



Application of fast-track procedure to the merger of South-West Essex's provider services arm and North East London NHS Foundation Trust

1. On 14 July 2010 we were notified of a proposed merger between South-West Essex's provider services arm (Community Health Services) and North East London NHS Foundation Trust (NELFT) (the Merger) reviewable under Principles 9 and 10 of the Principles and Rules of Cooperation and Competition (Principles and Rules).
2. We considered whether the Merger was suitable for review using our fast-track procedure.¹ We decided that it was not suitable for fast-track review due to the limited number of obvious credible alternative bidders for community services contracts in the areas affected by the Merger (as explained in more detail below). Accordingly, we are assessing the Merger under our standard Phase I procedure.²
3. In the interests of transparency, and to aid understanding of our fast-track procedure, this note provides a brief explanation of our view of the applicability of the fast-track procedure to this case.
4. For the CCP to accept a merger under its fast-track procedure there must be four or more large NHS community service providers to be present after the merger within, or in PCT areas adjacent to, the area(s) affected by the merger in question.³ Where three providers are present then the CCP may apply the fast-track procedure if there are also two credible acute trusts in the relevant area(s).⁴ In this case, in one of the areas affected by the merger (Havering PCT area), there would be four large NHS community service providers prior to the merger and only three after the merger (and one acute trust). As a result the Merger is not eligible for the fast-track procedure.
5. It should be noted that acceptance for the fast-track procedure is a high level test and if it failed it does not mean that the merger in question raises concerns under the relevant Principles and Rules. Rather, it means that it is not possible to say without further review that the merger is unlikely to raise concerns under the Principles and Rules. It means that the merger should be reviewed in the normal way.

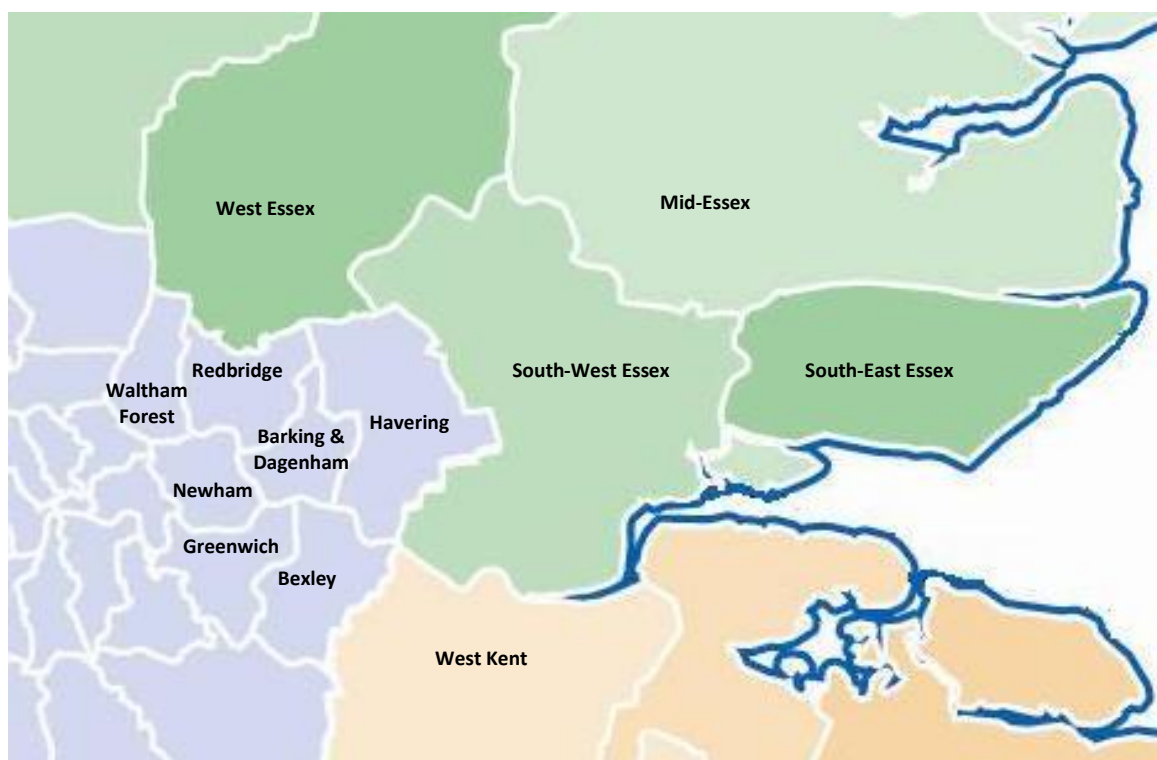
¹ On 6 April 2010 the CCP published its 'Guidance on fast-track procedure for certain categories of mergers' at: www.ccp-panel.org.uk.

² See the CCP draft interim merger case guidance and rules of procedure at: www.ccp-panel.org.uk/reports-and-guidance/index.html.

³ We use the term 'large NHS community services providers' to identify those NHS providers which have experience of providing a wide range of community health services in their 'local' PCT area. Currently these are generally PCT provider arms as well as acute and mental health trusts which have acquired community services provider arms. Over time it may increasingly include other organisations, such as: social enterprises and community foundation trusts. An adjacent PCT area is one which shares a land border (or can easily be accessed via tunnels or bridges) with the area(s) affected by the merger. The number of large NHS community service providers should include the merged entity.

⁴ We use patient referral data to identify acute trusts which are already providing services to patients within the area(s) affected by the merger. For the purposes of the fast-track procedure, the CCP considers that acute trusts which receive ten per cent or more of all acute care referrals from the area(s) affected by the merger are providing a substantial amount of health services to the local population and are likely to be credible bidders for community services in the area(s) affected by the merger.

Map of the area



PCT areas affected by the merger

South-West Essex

(this area loses NELFT as a future potential competitor, although as there are more than 4 other providers this change does not preclude the fast-track procedure)*

Havering

(this area loses South-West Essex as a potential provider and is the reason fast-track is precluded)†

Barking & Dagenham

(there is no change as a result of the merger so does not preclude the fast-track procedure)

South-East Essex

(South-West Essex provider is replaced by NELFT but this does not preclude the fast-track procedure)

Relevant providers post-merger

- 1 NELFT
- 2 South-East Essex
- 3 Mid-Essex
- 4 West-Essex
- 5 Outer North-East London Community Services (Havering, Redbridge, Waltham Forest)
- 1 Outer North-East London Community Services (Havering, Redbridge, Waltham Forest)
- 2 NELFT (South-West Essex, Barking & Dagenham)
- 3 West-Essex
- 3a Barking, Havering and Redbridge NHS Foundation Trust‡
- 1 NELFT
- 2 Outer North-East London Community Services (Havering, Redbridge, Waltham Forest)
- 3 East London NHS Foundation Trust (Newham)
- 1 South-East Essex
- 2 Mid-Essex
- 3 NELFT

Notes: *West Kent is not included in the count because it does not share a land border with South-West Essex.

†Bexley is not included as it is across the Thames.

‡Where there are three large NHS community services providers the CCP will consider, for its fast-track procedure, whether there are two or more acute trusts providing more than ten per cent of acute care referrals from the area.