



CO-OPERATION & COMPETITION PANEL
FOR NHS-FUNDED SERVICES

Cooperation and Competition Panel

**Merger of Dartford and Gravesham NHS Trust with Medway NHS
Foundation Trust**

10 October 2012

EXECUTIVE SUMMARY

1. The Cooperation and Competition Panel (CCP) has reviewed the proposed merger of Dartford and Gravesham NHS Trust (Dartford and Gravesham Trust) with Medway NHS Foundation Trust (Medway Trust) (the Merger Parties). Our advice to the Department of Health and Monitor is that the proposed merger is consistent with Principle 10 of the Principles and Rules for Cooperation and Competition (Principles and Rules), as long as the behavioural safeguards that the CCP has agreed with the Merger Parties and NHS Kent and Medway (Commissioners) are put in place.¹
2. In reaching our findings we considered the effect of the merger on patient choice and competition in elective, non-elective, community, outpatient and specialist services in the north Kent area.
3. For non-elective, community, outpatient and specialist services we concluded that it is likely that there will be sufficient choice and competition following the merger. We also concluded that adverse effects from the merger arising from the referral relationship between the Merger Parties and others are unlikely to arise.
4. We concluded that the merger is likely to give rise to material costs to patients and taxpayers as a result of a loss in patient choice and competition for two elective services provided at Medway Maritime Hospital: Urinary Tract and Male Reproductive System Procedures and Disorders, excluding the West Kent Cancer Centre (Urology Services); and Endocrine System Disorders (Endocrinology Services). In respect of all other elective services we concluded that there is unlikely to be a reduction in patient choice and competition following the merger.
5. The CCP carefully considered a number of benefits the Merger Parties submitted would be achieved through the merger. We concluded the benefits submitted by the Merger Parties either did not constitute benefits to patients or taxpayers, or were not specific to the merger under review. The CCP therefore concluded these did not offset the identified costs. However, although a number of the submitted benefits could be achieved without the merger, we concluded that the Merger Parties should nevertheless be held to achieve those benefits if the merger went ahead.
6. With no benefits to offset the costs to patients and taxpayers arising from the merger, the CCP concluded that it was necessary to address the loss of patient choice and competition in the two service lines with appropriate behavioural safeguards. In the interests of timeliness, we sought to agree these safeguards with the Merger Parties and Commissioners prior to finalising our Phase II report, rather than undertake a full remedies consultation process after publication of the CCP's report.

¹ The Principles and Rules are available at: www.ccp-panel.org.uk. NHS Kent and Medway represents the following primary care trusts: NHS West Kent, NHS Eastern and Coastal Kent and NHS Medway and successor Clinical Commissioning Groups.

7. The Merger Parties and Commissioners have made commitments that have provided sufficient comfort to the CCP that appropriate behavioural safeguards can be put in place to address the material costs identified in our analysis. These safeguards cover the following:
 - Promotion of patient choice by Commissioners through the regular dissemination of key performance information on service quality at Medway Maritime Hospital to GPs and patients;
 - Service quality indicators for elective Urology Services and Endocrinology Services at the Medway Maritime Hospital to be measured by the Merger Parties and monitored by Commissioners. Where quality declines against agreed benchmarks, Commissioners are empowered to take timely action to address the decline, that could include re-tendering the service if necessary; and
 - Timely delivery of benefits by the Merger Parties, to be monitored by Commissioners.
8. The safeguards related to service quality indicators and the timely delivery of benefits will be codified in the Standard Acute Contract agreed between the merged trust and Commissioners post-merger. The safeguards will operate for as long as it is necessary to address the loss in patient choice and competition following the merger. Commissioners will review the appropriateness and effectiveness of the service quality indicators two years from the date of the merger. Should Commissioners form the view that the measures are no longer required, they may apply to Monitor for approval to revoke them.
9. The safeguards relating to merger benefits will expire three years following the merger, on Commissioner acceptance of the final report on the benefits realisation plan. The safeguards relating to patient choice will be reviewed within four years of the merger. Should Commissioners form the view that the measures are no longer required, they may apply to Monitor for approval to revoke them.
10. In the CCP's view these safeguards would have the benefit of timely resolution of an important issue combining a clear set of obligations on the Merger Parties to deliver benefits to patients, commitments by Commissioners to monitor the obligations, and arrangements to ensure that if quality declined the interests of patients will be protected.
11. On the basis that the safeguards are in place, the CCP recommendation to the Department of Health and Monitor is that the proposed merger is consistent with Principle 10 of the Principles and Rules.

