

**EAST KENT HOSPITALS UNIVERSITY NHS FOUNDATION TRUST**

REPORT TO: **BOARD OF DIRECTORS**

DATE: **26 SEPTEMBER 2014**

SUBJECT: **KPP COLLABORATION AGREEMENT**

REPORT FROM: **CHIEF EXECUTIVE**

PURPOSE: **Decision**

**CONTEXT / REVIEW HISTORY / STAKEHOLDER ENGAGEMENT**

The January 2014 Board approved the Full Business Case (FBC) for the Kent Pathology Partnership (KPP). The FBC was also approved by the Board of Maidstone and Tunbridge Wells NHS Trust (MTW) during that month. It was noted at that point that the next stage in the process was for the Collaboration Agreement to be submitted to the Boards of both Trusts, for approval (at which point, the Boards' decisions would be irrevocable).

Since January, detailed work to agree the terms and conditions under which the KPP would operate and be governed, has been undertaken, primarily via the KPP Project Board (which consists of selected Executive Directors from both Trusts). Legal advice has also been sought and acted upon. The Collaboration Agreement (the Agreement) is now enclosed (Appendix 2), for approval by the Trust Board.

The Finance and Investment Committee received a presentation and a copy of version 9 of the Agreement at its August 2014 meeting and the final version at its September 2014 meeting. The KPP Project Board has met a number of times to review and amend the agreement to ensure it is fit for purpose.

**SUMMARY:**

Some aspects of the Agreement still require final amendment by the legal advisors, following discussions held at the KPP Project Board meeting of 12 September and subsequent follow-up correspondence during w/c 15 September. These aspects are outlined in Appendix 1. The timing of these discussions prevented the amendments being incorporated into the Agreement. However, it has been agreed to submit the Agreement to both Boards in September, highlighting these aspects, rather than wait until such aspects were completely finalised (which would have meant deferring submission of the Agreement until the October 2014 Board meetings). None of the final amendments are considered to be material, nor prevent the Board from approving the Agreement, but have been included in this report, for completeness.

Appendix 1 also contains some additional points of note.

Board members should note that although they have been provided with the Agreement in its entirety (Appendix 2), this has not been made available as part of the Part 1 (meeting in public) papers, due to commercial confidentiality.

The same applies to Appendix 1 (and Annex A). Therefore should Board members wish to discuss any of the aspects of the Agreement, or the points in Appendix 1 in detail, it is suggested that such discussion takes place within the Part 2 (private) meeting.

In addition to the Agreement, the following information has been provided:

- Appendix 3: A financial schedule, consisting of the draft KPP budget for 2015/16, and implementation costs;
- Appendix 4: A timeline / project plan for the establishment of KPP;
- Appendix 5: A commentary on the quality aspects of the KPP; and
- Appendix 6: A communications plan

#### **RECOMMENDATIONS:**

The Board is asked to:

- APPROVE, the Collaboration Agreement and delegate responsibility is given to the Chief Executive to finalise the outstanding points.

#### **NEXT STEPS:**

Subject to the Board approving the Agreement, the outstanding points will be finalised. This will allow the KPP Board to be established and the project can continue along the timeline as presented in Appendix 4.

#### **IMPACT ON TRUST'S STRATEGIC OBJECTIVES:**

AO5: Identify and implement commercial strategies to support the Trust in maximising opportunities to increase revenue, grow its business and retain its market share.

#### **LINKS TO BOARD ASSURANCE FRAMEWORK:**

None

#### **IDENTIFIED RISKS AND RISK MANAGEMENT ACTIONS:**

Low risk that the Competition and Markets Authority will take an interest in the establishment of KPP given the fact that joint contracting and pricing policies will commence from April 2016.

#### **FINANCIAL AND RESOURCE IMPLICATIONS:**

As outlined in the Full Business Case.

#### **LEGAL IMPLICATIONS / IMPACT ON THE PUBLIC SECTOR EQUALITY DUTY:**

DAC Beachcroft's have led this piece of work and provided legal advice throughout.

**PROFESSIONAL ADVICE TAKEN ON ANY NOVEL OR CONTENTIOUS ISSUES****ACTION REQUIRED:****(a) To make a decision***(Delete as appropriate)***CONSEQUENCES OF NOT TAKING ACTION:**

Failure to recommend approval of the Agreement will result in a delay to the project, impacting of the transfer of staff and start date of the KPP.