

Board Meetings held in Common – in private

Paper Title: Update on NHS Improvement's ownership of supply chain company

Agenda item: 5 – For Information

Report by: Miranda Carter, Director of M&A and New Organisational Models
(SRO for supply chain company evaluation)
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Decision Making Responsibility:

NHS England	<input type="checkbox"/>
NHS Improvement	<input checked="" type="checkbox"/>
NHS England and NHS Improvement	<input type="checkbox"/>
N/A - joint discussion	<input type="checkbox"/>

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1. The Board received a paper in November 2018 on the potential transfer of Department of Health and Social Care's (DHSC) centralised procurement company to NHS Improvement. The centralised procurement function is delivered through a limited company Supply Chain Coordination Ltd (SCCL).
 2. It is the intention of DHSC that NHS Improvement (via the Trust Development Authority (TDA)) should take ownership of the company. This was a requirement of the Cabinet Office as part of the approval for the company formation. It was originally expected that the transfer would take place on 1 April 2019 once 6-12 months of operation had been in place. Cabinet Office permission to create the company expected a transfer to the TDA on 1 April 2019 and is conditional on SCCL not staying in Secretary of State ownership longer than a maximum three years (creating a backstop date of July 2020).

Conclusion and next steps

3. In our paper in November 2018, we informed the Board that we would bring back the outcome of our due diligence work prior to a decision on the transfer. At this point the team wishes to highlight that a number of internal and external risk factors have meant that a recommendation for ownership could not be made to Board for 1 April. These are outlined in paragraphs 9-17. A delay in taking ownership will allow many of the risks and uncertainties to be reduced or mitigated.

4. However, our work has concluded that NHS Improvement should be supportive of SCCL's objectives and the benefits centralised procurement can bring to the NHS sector. NHS Improvement is committed to working with the company to develop a joint operating model to realise the benefits. The expectation is that the new Commercial directorate will lead on this work beginning September 2019. We will write to SCCL shortly to set out next steps.
5. DHSC has been informed and recognise the need for a delay. A further meeting will be held in the coming weeks to agree next steps.

Evaluation of SCCL and engagement with company

6. To support decision-making a multidisciplinary group was established with Miranda Carter as Senior Responsible Officer (SRO) to evaluate SCCL to ensure NHSI understood the company and any risks and to undertake the necessary preparations for NHS Improvement's ownership.
7. The group had access to an advisory panel of NHS Improvement executives including Wol Kolade (NED) and Stephen Hay. The due diligence work was completed from January to early March culminating in a management presentation with SCCL's chair and executive team on 7 March 2019. (The briefing papers and company presentation from this meeting can be provided on request).
8. As a result of the team's work the following risks were identified:

SCCL risk factors

9. **Limited track record of operating model** – The new supply chain operating model has become operational gradually through 2018 and 2019 with the final element (transactional services) due to go live on 1 April 2019. As a result, there is not yet a track record of delivery for the full operating model.
10. **Central funding and new pricing model from 1 April 2019** – Starting 1 April the company will receive centralised funding of £204m (subject to tariff funding) and move to a new pricing model based on buy price = sell price. Breakeven also depends on income generation from other sources including supplier rebates.
11. **Customer behaviour is uncertain** – Increased savings to the NHS relies on customers switching to SCCL based on the new lower prices but this is untested. Sector feedback indicates that trust specific plans are work in progress.
12. **One-year business plan with untested assumptions** – The company board approved a one-year business plan in January 2019. Limited supporting information has meant that the reasonableness of assumptions has not been

confirmed. The company also has an updated five-year business case which is awaiting approval by DHSC.

13. **Interim management team** – Key executive posts on SCCL’s Board are currently filled by secondees and interim staff. The company’s chair is starting a process to convert posts to permanent employment during 2019. As key shareholder DHSC has a role in appointments and NHSI will be able to influence as a key stakeholder. The company’s proposed reward strategy carries some reputational risk.

NHS Improvement risk factors

14. **Chief Commercial Officer (CCO) and Commercial directorate not in place** – Accountability for the SCCL relationship/shareholding will sit within the new Commercial Directorate. While the directorate and leadership is in the process of being established it will be difficult to provide sufficient scrutiny and oversight of any shareholding. A change in ownership in April would also be one of many competing demands on NHS Improvement’s wider executive team.
15. **Lack of indemnity from DHSC** – NHS Improvement requested full indemnities from DHSC to cover financial and non-financial risks. These have not been agreed although discussions have not concluded. A number of risks (eg reputational risk) remain even if indemnities were to be provided.

External risk factors

16. **Brexit role** – SCCL is a key part of the government’s EU Exit contingency planning for the supply of medical devices and clinical consumables. Stock holding at a national level is being increased using the infrastructure and logistics capability of the NHS supply chain through SCCL. This is one of a number of competing demands on SCCL’s organisation and staff on and around 1 April 2019.
17. **Competition law risk of challenge** – The central funding model carries the risk of legal challenge. NHS Improvement and NHS England has received correspondence from Bunzl, a listed multinational distribution and outsourcing company, expressing concerns that the proposal for central funding and tariff price reduction are unlawful. Whether a legal challenge will follow is currently unknown. (A separate paper to Board on the tariff decision contains full details of this issue).

Conclusion

18. As a result of our work and the risks highlighted the review team concluded that it was not the right time to agree the transfer but it was recognised that once capacity is in place NHS Improvement should work closely with the SCCL leadership team to develop the operating model between SCCL and NHS Improvement in order to maximise the opportunity to deliver procurement savings to the NHS. It is currently expected that once a Chief

Commercial Officer is in place NHS Improvement will reengage with SCCL to complete due diligence on the outstanding risks, prepare for ownership and develop the operating model.