

NHS England Board meeting

Paper Title: Update on the integration of NHS England, Health Education England, and NHS Digital

Agenda item: 9 (Public session)

Report by: Mark Cubbon, Chief Delivery Officer

Paper type: For discussion

Organisation Objective:

NHS Mandate from Government	<input type="checkbox"/>	Statutory item	<input type="checkbox"/>
NHS Long Term Plan	<input type="checkbox"/>	Governance	<input checked="" type="checkbox"/>
NHS People Plan	<input type="checkbox"/>		

Action required:

The Board is asked to note and comment on the work underway to meet the revised timeline for the merger of NHSD with NHSE, and the wider programme.

Executive summary:

This paper sets out our approach for preparing to safely receive staff and functions from NHSD into NHSE in January 2023, continuing our focus on readiness to receive HEE staff and functions on 1 April 23, and agreeing an organisational design and approach to consultation that delivers our agreed benefits:

- only doing the right things nationally and regionally;
- providing our systems with the space to lead;
- speaking with a single national voice;
- removing duplication, and;
- reducing unnecessary bureaucracy in our ways of working.

This work will show how the new organisation delivers our agreed benefits and, as a result of these changes to our ways of working, is at least 30%, and up to 40%, smaller.

Background

1. Since the last Board meeting the Secretary of State for Health and Social Care (SofS) asked, and we agreed, to bring forward the legal merger of NHS Digital (NHSD) with NHS England (NHSE) to late January 2023. The specific date of merger may be subject to change, as it is dependent on approval of regulations through Parliament, and final confirmation with SofS.

2. This has required significant re-prioritisation of programme resources to ensure that we will have completed all required activities to ensure a safe landing for NHSD staff and functions on day 1.
3. Work is progressing to review existing planning arrangements and revise the original Minimum Operating Requirements (MOR). This includes ensuring data safe-haven arrangements are in place to meet the revised timetable, and that we can continue supporting timely and appropriate review and approval of data requests and subsequent data sharing, while ensuring that data security and management processes continue to be appropriately delivered in the new NHSE.

Day 1 Readiness (D1R)

4. The D1R Project is one of the projects within the overall 'Creating the new NHSE' Programme. Its focus is the delivery of day one operational and legal readiness as the receiver of NHSD in January 2023 and HEE in April 2023.
5. Critical HR and organisational development and legal activities that are required to enact the merger with NHSD in January 2023 are set out below. These remain on track for delivery.
6. **Staff consultation** - Following discussions with DHSC sponsors, NHSD shared their consultation documentation with their Trade Union colleagues on 21 November 2022. Their formal consultation with NHSD staff began on 23 November 2022 and the process is expected to conclude on 13 January 2023. This was discussed and agreed with the NHSD Trade Unions in advance of launching formal consultation. The formal consultation process included notification from NHSE of the measures it expected to undertake as part of the formal transfer.
7. **Board Governance Framework** - a new Board governance framework that will be put in place following the merger with NHSD is currently being developed by the Legal and Governance workstream. This is being considered in the context of the wider Programme and the later merger with HEE.
8. **Regulations** – On 9 November 2022, SofS began the formal consultation with NHSE for the transfer of the statutory functions of NHSD to NHSE. The Legal and Governance workstream have been reviewing the draft regulations and working with DHSC to resolve queries. NHSE have provided a formal response to DHSC endorsed by our Chair. The Regulations will then be laid before Parliament before the Statutory Instruments are signed and come into effect in January 2023.
9. **Data Safe Haven** - The transfer regulations will include provisions requiring NHSE to implement security and transparency arrangements for patient data collected and processed under the transferred 2012 Act information collection provisions, supplemented by statutory guidance from DHSC and internal operational arrangements to implement the 'safe haven' for patient data. Detailed workshops have

been held with NHSD, NHSE and DHSC to confirm operational arrangements for day one, with good progress made to date.

10. Significant work has progressed in developing and agreeing the MORs for Day 1 Readiness. The next phase is to further develop, prepare and agree the resulting project plans. The focus for the first day onwards is to minimise disruption and business to continue as normally as possible.
11. A key theme of the transition period is staff engagement. This is both in terms of the various consultations required, commencing with the consultation of transfer of NHSD staff to NHSE, and the subsequent consultations on new NHSE design, in addition to developing business processes from transfer day onwards.

Design and implementation of the new NHS England

12. Noting the acceleration of NHSD's merger with NHSE we have updated our sequencing plan for change, with NHSD staff being consulted on transfer of employment from the 23 November 2022 to 13 January 2023, prior to transfer of staff and functions at the end of January 2023 (subject to parliamentary approval).
13. All directorates and regions are working on a Minimum Viable Design (MVD) for the end of December 2022. MVD will include:
 - a. **Change opportunities:** Including proposed vision, aims, services, functional accountabilities, and sizing proposals
 - b. **Designing how we operate:** Including proposed changes to governance, processes, systems and data
 - c. **Designing structures and ways of working:** Including key sub-directorates and proposed 'To-be structures'.
14. MVD will allow us to look at all components of the new organisation and consider how they operate as a whole, ensuring that we have an aligned and cohesive overall organisational design. The new NHSE Programme remains on track to deliver MVD across all directorates and regions for the end of December 2022, to commence consultation on new structures for the first directorates from February 2023 and to enable all staff to know their future in the new NHSE by the end of September 2023.
15. With the support of Regional Directors we plan to commence consultation on new regional structures as part of the first group, from February 2023, with the exception of Pharmacy, Optometry and Dentistry (POD) staff who are in scope for delegation, who will be consulted as a group in January 2023 on planned transfer to ICBs.

Voluntary redundancy scheme

16. A proposal for a Voluntary Redundancy (VR) scheme has been developed and shared with the Boards of NHSE, NHSD and HEE, and subsequently with the DHSC in support of a business case.

17. A number of factors underly the importance of working to maximise the opportunity for use of VR in this financial year:
- a. ensuring those staff who want to leave the organisation, and work in potentially duplicated functions, are supported to do so;
 - b. spreading the financial pressures that redundancy payments will create across this financial year and the following, and bringing forward the savings from salary costs in 2023-24, and;
 - c. minimising and mitigating the number of staff who need to exit through compulsory redundancy (CR), which offers a poorer staff experience and increases costs to the organisation.
18. The VR scheme will form a key component for delivering our resizing aims and supporting implementation of our new ways of working and we will continue working with the DHSC to secure business case approval.
19. We recently held a two-day engagement event with the Trade Unions to support the preparations for consultations on transfer, restructuring and redundancy. This focussed on ways of working, communications and engagement, equality diversity and inclusion, redeployment, and future Trade Union partnership arrangements.
20. We are standing up an Equality Impact Assessment (EQIA) review panel to ensure we have clear visibility of, and take seriously, considerations around the impact of any proposed changes on our workforce and structures. Almost 200 colleagues from across the three organisations are involved, including staff network and Trade Union colleagues as well as those with expertise in this space. This, and the commitments set out above, will be core in shaping our future organisation to deliver our collective EDI commitments.

Next steps

21. The programme will continue its preparations for an accelerated merger of NHSD with NHSE in January 2023.
22. At the Board in February we will also set out our progress and future plans, and a high-level view of the overall change opportunities and associated sizing ambitions.