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By e-mail only

11 March 2008

Dear Councillor Bull

Barnet, Enfield and Haringey Mental Health Trust - Application for Foundation Trust Status

I am writing to thank you and the rest of the Overview and Scrutiny Committee for a very helpful and constructive discussion at the last meeting of the Committee on 25 February 2008. We value the Committee's input to our plans for the future and, in particular, on our plans to become an NHS Foundation Trust (FT).

We were pleased that the Committee supported our proposed responses to the formal FT consultation held recently. The Trust's response was formally endorsed by the Trust Board at its meeting yesterday. This now means that we can progress with finalising our proposed Constitution and the details of our proposed governance arrangements.

At the last OSC meeting, we discussed the report to the Committee prepared by Martin Bradford. We found it a very comprehensive and helpful report, pulling together many of the issues we have been discussing around our application to become an FT. I went through each of the report's recommendations at the meeting, but I promised to write with more detailed comments, which I have set out below. I will respond to each of the recommendations in order:

Application Process

1. That the application for Foundation Trust status be deferred until such time as all commissioning authorities are in support of the foundation trust proposals.

As I outlined at the meeting, the Trust has been discussing the timetable for submitting our FT application with our key partners, particularly NHS London and the local Primary Care Trusts (PCTs). It has been agreed to extend the FT application timetable by six months in order to allow time for our new Chief Executive, Chris Heginbotham, who starts on 1 April, to settle in and make permanent appointments to all the Executive and Non Executive posts and to allow time to address the other issues raised by the PCTs in November last year. This will mean submitting our application this autumn and should mean authorisation as an FT around April 2009.

2. That an Equalities Impact Assessment be undertaken in respect of foundation status and that the outcomes and issues arising from this be addressed in the strategic planning of the Trust.

This is something that the Trust is committed to doing and, indeed, this was suggested by us to the Department of Health, as it is not currently a mandatory requirement of the FT authorisation

process. We are proposing to commission some external expertise to facilitate this, to ensure a robust and objective assessment is carried out. We are currently considering the timetable for beginning this work, as we want it to be carried out ahead of our submission in order to support the application, but it also needs to be as up to date as possible at the time of our submission in the autumn.

Accountability and governance

Membership

3. *The Trust regularly audits and publishes membership data to ensure that it is fully representative of the community which it serves.*

The Trust is fully committed to ensuring that our membership reflects the diverse local population we serve. Our recent consultation programme sought to reach users, carers and local people from all backgrounds and our membership recruitment has attracted Shadow Members from a wide range of backgrounds. We regularly produce reports analysing the gender, age, ethnicity and background of our shadow membership and this is regularly reviewed to ensure that, as we recruit more Shadow Members, our membership remains fully representative. We plan to involve our new Governors (once appointed in the autumn) in helping to monitor this and we plan to publish information publicly as well, for example in our Foundation Trust Newsletter and on our website. As part of the FT application process, organisations have to demonstrate that their membership is fully representative of the local community, so we need to ensure that this remains the case and that we can demonstrate this.

4. *That Trust Membership is refreshed and renewed on a periodic basis.*

At the OSC meeting, we asked for further clarification on what was meant by this point. It was explained that the Committee's concern was about ensuring the Trust maintains an active and representative membership after we become an FT. As explained above, the Trust is committed to making sure that our membership represents the community we serve and that this is maintained once we become an FT. We need to continue to grow our membership; we ultimately need to have at least 8,000 Public Members, made up of service users, their carers and local people, as well as around 2,700 Staff Members. We will continue to monitor the backgrounds of our Members to make sure that our overall membership reflects the local population. Where there may be under-representation, for example, of young people, we are developing ways of encouraging greater involvement.

We see the opportunity to have such a large group of people engaged in working with us to help improve our services as a key benefit of becoming an FT and we want to make full use of our membership and ensure they are as engaged as possible. We have therefore established a Membership Office with a dedicated Membership Manager, whose role is to continue to recruit new Members, but equally importantly, to help develop and engage our existing Members. To help in this, we are producing a quarterly Newsletter for all our Shadow Members and we will be developing a number of other ways of involving our Members as we move forwards FT status.

5. *That a dedicated and ongoing programme of engagement, awareness raising and member recruitment amongst hard to reach communities is established.*

As we discussed at the meeting, we have already begun an active programme of awareness raising and membership recruitment across all the communities we serve. We have used many local voluntary and community groups to help access hard to reach groups and communities. For example, over the last few months we have attended meetings of Polish and Eastern European communities, Greek and Greek Cypriot communities, older people's groups, young people's groups, black and minority ethnic groups and women's groups. We are developing an ongoing programme to continue to reach all sections of the community and to encourage them to get involved by becoming Members of the proposed Foundation Trust.

6. *That the Trust makes explicit reference to the ongoing costs of recruiting and maintaining the Membership within its annual accounts.*

This is something that the Trust is committed to do once we become an FT.

7. That the Trust promotes the active participation of the Membership and develops methods to monitor this.

As mentioned earlier, the Trust wants to engage as many users, carers and local people as possible as Members to help us improve the services we provide and to promote mental health and well being more widely within the community. Although the Trust is dedicated to helping raise understanding about mental health issues in the wider population, the Trust can only achieve so much. We are looking forward to working with our thousands of Members to help us in promoting these key messages much more widely across our local communities.

We are developing a number of initiatives to help inform and engage our membership so that they can actively participate in our work and, ultimately, hold the Trust Board to account on whether the Trust is achieving its objectives. I have already mentioned that we now have a dedicated Membership Manager whose role is to recruit new Members but also to support and develop our whole membership and, in particular, our Governors. We expect to be holding elections for Public Governors and confirming the appointed Governors in the autumn. They will need considerable support and help in understanding their role and in then effectively representing the wider membership in discussions with the Trust management team and the Board. We see one of the key roles of our Governors (meeting together as the Council of Members) being to help us to ensure that our membership is actively engaged and to help monitor this.

Council of Members

8 That, as a priority, the Council of Members should develop the constitution for the Trust in collaboration with the Board of Directors.

Now that the results of the recent consultation have been analysed and the Trust's response to the issues raised has been finalised, the formal Constitution of the proposed Foundation Trust can now be finalised. Considerable work has already been done on this, with some input from the Trust's legal advisers. The proposed Constitution will need to be formally agreed by the Trust Board in the autumn ahead of the Trust's FT application to the Department of Health and Monitor. At this stage, the Council of Members will only just be being established in shadow form. However, we plan to involve the Shadow Council of Members in discussing how the proposed governance arrangement set out in the proposed Constitution will work.

Many FTs have formally reviewed their Constitution after being authorised and many have made amendments to address issues that have arisen once the new FT governance arrangements have been established and used. The Trust Board has committed to a formal review of our FT Constitution 12 months after authorisation to check that the proposed governance arrangements are working effectively. The Council of Members will be fully involved as part of this review.

9. A full programme of training should be prepared for Governors once they are elected/ appointed to ensure that they have the necessary skills and expertise to undertake their responsibilities.

Part of the role of our Membership Manager, working closely with our new Trust Secretary, will be to support and help develop the skills, knowledge and understanding of our new Governors once elected / appointed. We have already talked with a number of existing FTs about what the training needs of new Governors, particularly the public Governors, will be and how best to meet these. We recognise that this will be a significant process, with the need for ongoing development, and that there will need to be sufficient resources allocated from within the Trust.

Relationship between Board of Directors and Council of Members

10. The Trust consults with other foundation trusts in order to develop a model of governance which is both open and transparent.

The Trust has had wide ranging discussions with existing FTs to help develop our proposed governance arrangements. We have also sought advice from the Foundation Trust Network, which represents almost all existing FTs and have also sought advice from the FT Lead at NHS London. All these contacts have been very helpful. Our legal advisers have also been very useful, as they represent a large number of other NHS organisations, many of whom are now FTs and their experience of what has worked well at existing FTs elsewhere in the country has been very beneficial to us.

11. *There should be regular joint meetings of the Council of Members and the Board of Directors to ensure that the views and representations of the wider Membership are translated in to executive action.*

We plan that the Council of Members will formally meet with the Trust Board three times a year to ensure that the Board are made aware of the views of the wider membership and are held to account for addressing the issues raised by the membership. As well as formal joint meetings, it is envisaged that the Council of Members will meet on its own regularly, Chaired by the Trust Chairman, who will provide a significant ongoing link between the Trust Board and the Council of Members. We expect that there will also be a range of more informal meetings, workshops and workstreams involving Members, Governors and Trust Board members, to help take forward the Trust's overall work programme and ensure the wider membership is engaged and that their views are heard.

Local partnerships and the local health economy.

12. *That the Trust should continue to ensure that service information (financial, service activity data) essential for effective local commissioning is accessible and provided in a timely fashion to Haringey TPCT.*

The Trust will continue to work closely with all its Commissioners and to provide all the information they need to effectively commission services from us. We do not envisage a change in the reporting of information to the PCTs when we become an FT, other than the ongoing improvements in data quality and, in particular, in contracting currencies, which we are working closely with the PCTs on at the moment.

13. *That the Trust should be an active and committed partner within the Local Strategic Partnership (Local Area Agreement).*

The Trust is committed to remaining an active member of the LSP, which we see as an important forum for facilitating partnership working with other local agencies. We also see the LSP as very helpful to us in our work to help promote mental health and well being more widely and therefore we want to remain committed partners.

14. *That the Trust maintains the current level of financial transparency.*

The Trust recognises the importance on ongoing transparency around our financial performance and how we use the resources allocated to us for the provision of services. We intend to continue to make key financial information publicly available as now. As part of our commitment to transparency, the Trust Board has confirmed its intention to continue to hold meetings in public once we become an FT. This is not formally a requirement of FTs and a number of NHS organisations have stopped having Board meetings in public once they have become an FT. We do not feel that this is in the best interests of our users, their carers and the public and therefore we intend to continue to hold Board meetings in public, so that key information, including our financial performance, will continue to be publicly available.

15. *That disposal of non-protected capital assets held by the Trust should only be done so under lease and covenanted for ongoing medical / healthcare usage.*

This was the point we were potentially concerned about and we discussed it briefly at the meeting. The most important point here is that the Trust does not intend to have any non protected assets. As part of our FT application, we will have to produce a list of all our current assets and define those that will be protected assets. These are all the assets that a prospective FT will require in order to provide all contracted NHS services. Once defined when a Foundation Trust is authorised, an organisation cannot dispose of a protected asset without agreement from Monitor. We are proposing to include all our currently owned assets as protected assets in our FT application.

As explained at the Committee meeting, if, at some point, the Trust did decide that an asset was no longer required to provide NHS contracted services, we would need to demonstrate that we were making best use of the asset and, if agreed that sale was the most appropriate course of action, that we received value for money in disposing of the asset. NHS organisations are statutorily required to obtain best value for money in disposing of surplus assets, which the Trust's Auditors would have to certify. This would mean that it was unlikely that an asset, if declared surplus to requirements to deliver the services required by Commissioners, could be leased and

covenanted for ongoing healthcare usage as this would be unlikely to be approved by the Trust's Auditors as representing best value for money.

We recognise the sensitivities around potential changes of use of NHS facilities and are committed to working with our key partners, particularly the local authorities, in planning any changes in the future.

I hope that my comments on the report have been comprehensive. As we agreed at the last meeting, it would be helpful to have the opportunity to update the Committee in a few months time on our progress towards becoming an FT and, in particular, on progress in addressing the issues raised by the PCTs. We provisionally agreed that a date around July was appropriate and we will follow this up with the Scrutiny Officers.

Finally, I also thought it may be helpful to update you on the current contract negotiations with the PCTs, which David Hindle raised at the Committee meeting. You may remember that there was concern from the PPIF and indeed from the Trust, about the proposed increased level of cost improvement savings the Trust was being expected to achieve next financial year. The Trust had assumed the standard 3% requirement and had developed plans to meet this. However, the PCTs proposed between 4.5 and 6%. If this were implemented, this would have significant implications for many of our services in all three boroughs. I reported that the contract negotiations were at an early stage at that point.

The discussions with the PCTs have progressed and I am pleased to report that it appears the PCTs have changed their position on the level of cost improvement savings we will be required to achieve next year. The negotiations are still not finalised and there will certainly be some difficult financial outcomes, however, it appears at this point that the scale of potential service reductions which would have been required will not be necessary. I feel it is important that the OSC is kept up to date on this issue and I will ensure that the final position is confirmed to you once the current negotiations have concluded.

With best wishes

Yours sincerely



Maria Kane
Acting Chief Executive

CC: Martin Bradford, Scrutiny Officer – London Borough of Haringey
Helen Brown, Deputy Chief Executive - Haringey Teaching PCT