Separation of financial and corporate systems by January 2011
- Completion of TUPE staff consultation – by Mar 2011
- Transfer of all staff on 1 April 2011

10. Conclusion

The HOSC is asked to note the current progress towards establishing Central Essex Community Services as a Community Interest Company on 1 April 2011. The views of the HOSC are welcomed and will be taken into consideration as part of the stakeholder engagement programme to inform transfer arrangements for final PCT Board approval in January 2011.

The published discussion document will sent to the HOSC for background.

Appendix A

Overview – DH / SHA Assurance Test
Improving Outcomes Will it meet patient needs and deliver improved local health outcomes as identified in the PCT strategic commissioning plan and Local Area Agreement (LAC) inc. Children and Young People's Plan and significantly better patient experience (including Choice)?
Improving Quality Will it deliver significant improvements in quality of service and outcomes delivered?
Service Integration Will it deliver significant improvements in service integration and quality of health, social care and education, plus other key partners?
Stakeholder Engagement Will it receive engagement and support from key stakeholder groups?
Efficiency Improvements Will it deliver substantial improvements in the efficiency of the services being delivered?
Infrastructure Utilisation Will it maximise utilisation of own (and any integration partners) estate and infrastructure?
Sustainability Will it be clinically and financially sustainable? **Is it capable of delivering the management cost efficiencies required?**
Whole system fit Will it fit into and enable delivery of wider health economy service transformation and shifts in care?