

SUPPLEMENTARY PAPER TO TRUST BOARD PAPER D

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Executive Summary

Context

My report to the Trust Board on 4th October 2018 (paper D) refers to the Leicestershire, Leicester and Rutland Joint Health Scrutiny Committee's further consideration of the consolidation of level 3 intensive care and dependent service moves at its reconvened meeting on 28th September 2018.

This supplementary report briefs the Trust Board on the outcome of that meeting, and next steps.

Conclusion

The Trust Board is recommended to:

- (a) receive and note this report, and
- (b) note that the Clinical Commissioning Groups are expected to agree their response to the resolutions of the Joint Health Scrutiny Committee at a meeting on 9th October 2018 and that the Trust Board will be notified of the Clinical Commissioning Groups' decisions thereafter.

For Reference

Edit as appropriate:

1. The following **objectives** were considered when preparing this report:

- Safe, high quality, patient centred healthcare [Yes]
- Effective, integrated emergency care [Yes]
- Consistently meeting national access standards [Yes]
- Integrated care in partnership with others [Yes]
- Enhanced delivery in research, innovation & ed' [Yes]
- A caring, professional, engaged workforce [Yes]
- Clinically sustainable services with excellent facilities [Yes]
- Financially sustainable NHS organisation [Yes]
- Enabled by excellent IM&T [Yes]

2. This matter relates to the following **governance** initiatives:

- a. Organisational Risk Register [Not applicable]

If YES please give details of risk ID, risk title and current / target risk ratings.

Datix Risk ID	Operational Risk Title(s) – add new line for each operational risk	Current Rating	Target Rating	CMG
XXXX	There is a risk ...			XX

If NO, why not? Eg. Current Risk Rating is LOW

- b. Board Assurance Framework [Not applicable]

If YES please give details of risk No., risk title and current / target risk ratings.

Principal Risk	Principal Risk Title	Current Rating	Target Rating
No.	There is a risk ...		

3. Related **Patient and Public Involvement** actions taken, or to be taken: [N/A]

4. Results of any **Equality Impact Assessment**, relating to this matter: [N/A]

5. Scheduled date for the **next paper** on this topic: [TBC]

6. Executive Summaries should not exceed **1 page**. [My paper does comply]

7. Papers should not exceed **7 pages**. [My paper does comply]

UNIVERSITY HOSPITALS OF LEICESTER NHS TRUST

REPORT TO: TRUST BOARD

DATE: 4 OCTOBER 2018

**SUPPLEMENTARY
REPORT BY:** CHIEF EXECUTIVE

SUBJECT: CONSOLIDATION OF LEVEL 3 INTENSIVE CARE AND
DEPENDENT SERVICE MOVES

1 Introduction

1.1 My report to the Trust Board on 4th October 2018 (paper D) refers to the Leicestershire, Leicester and Rutland Joint Health Scrutiny Committee's further consideration of the consolidation of level 3 intensive care and dependent service moves at its reconvened meeting on 28th September 2018.

1.2 This supplementary report briefs the Trust Board on the outcome of that meeting, and next steps.

2. Joint Health Scrutiny Committee – 28th September 2018

2.1 A copy of the report submitted to the Joint Committee by the Leicester, Leicestershire and Rutland Clinical Commissioning Groups and Trust is attached at appendix 1.

2.2. I attended the Joint Committee meeting on 28th September 2018, together with the Deputy Medical Director, Director of Strategy and Communications, Clinical colleagues and Clinical Commissioning Group representatives, at which we presented the attached paper and responded to the Joint Committee's questions.

2.3 Following consideration of all of the issues, the resolutions passed by the Joint Committee are set out below:

(1) that this Committee recognises the strong argument in clinical case to consolidate level 3 Intensive Care Services at the Leicester Royal Infirmary and Glenfield Hospital, and understands the proposals to move the service,

(2) the Committee also believes that the CCGs and UHL have now fulfilled their statutory duty to consult scrutiny via this Committee and it would therefore be inappropriate to refer to the Secretary of State on these grounds,

(3) it is not for the Committee to comment on whether the CCGs and UHL have discharged their duty to consult the public. This may be a matter, that the Committee notes, could be tested by a Judicial Review against the CCG's decision,

(4) there is deep regret that the CCGs and UHL did not listen to public calls for increased engagement/consultation after the business case had been passed by the Board in November 2017. The Committee believe it was an oversight not to go to public consultation whilst they were in the formative stage of their proposals,

(5) This Committee therefore requests the UHL Trust and CCG to:

a) provide the Committee with a detailed project plan for the relocation of services,

b) provide regular updates on the progress of works and any variations to the plans,

c) to meet with the Committee or its representatives if there are any concerns raised by them about the implementation of the proposals,

d) provide the Committee more detailed information around the sustainability of existing services at the Leicester General Hospital once the Level 3 services have been removed, and more detail around the escalation process,

e) immediately undertake public engagement on the major reconfiguration plans,

f) undertake as soon as possible formal public consultation on the major reconfiguration plans.

(6) Despite all the information provided to the committee by the CCGs and UHL, we are not convinced that any of the reasons given preclude their responsibility to carry out public consultation. As such, in the interests of openness and transparency, the Committee recommend that the CCGs and UHL undertake public consultation before continuing with the proposals.

2.4. Under the NHS Act 2006, it now falls to the Clinical Commissioning Groups to consider and determine their response to the resolutions passed by the Joint Committee.

2.5 The Clinical Commissioning Groups are expected to agree their response at a joint meeting on 9th October 2018, and the Trust Board will be notified of the Clinical Commissioning Groups' decisions thereafter.

3. Recommendation

3.1 The Trust Board is recommended to:

(a) receive and note this report, and

(b) note that the Clinical Commissioning Groups are expected to agree their response to the resolutions of the Joint Health Scrutiny Committee at a meeting

on 9th October 2018 and that the Trust Board will be notified of the Clinical Commissioning Groups' decisions thereafter.

John Adler
Chief Executive

2nd October 2018

**Leicester City, East Leicestershire and Rutland and West Leicestershire
Clinical Commissioning Groups**

University Hospitals of Leicester NHS Trust

**Report to the Leicestershire, Leicester and Rutland Joint Health Scrutiny
Committee**

28th September 2018

The Consolidation of Level 3 Intensive Care and Dependent Services

1. Introduction

- 1.1 The Joint Committee received a paper on the consolidation of level 3 intensive care and dependent services at its meeting held on 4th September 2018. That paper has been re-circulated and forms part of the agenda for this reconvened meeting of the Joint Committee, to be held on 28th September 2018.
- 1.2 This paper compliments that earlier paper, and explains why the Clinical Commissioning Groups and the Hospital Trust consider that the Joint Committee should continue to support the Trust proceeding with the consolidation of the services in question, taking into account the legal advice obtained by the Clinical Commissioning Groups and the Hospital Trust.

2. Earlier Consultation with the Health Overview and Scrutiny Committees

- 2.1 To recap, in February and March 2015, the Trust presented a paper to the Health Overview and Scrutiny Committees of both Leicestershire County and Leicester City Councils. The paper set out the Trust's concerns regarding ICU and sought the Committees' approval to enact the plan to reconfigure ICU.
- 2.2 The County Council was satisfied that the plan would improve patient experience and outcomes and, in view of this, agreed that it would not be in the interest of the people of Leicestershire for it to insist upon formal consultation as this would divert resources away from the project team charged with the delivery of these necessary changes, and therefore waived its right to be formally consulted.
- 2.3 The City Council noted that UHL had determined that it was necessary to proceed with the proposal without engaging in a full public consultation exercise, as they felt this was in the best interests of patients in order to provide ICU facilities after December 2015.
- 2.4 At that time the Rutland HOSC was not consulted on the proposal which was a mistake on the Trust and CCGs' part. This has since been rectified and the Rutland HOSC has also now supported the approach.

3. Timeline

- 3.1 The consolidation plan could not be implemented immediately due to a national capital funding shortfall and, as stated in the paper submitted to the Joint Committee on 4th September 2018, temporary actions were put in place to maintain the service whilst capital was sought to undertake the building work necessary to effect the move of the services from Leicester General Hospital.
- 3.2 In 2017, when additional funding was made available (via Sustainability and Transformation capital funding), it then became possible to implement the plan and procure contractors to undertake the necessary building works. The relevant Outline Business Case was approved by UHL's Trust Board, and also formally supported by the Clinical Commissioning Group Governing Bodies in public meetings in November 2017.
- 3.3 Subsequently, the CCGs and UHL have approved the Full Business Case.
4. **Can UHL proceed to build the required infrastructure and then move the Level 3 ICU and dependent services from Leicester General Hospital without now having a public consultation?**
- 4.1 In order to answer this question, one of the first matters to consider is whether in undertaking a public consultation at this very late stage, the requirements of the 'Gunning Principles' can be met. These are:-
- consultation must take place at the time the proposal is still at a formative stage,
 - sufficient reasons must be put forward for the proposal to allow for intelligent consideration and response,
 - adequate time must be given for consideration and response,
 - the produce of consultation must be conscientiously taken into account.
- 4.2 The simple answer to the above question regarding the Gunning Principles with regard to any public consultation is 'no', because the Trust and the Clinical Commissioning Groups have made a decision and have now approved both an Outline Business Case and Full Business Case and, indeed, a procurement process has been undertaken to appoint contractors to undertake the works. We are simply not at a formative stage.
- 4.3 The fact is that a decision was made back in 2015 that the level 3 ICU services had to move from Leicester General Hospital. Put simply, any attempt to undertake a public consultation now would be viewed as pointless because it is apparent that the decisions of both the CCGs and the Trust have been made and both the local authorities and public are fully aware of that fact.
- 4.4 To be clear, the legal advice obtained by the CCGs and the Trust is that a public consultation now would not add anything to the process as the decisions have already been made.
- 4.5 The Trust and the CCGs have also considered the question of whether the inability to meet the Gunning Principles now invalidates the earlier decision to

consolidate the Level 3 intensive care services. The answer to that question is also 'no', because a decision was made in 2015 in the absence of public consultation in the full knowledge of the Health Overview and Scrutiny Committees.

- 4.6 Moreover, and as explained to the Joint Committee at its meeting on 4 September 2018, the Trust would face a significant increase in costs in the event of delay which would be unaffordable. A delay of six months (the minimum that could realistically be expected) has been calculated to increase costs by approximately £830,000, comprising building cost inflation and cost of changing the plan. This is because of the interdependency of this project with the planned relocation of the East Midlands Congenital Heart Centre, the latter having a fixed national deadline. .

5. Impact on wider plans for hospital reconfiguration

- 5.1 We understand the concerns that have been expressed that the ICU and related moves are the “thin end of the wedge” and that they will make the transfer of further services from the Leicester General inevitable, thus undermining the integrity of future public consultation about these wider changes. We therefore wish to restate what was said by the Trust at the meeting on 4th September, i.e., that whilst these changes are consistent with the direction of travel towards consolidation of the three acute hospital sites in Leicester, they have been designed in a way that does not make further changes inevitable or unavoidable. This is essential because a) we have not yet consulted the public on further changes and b) we do not have the funding in place for the wider scheme or have a timeframe for it.
- 5.2 The services being transferred in addition to Level 3 ICU itself as part of these service moves are those that rely regularly on Level 3 ICU support.
- 5.3 The services remaining at LGH may occasionally require level 3 support and we will therefore continue to provide and staff a Level 3 stabilisation bed at the LGH along with a transfer service. Both of these will be available 24/7. In the unlikely event of two or more patients requiring Level 3 support at LGH at the same time, we will have escalation procedures in place to safely cope with this situation. It is important to recognise that level 2 High Dependency Unit (HDU) beds will remain at the General Hospital site. HDUs are wards for people who need more intensive observation, treatment and nursing care than is possible in a general ward but slightly less than that given in intensive care.
- 5.4 For information, following the planned consolidation of Level 3 intensive care and dependent services, the bulk of the clinical services currently provided at the Leicester General Hospital will remain, namely:
- brain injury unit
 - younger disabled unit
 - neurology
 - diabetes clinical service and research centre of excellence

- gynaecology
- maternity
- orthopaedics
- rheumatology
- stroke rehabilitation
- sports medicine
- therapy services
- urology
- psychology
- rehabilitation
- palliative care
- older people's mental health
- cognitive behaviour therapy
- personality disorder

6. **Wider public engagement**

- 6.1 The CCGs and Hospital Trust recognise the strong desire of patients, the public and stakeholders to participate in a discussion about the wider reconfiguration of Leicester, Leicestershire and Rutland's acute hospitals.
- 6.2 Last month the local Sustainability and Transformation Partnership (STP), known locally as Better Care Together, published its *Next Steps* document. This set out local progress over the last 18 months and restated future priorities.
- 6.3 Key issues contained within that document will be subject to formal public consultation at an appropriate point in time. This will include plans for the reconfiguration of the city's hospitals, and maternity services including St Mary's birthing unit in Melton Mowbray.
- 6.4 A detailed pre-consultation business case is currently going through appropriate local and national governance processes. We are committed to putting this into the public domain as soon as it is practicably possible.
- 6.5 Unfortunately it is not possible for us to begin formal public consultation on the issues set out above until we are in a position where we have some surety over the availability of the capital needed to realise our ambitions. At the moment we are not able to give a clear indication of likely timescale for the conclusion of the process as there is not a specific national timetable for this.
- 6.6 However, we are committed as a system to greater involvement of patients, the public and stakeholders in the proposed changes – particularly those that are likely to result in significant changes to the way in which services are delivered.
- 6.7 To commence this process, the CCGs and Hospital Trust are planning a series of open engagement events during late October and early November to share more widely the plans for acute hospital reconfiguration and maternity services.

- 6.8 Dates for these events will be confirmed soon, but our current expectation is that there will be a minimum of six events across Leicester, Leicestershire and Rutland.
- 6.9 The purpose of these events will be to inform communities in Leicester, Leicestershire and Rutland about the acute and maternity services reconfiguration plans, set in the context of the Next Steps for Better Care Together.
- 6.10 It will provide an opportunity for patients, the public and wider stakeholders to hear more about the underpinning detail of the rationale for the proposed changes, what it would mean in practical terms for services currently being provided from the Leicester General Hospital site in particular, and the benefits that we believe would be delivered. It would also give the public the opportunity to raise any questions or concerns that need to be addressed as we move through the next stages of the programme and towards formal public consultation.
- 6.11 As part of this process the CCGs and Trust are committed to ongoing involvement and oversight of local authority scrutiny committees and we would welcome further discussion about how we can make this as effective as possible.

7. Summary and Conclusion

- 7.1 It is appropriate to restate the comments of UHL's Medical Director, as reported to the Joint Committee on 4th September 2018:
- 7.2 *"The Trust recognises the public interest regarding the proposed long term investment and major reconfiguration of our hospital sites and as such with the CCGs will lead a robust public consultation as soon as we have the approval from NHS England to do so.*
- 7.3 *However, after years of under investment in Leicester's Hospitals there is surely reason for optimism; the new A&E, the new assessment units and the funding for ICU already totals nearly £80m of new funding. Moreover the process to secure the £367m which will finally help us create modern health facilities that patients and staff can be proud of, is progressing well and fittingly on the day of the 70th anniversary of the NHS received the backing of the East Midlands Clinical Senate, a key stage in the approval process.*
- 7.4 *In the meantime we cannot stand still; the delivery of the scheme to transfer Level 3 ICU from LGH is a function of the risk of on-going clinical unsustainability first raised by our clinicians in 2014 but still valid today. We are within weeks of ending that uncertainty and starting to make ICU viable in the long term meaning that fewer patients suffer cancellations for their surgery and our excellent clinical teams no longer have to try and be in three places at once.*
- 7.5 *There is of course also the collateral damage of failure to progress the scheme. Long before I became the Medical Director my colleagues at the East Midland*

Congenital Heart Centre, were already many years into their work to convince other NHS colleagues that the clinical case for maintaining children's heart surgery in Leicester was sustainable; the fact that they achieved that against the odds is remarkable... to jeopardise that would be unthinkable.

- 7.6 *In certain quarters the Trust's pursuit of this project has been branded as 'underhand'. More recently the clinical reasoning has been questioned, though not by anyone who practices in Intensive Care. The reality is that the Trust's vision for Leicester's Hospitals has been in the public domain for years; covered by the media as far back as 2014 and in 2017, when we received news of the investment for ICU it was hailed as a "£30m boost for our hospitals" by our local paper.*
- 7.7 *With all that in mind, the only meaningful conclusion I can offer you is that we, by which I mean me and my clinical colleagues think that the ICU consolidation is the right thing to do for patients and staff and we would ask that the Joint Scrutiny Committee support the plan. Any delay at this stage would be extremely damaging and put at risk the stability of this crucial service."*
- 7.8 The Hospital Trust and local CCGs believe that legally sound decisions were made in 2015 and 2017. These decisions were informed by the properly considered positions of OSCs in Leicester City and Leicestershire County, and later in Rutland.
- 7.9 Given this, and the risk of trying to consult on an issue for which a decision has already been made, meaning consultation cannot take place at a formative stage and would not inform the decision already taken, the CCGs and Trust do not believe formal consultation on this matter would be appropriate at this point. However, we remain committed to the principles of community involvement and will shortly be undertaking significant engagement on the plans for wider acute and maternity service reconfiguration, ahead of full formal consultation at a later, appropriate point.