

Transfer of Services between Leeds York Partnership FT and Tees, Esk and Wear Valleys NHS FT Reflections, Learning and Assurance Report

Action Plan

Recommendation	Organisation	Objective	Action	How will this be evidenced	Lead	Timeframe
Managing safe services in an unsuitable environment						
a) Governance arrangements for the management of action plans such as the Bootham Park Hospital action plan following the CQC review need to include clear reporting arrangements with organisations with responsibility for actions being held to account.	Vale of York CCG	Effective governance arrangements. Completion to time of action plans and resulting outcomes achieved.	The CCG has undertaken an independent external review of the Partnership commissioning Unit (PCU) who are responsible on our behalf, for the assurance of the mental health contract during its lifetime, in order to see if joint commissioning arrangements and the model over 4 CCGs is effective – report awaited. All contracting arrangements now have CCG representation. All new contracts have levers to incentivise quality improvement such as CQUIN. In addition we have undertaken a deep dive into estates provision and have a Strategic Estates Plan agreed with partners following stakeholder engagement	Minutes from contract management meetings. Completion of action plans	Chief Nurse	In line with timeframes on any action plans
b) The regulatory remit and expertise of the CQC do not currently allow the CQC to take part in programme boards where safety issues have been identified and the environment is considered to be potentially unsuitable for care. The CQC should consider whether this should be part of their remit adding to the expert advice that a programme board seeks and utilises. The commissioner, provider and NHSPS should ensure that they have access to the appropriate expertise to ensure that building work meets CQC minimum standards. The CQC may want to consider providing additional assurance to this process.	NHS Property Services Ltd	NHSPS ensures that they have access to the appropriate expertise to ensure that building work meets CQC minimum standards.	Ensure that all consultants appointed are competent in healthcare design and fully aware of CQC compliance issue for relevant premises.	Request details of experience and confirmation that each consultant is competent as part of tender return included in all tender specification	Head of Construction Programme Management	By September 2016
	CQC	Consideration of whether CQC should take part in programme boards as part of its regulatory remit, and whether CQC should provide additional assurance to the process of ensuring that building work meets CQC standards.	No further action is required from CQC. As part of our ongoing relationship management between the provider and CQC we may attend programme boards or oversight group meetings as an observer to assess progress and to encourage improvement. However, we would not consider the CQC relationship owner to be part of formal governance, or to be there to sign off plans or to provide internal assurance. It is essential that CQC remains independent, and is able to make independent regulatory judgements in which both the provider and the public can have confidence. To do otherwise could blur the accountabilities for quality at a local level.	N/A	N/A	N/A
c) Delays in the critical path for the redevelopment of the buildings (Bootham Park and Cherry Tree House) were caused, in part, by contractor delays. These were identified to the BPH						

Programme Board. Where building programmes are significantly delayed alternative provision should be considered with a view to maintaining safety.						
d) Contingency or business continuity plans should be written to cover the loss of estate and re-provision of services. LYPFT enacted their business continuity plans following notification by the CQC that all regulated activity must cease at BPH.	NHS Property Services Ltd	NHS PS to support providers when the provider develops their Business continuity plans and provide potential options for other sites and landlord information	Information supporting business continuity planning is provided on request	Guidance issued to NHSPS FM and H&S staff to assist with information and advice	Head of Facilities Management and Head of Safety	By 31 July 2016
	York of Vale CCG	Effective and robust business continuity planning	Robust contracting arrangements must include the provider having effective contingency and business continuity plans and to invoke those plans should the need arise. The CCG will ensure the requirement for effective plans are in the service specification for contracts and are part of the contract going forward to hold providers to account. The CCG will ensure it has business continuity plans which cover the failure of provider business continuity plans preferably over a larger geographical area where appropriate.	Evidence in contracts. Minutes from contract management meetings. Escalation procedures. Business continuity plans.	Chief Finance Officer Chief Operating Officer	On-going as contracts arise January 2017
e) The CQC should consider sharing reports of specialist advisors where the content of those reports may impact on the safety of patients or the public and where this is permitted by the relevant information governance, legislation and codes of practice.	CQC	Consideration of whether CQC should share reports of specialist advisors.	No further action is required from CQC. We do not routinely release individual inputs or pieces of evidence gathered at inspection, as such documentation in isolation would be only a partial representation of the full inspection, and could be misleading. Our policies and internal guidance do allow for the sharing of information (such as specific reports) in certain circumstances where it is considered necessary and proportionate to do so to protect the safety and welfare of patients and the public. Our internal guidance already supports our staff in doing this within the constraints of relevant legislation and best practice.	N/A	N/A	N/A
f) Closing premises and relocating patients can be concerning in its own right – the risks of continuing in premises which are not fit for purpose and closure need to be carefully considered, by all parties, commissioner, provider and the CQC, before a decision to close is made.	NHS Property Services Ltd	NHSPS support active review and clear strategic plans for poor quality premises with health commissioners	NHSPS FM team collates results of 3 facet surveys and highlights to strategy team. NHSPS strategy team highlights properties falling into D or DX ¹ in our portfolio. ¹ 6 facet survey rating of property, or other similar system of evaluating the quality and suitability of healthcare premises which is in operation from	List of D & DX properties supplied to Strategy Team NHSPS identify all D and DX properties in strategic estates planning process with CCG and include in SEP documents	Head of Facilities Management Head of Property Strategy	On rolling basis as survey work completed 2016/17 As SEPs are revised 2016/17

			<i>time to time.</i>			
	CQC	Ensure that CQC fully considers the risks of continuing in unsafe premises against the risks associated with closure.	<p>No further action is required from CQC.</p> <p>It is essential that the balance of risks is taken into account when considering any enforcement action and our published enforcement policy sets out our approach. When CQC takes urgent action to suspend, vary or cancel a registration we make a balanced decision that takes into consideration the vulnerability of the people using the service, the seriousness of the shortcomings and the severity of the risks posed to service users against the risks and benefits that arise as a result of taking urgent enforcement action. We also consider how long it would take the provider to put right the serious risks we have identified, whether they are able to put it right, and whether commissioners are involved in supporting the service.</p> <p>CQC is working with NHS England and others on a shared protocol on unplanned or rapid closures, intended to be used by the relevant statutory bodies in partnership with providers to help them support people using care services when care provision fails or closes unexpectedly. It includes a checklist of actions that each organisation should take in closure situations. The remit for this work is initially for care homes. We will work with partners to ensure that an equivalent protocol is developed for full and partial closures in the hospitals sector, including mental health.</p>	We will publish the protocol on our website when it is complete.	Mike Richards	CQC will work to make this available by the end of the year, subject to agreement with partners

The safe transfer of services between organisations						
g) The time frames for the transfer of services between organisations should be appropriate to the action which needs to be taken to ensure a safe transfer. This is a recommendation which applies equally to the organisations transferring services and the CCG with responsibility for these services.	York of Vale CCG	Appropriate and robust procurement and mobilisation processes to allow for safe transfer of services.	The CCG abided by procurement guidance by allowing 4-6 months for mobilisation after contract awarded. However given the complexity of the situation the CCG will allow for longer, more flexible timeframes in future procurement as required.	Procurement and mobilisation documentation. Reduction in adverse incidents aligned to procurement and mobilisation	Chief Finance Officer	On-going as contracts arise
h) Commissioning and procurement processes should recognise the timeframes required for adequate due diligence requirements to be completed around premises and identify any risks around this to mobilisation and delivery.	NHS Property Services Ltd	Recognise the timeframes required for adequate due diligence requirements to be completed around premises and identify any risks around this to mobilisation and delivery.	Develop a standard set of due diligence questions for procurement processes on estates and property issues	Estates Readiness Checklist developed and made available to CCGs	Director of Asset Management	30 November 2016
	York of Vale CCG	Appropriate and robust procurement and due diligence processes to allow identification of risk.	A full look back exercise on the procurement will occur within 6 months by the project team in order to ensure full learning for future is captured	Procurement and mobilisation documentation. Reduction in adverse incidents aligned to procurement, mobilisation and delivery	Chief Finance Officer	November 2016
i) As the organisation receiving services it is essential that the new provider ensures that premises are suitable before the services are accepted. Where this is not possible a plan should be enacted to mitigate risk.	Tees, Esk and Wear Valleys NHS Foundation Trust	Tees, Esk and Wear Valleys NHS Foundation Trust have no specific actions to address from this report but will be taking into consideration this recommendations any future work streams.				
j) A clear plan needs to be developed to ensure that services are safely maintained in the period leading up to the transfer of services.						
k) The balance of risk to patient safety should be considered when deciding to close services. Time frames should be proportionate to this risk.	CQC	Ensure that CQC fully considers the risk to patient safety when deciding to close services, and works to ensure that time frames are proportionate.	We agree that the balance of risk to patient safety should be considered, and that time-frames should be proportionate to that risk. The closure of an NHS service is a rare occurrence, and the evidential threshold to show that the risk of harm to people necessitates such enforcement action is very high. As noted above, CQC's enforcement policy sets out the considerations we take in coming to a decision on appropriate action. We will work with partners to ensure that a protocol is developed for full and partial closures in the hospitals sector, including mental health.	We will publish the protocol on our website when it is complete	Mike Richards	CQC will work to make this available by the end of the year, subject to agreement with partners

l) The roles of both the inspection and registration teams in this process needs to be understood by commissioner and provider organisations.	York of Vale CCG	Good understanding of inspection and registration processes and appropriate actions relating to this.	The CCG had a lack of organisational history and experience of awarding contracts where deregistration and reregistration was involved. The CCG will ensure the registration process is well understood by commissioners and procurements managers.	Procurement and mobilisation documentation. Reduction in adverse incidents aligned to procurement, mobilisation and delivery. Evidence in contract management minutes to demonstrate appropriate application of guidance where appropriate by provider and commissioners including any clinical visits	Chief Officers	November 2016
	CQC	Facilitate commissioner and provider understanding of the regulatory environment.	We agree that it is essential that commissioners and providers understand the regulatory environment in which they operate. An open and honest dialogue between lead inspectors and providers operating in local areas is important in facilitating this understanding. Where we find unsafe care we will use local relationship management to support providers to improve, using our registration, inspection and if necessary enforcement processes. We are working to improve the robustness, efficiency and effectiveness of registration, as set out in our August 2015 publication A fresh start for registration. This includes what providers can expect from the registration process, how we will make the experience as user-friendly and efficient as possible and what our expectations are of them when they are registered. We are committed to working with our partners to develop further information resources to improve understanding of CQC's role and processes.	Data from post registration provider survey	Sally Warren, DCI National Functions	Improvements will be made on an ongoing basis, as detailed in our publication, A fresh start for registration.
) Clear escalation between organisations around dispute resolution between commissioner and provider (mental health and property services) when dispute resolution is required. Initially this should utilise the contractual mechanisms available to commissioners and providers – in this case the lease or contract for services.	York of Vale CCG	Robust contract management and dispute resolution / escalation processes	Escalation to be built in to terms of reference for programme boards	Evidence in terms of reference	Chief Finance Officer	September 2016
n) A lead body should be nominated at the outset to take charge of the process of closure (this would normally be the commissioner). The process of varying the registration of the outgoing and incoming trust with the Care Quality						

Commission where services are transferring						
o) Where concerns regarding safety standards are identified by the CQC the Trust and commissioner must seek the appropriate expertise and professional advice urgently to ensure that premises are refurbished to the required standard.	York of Vale CCG	Appropriate use of expertise to ensure safe service provision	The CCG will ensure, as part of its contracting and procurement arrangements going forward (and Strategic Estates Plan), that processes for seeking expertise are described within. The CCG has since recruited an estates advisor in order to coordinate the estates strategy and liaise with experts to inform the implementation of the Strategic Estates Plan	Evidence in contracts. Minutes from contract management meetings. Escalation procedures.	Chief Finance Officer Chief Nurse	On-going as contracts arise
p) Commissioners and providers need a clear understanding of the time frames for registration and deregistration. These must be considered as part of the plans for the transfer of services between provider organisations.	York of Vale CCG	Good understanding of registration and deregistration processes and appropriate actions relating to this.	The CCG had a lack of organisational history and experience of awarding contracts where deregistration and reregistration was involved. The CCG will ensure the registration process is well understood by commissioners and procurements managers	Procurement and mobilisation documentation. Reduction in adverse incidents aligned to procurement, mobilisation and delivery.	Chief Officers	November 2016
	CQC	Facilitate commissioner and provider understanding of the timeframes involved in registration applications.	We agree that commissioners and providers should have a clear understanding of the time frames for registration processes. Currently providers are asked to submit their registration applications 10 weeks ahead of service commencement. This information is contained in the application forms available on our website. We are working to improve the information for providers on our website. The actions we have outlined in our response to recommendation (l) above, will help commissioners and providers to be clear about the processes involved, and to factor the likely time frames into their programme plans for service transfers.	Data from post registration provider survey	Sally Warren, DCI National Functions	Improvements will be made on an ongoing basis, as detailed in our publication, A fresh start for registration
p) Commissioners and providers need a clear understanding of the time frames for registration and deregistration. These must be considered as part of the plans for the transfer of services between provider organisations.	Tees, Esk and Wear Valleys NHS Foundation Trust	Tees, Esk and Wear Valleys NHS Foundation Trust have no specific actions to address from this report but will be taking into consideration this recommendation any future work streams.				
q) The CQC should be involved at the earliest possible opportunity when services are being transferred between provider organisations.	CQC	CQC support for this recommendation	We support this recommendation. It is good practice for providers to inform CQC when they are planning transfers or changes in their regulated activities. CQC deals regularly with changes in ownership of services between providers across the health and social care sector, and it is useful for us to be aware as early as possible of any plans. This enables us to ensure that providers have the information on the likely registration processes and timetables,	N/A	N/A	N/A

			and are aware of the link between our registration processes and our monitoring, inspection and rating of services. We have the right to refuse applications for registration, including adding an additional location, where providers are unable to satisfy us that the regulations will be met.			
r) Where the CQC have significant concerns about the safety of services delivered by provider organisations these should be raised with the commissioning organisation and, if necessary, NHS England.	CQC	Ensure that significant concerns are raised with commissioners and NHS England where appropriate.	CQC already does raise significant concerns about the safety of services with the commissioning organisations. CQC is required to notify a number of third parties of a Notice of Proposal, Notice of Decision, warning notices and urgent procedures for suspension, variation etc. This includes the commissioning organisation and NHS England in some circumstances. We may also inform any other organisations that we consider appropriate, where this assists in protecting people who use services. Following all comprehensive inspections of NHS Trusts we hold a Quality Summit, to develop a high level plan of action and recommendations based on the inspection team's findings. Attendees would normally include representatives from the CCG, NHS England Area Team, and NHS Improvement. Similarly, focussed inspections which raise concerns can trigger a Risk Summit as required. Risk Summits may be convened at any time outside of the inspection programme by any statutory organisation that has concerns about the quality or safety of care being provided. Immediately following all our inspections of Trusts we write to the provider to set out any concerns we may have. In future we will copy the commissioning organisation local to the provider into these letters where appropriate.	Our template letter will be amended, and the change will be communicated to inspection teams.	Mike Richards	October 2016
Learning for individual organisations						
1.11 Vale of York CCG Commissioning from unsafe buildings – the provision of services from BPH should have ceased when concerns were first raised by the CQC (if not before) Management of actions plans and holding to account on time frames specifically for LYPFT and NHSPS should have been more robust.	Vale of York CCG	Robust contracting arrangements to ensure arrangements for alternative provision, should serious or significant concerns arise	The CCG sought an alternative to provision once the CQC concerns were known – any suitable alternatives could not occur within a short time frame. The CCG will ensure the requirement for seeking alternative provision, should serious or significant concerns arise, are in the service specification for contracts and are part of the contract going forward to hold providers to	Evidence in contracts	Chief Finance Officer Chief Nurse	On-going as contracts arise

			account			
	Vale of York CCG	Robust contract management arrangements and escalation processes in place	Robust contracting arrangements must include the provider having effective contingency and business continuity plans and to invoke those plans should the need arise. The CCG will ensure the requirement for effective plans are in the service specification for contracts and are part of the contract going forward to hold providers to account. In this instance the CCG accepts it could have escalated issues to CEO NHSPS and NHSE when the position was deteriorating and will ensure escalation processes describe this effectively. The CCG accepts that it could have taken independent specialist advice with regards to grade 1 listed buildings, and will ensure processes are built in to any further procurements. The CCG has since recruited an estates advisor in order to coordinate the Strategic Estates Plan and liaise with experts to inform the implementation of the estates strategy	Evidence in contracts. Minutes from contract management meetings. Escalation procedures.	Chief Finance Officer Chief Nurse	On-going as contracts arise
1.12 Leeds York Partnership FT Should not have delivered services from unsafe premises – concerns were raised but action should have been taken to move out sooner	Leeds York Partnership FT	To maintain safe and suitable premises at all times.	CQC Fundamental Standards Group – tracking of all CQC compliance issues Clinical Environments Operational Group Escalation procedure in place for all staff Developing reciprocal decant options with partners organisations as part of our Business Continuity Plan.	<ul style="list-style-type: none"> • CQC action plan and tracker • Minutes and action log from CEOG. • Escalation procedure available in all services and via the trust intranet. • Revised Business Continuity plan 	Director of Nursing, Professions and Quality Chief Financial Officer	30 June 2016 30 September 2016
1.12 Leeds York Partnership FT LYPFT should have been more forceful in taking action in line with their accountabilities as a provider.	Leeds York Partnership FT	To ensure that where patient safety risks are present and their resolution subject to third party decisions, serious risks and concerns are escalated at the earliest opportunity to all relevant parties including commissioners	<ul style="list-style-type: none"> • Reviewed and clarified the governance arrangements with third party organisations • Ensure any quality actions, including proposals to close or relocate a service are addressed to commissioners through the Quality Review process. 	<ul style="list-style-type: none"> • Revised SLA with NHS Property Services and PFI providers • Minutes and actions from Quality Review meetings 	Chief Financial Officer Director of Nursing, Professions and Quality	30 June 2016 30 June 2016
1.13 NHS Property Services Robust management of contractors to agreed timeframes. Assurance was given that refurbishments would be delivered to timeframes when this was not the case.	NHS Property Services Ltd	Review of all programmes submitted for work via contractors and evaluation of potential risks including design. Ensure adequate	Standard process for programme and risk review on all schemes including float allowance and review and sign off via principal project manager.	Sign off matrix on all schemes at each stage and prior to issue of programmes to tenants and commissioners	Head of Construction Programme Management	31 Sept 2016

		float programme and suitable levels L&D				
Due diligence is essential before taking the ownership of properties to ensure an understanding of the issues associated with the building.	NHS Property Services Ltd	NHSPS document the due diligence process required prior to acquisition of new sites and agree this with Department of Health	A standard process is in place for due diligence and handover of property where all parties understand associated risks and liabilities.	Due Diligence process agreed	Director of Asset Management	By March 2017
In order to ensure that the lessons are learnt and mistakes are not repeated it is recommended that NHS England take the lead in developing a memorandum of understanding for the sudden closure of hospital facilities on the grounds of serious quality or safety concerns.	NHS England	Safe closure of hospital facilities following serious concerns about quality or safety	MOU to be written by multi-organisational working group (to be established). Membership, governance and reporting arrangements to be confirmed	Memorandum of understanding written and agreed by all stakeholders including patient representatives	Ruth Holt, Director of Nursing - NHS England, North	30th September 2016