



SubCo Q&A

Six key questions

Q) What is a SubCo?

A) A wholly owned subsidiary company or SubCo is a company that is completely owned by another company (or organisation). In our case the SubCo would be fully owned by Gloucestershire Hospitals NHS Foundation Trust (GHNHSFT), the parent company, but it would employ a group of staff who are currently employed directly by the Trust. The Trust would own 100% of the shares of the company and as such have control over all major aspects of the way it is run and the decisions it takes. The SubCo would provide services back to the parent organisation (GHNHSFT) and by doing so in this way, enable the Trust to realise savings through paying less VAT than is the case in the current model. Many sectors including education have gone down this route, as have a small (but increasing) number of NHS Trusts.

Q) Why do we want to establish a SubCo at GHNHSFT?

A) The Trust is living beyond its means and therefore we have to make savings to return the Trust to financial balance – this is our statutory duty. The SubCo model allows us to make savings by paying less VAT than we do currently. This isn't a 'loophole', it's a legitimate way of saving the Trust money by taking advantage of the rules that apply when the Trust buys goods or services from a third party. By saving money this way, it reduces the savings we would otherwise have to make from clinical services and the pay budget which, in turn, enables us to protect jobs that might otherwise be lost.

Many other public sector organisations, including other NHS Trusts, have gone down this route. Importantly, existing staff remain part of the NHS family and retain all of their current NHS Terms and Conditions, including pension rights. The model has the potential to contribute £35m of savings to the Trust over a ten year period, so this proposal has to be seriously considered.

Beyond the financial benefits, experience from elsewhere shows that there are a number of non-financial benefits that materialise from this model. Theoretically, many of these benefits should be able

to be delivered within the current arrangements but the reality is that they rarely are. These benefits flow from a more 'customer' oriented culture within the SubCo (that tends not to be the culture of the parent organisation), which drives innovation and service improvement in ways that the NHS struggles to do.

Q) Who would be affected?

A) Around 900 staff would transfer into the SubCo which would include all staff within Estates and Facilities as well as staff working in Sterile Services and a small number of staff involved in materials / supplies distribution.

Q) Will I be made redundant as part of this process?

A) No. There are no plans to make any redundancies as part of establishing the SubCo. By operating in such a way, we would be able to make significant savings through the realisation of VAT payments (upwards of £35m over 10 years), while ensuring that we protect staff jobs and high quality clinical services at the same time.

Q) What would happen to my Terms and Conditions (T&Cs) of employment?

A) Staff's T&Cs would be protected for the duration of their employment with SubCo. This would also include pension rights.

Q) Will I no longer be part of the NHS?

A) Staff will continue to be a part of the NHS family. SubCo would be fully owned by GHNHSFT, the parent company. The SubCo would provide services back to the parent company (GHNHSFT) and so whilst staff are not technically NHS employees, because they are employed by the subsidiary company, they would remain a vital part of the wider GHNHSFT family.

General Q&As

1 What is the estimate for the VAT savings to the Trust through the setting up of a SubCo?

The overall savings from the SubCo proposal is approximately £3.5m per annum or £35m over 10 years. £1m per annum comes from the Theatre Managed Equipment Service Scheme, which requires staff in sterile services to transfer to SubCo.

2 What professional advice has the Trust received/commissioned regarding the setting up of a SubCo?

KPMG and DAC Beachcroft are the appointed professional advisors, who have significant experience of this type of proposal. They have been retained to ensure the Trust's interests are protected and not jeopardised through this model.

3 Does the SubCo have to tender for the contract?

No, it does not have to tender for the Trust work it undertakes, as the Trust can directly award a contract to SubCo so long as 80% of the business that SubCo provides, is to the Trust.

4 How long is the contract for and what happens at the end of that period?

This has not been finalised, most examples of a Fully Managed Healthcare contract are 15 to 25 years. At the end of the contract the Trust can simply renew it (without recourse to a procurement), bring the service back in house or tender it on the open market.

5 What does TUPE mean?

TUPE stands for Transfer of Undertakings and Protection of Employment. It is a regulation formed in 2006 and forms part of UK labour law requirements under the European Union Regulations. In summary, it means that if the work an employee does, transfer to a new employer, they have the right to follow that work and be employed by the new company. Moreover, they have the right to take their current Terms and Conditions of employment with them which includes things like their current salary, pension arrangements, holiday and sick pay entitlement.

6 After the transfer, when would employees get an up to date written statement of employment, giving the name of the new employer and stating that their Terms and Conditions haven't changed?

Following a decision by the Board to recommend the implementation of the SubCo and the commencement of a formal consultation process, we would be discussing with staff all of the steps that we would need to take to establish the SubCo. If following the consultation period the decision is taken to proceed with the SubCo, all staff affected will have written confirmation of the terms of transfer, including protection of their current Terms and Conditions for the life of their employment with us, either with the Trust, or the SubCo.

7 Would creating a SubCo on less preferential long-term Terms and Conditions de-skill the current NHS workforce?

It is not the intention that new staff coming to work in the SubCo will be employed on less preferential Terms and Conditions though their employment package maybe re-shaped so for example they receive a smaller pension contribution from their employer but have access to more training and development opportunities.

8 How will you ensure staff remain working within the SubCo?

These are similar issues that we would face whether we were operating in a standard divisional structure or within a SubCo. Staff have freedom of choice in where they work and who they work for. It is our intention to ensure that through the way we manage, support and develop staff, along with the overall employment package, that we retain staff in the SubCo and increasingly become the employer of choice for staff working in this sector of employment in and around Gloucestershire.

9 As the SubCo is only viable as long as it is useful to the Parent Trust, what will happen when it is not?

There is NO scenario in which the Trust will not require the services of an Estates and Facilities provider or a sterile services function. It is up to the Trust to decide what it would do with the SubCo when contract comes to the end of its term. Based on current procurement rules, as the SubCo will be fully owned by the Trust and will be providing more than 80% of its services to the Trust, there is no need to go to tender or procurement after the contract expires. The Trust can directly award the contract again to the SubCo, it could bring the service back in house or tender it on the open market. There is no reason to assume the Trust would be any more likely to involve the private sector than it is today at any time during the contract or once the contract expires just because the subsidiary is in existence – in fact it is less likely because the subsidiary should be able to provide a service that is more competitive than the current 'in-house' provision thus reducing the need to consider out sourced models.

10 As this is a new style of NHS company with no proven track record, what assurance or protection can staff expect?

All staff will transfer on their existing Terms and Conditions and it is important to remember that the SubCo is a wholly owned subsidiary of GHNHSFT with all the assurance and protection that that brings. A successful SubCo should protect staff against the risk of the services being outsourced or privatised.

11 Will there be a structural re-organisation before/during or after the formation of the SubCo?

There are no structural reorganisations planned as a consequence of SubCo, however, any organisation reserves the right, at any point, to review its organisational structure and that applies in the Trust now, as it would under the formation of SubCo.

12 If the SubCo is a conduit for returning savings to the parent Trust, where is the investment for training/new equipment/etc. going to come from?

The reinvestment for training and development and new equipment will be realised from some of the savings we anticipate coming from the formation of the SubCo and from providing a staff benefits package that places greater emphasis on training and development than pensions for example.

13 Is there a Trust with a comparable model that we could consult with?

There are a number of other Trusts who are different stages of maturity in terms of establishing a SubCo or similar structure. We are currently in discussion with a number of these and will be pleased to share some of the learning with staff during our engagement process.

14 Do employees terminate their current NHS contracts?

No, under TUPE staff will transfer to the SubCo with the benefit of their existing Terms and Conditions of employment preserved.

15 If so, what will happen to those employees who refuse to sign their new contracts?

Staff will not be required to sign new contracts as they will automatically transfer on their existing Terms and Conditions. If any staff do not wish to transfer, the Trust will make reasonable efforts to identify alternative roles within the Trust that are available and which such staff may wish to be considered for. However, alternative employment with the Trust cannot be guaranteed. Such staff should recognise that if they do not wish to transfer to the SubCo, this will not constitute a redundancy situation and NHS redundancy arrangements will not be available to them.

16 How long after TUPE transfer would the current NHS workforce remain on comparable Agenda for Change Terms and Conditions?

All staff will transfer on their existing Terms and Conditions and it is important to remember that the SubCo is a wholly owned subsidiary of GHNHSFT with all the assurance and protection that that brings. We have committed to maintain the Terms and Conditions of staff who transfer for the lifetime of their employment with us (see Q6); a key part of the Trust's offer to staff is to ensure that their transferring Terms and Conditions remain and are not eroded over time.

17 What long-term redundancy arrangements would the SubCo have? State, Private or NHS?

Transferring staff will retain the same Terms and Conditions which include the NHS redundancy terms. For those new staff joining the SubCo new Terms and Conditions will be developed and will be communicated in due course.

18 Under TUPE, the new employer can change an employee's Terms and Conditions if the reason is an 'economic, technical or organisational reason' involving changes in the workforce or workplace. What protection is there for staff from changes and what assurances can be given that no changes to NHS employee's existing contract (i.e. Agenda for Change) can be implemented after TUPE transfer?

Refer to Q16.

19 How will cost of living pay rises be calculated in the future?

For those staff who transfer into the SubCo the current arrangements for both incremental progression and the cost of living pay rise will continue. For new staff employed into the SubCo Terms and Conditions need to be developed including the arrangements for pay increases.

20 Would wage rises awarded to NHS staff still apply to the SubCo?

Refer to Q19.

21 Under TUPE, employees company pension rights earned up to the time of a transfer are protected. Will the new employer continue an identical pension for the period up to retirement?

All staff transferring to the SubCo will transfer on their existing Terms and Conditions, which includes NHS pension provision.

22 How is SubCo funded?

The main funding of a Company of this type is via a monthly (unitary) payment made by the Trust to the Company for the provision of the agreed range of services to the Trust, set out in a contract between the two parties. This unitary payment is very similar to the budget the Trust currently gives to the Estates & Facilities Division for the provision of services to the wider Trust.

23 What happens if SubCo fails?

The SubCo is owned 100% by the Trust and it is therefore in the Trust's interests that SubCo is not allowed to fail. In a scenario where the SubCo is losing money for example, the Trust can effectively decide to pay the SubCo more by increasing the Unitary Charge (annual payment for services) if there was evidence that the loss arose from underfunding or if the losses arose because the SubCo was deemed to be inefficient then it could put the SubCo in "special measures" and drive it to reduce its losses – this could include removing and replacing key management personnel. This is very similar to the approach the trust would currently take to one of its Divisions if it were failing to live within its budget.

The Subsidiary and Trust will plan funding, budgets and expenditure to the greatest extent possible to avoid a loss making position occurring. Although there will be a commercial relationship between the Trust and Subsidiary which passes risk to the Subsidiary, there will also be some flexibility in the contract to enable the Trust to take action to amend the Unitary Charge (UC) if appropriate to ensure the Subsidiary has sufficient income to manage its planned and actual expenditure. This is similar to the arrangements for an overspending or underfunded division within the Trust.

24 The amount of destruction that's being caused by collision damage and neglect, also the amount of equipment that is end of life, will we be accountable as SubCo for the cost to ensure and redeem compliance?

The extent to which we invest in our estate and equipment is determined by the capital funds available to us and this is no different whether building and equipment is the responsibility of the Trust or SubCo. However, the approach to back log maintenance and equipment renewal will need to be carefully and clearly set out in the contract between the two parties.

25 Who directly owns SubCo?

The Trust is the sole shareholder and therefore owner of SubCo.

26 Is SubCo a profit making company?

To attract the VAT benefits, the SubCo is required to make a margin (or profit) on its activity. However, and importantly, all profit after tax is paid to its shareholder the Trust..

27 Who has the experience to run and manage the company SubCo?

The Board of the SubCo will be appointed appropriately to ensure the company is run correctly, training and support will be provided for managers to ensure they understand the requirements. This may require new individuals to be recruited to the Board of SubCo and the constitution affords for this opportunity. For example the Chair of SubCo Board will be a new person, recruited for their commercial expertise in running such organisations

28 If Neil Jackson and Terry Hull were to resign what would happen to SubCo?

Exactly the same as if they were to resign from the Trust. They would be quickly replaced with individuals with the skills and experience required for the roles in question..

29 Would there be a break in NHS service when transferring to SubCo?

No, your continuous NHS service transfers under TUPE.

30 Whose responsibility are current assets known to be end of life?

The condition and liability for current assets is retained by the Trust, unless SubCo agrees to take on that asset. SubCo will have varying liability for the assets it takes on. This is all required to be set out as part of the contract between the Trust and SubCo.

31 What happens when the government the removes the tax loop hole?

SubCo does not exploit a tax loop hole. It takes advantage of the taxation flexibility open to public sector organisations when the contract with third party suppliers.. KPMG is supporting the Trust to identify the relevant tax issues, risks and efficiencies. Wherever possible the greatest degree of certainty from HMRC will be sought.

The Trust will be seeking a Tax 'clearance' from HMRC regarding the VAT position for the Trust and the Subsidiary. If HMRC provide a clearance then this should provide the Trust and Subsidiary with certainty regarding the VAT position for the length of the contract, even if there is a subsequent change in HMRC policy.

Notwithstanding this, the VAT position in the UK post-Brexit is still unclear and the impact on existing clearances or 'convention' regarding VAT treatment is uncertain. There has been commentary regarding existing tax rules remaining the same post-Brexit, and it is worth noting that the rules related to this type of arrangement 'COS' rules are a specific UK VAT position which is unlikely be impacted by Brexit.

The Trust will continue to monitor this position closely throughout the project both pre and post implementation.

Any changes to current legislation would affect many, many organisations and not just SubCo models such as the one being proposed.

32 If the Trust decides to tender EFD to the market, what are employees' redundancy rights? i.e. length of service with the NHS or SubCo taken into account?

Refer to Q17.

33 If specific departments of EFD are under performing would this have an overall effect on all departments within the SubCo and the contract term?

No more so that it would under current arrangements. If the majority of departments were under performing this would trigger action from SubCo and the Board to remedy this situation, under the terms of the contract.

34 Are other departments within the Trust venturing this tax relief?

The Trust is entering into a Managed Service Contract for theatre equipment and services to realise a VAT benefit of c£1m per annum. This requires some staff such as those working in sterile services to transfer to SubCo and these savings are included in the overall savings for SubCo, mentioned above.

35 Do we have a choice?

TUPE applies automatically to transfer the employment of all employees working in those areas of the Trust whose activities are to be carried on in future by the SubCo. If any staff do not wish to transfer, the Trust will make reasonable efforts to identify alternative roles within the Trust that are available and which such staff may wish to be considered for. However, alternative employment with the Trust cannot be guaranteed. Such staff should recognise that if they do not wish to transfer to the SubCo, this will not constitute a redundancy situation and NHS redundancy arrangements will not be available to them.

36 Why do we need to set up a subsidiary?

The Trust is living significantly beyond its means – currently to the tune of spending £23m more per annum than it earns. It is required to address this under the terms of its license. The establishment of SubCo is a means of making savings by paying less taxation as opposed to making savings through reduction in staff or less investment in clinical services.

37 Will it affect my pay?

No, your Terms and Conditions, including salary remain the same and your current pay arrangements continue whilst you are employed by SubCo unless you chose to transfer to the new contract.

38 Will the management structure stay the same?

This level of detail has not yet been developed.

39 Will CSSD still report to the Surgical Division?

No, if the SubCo proceeds, CSSD would report into the SubCo management structure.

40 What about my annual leave entitlement?

Your annual leave entitlement is protected along with your other Terms and Conditions under law by TUPE.

41 Will the move affect my pension?

All staff transferring to the SubCo will transfer on their existing Terms and Conditions, which includes NHS pension provision and this will remain the case whilst they are employed by SubCo.

42 Will my salary sacrifice be affected in any way i.e. Trust Nursery provision, NHS staff discounts etc.?

No, your salary sacrifice will not be affected and staff will continue to have access to the benefits staff directly employed by the Trust have.

43 Will sick pay entitlement change?

No, staff who transfer to the SubCo retain their existing sick pay entitlement as this is part of their Terms & Conditions which are protected and transferred under TUPE.

44 Will my hours be affected?

No, your hours will not be affected by transferring into a SubCo though as with current arrangements, any staff members may be reviewed and revised as the service need dictates but this is always done in consultation with staff.

45 Will we stay as 2 sites or is CGH closing?

Estates & Facilities and Sterile Services will continue to be provided on both sites. There are no plans to close CGH CSSD; this proposal was halted some months ago..

46 Will we still be entitled to onsite parking permits and how will payment be taken if we have different pay slips?

Yes, staff in the SubCo will be entitled to parking permits and payment will be taken from salary as it currently does.

47 Are we able to still use the 99 bus to get across sites?

Yes, staff in the SubCo will be able to use the 99 service.

48 Will we still be able to use Occupational Health?

Yes, staff in the SubCo will be able to access Occupational Health services.

49 Would staff be required to re-apply for their jobs and would the pay scales reflect experience, qualifications and capability?

No, staff will transfer into the SubCo, they will not have to apply for their current role.

50 Will we have staff side and HR consultations?

Yes, all staff affected will be fully consulted with and this process will involve HR and Staff Side representatives.

51 Who will be the shareholders?

The Trust is the sole Shareholder and no individual will be entitled to own shares.

52 Who will become the Directors?

The SubCo Board of Directors will comprise members of the Trust Board including Executive and Non-Executive Directors, Members of SubCo Senior Management and there will be a new independent Chair who will be someone with expertise in this sector.

53 Are there any safe guards to transfer staff back if the company fails to comply with the service level agreement or contract it is signed up to?

The Trust Board will only approve the establishment of a SubCo if they are confident that the company can deliver services successfully. If at any point the Trust decides to terminate, or not renew, the contract because of performance failings then staff would, under TUPE, have the right to transfer to the new provider which might be the Trust or another party.

54 Who will become the monitoring body?

The SubCo will be accountable to the Trust Board who will be the “monitoring body” and who will put in place arrangements for monitoring the performance of SubCo through a sub-committee of the Board.

55 What if tax law changes?

Refer to Q31 above.

56 Will budgets be devolved to individual Divisions?

The budget for commissioning services from SubCo will be held centrally, not by individual Divisions.

57 The presentation showed providing services to other customers. Is the potential for delivering Estates services to the STP, other Trusts and other public service organisations being considered? Would this potentially involve merging with their existing Estates services teams?

Providing SubCo provides no more than 20% of its services for other customers it could undertake services for others including those within the STP as it does now but the focus of SubCo is to provide excellent services to Gloucestershire Hospitals..

58 Who will represent us in negotiating TUPE terms?

We have already committed that transferring staff will retain their current Terms and Conditions on transfer to the SubCo for the lifetime of their employment with us. However, it is the Trust’s intention to involve staff and their representatives in discussing the broad proposals for establishing the SubCo and to consider their feedback, as well as establishing ongoing dialogue in shaping the future organisation. Further, the Trust will be engaging with employee and trade union representatives to comply with its obligations to inform and consult with affected staff about the proposed TUPE transfer to the SubCo.

59 How can we ensure they are fully representing our specific concerns and needs?

The Trust Board and Staff Side are fully committed to ensuring all the concerns that staff raise are properly considered during the consultation process. All questions raised will be published and responded to through regularly updated versions of the Q&A. If you are concerned that your Union is not representing your views then you have the right to take this up with your regional or national union officer.

60 Will development and implementation of a longer term Estates strategy be put on hold until the SubCo has been formed?

No.

61 Historically and Estates strategy has been dependant on a clinical strategy which never materialises. Will this issue be overcome under the planned SubCo agreement terms?

The creation of SubCo will not alter the way in which the Trust develops strategy. The Trust has an existing clinical strategy and this is being refreshed currently to support the proposed changes to service configuration. Responding to this clinical strategy will be the job of the strategic estates team whether in the Trust or in SubCo.

62 How will roles be TUPE'd if job descriptions are not up to date or, as in some cases, non-existent? Is it management or the individual's responsibility to ensure their job descriptions reflect our current job roles?

Staff are transferred into the SubCo in their current post/role, this is not affected by whether your Job Description is up to date or not. However, the creation of a SubCo is an excellent opportunity to ensure staff roles and duties are clear to staff and documented.

63 What are the projected decision-making milestones for delivery of this initiative?

These are under review as the Board has decided that more time is required to properly understand the proposal and prepare for implementation, if they decide to proceed. Currently, the intention is to consider the proposal at the November 2017 Board with a view to starting staff consultation in late November. If the proposal proceeds, then establishment is likely to be between February and April 2018.

64 What are considered to be the top 3 issues and risks of this proposed initiative?

Risk that staff are not supportive of the proposal and morale is affected which could result in staff choosing to leave the Trust.
Risk that the Board does not approve the establishment of the SubCo and savings have to be found elsewhere with potentially more adverse impact.
Risk that HMRC approval is not granted and time, effort and money is wasted.

65 Is there a directive from the Trust Board to assess the viability of implementing a SubCo?

Yes, the Trust Board believes it should investigate all opportunities that help the Trust to get back into financial balance and has approved investigating the option to establish a SubCo.

66 Would SubCo pay to utilise existing GHNHSFT services e.g. HR, Payroll? How will this ultimately benefit GHNHSFT if SubCo profits are ploughed back into GHNHSFT?

SubCo will pay for the Corporate Services it contracts with the Trust for it to provide. All profit after tax is paid to its owner the Trust.

67 Why have we allowed services to become so lean there is no opportunity for training and development; we should be doing this now, how will subs fix this?

We do provide statutory and mandatory training to our staff currently but over the years, investment in development training has declined due to the requirement to deliver year on year cost savings. The development of a SubCo, and notably the development of new Terms and Conditions for incoming staff, will enable us to invest in the training and development of new staff through investing more of the current staff 'overhead' in training and development as opposed to pension contributions for example. We believe this approach would make us more attractive to staff working in this sector but outside of the NHS.

68 We already have apprentices in the organisation therefore we should be growing the workforce through this route to replace the retirees not creating subs?

There are a number of advantages for the Trust in creating a SubCo alongside developing the workforce. Apprentices are just one means of doing this and these will remain an important feature of the SubCo workforce.

69 We need assurance re pensions for the staff groups affected?

Staff transferring to the SubCo will do so on their existing Terms and Conditions including NHS pension provision. We have committed that they will be able to maintain their current Terms and Conditions throughout their employment with either the Trust or with the SubCo.

70 I work with catering, portering and domestic staff every day, they are the backbone of the hospital, are on very low wages but provide an outstanding service for patients and colleagues. Our senior management must look them in the eye and tell them why this is beneficial. The only benefit appears to be the VAT rebate (to me) I am not convinced this will benefit staff or patients?

We recognise the value of all our staff, including those in catering, portering and domestics and agree they provide an outstanding service for patients and colleagues. We understand the importance of explaining to staff directly and precisely why we are doing this and we will set this out in broader communications, both in written form and face to face. The VAT benefit is a major reason for considering this proposal and the scale of savings cannot be overlooked.

71 We have difficulty recruiting to Estates and Facilities now, with less attractive Terms and Conditions. How will we recruit?

We recognise that if the proposed new Terms and Conditions (as yet undeveloped) are perceived to be less attractive than our current Terms and Conditions we would not be able to recruit or retain staff. Therefore our intention is to develop revised Terms and Conditions which improve our ability to attract and retain in the current employment market so that we are more, not less, attractive than at current. We do not compete for Estates & Facilities staff within the NHS but from within the local economy.

72 There is so much goodwill in these staff groups; if we treat them like contractors they will behave like contractors, and we will have a poor service. I don't have clean wards now and am concerned they will deteriorate further?

There is no desire or intention to treat this valued staff group as 'contractors'. It is absolutely vital that we maintain the goodwill we enjoy from this staff group. This will be demonstrated in how we support our staff who transfer into the new SubCo and also those future employees who join us post the formation of SubCo. It is our intention that we treat them as full members of the NHS family and that we all share the same values and ethos about how we treat patients and how we treat each other. This risk of NOT developing SubCo is that the Trust may be forced into other less attractive models such as outsourcing, where staff would not be part of the NHS family or employed by a company owned by the Trust.

73 What assurances do we have that the VAT benefits will be for the length of the contract, taking into account Brexit may change things?

KPMG is supporting the Trust to identify the relevant tax issues, risks and efficiencies. Wherever possible the greatest degree of certainty from HMRC will be sought, although there is no guarantee HMRC will provide this.

The Trust will be seeking a Tax 'clearance' from HMRC regarding the VAT position for the Trust and the Subsidiary. If HMRC provide a clearance then this should provide the Trust and Subsidiary with certainty regarding the VAT position for the length of the contract, even if there is a subsequent change in HMRC policy.

Notwithstanding this, the VAT position in the UK post-Brexit is still unclear and the impact on existing clearances or 'convention' regarding VAT treatment is uncertain. There has been commentary regarding existing tax rules remaining the same post-Brexit, and it is worth noting that the rules related to this type of arrangement 'COS' rules are a specific UK VAT position which is unlikely be impacted by Brexit.

The Trust will continue to monitor this position closely throughout the project both pre and post implementation.

74 What is likely to happen once the contract expires? Will a private company be able to bid for the tender or take over the SubCo?

It's up to the Trust to decide what it would do with the contract after it expires. Based on current procurement rules, as the SubCo will be fully owned by the Trust and would be providing more than 80% of its services to the Trust then there is no need to go to tender or procurement after the contract expires, the Trust can directly award the contract again to the SubCo and this is the intention. The Trust will ensure that no more than 20% of services are provided outside of the Trust to prevent a procurement being triggered.

There is no reason to assume the Trust would be any more likely to involve the private sector than it is today at any time during the contract or once the contract expires just because the subsidiary is in existence – in fact it is less likely because the subsidiary should be able to provide a service that is more competitive than the current 'in-house' provision.

75 If there are no reassurances of either of the above, how can we be sure that anyone involved in this initial process will not be in a position for financial gain if it does get into private hands?

The Trust as the sole shareholder has complete control of the Company and key decisions (such as private sector involvement) would require formal Trust consent as such decisions would be matters reserved to the Trust Board.. All individuals within the company are salaried employees and subject to formal governance arrangements of the Trust at the initial stage and of the Company that will be in place going forward. No individual employee within SubCo will own shares.

76 What will happen if the SubCo starts losing money?

Refer to Q23

77 Is the charity route of feeding the money back into the trust ethical and legally water tight?

If the Trust chose to do this it would be both ethical and lawful. The charitable reference refers to the position where the Subsidiary could chose to pay some/all of its taxable profits to a charity under Gift Aid to benefit from a deduction against corporation tax.

This is a common approach taken by groups of organisations which include a charitable organisation. There are rules regarding the payment of Gift Aid that would need to be considered and adhered to as required by law.

78 Has any consideration been given to quantifying the consequence of staff goodwill and morale being taken away?

Refer to Q72

79 Is the Trust aware of the scale of the bad feeling being produced by the way this has been handled?

We are aware of staff concerns, this is fully understandable given the scale of change which these proposals involve. Our aim is to make sure all staff affected receive answers to their questions and the information they need, to ensure they understand precisely what is proposed and how this may impact them. We are also aware that the Trust has come under criticism from staff because of the handling of communications to date and we are seeking to address this perception including running a number of face to face listening events in the coming weeks.

80 Why has there not been more information passed down?

So far there have been a number of staff briefings although we recognise that there was a limited amount of information that we were able to disseminate in these briefings. This is still a matter for consideration and at this stage no formal decisions have been made. It has always been our intention to increase the amount of information that we provide to staff as we develop our proposals and ensure that we respond fully to staff questions.

81 What guarantees can be given that the Terms and Conditions will be kept and for how long?

All staff transferring to the new SubCo will transfer on their current Terms and Conditions and we have made a commitment that they can retain these Terms and Conditions throughout the tenure of their employment with SubCo i.e. terms will not be eroded over time as can sometimes be the case with TUPE transfers.

82 Will the pensions be affected? If not why have private pension companies been approached?

All staff transferring to the new SubCo will transfer on their current T&Cs which includes NHS pension provision. For those new employees joining the SubCo the exact pension offer will be considered whilst developing the new T&Cs, at this stage these proposals have not been developed and no private providers have been approached though the Trust will want to develop some form of pension offer for new staff as they will not be eligible to join the NHS scheme.

83 One of the queries or questions I have about SubCo was regarding apprenticeships. I know that the Estates and Facilities division employ a number of apprentices in various areas and I wanted to ask how this would be affected by SubCo. As apprenticeships come under the auspices of education and development I assume if there was any effect they would need to be brought into the consultation as well?

Apprentices are a vital part of our strategy to ensure that we secure our workforce of the future. The education and development department would continue to support the SubCo in developing and supporting apprentices in exactly the same way as they do now.

84 How long will it take HM treasury to notice loophole in the trust paying less VAT than we do currently?

Refer to Q73

85 How have other organisations both in the NHS and Councils gone about rolling this out?

In the establishment of a wholly owned subsidiary for the purposes of providing a 'Fully Managed Healthcare Facility' most organisations have undertaken a similar process to that being undertaken by the Trust. A number of SubCo organisations have been created initially to support the construction and operation of new building developments and then have subsequently taken on the existing buildings, whilst others have transferred the operational management of existing assets into the Company. As a result of the nature of the business or current arrangements the scope of the SubCo may be slightly different to that proposed in this case.