



Decision to proceed to a Phase 2 inquiry in the merger of Community Health Buckinghamshire and Buckinghamshire Hospitals NHS Trust

INTRODUCTION

1. Buckinghamshire Primary Care Trust (also known as NHS Buckinghamshire) has decided to merge its provider arm with Buckinghamshire Hospitals NHS Trust. Following this merger, community services will be provided by Buckinghamshire Hospitals NHS Trust pursuant to a standard NHS contract for community services with Buckinghamshire PCT. It is also intended that three GP companies in Buckinghamshire will also be involved by way of an agreement with Buckinghamshire Hospitals NHS Trust.
2. The CCP accepted the transaction as a merger falling within the scope of Principles 9 and 10 of the Principles and Rules for Cooperation and Competition on 15 February 2010 and published a Notice of Acceptance on its website to this effect.

PARTIES

3. Community Health Buckinghamshire is the community health services provider arm of Buckinghamshire PCT. Buckinghamshire PCT is responsible for commissioning health services on behalf of the population in its PCT area of approximately 500,000 people. Community Health Buckinghamshire has been operating as an autonomous provider organisation since spring 2009. It has budgeted income in 2009/10 of around £41.5 million.
4. Buckinghamshire Hospitals NHS Trust is an acute trust operating from three sites in Amersham, Stoke Mandeville and Wycombe. The trust has a total of 788 beds across these sites and serves a local population of approximately 500,000. It also offers care to a wider population for burns and plastics and spinal injuries. Buckinghamshire Hospitals NHS Trust has budgeted income in 2009/10 of around £185 million.
5. Chiltern Health (2007) Limited, Vale Health Limited and The Practice PLC (together the GP Practices) are companies providing GP services in the Buckinghamshire PCT area. Together, they account for 59 of 60 GP practices within the PCT.

ISSUES

6. The CCP has considered the likely effects of the merger in terms of:
 - a reduction in competition for community service contracts;
 - the involvement of financially weak organisations; and
 - loss of choice and competition in acute services.

Reduction in competition for community services contracts

7. The merger brings together two previously independent organisations (Buckinghamshire Hospitals NHS Trust and Community Health Buckinghamshire) that may both be credible bidders for community services contracts competitively tendered by Buckinghamshire PCT. The merger may therefore reduce the number of bidders for these contracts.
8. Further, the merger involves an agreement between Buckinghamshire Hospitals NHS Trust and the GP Practices, which may decide to bid jointly for contracts competitively tendered by Buckinghamshire PCT. The involvement of the GP Practices may therefore further reduce the number of bidders for community services contracts.
9. Where there is a sufficient number of alternative providers, then the loss of a competitor is unlikely to have an adverse impact on patients or taxpayers. Our analysis to date indicates that there are a number of PCT provider arms in adjacent areas that are likely to be credible bidders for community services contracts. If further analysis confirms that Buckinghamshire Hospitals NHS Trust and Community Health Buckinghamshire are or would be credible bidders for community services contracts, but that a sufficient number of strong alternative providers would remain after the merger, it is unlikely that the reduction in the number of bidders brought about by the merger would have a material adverse impact on patients and taxpayers.

Involvement of financially weak organisations

10. The most recent Care Quality Commission (CQC) review of Buckinghamshire Hospitals NHS Trust indicates that it is now rated “good” (having been “weak” in 2005/06 and 2006/07). However, it is financially “weak” (rated “good” in 2007/8 but “weak” in 2008/9).
11. In most mergers the CCP will not seek to review the financial and clinical capacity of the parties to deliver the services being acquired. The assessment of whether an organisation is an appropriate acquirer and deliverer of services is a question for the relevant PCT(s), the SHA and the CQC and, in certain circumstances, Monitor. However, where an organisation is financially weak it is possible that its acquisition of another organisation could have an adverse effect on patients and taxpayers.
12. In particular, a financially challenged organisation may have an incentive to reduce the quality of services transferred in order to reduce its financial deficit. A risk to patients and taxpayers could therefore arise in circumstances where the acquiring organisation is in a strong position vis-à-vis the commissioner, for example as a result of the commissioner being (i) unable to monitor and ensure the quality of services; and/or (ii) unwilling or unable to re-commission the services that are being merged should quality decline.
13. It is the CCP’s view that these issues merit further consideration.

Loss of choice and competition in acute services

14. The merger may result in a loss of patient choice and competition in acute elective services if the merged entity directs patients to its own acute services rather than facilitating patient choice of acute provider for elective care.
15. Further analysis is required as to:
 - (i) the extent to which patients may be referred from community to acute services and from the GP Practices to community and acute services in Buckinghamshire, both now and in the future; and
 - (ii) the extent to which the merger may lead to a loss of patient choice or competition.

INTENTION TO PROCEED TO A PHASE TWO INVESTIGATION

16. Based on the issues outlined above, the Panel has concluded that there is a realistic prospect that the merger between Community Health Buckinghamshire and Buckinghamshire Hospitals NHS Trust may result in a material adverse effect on patients or taxpayers. The CCP considers that further investigation is warranted and we will now proceed to a Phase Two investigation.
17. During Phase Two of our investigation we intend to gather further information and carry out further analysis, to decide whether or not the merger is likely to have a material adverse impact on patients and taxpayers. We will also evaluate the arguments and evidence submitted by the parties in relation to any benefits that may arise from the merger.
18. The deadline for completion of our Phase Two investigation is 29 July 2010.

Cooperation and Competition Panel
6 April 2010