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To: Health Overview and Scrutiny Committee – 4 February 2011

Subject: The Future Shape of Community Service Provision

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1. The Transforming Community Services Programme.

(a) Community health services cover a range of services provided by a variety of organisations and staff groups including community nurses, health visitors, community dentistry, physiotherapy, and community rehabilitation. Since their establishment, the vast majority of Primary Care Trusts (PCTs) both commissioned and provided these services. It is not uncommon across the country for neighbouring community service provider organisation to provide a different range of services and/or provide similar services in different ways.

(b) Across England, the annual expenditure on community health services is £11 billion and around 250,000 staff are involved in providing them. Ninety per cent of contacts between health professionals and patients take place in primary care or community health settings[1].

(c) The policy direction over the last few years has been towards the increasing separation of the commissioner and provider functions of PCTs[2]. The development of the options for the provider arms is often referred to as the Transforming Community Services (TCS) programme. A range of organisational forms has been made possible including integration with an Acute or Mental Health Trust, Social Enterprise, Integration with another Community Provider, Community Foundation Trust and the independent sector (or combination of these).

(d) A deadline to complete the separation of the commissioning and provision functions of PCTs has been set for April 2011[3]. The provider arm of NHS Eastern and Coastal Kent was established as The Eastern and Coastal Kent Community Health National Health Service Trust on 1 November 2010[4].

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[1] NHS Confederation, Primary Care Trust Network Briefing, *Transfer and transform. The challenges for community health services*, November 2010, http://www.nhsconfed.org/Publications/briefings/Pages/Transfer-and-transform.aspx

[2] Department of Health, *NHS Next Stage Review: Our Vision for Primary and Community Care,* 3 July 2008, http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_085947.pdf

[3] Department of Health, *Equity and Excellence: Liberating the NHS,* 12 July 2010, p.37, http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/@ps/documents/digitalasset/dh_117352.pdf

[4] http://www.legislation.gov.uk/uksi/2010/2463/made

(e) All NHS Trusts are to become Foundation Trusts by 1 April 2014[5]. This includes new Trusts formed out of PCT provider arms[6]. Foundation Trusts have a range of freedoms around governance and finance not available to NHS Trusts[7].

(f) The Any Willing Provider model means that any local healthcare provider able to offer a particular service at a particular tariff will be able to be considered as a contractor for that service. This will be introduced in community services in a phased way from April 2011; this is intended to support the development of patient choice in this sector[8]. Work is also ongoing to develop currencies and tariffs for community services and move away from block contracts[9].

(g) QIPP (Quality, Innovation, Productivity and Prevention) is a series of 12 workstreams[10] aimed at making efficiency savings to be reinvested in services (£20 billion over the next four years)[11]. This relates to community services in a number of ways, as for example through the release of "hospital capacity to allow the better use of community services"[12].

(h) On 13 September 2010, a Parliamentary Question was asked on "what organisations will have responsibility for community hospitals following the introduction of GP commissioning." An extract from the Written Answer is provided below:

> "Under our proposals GP consortia will commission the great majority of national health service services for their patients, including, where appropriate, community hospital services. There will, however, be some exceptions, where it makes sense for the NHS Commissioning Board to

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[5] Department of Health, *Liberating the NHS: Legislative framework and next steps,* p.162, http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/@ps/documents/digitalasset/dh_122707.pdf

[6] Department of Health, *The Operating Framework for the NHS in England 2011/12,* 15 December 2010, p.18, http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/@ps/documents/digitalasset/dh_122736.pdf

[7] Monitor, http://www.monitor-nhsft.gov.uk/home/about-nhs-foundation-trusts/what-are-nhs-foundation-trusts

[8] Department of Health, *Transforming Community Services: An Introduction to the Programme*, October 2011, http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_121965.ppt#408,15,Any Willing Provider

[9] Department of Health, *A simple guide to PbR*, 30 September 2010, p.45, http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/@ps/documents/digitalasset/dh_120254.pdf

[10] See Department of Health website for details of workstreams: http://www.dh.gov.uk/en/Healthcare/Qualityandproductivity/QIPP/index.htm

[11] Department of Health, *The Operating Framework for the NHS in England 2011/12,* 15 December 2010, p.5, http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/@ps/documents/digitalasset/dh_122736.pdf

[12] Ibid., p.31.

have responsibility for commissioning services. The proposed exceptions include primary medical care. This may also include community hospital services, where these provide primary care services.

Organisations providing community services will be responsible for responding to the commissioning intentions of the GP commissioning consortia and the NHS Commissioning Board, and the day-to-day management of community hospitals"[13].

2. Estates.

(a) On 6 January 2011, the Department of Health made the following statement on *Community foundation trusts – proposed estate acquisitions*[14]:

"All aspirant community foundation trusts (CFTs) are to be given the opportunity to acquire the PCT owned estate required to support the delivery of services for which they have responsibility.

The nature of the PCTs' estate is diverse, including for example; freeholds, leaseholds and licences. The extent of the legal interest, which can be offered, will therefore vary and will need to be the subject of discussion with the PCT on a case-by-case basis. It should be noted that PFI and LIFT interests are excluded for the time being from this process.

All acquisitions of freehold interests or capitalised leasehold interests will be financed by public dividend capital. They will be subject to an overage provision, which will provide that 50% of any profit made on the future disposal of the asset will be payable to the Secretary of State for Health. There will also be provision for the Secretary of State or a body nominated by him to be allowed to buy back the asset, in the event that the trust is no longer to provide the services.

All transfers of legal interests agreed by the PCT will be subject to approval by the strategic health authorities. Approval will only be granted where they are taking all of the property interests associated with the services transferring to them. Full guidance relating to the approval process will be available shortly. This is an extension of the assurance and approvals process for PCT community services.

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[13] House of Commons Hansard, 13 September 2010, PQ14715, http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm100913/text/100913w0003.htm#1009145000005

[14] Department of Health, 6 January 2011, http://www.dh.gov.uk/en/Healthcare/TCS/Abouttheprogramme/DH_123297

Aspirant CFTs and their PCTs should immediately commence the process of identifying and agreeing the estate which will be made available to CFTs, in order to ensure completion by 1 April 2011 (or by the date of NHS trust establishment if later than 1 April 2011)."

(b) For reference, the PFI (Private Finance Initiative) is where private capital is made available for health service projects through a public-private partnership between an NHS organisation and a private sector consortium. NHS LIFT (Local Improvement Finance Trust) is geared towards encouraging investment in primary and community care facilities and is similar to PFI but is a joint venture between the private and public sectors[15].

3. The Co-operation and Competition Panel (CCP).

(a) The CCP was formally established on 29 January 2009. The role of the panel is to provide advice on the application of the *Rules and Principles of Co-operation and Competition*. The *Rules and Principles* are produced by the Department of Health to govern the behaviour of commissioners and service providers[16].

(b) The CCP undertakes cases in the following four categories: mergers, conduct cases, procurement dispute appeals, and advertising and misleading information dispute appeals[17]. It cannot initiate its own investigations[18].

(c) In a written update to the Health Overview and Scrutiny Committee on "The Future of PCT Provider Services", the local NHS reported the proposal to establish a Kent wide provider of community services from 1 April 2011 had been submitted to the CCP for consideration[19]. The outcome is reported in the NHS report following this Background Note.

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[15] For further information on PFI and LIFT see Department of Health, http://www.dh.gov.uk/en/Managingyourorganisation/NHSprocurement/Publicprivatepartnership/index.htm

[16] The Co-operation and Competition Panel, *Guide to the Co-operation and Competition Panel*, http://www.ccpanel.org.uk/content/Guide-to-the-CCP.pdf. The latest version of the *Rules and Principles* can be accessed here: http://www.ccpanel.org.uk/reports-and-guidance/index.html

[17] The CCP, http://www.ccpanel.org.uk/about-the-ccp/index.html

[18] The Co-operation and Competition Panel, *Guide to the Co-operation and Competition Panel*, p.6, http://www.ccpanel.org.uk/content/Guide-to-the-CCP.pdf.

[19] Health Overview and Scrutiny Committee meeting Agenda 26 November 2010, submission from Eastern and Coastal Kent Community Health NHS Trust, NHS Eastern and Coastal Kent and NHS West Kent, http://democracy.kent.gov.uk/Published/C00000112/M00003072/AI00014716/$ProviderServicesupdate.docA.ps.pdf