The Mid Yorkshire Hospitals
NHS Trust

Outline Business Case for the Future Support Services Operational Model

May 2018

Striving for excellence

Version Control

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Contents

1 Executive summary

1.1 Introduction

This outline business case (OBC) sets out options for the future provision of a range of in-scope support services across the Mid Yorkshire Hospitals NHS Trust (MYHT). The business case takes as its starting point, the West Yorkshire Association of Acute Trust's (WYAAT's) business case for the development of a wholly owned subsidiary (WOS) and responds to the MYHT's Board's request for a more detailed OBC to be produced setting out the specific impact on MYHT.

The scope of this business case is the following services that could be transferred into a WOS:

- Estates operational maintenance (for the retained estate only);
- Capital planning and delivery;
- Facilities management;
- PFI management;
- Medical physics;
- Hospital Sterilisation and Disinfection Unit (HSDU);
- Information technology (IT) services (but not information management or information governance);
- Procurement and materials management.

The size of the in-scope services is indicated by staff numbers and budgets as shown below.

Figure 1: In scope services budgets and staff numbers

Service	Staff in post (headcount) March 2018	Staff in post (w.t.e.) March 2018	Total budget net of income £000s
Estates Operational Maintenance	56	52.1	*****
Capital Delivery	7	6.6	*****
Facilities Management	672	469.2	*****
PFI Management	4	4	*****
Medical Physics	31	29	*****
HSDU	92	74.3	*****
IT	60	56.5	*****
Procurement	19	16.8	*****
Total	**941**	**708.5**	*****

Not included in the table above are consumables and equipment budgets of over £30m, held within clinical departments which could be brought within the materials management element of a new support service.

NHS Trusts have the power to form a corporate delivery vehicle for income generation purposes, if they receive the approval of the Secretary of State for Health. In compliance with the Act, MYHT will be seeking approval for this business case from NHS Improvement (NHSI) and the Secretary of State.

1.2 Strategic case

The Trust is a member of the West Yorkshire and Harrogate sustainability and transformation partnership (STP) which has set out plans as to how the system can close the £1.07bn financial gap forecast by 2020/21. The largest element of the solutions described in the STP plans relate to provider-side efficiencies. WYAAT's plans to redesign the delivery of support services have been progressed through the WYAAT project to create an estates and facilities special purpose vehicle (SPV). The project's drivers are:

- The opportunity to consolidate services based on the STP footprint and take a more regional approach;
- Potential cost benefits associated with working at scale;
- Quality, particularly the incidence of unwarranted variation;
- Workforce development and resilience;
- Commercial resilience – seeking a model whereby there is greater flexibility and opportunity to respond and adapt to changes in the market.

Support services are of critical importance to the running of the Trust, however, as "support" rather than patient facing clinical services, they risk receiving less investment and management focus than necessary. There is a long history across the NHS and wider public sector, of finding new ways to provide greater investment and support into support services and MYHT's PFI arrangement was a good example of this. More recently has been the move by some trusts to create wholly owned subsidiaries. The benefits of establishing a WOS are similar to those associated with outsourcing and shared service arrangements i.e. the WOS:

- Allows trusts to concentrate on core services to patients whilst ensuring that support services are commercially focused on delivering high quality services;
- Provides TUPE protection for staff ensuring that existing terms and conditions are maintained for transferring staff.

In addition, a WOS rather than traditional outsourcing approach also has the benefit of:

- Not materially changing service provision i.e. the same services are provided by the same staff – this could be expected to lead to greater workforce resilience;
- Creating the opportunity to repatriate into NHS WOS staff previously outsourced;
- Providing the opportunity for the subsidiary to generate income and bid for contracts on the same basis as other businesses with the profit retained for the NHS;
- Benefitting from senior staff with detailed knowledge of the Trust transferring to the WOS;
- Creating an NHS owned organisation which would have, a clear commercial strategy distinct from the Trust and the ability to adopt a more commercial approach to the issues of service provision and the development of new markets and income streams;
- Having the ability to incentivise staff through their employment terms;
- Minimising reputational risk because the WOS remains part of the wider "NHS Family".

A final potential benefit of a WOS is that outsourcing has potential tax advantages because it can create a situation whereby a trust can benefit from the potential of itself and the outsource provider to reclaim VAT on input costs. The Department of Health recently clarified that trusts must not enter into contractual arrangements solely to gain a tax advantage[1]. It is permissible for trusts to enter into contracts that provide a tax advantage as a by-product of the structure of the contract, if the contract can be demonstrated to be for genuine commercial benefit, but the tax advantage must not be sole reason for the contract. If a tax advantage were the sole reason for entering into a commercial arrangement, then the Trust would risk being found guilty of tax evasion. This has led NHSI to make it clear that business cases for the creation of a WOS by NHS Trusts, will only be approved if they withstand scrutiny without the inclusion of potential tax advantages.

The Trust's response to the case for change is to review options for the future provision of the in-scope support services. The potential benefits of collaboration across WYAAT were used to agree a series of benefits criteria which were used to assess WHAAT-wide collaboration options and the MYHT-specific options appraised in this business case (see Section 3.7).

A number of strategic risks to the delivery of the project have been identified (see Section 3.8) – these were also appraised as part of this business case.

1.3 The economic case

The following options were appraised for their respective non-financial benefits, risks and economic costs:

- Do nothing;
- Lead provider model;
- A MYHT WOS.

To maintain consistency with the WYAAT programme, MYHT used the same non-financial benefit criteria and associated weightings, as used in WYAAT appraisal. The results of the non-financial benefits appraisal were as per the table below.

Figure 2: Benefit appraisal weighted scores

Criteria	Option 1 (do nothing)	Option 3 (lead provider)	Option 4 (WOS)
Creating greater workforce resilience and bringing more opportunities for individuals creating better job satisfaction	12.72	7.95	15.90
Enables the adoption of a single set of KPI's for performance management	3.04	3.04	3.04
Providing an efficient, effective and quality managed equipment and consumables service	1.44	7.20	14.40
Creating greater commercial resilience by implementing a model whereby there is	5.20	6.50	13.00

[1] Letter to NHS Provider Finance Directors from Department of Health, 28th September 2017.

Criteria	Option 1 (do nothing)	Option 3 (lead provider)	Option 4 (WOS)
greater flexibility and opportunity			
Reducing the incidence of unwarranted variation in line with objectives of the Model Hospital	2.34	3.51	2.34
Developing a Pan-Trust Sustainability Plan which can deliver reductions in carbon across West Yorkshire	1.05	5.25	10.50
Supports E&FM service achieve the Carter benchmark of lower and mid quartile in terms of ERIC data	0.74	0.74	0.74
Increases the ability to realise savings through capital development and disposals by providing access to capital	0.51	2.55	5.10
Facilitates investment in different areas of the business such as investment in technology and / or infrastructure	0.36	1.80	3.60
Providing services across the trusts at the level of the Highest Quality Provider	2.56	3.20	2.88
Total weighted score	**29.96**	**41.74**	**71.50**

Option 4 (creating a WOS) was ranked highest for non-financial benefits (see Section 4.4).

The economic appraisal was undertaken in line with HM Treasury Guidance. There were three variants of Option 4 modelled – these varied in relation to staff terms and conditions. The table below summaries the results of the financial appraisal (see Section 4.5), showing each option's relative financial benefit at current prices and using NPV.

Figure 3: Financial appraisal results (£000s)

Indicator	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Total 5-year saving	Rank
Current values (000s)								
Option 1	£0	£0	£0	£0	£0	£0	£0	5
Option 3	-£140	-£210	£304	£354	£405	£445	£1,158	4
Option 4:								
AN Other model	-£140	£9	£1,103	£1,420	£1,737	£2,034	£6,163	1
AN Other-lite	-£140	-£135	£813	£986	£1,158	£1,310	£3,992	2
NHS T&Cs	-£140	-£207	£671	£772	£873	£953	£2,923	3
NPV (000s)								

Indicator	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Total 5-year saving	Rank
Option 1	£0	£0	£0	£0	£0	£0	£0	5
Option 3	-£140	-£203	£283	£319	£353	£375	£988	4
Option 4:								
AN Other model	-£140	£9	£1,029	£1,281	£1,513	£1,712	£5,405	1
AN Other-lite	-£140	-£131	£759	£889	£1,009	£1,103	£3,490	2
NHS T&Cs	-£140	-£200	£626	£696	£760	£803	£2,546	3

The three variants of Option 4 (WOS) were all ranked higher than options 1 and 3. A appraisal of the risks associated with each option was also carried out (see Section 4.6). The risk appraisal concluded that setting up a WOS was less risky than the alternate "change" option (lead provider).

Figure 4: Risk appraisal outcome

Risk	Likelihood scores		
	Option 1 (do nothing)	Option 3 (lead provider)	Option 4 (WOS)
Exposure to reputational and operational risks including unrealistic and non-deliverable timescales	4	12	8
Exposure to commercial risk	2	2	4
Quality of clinical services will be adversely impacted	4	12	8
Failure to engage staff	5	15	10
Complexity of setting up new arrangements (new processes and procedures) causes confusion and inefficiencies in clinical and corporate services	3	6	9
Total risk score	**18**	**47**	**39**

Option 4, a MYHT WOS is the preferred option under the value for money test which considers all three aspects of the appraisal "in the round", as demonstrated in the table below (options ranking shown in brackets).

Figure 5: Value for money summary

Measure	Option 1	Option 3	Option 4
Benefits score / (rank)	29.96 (3)	41.74 (2)	71.5 (1)
Financial appraisal (NPV) £000's	£0 (3)	£988k (2)	£2,546k - £5,405k (1)
Risk appraisal	18 (1)	47 (3)	39 (2)

There are no credible scenarios under which the order of preference would switch from Option 4 being the preference to Option 3 (or Option 1).

The conclusion is that MYHT will set-up a wholly owned subsidiary which has the purpose of:

- Delivering support services to the Trust. The range of support services delivered by the WOS is as described above, although the Trust will leave open the option of transferring more services into the WOS where this makes sense to do so;
- Pursuing commercial opportunities to generate profit for MYHT. Income generation will be an important aspect of the WOS's role, but in line with "Teckal" rules at least 80% of WOS activities will relate to the provision of support services to the NHS.

The Trust intends to transfer certain assets to the WOS. The WOS will be wholly owned by MYHT and will be established on a consistent basis with WOS set-up by other trusts within WYAAT. This creates the opportunity for the WOS to collaborate and potentially bring together certain services into a joint organisation at some point in in the future.

There are over 700 w.t.e. MYHT staff working across the departments which would transfer under TUPE rules, into the WOS. Staff will TUPE to the WOS under their existing terms and conditions. These terms and conditions will be maintained for the duration of the contract between the WOS and the Trust for all transferring staff.

1.4 Commercial case

The WOS will be set-up under the "Teckal exemption" which allows public sector organisations to set-up a separate legal entity to carry out some of the body's tasks without a procurement provided that the contracting authority (in this case MYHT) exercises over the company (the WOS) and that no more than 20% of the entity's activity is carried out for third parties.

The recommended delivery vehicle for the subsidiary company is a company limited by shares. MYHT would own 100% of the shares.

The initial service offer is expected to encompass the support service functions described in Section 2.4. The WOS will put in place an employment model that aims to motivate and reward staff appropriately; enable the WOS to respond quicker to market opportunities; allow the WOS to operate with greater autonomy and flexibility than is currently allowable as a Trust directorate; encourage close working with staff side representatives.

WYAAT has proposed that each trust will form their own company and transfer staff under existing terms and conditions individual trust WOS. In parallel work will begin to look at the development of service-by-service Improvement plans to establish opportunities for wider collaboration including with other public-sector bodies. This phase of work will include consideration of the potential creation of a single WOS for delivery of specialist services on a WYAAT footprint basis or alternative such as local trust WOS remaining in place and a separate WYAAT WOS being established to operate those services where a wider footprint would make sense.

Shortly after the planned "go live" date for the MYHT WOS (see Section 7.5), there will be an opportunity to consider the option of in-housing some functions currently provided via the PFI contract.

The Trust will need to agree the term of the contract for specialist support services that it enters into with the WOS. The WYAAT business case proposes a contract term of 25 years.

The WOS is likely to be incorporated with articles of association which will form the basis for the governance framework, including provision for the Trust to establish certain restrictions on WOS as may be appropriate to its governance.

The Trust's intention is that the WOS would take over responsibility for managing and operating the Trust's retained estate, relevant assets and the services that are necessary to make the estate fully functioning. To achieve this, the Trust will either:

- Grant a leasehold interest in respect of the relevant estate and assets to the WOS;
- Or transfer the assets to the WOS through a freehold sale.

The exact details of asset transfers will be worked through in the FBC, but initial indications are that:

- Existing stocks of consumables will be sold to the WOS at holding value;
- Equipment assets such as IT, HSDU and medical physics equipment would also be sold to the WOS at net book value;
- Whilst land and buildings can also be sold to the WOS (and once again this will be tested at FBC), at this stage, indications are that freehold ownership and existing leases will remain with MYHT. The PFI contract will not transfer.

The range and scope of asset transfers will impact upon the Trust's future ability to recover input VAT.

The Trust will need to put in place leases between itself and the WOS, for land and properties that the WOS will need to use to fulfil its duties (the advice is that a lease is preferable) – details of the properties concerned are shown in Section 5.10. We also anticipate a need to novate several existing contracts, for example equipment maintenance and some service provision contracts such as pest control, to the WOS.

1.5 Financial case

The financial case tests the "affordability test" of the proposal to MYHT - the requirement is that the preferred option must not make worse the Trust's financial position.

The impact on the Trust's financial position is presented below from the perspective of impact on the consolidated group accounts MHYT would need to produce if a WOS is established. The tables below summarise the financial impact of the Option 4 sub-option (Agenda for Change terms and conditions are retained).

Figure 6: Impact on I&E – NHS T&C option

Option 4 (NHS T&Cs)	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Total 5 year saving
Staff T&C	£0	£0	£0	£0	£0	£0	£0

Option 4 (NHS T&Cs)	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Total 5 year saving
Materials Management:							
Cost pressure re new staff	£0	-£289	-£289	-£289	-£289	-£289	-£1,445
Efficiency saving ward/ dep't staff	n/a	n/a	n/a	n/a	n/a	n/a	£0
Procurement	£0	£30	£30	£30	£30	£30	£150
Collaboration	£0	£30	£30	£30	£30	£30	£150
Sub total savings	£0	-£229	-£229	-£229	-£229	-£229	-£1,145
Income generation	£0	£0	£727	£828	£929	£1,010	£3,495
Sub total savings/ income generation	£0	-£229	£498	£599	£700	£781	£2,350
Project costs	-£140	-£150	£0	£0	£0	£0	-£290
Monitoring costs	£0	-£120	-£120	-£120	-£120	-£120	-£600
Total	**-£140**	**-£499**	**£378**	**£479**	**£580**	**£661**	**£1,460**

The Trust's financial position would improve from year two. Savings relating to procurement and collaboration have been set at modest levels. The key downside sensitivity in the "NHS T&C" scenario is the WOS's ability to generate a contribution of over £1m by year 5 from income generation activities. A reduction of just under 42% in contribution is the point at which the WOS would become unaffordable to MYHT. Not assumed in the base case modelled above are opportunities which may fall to the WOS in 2019 when some services associated with the Trust's PFI are due to be market tested.

The WOS would be a wholly owned subsidiary of the Trust and will be reflected in the Trust's balance sheet as such. Any assets transferred to the WOS will need to be transferred from the Trust's asset register and fixed asset value on the balance sheet at an agreed transfer value. Assets transferring could include stocks, equipment and property. A corresponding asset in the form of 100% of the WOS share capital would be created.

NHS Trusts are not allowed to set-up subsidiary companies with the sole purpose of avoiding tax. The opinion of the Trust's tax advisers, Ernst and Young has been sought on the likely tax implications associated with the establishment of a wholly owned subsidiary. It should be noted that the option appraisal within this business case does not take account of tax impacts.

1.6 Management case

MYHT will manage the project in accordance with PRINCE2 methodology which is recognised best practice across the public sector. At MYHT level the Trust project team will include those individuals already engaged in the various WYAAT-programme level groups:

- Project Lead;
- Finance;
- Workforce and human resources;
- Service delivery and improvement;
- Communications and engagement.

The project team will report into the MYHT project steering group which will in turn, report to the Trust executive team.

Subject to Board approval to progress the project, the draft milestones for MYHT are as per the table below.

Figure 7: MYHT project milestones

Milestone	Date
Trust Board support and approval of OBC	May 2018
Trust Project Team established	May 2018
NHSI / Secretary of State approval of OBC	June 2018
Draft FBC	May – July 2018
Trust Board decision to progress based on draft FBC	August 2018
Progress of workstreams and development of final FBC	August - October 2018
Stakeholder communications and engagement	May- October 2018
Trust Board approval of FBC	October 2018
NHSI / Secretary of State approval of FBC	November 2018
Staff consultation (formal consultation)	November – January 2018
Company formation and appointment of interim Directors	November 2018
Contracts signed	January 2019
Staff transfer and WOS operational	1st February 2019

Care has been taken in the drafting of the outline programme to ensure sufficient time for Board level due diligence. A series of workshops will take place to confirm:

- Service inclusion;
- Staff terms and conditions;
- The commercial model;
- Business continuity plans;

- Reserved matters and legal transfer.

Communication and engagement with potential effected staff has already started. The project will establish a flexible approach to business engagement and communications that is maintained and re-visited at each phase of the project.

A detailed benefits realisation plan will be developed as part of this programme.

A risk register for the project is being established to identify, assess and control risks that emerge during a project lifecycle. The Trust will use the RAID (risks, assumptions, issues and dependencies) management process to manage risks.

A project evaluation review will be carried out to improve project appraisal at all stages of a project from preparation of the business case through to the design, management and implementation of the scheme. A post-implementation review will be carried out to assess the implementation of the completed working solution.

1.7 Clinical quality case

NHSI business case guidance for NHS Trusts undertaking capital investments has been updated to include a "sixth case" – clinical quality. The purpose of the clinical quality case is to provide a patient-centred clinical quality review framework facilitate the review of capital business cases from a clinical quality, workforce, patient safety and patient experience perspective, and to support engagement with key stakeholders for the benefit of patients, the public and the wider health community. It ensures that the scheme estates plans are appropriately clinically informed and meet national best practice guidance and standards. Whilst the MYHT business case for the WOS is not a capital investment business case, we have reviewed the requirements of the clinical case to ensure that due attention has been paid to the potential impact of the WOS proposal on clinical quality. Full details are found in Section 8.

1.8 Conclusion

This business case demonstrates:

- That there is a sound strategic case for the scheme, with a clear case for change and clear benefits;
- That a preferred option has been identified that represents best value for money out of the wide range of options drawn up at SOC;
- That there is a sound foundation for procurement and that a clear approach has been agreed;
- That the project is affordable to the Trust;
- That there is a strong project management structure and processes in place to take the work forward;
- That the impact on clinical quality is positive.

2 Introduction

2.1 Purpose of the business case

This outline business case (OBC) sets out options for the future provision of a range of in-scope support services across the Mid Yorkshire Hospitals NHS Trust (MYHT). This OBC takes as its starting point, the West Yorkshire Association of Acute Trust's (WYAAT's) business case for the development of a wholly owned subsidiary (WOS) which was published in November 2017. The WYAAT business case was, in turn, developed in response to the WYAAT Case for Change which had been approved in March 2017.

WYAAT has progressed work to consider WOS for estates and facilities through its WOS Programme. Of the six trusts in the association, two, Airedale District Hospitals NHS Foundation Trust and Harrogate and District NHS Foundation Trust are setting up their own WOS. The remaining four trusts have worked together to scope and evaluate the options and, in early 2017, a case for change was produced on a WYAAT basis encompassing an initial option appraisal for four acute trusts (including MYHT). This case for change recommended WOS as the preferred option. Work then took place to review and develop this culminating in a further business case in December 2017.

The work and related business cases produced to date, have had a WYAAT focus and did not set out the detailed position for each trust. As a result, at the request of MYHT Board, this business case has been prepared to.

- Provide more detail about the impact of the WOS development on MYHT;
- Confirm the development of a WOS is the best route by which MYHT can deliver the objectives described in the WOS project, particularly considering the unique nature of MYHT compared to the other three partners, in having a major Private Finance Initiative (PFI) central to its estate[2].

This OBC sets out the:

- Strategic context and the MYHT case for change, demonstrating how changing provision arrangements for "in scope" support services might contribute towards achieving the Trust's wider goals (the strategic case);
- Appraisal of options that was undertaken in April 2018 (the economic case);
- Commercial considerations associated with the preferred option (the commercial case)
- Potential impact of the preferred option arising from the appraisal, on the Trust's finances and workforce (the financial case);
- Project arrangements for the delivery of the preferred option (the management case).

2.2 Introduction to Mid Yorkshire Hospitals NHS Trust

The Mid Yorkshire Hospitals NHS Trust (MYHT) provides acute hospital services to more than half a million-people living in the Wakefield and North Kirklees districts of West Yorkshire. It offers

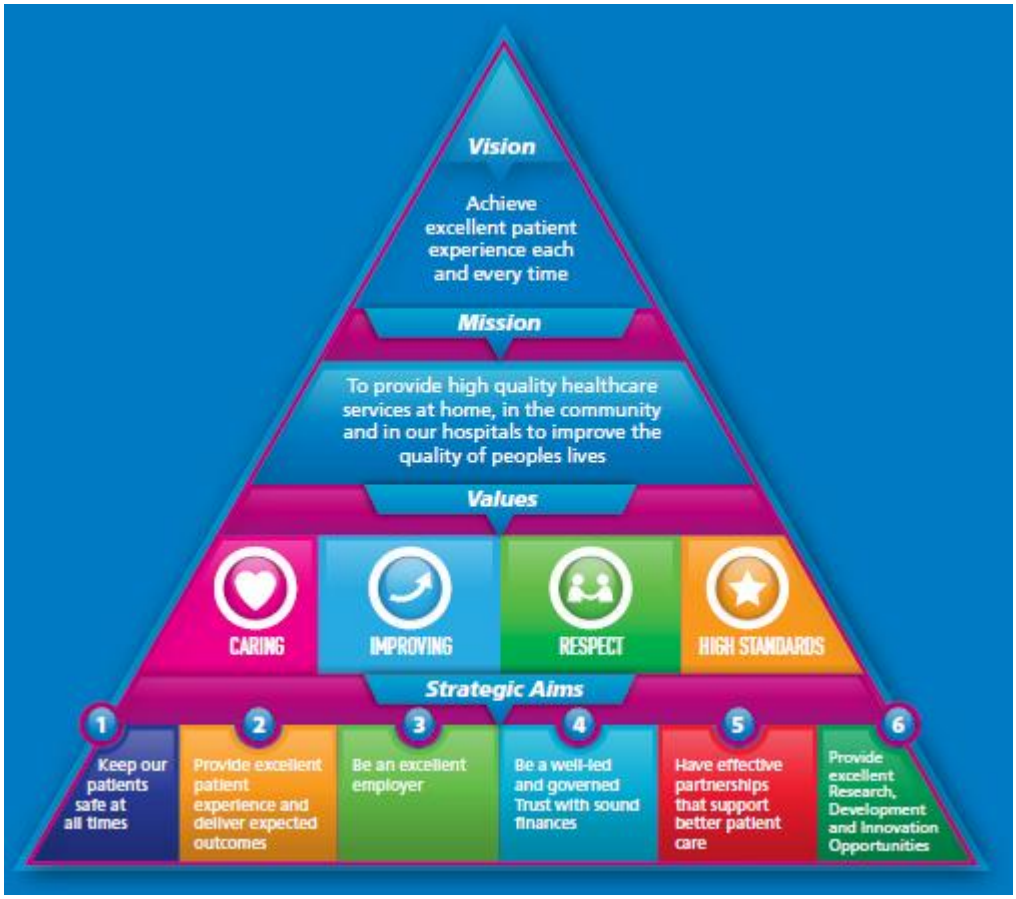
[2] We are aware of WOS in place at the following NHS Trusts/ Foundation Trusts which also have PFIs: Salisbury, County Durham and Darlington, Birmingham and Solihull Mental Health, and Kings.

services in three main hospitals – Pinderfields (Wakefield), Dewsbury and District and Pontefract. In addition, the Trust provides community services to the people of Wakefield in a range of community settings such as health centres, clinics, GP surgeries, family centres and in people's own homes. The Trust also provides two specialist regional services, for burns and spinal injuries, which are renowned across the North of England and beyond.

With more than 8,000 staff and an income of over £500 million MYHT delivers services by working in partnership with two local authorities, two clinical commissioning groups, and a wide range of other providers including voluntary organisations and the private sector, as well as service users, their carers and the public.

The Trust's strategic plan was recently refreshed and is set out in '*Striving for Excellence 2017 – 2021*'.

Figure 8: Trust vision, mission, value and strategic aims



The Trust has five enabling strategies which support the delivery of the MYHT's strategic aims:

- Quality Strategy;
- Workforce Strategy;
- Information Management and Technology Strategy;
- Estates and Sustainability Strategy;
- Research and Innovation Strategy;
- Equality and Diversity Strategy.

In line with the national trend, the demands on the Trust have increased in terms of the number of people presenting at hospitals. This is allied to the increasing challenges faced by the Trust's local partners across Mid Yorkshire in social and primary care. Whilst these challenges are not exclusive to MYHT, the Trust does face some specific challenges which have made it more difficult to keep expenditure within income levels.

Like other NHS organisations, the Trust experiences trouble recruiting to registered nurse and medical staff vacancies. Despite the commitment, hard work and dedication of Trust staff, the most recent Friends and Family Test and CQC Staff Survey both indicate that around a quarter of staff would not recommend the Trust as a place to work. The staff sickness rate is 5.2% (as at February 2018), which is higher than average compared to other trusts and the vacancy rate for registered nurses is 11.5% and medical staff 10%.

The Trust has a persistent underlying deficit of approximately £20m, largely due to the PFI costs for Pinderfields and Pontefract Hospitals. In the past six years, the Trust has not been able to make inroads into this position but unlike some other trusts with PFI pressures the position has not deteriorated any further.

The financial position in 2017/18 was a deficit of £25.8 million against a control total of £15.8 million deficit (excluding Strategic Transformation Fund). In 2018/19 the forecast position is a deficit of £19.7 million (excluding Producer Sustainability Fund). This requires the Trust to deliver a 4.6% cost improvement programme.

Figure 9: Financial position

MYHT Financial Position	16/17 Outturn £m	17/18 Outturn £m	18/19 Draft Plan £m
NHSI Planned Surplus/Deficit (Excluding STF)	-12.5	-15.8	-19.7
End of Year Position / Planned Surplus/Deficit (Excl STF)	-19.7	-25.9	-19.7
CIP Requirement	*26.0*	*24.7*	*24.0*
CIP Requirement as a % of Turnover	*5.2%*	*4.9%*	*4.6%*

The local and national NHS is facing an unprecedented financial challenge with the economic outlook placing significant financial constraints on both commissioners and providers alike in health and social care. MYHT is working to mitigate the pressure by:

- Remaining focused on high quality care and patient safety;
- Working hard to develop processes internally to improve efficiency and patient flow (e.g. MY Quality Improvement System - based on the Virginia Mason Production System);
- Working closely with partners to analyse service delivery and to design and develop new models of care based on greater integration and services 'out of hospital';
- Continually monitoring performance against national standards to ensure that all services remain responsive and can demonstrate improvement.

2.3 The West Yorkshire Association of Acute Trusts

Along with MYHT, the other members of WYAAT are:

- Bradford Teaching Hospitals NHS Foundation Trust;
- Calderdale and Huddersfield NHS Foundation Trust;
- Leeds Teaching Hospitals NHS Trust;
- Harrogate and District NHS Foundation Trust;
- Airedale NHS Foundation Trust.

WYAAT has the following aims:

1. To work with local and regional commissioners to inform and shape plans for hospital services and new models of care;
2. To be a strong voice contributing to the development of national policy around acute care
3. To share and spread best practice across the collaborative to benefit patients;
4. To collaborate on key deliverables that are best achieved through joint working and provide healthy challenge for colleagues where appropriate;
5. To explore and develop new business models that enable the acute hospitals to become more efficient and get best value for money;
6. To improve our systems and processes to support safe high quality, efficient care.

This business case reflects aims number three, four, five and six and reflects work on estates and facilities collaboration which WYAAT has progressed since 2016/17.

2.4 Scope of the business case

The scope of this business case is the following services that could be transferred into a WOS:

- Estates operational maintenance (for the retained estate only);
- Capital planning and delivery;
- Facilities management;
- PFI management;
- Medical physics;
- Hospital Sterilisation and Disinfection Unit (HSDU);
- Information technology (IT) services (but not information management or information governance);
- Procurement and materials management.

These services are generically referred to as “support services” in this business case. The scope of support services covered by this business case extends beyond the WYAAT WOS business case which did not extend to Medical Physics, HSDU or IT. This business case also extends the in-scope procurement service to become a “materials management” service – the rationale for this change is described in a separate report (see Appendix One). The size of the in-scope services is indicated by staff numbers and budgets as shown below.

Figure 10: In scope services budgets and staff numbers

Service	Staff in post (headcount) March 2018	Staff in post (w.t.e.) March 2018	Total budget net of income £000s
Estates Operational Maintenance	56	52.1	*****
Capital Delivery	7	6.6	*****
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Total	**941**	**708.5**	*****

Not included in the table above are consumables and equipment budgets of over £30m, held within clinical departments which could be brought within the materials management element of a new support service.

The in-scope services employ over 700 w.t.e. staff, almost 1 in 11 of Trust staff and accounts for over 8% of the Trust's budget. The services currently generate over £*****m in non-clinical income; primarily through the facilities management service (£*****m).

2.5 Structure of the OBC

The OBC is consistent with the latest guidance from NHS Improvement (NHSI)[3] on the development of business cases using the Five Case Model and is structured as follows:

- The strategic case sets out the strategic context and the case for change together with the supporting investment objectives for the scheme;
- The economic case demonstrates that the Trust has selected the option which best meets the existing and future demands of the service and optimises value for money;
- The commercial case outlines procurement and contractual issues associated with the development;
- The financial case confirms the funding arrangements and affordability, and summarises the impact on the balance sheet;
- The management case demonstrates that the scheme is achievable and can be delivered successfully to time, cost and quality.

The emphasis of the business case alters in moving from SOC to OBC to full business case (FBC) as illustrated in the diagram below.

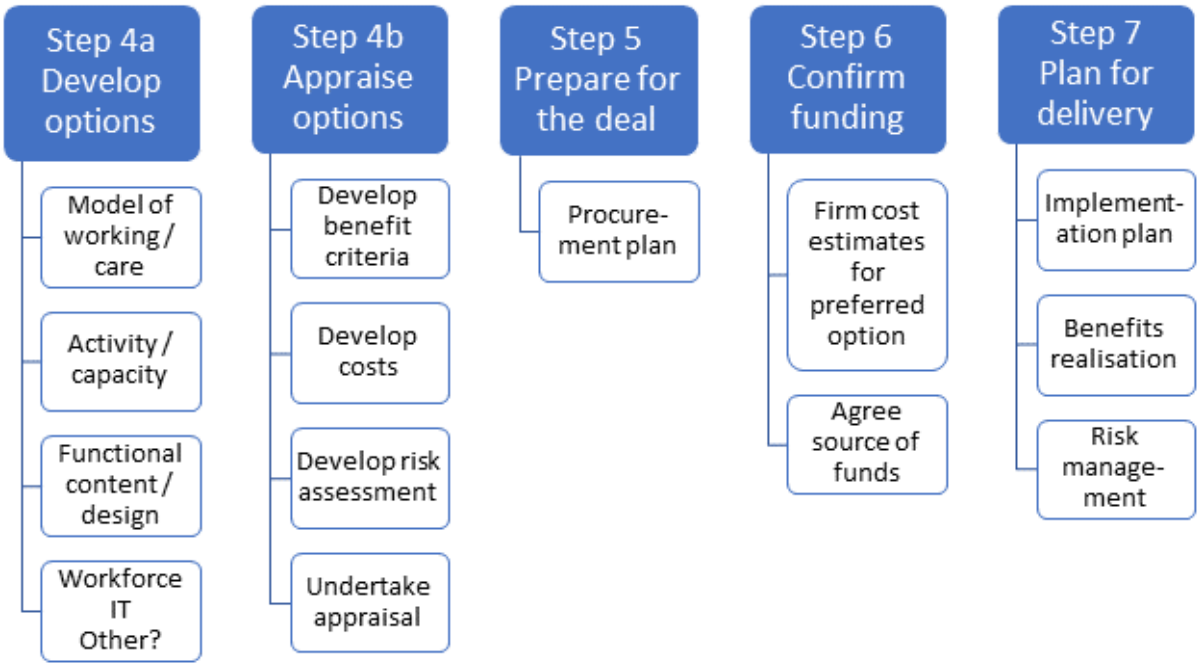
[3] Capital regime, investment and property business case approval guidance for NHS Trusts and Foundation Trusts, NHSI, 2016.

Figure 11: The NHS business case process

FBC	Review any minor changes & implications	Confirm Value for Money	KEY STEP 8: Procuring the solution KEY STEP 9: Contracting for the deal	Confirm financial implications and financing	KEY STEP 10: Ensuring successful delivery (i.e. Comprehensive Delivery plan)
OBC	Review any significant changes and implications	KEY STEP 4: Develop shortlisted options; appraise to determine best VFM	KEY STEP 5: Prepare for the potential deal	KEY STEP 6: Confirm Funding and Affordability	KEY STEP 7: Plan for Successful Delivery
SOC	KEY STEP 1: Ascertain the Strategic fit KEY STEP 2: Make the Case for Change	KEY STEP 3: Develop a long list of options and agree a short list	Outline the procurement strategy	Estimate costs (revenue and capital) for short listed options	Proposed management arrangements
The Five Cases	Strategic	Economic	Commercial	Financial	Management

The key steps for an OBC are set out below.

Figure 12: Steps in the OBC



This OBC focuses on the five steps illustrated above.

2.6 Development of the business case

This business case has been produced by the Trust following approval of the WYAAT Estates and Facilities Wholly Owned Subsidiary Project Business Case in November 2017, to refine the impact of the WYAAT proposal on MYHT. The case has been developed by the Trust with the support of external advisers. Throughout the process the Trust has engaged with staff side representatives from recognised trades unions.

2.7 Approvals and support

NHS Trusts have the power to form a corporate delivery vehicle for income generation purposes, if they receive the approval of the Secretary of State for Health. This is an explicit power under paragraph 20 of Schedule 4 of the National Health Services Act. These provisions confer on NHS Trusts the powers contained in section 7(2) of the Health and Medicines Act 1988 to:

- Form or participate in the formation of corporate entities for the purpose of making additional income available in order to better perform their functions;
- To do anything to 'facilitate or to be conducive or incidental' in order to form the corporate entity for these purposes.

In compliance with the Act, MYHT will be seeking approval for this business case from NHS Improvement (NHSI) and the Secretary of State.

3 Strategic case

3.1 Introduction to the strategic case

The purpose of the strategic case is to demonstrate that the proposed restructuring of delivery arrangements for support services fits with national and local healthcare priorities. The strategic case sets out the case for change and investment objectives for the project.

3.2 National policy

The NHS is at a seminal point in its history needing to respond to pressure from rising demand and constrained finances without compromising quality. The national strategic response includes implementing the recommendations of the Carter and Naylor reviews as well as adopting best practice through initiatives such as the Model Hospital and "Get It Right First Time".

The efficiency challenge has led to renewed interest in alternate ways of delivering support services. A range of solutions are being promoted and adopted including; an expansion of shared service arrangements (as promoted through STPs); ongoing market testing and outsourcing; the development of wholly owned subsidiaries; and partnerships/ joint ventures with the private sector. None of these solutions are new – for example Eastbourne Hospital has been running a wholly owned subsidiary since the 1990s.

3.3 Local strategy

The Trust is a member of the West Yorkshire and Harrogate sustainability and transformation partnership (STP) which has set out plans as to how the system can close the £1.07bn financial gap forecast by 2020/21. The Wakefield "Place" makes-up just over £200m of the total gap. The largest element of the solutions described in the STP plans relate to provider-side efficiencies including those responding to the Carter Review. WYAAT's plans to redesign the delivery of support services are an important element in delivering these provider-side efficiencies.

Local plans for support services have been progressed through the WYAAT project to create an estates and facilities special purpose vehicle (SPV). The project's drivers are:

- The opportunity to consolidate services based on the STP footprint and take a more regional approach;
- Potential cost benefits associated with working at scale;
- Quality, particularly the incidence of unwarranted variation;
- Workforce development and resilience;
- Commercial resilience – seeking a model whereby there is greater flexibility and opportunity to respond and adapt to changes in the market.

The SPV project vision is illustrated below.

Figure 13: SPV project vision

The SPV project resulted in a Case for Change document published in March 2017 recommending that WYAAT partners work together to develop a business case for the development of an arms' length SPV. Two of the original partners (Harrogate and District NHS Foundation Trust and Airedale NHS Foundation Trust) have withdrawn from the project to pursue their own WOS.

3.4 The case for change

Given the scale of the financial and operational challenges that MYHT faces, the Trust needs to consider new ways of delivering services.

Support services are of critical importance to the running of the Trust and combined represent a substantial proportion of the Trust's workforce and cost base. However, as "support" rather than patient facing clinical services, they risk receiving less investment and management focus than necessary. The risk of a lack of management focus, is of some concern because it could affect the Trust's ability to make the efficiencies identified in the Carter Report (Operational productivity and performance in English NHS acute hospitals; Unwarranted Variations, February 2016). For example the report:

- Identified opportunities in procurement services to deliver a reduction of at least 10% in non-pay costs;
- Recommended that all trusts' corporate and administration functions should be rationalised to ensure their costs do not exceed 6% of trust turnover by 2020.

There is a long history across the NHS and wider public sector, of finding new ways to provide greater investment and support into support services and MYHT's PFI arrangement was a good example of using a non-traditional approach to secure much needed investment in the infrastructure at Pinderfields. Although, arguably expensive, the PFI contract has provided the Trust with high quality, well maintained accommodation and has eliminated risks related to backlog maintenance, building condition and clinical functional adjacencies. The use of outsourcing is also widespread across the NHS as NHS organisations adopt a "best of breed" strategy to secure optimal value for money in relation to the provision of a wide range of support services; the basic premise being that a provider focused solely on the provision of the outsourced service (or a related range of services) should provide better value for money due to their:

- Ability to focus on what they are best at i.e. their core competence;
- Ability to secure economies of scale;
- Ability to secure funding from non-NHS sources for capital investment;
- Ability to use staff and other resources more flexibly across their customer base;
- Potential to use contract levers, robust contract management including bespoke key performance indicators, to incentivise improvements in quality.

Whilst outsourcing has often been to the private sector, in recent years there has been a growth in interest in the provision of support services by some NHS organisations. This trend includes the creation of NHS bodies such as SBS and CSUs, as well as shared service arrangements between trusts. The hospital chain and hospital group concepts are also variants on a similar theme.

Most recently has been the move by some trusts to create wholly owned subsidiaries, which are a form of special purpose vehicle (SPVs) from which support services, are provided. The preferred option in the WYAAT estates and facilities business case is to create a WOS.

The perceived benefits of establishing a WOS are similar to those associated with outsourcing and shared service arrangements i.e. the WOS:

- Allows trusts to concentrate on core services to patients whilst ensuring that support services are commercially focused on delivering high quality services;
- Provides TUPE protection for staff ensuring that existing terms and conditions are maintained for transferring staff.

As noted above, Airedale and Harrogate trusts have already created their own WOS and those that already exist elsewhere within the NHS have managed to achieve significant savings whilst maintaining and improving the quality of service. In addition to the benefits listed above, the WOS rather than traditional outsourcing approach also has the benefit of:

- Not materially changing service provision i.e. the same services are provided by the same staff – this could be expected to lead to greater workforce resilience;
- Creating the opportunity to repatriate into NHS WOS staff previously outsourced;
- Providing the opportunity for the subsidiary to generate income and bid for contracts on the same basis as other businesses with the profit retained for the NHS;
- Benefitting from senior staff with detailed knowledge of the Trust transferring to the WOS;
- Creating an NHS owned organisation which would have, a clear commercial strategy distinct from the Trust and the ability to adopt a more commercial approach to the issues of service provision and the development of new markets and income streams;
- Having the ability to incentivise staff through their employment terms;
- Minimising reputational risk because the WOS remains part of the wider “NHS Family”.

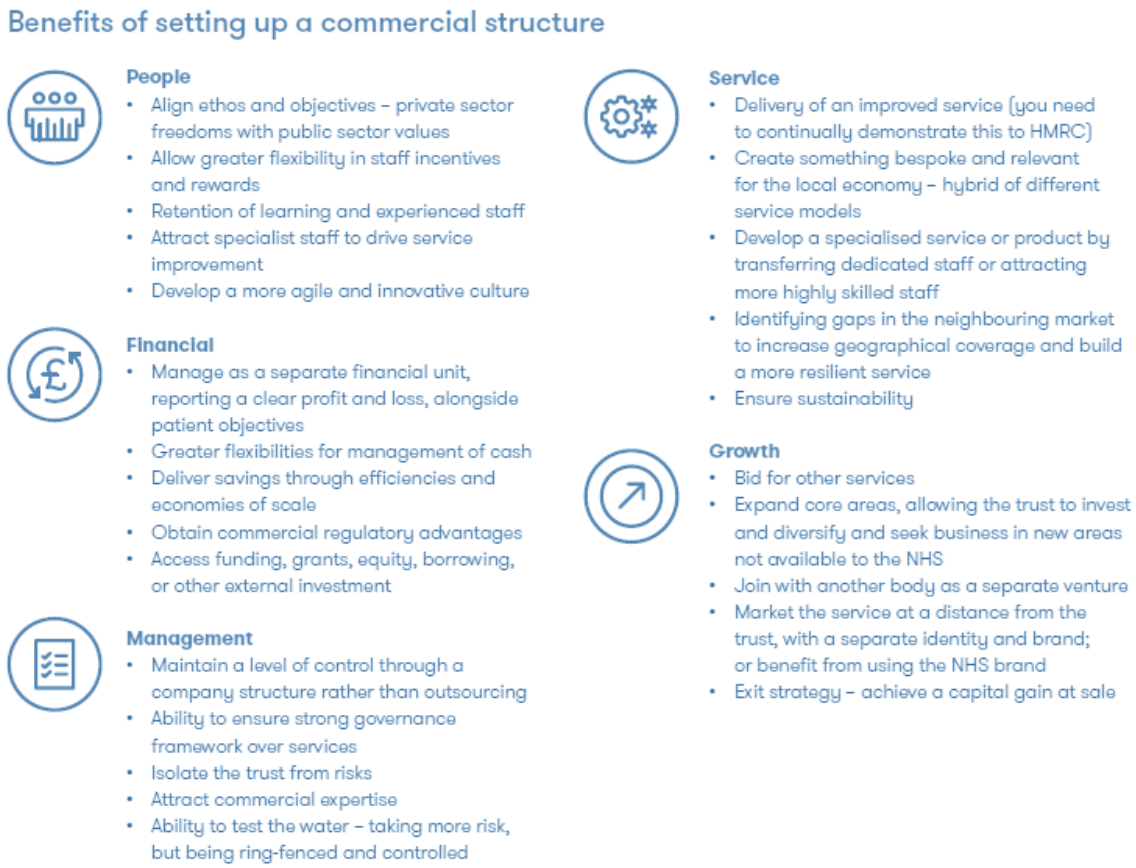
A final potential benefit of a WOS is that outsourcing has potential tax advantages because it can create a situation whereby a trust can benefit from the potential of itself and the outsource provider to reclaim VAT on input costs. The Department of Health recently clarified that trusts must not enter into contractual arrangements solely to gain a tax advantage[4]. It is permissible for trusts to enter into contracts that provide a tax advantage as a by-product of the structure of the contract, if the contract can be demonstrated to be for genuine commercial benefit, but the tax advantage must

[4] Letter to NHS Provider Finance Directors from Department of Health, 28th September 2017.

not be sole reason for the contract. If a tax advantage were the sole reason for entering into a commercial arrangement, then the Trust would risk being found guilty of tax evasion. This has led NHSI to make it clear that business cases for the creation of a WOS by NHS Trusts, will only be approved if they withstand scrutiny without the inclusion of potential tax advantages.

Figure 8 below taken from a Grant Thornton publication[5] about NHS Trusts moving to set up commercial companies, is a good summary of the potential benefits of creating arms' length organisations, whether WOS or joint ventures.

Figure 14: Benefits of commercial structures



3.5 Response to the case for change

The Trust's response to the case for change is to review options for the future provision of the in-scope support services.

3.6 Project objectives

The objectives of the WYAAT WOS Programme are to work together in the best interests of NHS sustainability by:

[5] NHS Companies: An Enterprising Approach to Health, Grant Thornton, 2017.

- Delivering modern transformed healthcare in an efficient way that is focussed around the patient and needs with scare resources used effectively;
- Replacing and reducing the costs of existing services by procuring on a collaborative basis;
- Reducing the overall management overhead whilst retaining and attracting the highest quality leadership;
- Creating flexibility to manage workforce pressures and risks;
- Providing flexibility to generate work and develop services by becoming a major operator in the Estates and Facilities market in the north of England.

To ensure consistency this objective and the benefits criteria which flow from these objectives (see below), have been retained for use in economic evaluation of options in this MYHT business case.

3.7 Benefits

The project objectives set out above, have been used to derive the following benefit criteria which will be used to evaluate the options.

- **Quality and Performance** - to what extent would the options improve the quality and performance of support services provided to the Trust's core business, i.e. clinical services. This includes transparent management and reporting against agreed key performance indicators;
- **Cost Savings** - to what extent would the options deliver a contribution to the Trust's financial delivery plans;
- **Workforce** – to what extent would the options affect existing staff, i.e. staff security, terms and conditions of service, opportunities for career development and recruitment;
- **Commercial or procurement** - to what extent would the options impact on the ability to provide services in a sustainable, efficient and cost-effective manner;
- **Income Generation** – to what extent would the options generate additional income (Non-NHS) for the trusts.

The benefits of this Project have been classified and analysed within the following groups:

- Cash releasing (CRB) - benefits which offer a true financial benefit;
- Non-cash releasing (NCRB) - benefits which are financially quantifiable but are non-cash releasing because the cash cannot in practice be realised.

The following CRB and NCRB benefits were agreed in the WYAAT WOS business case and were used in this business case to evaluate options.

Figure 15: Benefits

Benefit Criteria	Benefit Ref	Benefit Description
A	NCRB02	Creating greater commercial resilience by implementing a model whereby there is greater flexibility and opportunity to respond and adapt to changes in the market, e.g ability to develop a joint estate strategy leading to best use is made of the estate
A	NCRB03	Enables the adoption of a single set of KPI's for performance management
A	NCRB04	Supports E&FM service achieve the Carter benchmark of lower and mid quartile in terms of ERIC data

Benefit Criteria	Benefit Ref	Benefit Description
A	NCRB06	Reducing the incidence of unwarranted variation in line with objectives of the Model Hospital through increased collaboration and sharing of best practice
A	NCRB10	Providing services across the trusts at the level of the Highest Quality Provider
B	CRB03	Reducing Costs through working across the (WYAAT) organisations – Service efficiencies
B	NCRB01	Increases the ability to realise savings through capital development and disposals by providing access to capital
B	NCRB09	Developing a Pan-Trust Sustainability Plan which can deliver reductions in carbon across West Yorkshire
C	CRB04	Reduces the overall management overhead whilst retaining and attracting the highest quality leadership
C	CRB05	Creating flexibility in how the trusts manage workforce pressures and risks
C	NCRB07	Creating greater workforce resilience and bringing more opportunities for individuals creating better job satisfaction
D	CRB01	Reduces the costs of existing services by reviewing existing Contracts for a range of services and procuring on a collaborative basis – Procurement Efficiencies
D	NCRB05	Providing an efficient, effective and quality managed equipment and consumables service which will deliver operational efficiencies from the standardisation and rationalisation of products, including a more joined up approach between E&FM and procurement services
D	NCRB08	Facilitates investment in different areas of the business such as investment in technology and / or infrastructure
E	CRB02	Increases opportunities to develop commercial income by working closely together and with other public-sector bodies and to focus and expand services – Income Efficiencies

3.8 Strategic Risks

The following strategic risks to the delivery of the project were identified in the WYAAT business case and have been retained for the purposes of consistency, in this MYHT business case.

Figure 16: Strategic risks

Strategic Risk Description	Mitigation
Exposure to reputational and operational risks including unrealistic and non-deliverable timescales	• Establish a consistent, coherent and well-prepared staff engagement programme across partner organisations • Establish robust programme management

Strategic Risk Description	Mitigation
Exposure to commercial risk	• Minimise costs through operating as a single project and driving down advisor costs accordingly • Apportioning cost contribution on an agreed basis and using a combination of caps and milestones for draw down • Agreeing an MoU or Framework agreement setting out each partner's obligations and responsibilities through the change programme
Quality of clinical services will be adversely impacted	• Ensure SLAs are created and effectively monitored
Failure to engage staff	• Develop unified approach and provide timely updates
Complexity of setting up new arrangements (new processes and procedures) causes confusion and inefficiencies in clinical and corporate services	• Develop a clear model for the approval of changes to existing practice and ensure effective clinical engagement – learn from existing arrangements in respect of the PFI

The strategic risks were appraised as part of the options appraisal process (see Section 4.6) for the MYHT business case.

3.9 Constraints and dependencies

The MYHT project is part of the wider WYAAT SPV programme. If partners in the wider programme were to pull out, this could reduce access to the collaborative approach set out in the STP and central to the aims of WYAAT.

4 Economic case

4.1 Introduction to the economic case

The purpose of the economic case is to test the relative value for money of shortlisted options. The appraisal consists of three elements:

- A non-financial benefits appraisal;
- An appraisal of risks;
- An economic and financial appraisal.

The approach used across all aspects of the appraisal was to focus on criteria and aspects of each option which distinguish between options as opposed to those not expected to vary.

4.2 Options

The WYAAT WOS Case for Change approved in March 2017 outlined five options for consideration.

Figure 17: WYAAT case for change long-list of options

Option	Title	Description
1	**Do Nothing/ Minimum**	Services continue on current basis with no or minimal change to working arrangements
2	**Each Organisation creates an E&FM WOS**	Each WYAAT organisation transfers its E&FM services into a separate WOS and no collaborative approach is followed
3	**Lead Provider Model**	WYAAT organisations transfer their E&FM services to one of the current WYAAT organisations
4	**Create a WYAAT E&FM WOS**	WYAAT organisations each create a WOS and work towards the transfer of relevant services into a specially designed not for profit WOS (Company) that remains part of the NHS
5	**Out-source E&FM Services**	WYAAT organisations tender their E&FM services as a single package

At the longlist stage a high-level benefits appraisal was undertaken by leads at each trust and the following options were discounted.

Figure 18: Discounted options

Option	Title	Main Reason for Discounting
2	Each Organisation creates an E&FM WOS	The lack of a collaborative approach in this option was felt to be contrary to the principles of WYAAT.
5	Out-source E&FM Services	WYAAT organisations have all had experience of out-sourced operations and felt that this option placed staff at unnecessary risk, adversely affecting staff morale. Also, that quality and cost control can be more difficult to maintain under this option.

The following short-list was therefore, taken forward for further appraisal on a WYAAT-wide basis.

Figure 19: Shortlisted options

Option	Title	Description
1	Do Nothing/Minimum	Services continue on current basis with no or minimal change to working arrangements
3	Lead Provider Model	WYAAT organisations transfer their E&FM services to one of the current WYAAT organisations
4	Create an E&FM WOS	WYAAT organisations create an WOS and work towards the transfer of relevant services into a specially designed not for profit WOS (Company) that remains part of the NHS

The WYAAT business case published in November 2017 reached the conclusion that Option 4, creation of an Estate and Facilities Management (E&FM) WOS, was the preferred option across the four WYAAT members not pursuing their own WOS arrangements (Airedale and Harrogate).

The rest of this economic case considers, MYHT's appraisal of the WOS and other options from the sole perspective of MYHT.

4.3 Changes to options

Since the publication of the WYAAT business case, MYHT has extended the scope of services that would form part of the new arrangement by including:

- Medical Physics;
- HSDU;
- IT;
- Materials Management.

The inclusion of Medical Physics, HSDU and IT applies to options 3 and 4. The materials management service would be an extension of the existing MYHT procurement service and would feature in Option 4 (WOS) only – the rationale for including a materials management service is described in Appendix One.

Option 3 (lead provider model) is assumed to mean procuring support services from another WOS.

The Trust has considered two other options raised by Unison which the trades union understand have been adopted elsewhere. Neither option has been pursued by the Trust for the reasons set out below:

- Under the Retention of Employment ("RoE") model, staff continue to be employed by the Trust and would be seconded to the WoS. This model was developed to preserve the rights of staff (who would otherwise be subject to a TUPE transfer) to participate in the NHS Pension Scheme. The 2014 changes to the NHS Pension Scheme rules meant that TUPE no longer denied this membership and therefore that it is no longer necessary to use a RoE structure as a method of obtaining the same result. As such, it is not thought that the

Secretary of State would exercise his powers to permit RoE employees to remain members of the NHS Pension Scheme. As a more general point, at a policy level, RoE has been limited to Soft FM in PFI deals as well as ISTCs. As the WoS proposal falls in to neither category, it is questionable whether it would be lawful to use RoE in the current context. Other difficulties also arise in the context of the RoE model: employees staying in a secondment role for a long period of time; staff being managed by someone other than their employer; and pay/benefits/ promotions determined by the employer which is not the organisation delivering the service. New staff are employed by the WoS and this creates two different systems, which, over time, would result in more people being employed directly by the WoS rather than being seconded to the WoS by the Trust.

- A "Trading Co" model which involves a subsidiary being created to hold assets used in service delivery. This model has been adopted by Guys and St Thomas' NHS Foundation Trust using the brand "Essentia". Essentia has two elements:
    - A "core" which is effectively the facilities department of the trust i.e. the core has no separate legal structure, and within which all staff remain NHS employees;
    - A trading arm which is set-up as a subsidiary company and which employs its own staff. Our understanding is that the subsidiary is only used to generate income from non-NHS customers, so replicating this model would not be an option for the Trust, as it would not deliver the objectives of this business case.

4.4 Non-financial Benefits Appraisal

A group of executives, non-executives and senior managers met to appraise the non-financial benefits and risks associated with each option on 18th April 2018.

To maintain consistency, MYHT used the same non-financial benefit criteria and associated weightings, as used in WYAAT appraisal. These are shown below.

Figure 20: Benefit criteria weightings

Benefit Ref	Benefit Description	Weight %
NCRB07	Creating greater workforce resilience and bringing more opportunities for individuals creating better job satisfaction	15.9
NCRB03	Enables the adoption of a single set of KPI's for performance management	15.2
NCRB05	Providing an efficient, effective and quality managed equipment and consumables service	14.4
NCRB02	Creating greater commercial resilience by implementing a model whereby there is greater flexibility and opportunity	13.0
NCRB06	Reducing the incidence of unwarranted variation in line with objectives of the Model Hospital	11.7
NCRB09	Developing a Pan-Trust Sustainability Plan which can deliver reductions in carbon across West Yorkshire	10.5
NCRB04	Supports E&FM service achieve the Carter benchmark of lower and	7.4

Benefit Ref	Benefit Description	Weight %
	mid quartile in terms of ERIC data	
NCRB01	Increases the ability to realise savings through capital development and disposals by providing access to capital	5.1
NCRB08	Facilitates investment in different areas of the business such as investment in technology and / or infrastructure	3.6
NCRB10	Providing services across the trusts at the level of the Highest Quality Provider	3.2

The options scored as follows.

Figure 21: Benefit appraisal weighted scores

Criteria	Option 1 (do nothing)	Option 3 (lead provider)	Option 4 (WOS)
Creating greater workforce resilience and bringing more opportunities for individuals creating better job satisfaction	12.72	7.95	15.90
Enables the adoption of a single set of KPI's for performance management	3.04	3.04	3.04
Providing an efficient, effective and quality managed equipment and consumables service	1.44	7.20	14.40
Creating greater commercial resilience by implementing a model whereby there is greater flexibility and opportunity	5.20	6.50	13.00
Reducing the incidence of unwarranted variation in line with objectives of the Model Hospital	2.34	3.51	2.34
Developing a Pan-Trust Sustainability Plan which can deliver reductions in carbon across West Yorkshire	1.05	5.25	10.50
Supports E&FM service achieve the Carter benchmark of lower and mid quartile in terms of ERIC data	0.74	0.74	0.74
Increases the ability to realise savings through capital development and disposals by providing access to capital	0.51	2.55	5.10
Facilitates investment in different areas of the business such as investment in technology and / or infrastructure	0.36	1.80	3.60

Criteria	Option 1 (do nothing)	Option 3 (lead provider)	Option 4 (WOS)
Providing services across the trusts at the level of the Highest Quality Provider	2.56	3.20	2.88
Total weighted score	**29.96**	**41.74**	**71.50**

Option 4 (creating a WOS) was ranked highest for non-financial benefits. The explanation behind the scores is as follows:

- Option 4 scored the highest against the first criteria because a local (MYHT) WOS would create the opportunity for greater emphasis on support service staff development and progression opportunities. Option 4 also allows the Trust more flexibility in addressing specific workforce pressures. Option 4 would also benefit from a sense of loyalty from existing staff because they would still be working in Mid Yorkshire for the MYHT. Option 3 theoretically also offers the benefits of a sole focus on support services, but it is unlikely that most staff would travel out of area to take advantage of opportunities elsewhere. Under option 3 there is likely to be a significant degree of anxiety amongst transferring staff. Option 4 also provides staff with greater certainty.
- Option 4 was also the preference in relation to offering an efficient equipment and consumables service. Under Option 1, these support services would not be the focus of the Trust; by contrast both options 3 and 4 offer the benefit of greater focus on this important service. Under Option 3, the Trust would need to negotiate the service it required from the lead provider and to some extent would risk being forced to compromise (i.e. the Trust would be a "deal taker", rather than a "deal maker") because the service provider would be providing a service to several clients. Option 4 offers the opportunity of control and a bespoke service for MYHT.
- Greater control under Option 4 also creates greater commercial opportunity (and risk – see risk appraisal below) and potential benefit for the Trust. Option 4 was therefore scored the highest. Under Option 3, MYHT might be able to negotiate some profit share with the lead provider, but this is uncertain.
- The lead provider option (Option 3) was scored the highest on criteria 5 (reducing unwarranted variation) because this option creates the opportunity to standardise quality and costs across several customers.
- Option 4 provides the Trust with a new vehicle through which it has the potential to generate capital funds. As a result, it was scored the highest for criteria six, eight and nine.
- Option 3 was scored best for the ability to provide services at the level of the highest quality provider because it would enable the sharing of best practice and efficient processes.
- Overall option 4 scored higher across several criteria than option 3 because it gives greater control to MYHT. Under option 3 MYHT would be contracting for services from an organisation it would not control, so although quality and price etc, would be controlled via a contract (and regular market testing), this would represent a lessening of control compared to option 4 which would be monitored through the Trust's performance management regime.
- The 2nd and 7th criteria were not regarded as being distinguishing factors by workshop attendees; each option was therefore scored the same for both criterion.

This conclusion of the non-financial benefits appraisal was that creating a MYHT WOS (option 4 was the preference. Option 3 (lead provider) was ranked second, although some way behind in terms of weighted scores.

Option 3 scored higher than Option 4 on two criteria (criteria five and ten) worth a total of 14.9% in total. These criteria would need to be re-weighted to the equivalent of 80% of available weightings to switch the preference from Option 4 to Option 3 – this is not considered credible.

4.5 Financial Appraisal

This section of the economic case considers the costs and financial benefits associated with the shortlisted options. It differs from the financial case in a few important aspects:

- All figures are shown in 'real' terms i.e. cost inflation is ignored with all figures being presented at current values;
- The focus of the economic case is net present value (NPV).

The economic appraisal has been undertaken in line with HM Treasury Guidance set out in the Green Book and the more recent NHSI publication, *Capital regime, investment and property business case approval guidance for NHS providers* (November 2016).

In the original WYAAT WOS business case the financial appraisal was carried out at both an individual trust and a WYAAT-wide basis. The MYHT element of the financial appraisal has been reworked using more recent data and to reflect the Trust's view that only those aspects that help distinguish between options should be included in the appraisal.

The original WYAAT financial appraisal considered financial benefits under the following headings (the Trust has reworked the financial benefits as described overleaf).

Figure 22: Financial benefits

Type of Savings Identified	WYAAT business case method
E&FM Efficiencies (CIP)	2% CIP assumed against budget (adjusted were appropriate for PFI). Whilst actual CIP may be higher than 2%, this is assumed to relate to process or productivity improvement. Staffing efficiencies are considered separately.
Collaborative Savings	A review of ERIC Data identifying where best practice model would deliver benefit.
Staff Efficiencies	Based on calculation of 25% turnover of staff after 3 years and 10% reduction in budget costs. Whilst the current estimate is not unreasonable at the next stage this will be based on actuals for MYHT.
Income Generation	Benchmark based on experience of other WOS
Procurement Efficiencies	Review of E&FM contract portfolio

Recent guidance from the Department of Health and NHSI concerning the potential tax advantages of creating a WOS have led us to exclude the potential financial benefit of VAT reclaims from the financial assessment.

Our review of the detailed rationale behind financial savings included within the WYAAT WOS business case has led us to make the following change to the type of saving considered in the financial appraisal:

- To ignore the annual 2% CIP assumed because this was assessed in the WYAAT business case as applying to all three options – it is therefore not a distinguishing factor.

The following areas of potential saving were retained, but reworked for this MYHT business case:

- Collaborative savings – although the basis for the associated estimates is based solely on benchmarking ERIC data, it is considered reasonable that collaboration would generate savings not available under Option 1 the do nothing. It was also noted that the value of these savings was small – a modest £150k over five years. These savings were, therefore, maintained at the level assessed in the WYAAT business case.
- Staff efficiencies – in the WYAAT business case these savings were based on two assumptions:
    - Whilst existing staff would transfer on current T&Cs to a WOS under Option 4, that new staff would be appointed on less generous T&Cs leading to savings accruing over time. This element of the potential savings has been retained in our revaluation, but with three more detailed scenarios modelled:
        - Exiting staff TUPE on existing T&Cs and new staff are employed on the T&Cs used by AN Other in their WOS (see Appendix Two);
        - A mid-point solution between the AN Other model and full NHS T&Cs[6];
        - All staff (new and transferred) being employed under Option 4, on existing T&Cs with the exception. The Trust is currently assuming that new starters would not be able to join the NHS pension scheme (we have assumed identical employer contributions into an alternate scheme).
    - Additional staff efficiencies over and above the 2% annual CIP would also be made under options 3 and 4. No evidence has been provided to justify this element of the staff efficiency saving, so this efficiency was ignored in the MYHT assessment.
- Income generation – monies from commercial opportunities were included in the WYAAT business case based on an initial scoping of market opportunities. These amounts have been retained in this MYHT OBC – further work to assess additional commercial opportunities is being undertaken by the Trust through the development of a business development strategy for the WOS. Details of potential opportunities, which will be explored in the business development strategy, are provided in Appendix Three.
- Procurement savings – although no detail was provided in the WYAAT business case workings, it is reasonable to assume some economies of scale would be made from joined-up procurement under Option 3 and from materials management under Option 4. The WYAAT figures have therefore been used in the assessment.

The following costs have been included – all as per the WYAAT business case:

[6] AN Other terms and conditions would apply with the exception that staff would be paid enhancements for working unsocial hours.

- Project costs in year 0 and year 1;
- Ongoing contract monitoring costs that the Trust would incur managing the contract with the WOS.

This OBC differs from the WYAAT business case because MYHT has decided to extend the WOS option (Option 4) to include a materials management service and options 3 and 4 to include Medical Physics, HSDU and IT. The materials management services will necessitate employing an additional 9.4 w.t.e. procurement staff, but would also lead to efficiencies across wards and departments as stock control and ordering was centralised into the expanded service. There are also VAT advantages associated with a materials management service, but these have not been quantified in this business case as per the agreed approach to ignore any potential tax benefits from all options.

The table below summarises the assumptions about costs and savings by option.

Figure 23: Summary of assumptions

Cost/ saving	Option 1 (do nothing)	Option 3 (lead provider)	Option 4 (WOS)
Project cost	×	✓	✓
Contract monitoring cost	×	✓	✓
Staff T&C saving	×	×	✓ ("AN Other" sub-option only)
Collaboration efficiencies	×	✓	✓
Procurement efficiencies	×	✓	✓
Materials management staff cost	×	×	✓
Materials management efficiencies	×	×	✓ (economic case only)
Income generation	×	✓	✓

The table below summaries the results of the financial appraisal, showing each option's relative financial benefit at current prices and using NPV.

Figure 24: Financial appraisal results (£000s)

Indicator	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Total 5-year saving	Rank
Current values (000s)								
Option 1	£0	£0	£0	£0	£0	£0	£0	5
Option 3	-£140	-£210	£304	£354	£405	£445	£1,158	4
Option 4:								
AN Other model	-£140	£9	£1,103	£1,420	£1,737	£2,034	£6,163	1
AN Other-lite	-£140	-£135	£813	£986	£1,158	£1,310	£3,992	2

Indicator	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Total 5-year saving	Rank
NHS T&Cs	-£140	-£207	£671	£772	£873	£953	£2,923	3
NPV (000s)								
Option 1	£0	£0	£0	£0	£0	£0	£0	5
Option 3	-£140	-£203	£283	£319	£353	£375	£988	4
Option 4:								
AN Other model	-£140	£9	£1,029	£1,281	£1,513	£1,712	£5,405	1
AN Other-lite	-£140	-£131	£759	£889	£1,009	£1,103	£3,490	2
NHS T&Cs	-£140	-£200	£626	£696	£760	£803	£2,546	3

The three variants of Option 4 (WOS) were all ranked higher than options 1 and 3. Option 1 (do nothing) is simply the "control" option and there are no costs, income or savings associated with because the financial appraisal is focusing on the financial change from the do nothing only.

Only the "AN Other" and "AN Other-lite" variants of Option 4 include any savings from staff T&Cs as both assume new starters would be recruited on terms and conditions that cost the Trust less than existing NHS terms and conditions. The Option 4 variant which assumes NHS terms and conditions, with the exception that new starters would not be able to join the NHS pension scheme (we have assumed identical employer contributions into an alternate scheme would apply to new starters), still performs better than Option 3. This is because Option 3 does not benefit from materials management efficiencies and has been assessed as generating less income.

The new materials management service only applies in Option 4 variants. The service incurs a cost of £289k per annum, but also brings efficiencies of £293k.

Income generation under Option 4 reaches just over £1m per annum compared to 50% of this amount under Option 3.

In summary Option 4 is the preference. The MYHT Board of Directors will need to decide between variants of Option 4 in relation to the terms and conditions to be applied to new staff (existing staff would TUPE to the WOS).

Financial sensitivities have been considered to ascertain whether the financial preference would switch if assumptions were altered. The only scenario under which this could happen would be a comparison of Option 4 "NHS T&Cs scenarios" with a revised Option 3 whereby we assumed:

- Option 3 were revised to include the savings accruing from moving away from NHS terms and conditions i.e. assuming the lead provider introduced less favourable terms and conditions for new starters in its WOS
- Option 3 assumed the same level of income generation profits as Option 4.

4.6 Risk appraisal

The following risks, identified by the WYAAT project team were re-assessed:

- Exposure to reputational and operational risks including unrealistic and non-deliverable timescales;
- Exposure to commercial risk;
- Quality of clinical services will be adversely impacted;
- Failure to engage staff;
- Complexity of setting up new arrangements (new processes and procedures) causes confusion and inefficiencies in clinical and corporate services.

Each risk was assessed and scored using a two-step approach by the same workshop participants involved in the non-financial benefits appraisal:

- Step one – assessing the impact on the project if the risk occurs;
- Step two – assessing the likelihood a risk will occur.

Both aspects of risk are scored using a scale from one to five. The "impact" scores are based on the definitions shown in the table below.

Figure 25: Risk impact scoring framework

Impact score	Definition	Explanation
1	Insignificant	Negligible service disruption, financial or reputational loss
2	Minor	Short term service disruption or adverse publicity, minor financial impact
3	Moderate	Significant service disruption, underperformance against key targets, significant but one-off reputational damage, some financial loss (<£250k)
4	Major	Significant failure/disruption of key services, underperformance against key objectives, significant adverse national publicity with longer-term impact, significant financial loss (£250k-£1m)
5	Catastrophic	Complete breakdown of services, very significant adverse publicity /reputation irreparably damaged, financial consequences >£1m

Likelihood scores are based on the framework below.

Figure 26: Likelihood scoring framework

Likelihood score	Definition	Explanation
1	Rare 5% chance	Not expected to occur except in exceptional circumstances
2	Unlikely 6-20% chance	Not expected to occur
3	Possible 21-50% chance	Could occur
4	Likely 51% - 80% chance	Will probably occur

Likelihood score	Definition	Explanation
5	Almost certain >80% chance	Will occur frequently

The impact and likelihood scores as assessed by the group of executives and non-executive board members, were as per the table below.

Figure 27: Risk appraisal scores

Risk	Impact score	Likelihood scores		
		Option 1 (do nothing)	Option 3 (lead provider)	Option 4 (WOS)
Exposure to reputational and operational risks including unrealistic and non-deliverable timescales	4	1	3	2
Exposure to commercial risk	2	1	1	2
Quality of clinical services will be adversely impacted	4	1	3	2
Failure to engage staff	5	1	3	2
Complexity of setting up new arrangements (new processes and procedures) causes confusion and inefficiencies in clinical and corporate services	3	1	2	3

The combined impact and likelihood i.e. the "risk" score for each risk and option is as per the table below.

Figure 28: Risk appraisal outcome

Risk	Likelihood scores		
	Option 1 (do nothing)	Option 3 (lead provider)	Option 4 (WOS)
Exposure to reputational and operational risks including unrealistic and non-deliverable timescales	4	12	8
Exposure to commercial risk	2	2	4
Quality of clinical services will be adversely impacted	4	12	8
Failure to engage staff	5	15	10
Complexity of setting up new arrangements (new processes and procedures) causes confusion and inefficiencies in clinical and corporate services	3	6	9
Total risk score	**18**	**47**	**39**

The conclusion was that Option 3 is the option with the most risk. Doing nothing, as is usually the case, is the lowest risk option. Creating a WOS was ranked second.

The rationale for these scores and overall ranking was that:

- Impact was assessed as being the same under all options. The variation in scores therefore, relates entirely to the likelihood of a risk occurring.
- Reputational and operational risks associated with implementation timescales would have a major impact upon the Trust. The likelihood of this occurring was assessed as being higher under Option 3 than 4 because Option 3 relies on a delivery partner not under the direct control of MYHT.
- The WOS carries the highest commercial risk because one of the potential benefits of a WOS is the ability to generate commercial income and focus on external income generation brought by setting up a subsidiary. The converse of this benefit is greater risk of failure to meet income targets and the potential to make commercial losses.
- The support services in scope are critical to the provision of clinical services across MYHT. Any disruption to these services caused by the implementation of new delivery structures would impact upon clinical service quality. Option 3 was scored higher on likelihood than Option 4 because the Trust would become overly reliant on a third party for the delivery of these important services. Although service contracts and contract management would mitigate failure risk, direct control via a WOS, was considered a better mitigation that contract management for an outsourced solution.
- The risk with the most potential negative impact, is the risk of failing to engage with staff. Almost 10% of the Trust's workforce is affected by these proposals and these staff perform critical roles across the Trust; failure to keep them engaged and on-board with the proposed changes would most likely result in staff leaving and risks industrial action. Doing nothing obviously removes this risk almost entirely. Of the two change options transferring staff to another trust under the lead provider solution was assessed as being more likely to result in disruption. Under proposals to transfer to a WOS, the staff would continue to be part of "the MYHT family", working locally in their current roles and on NHS terms and conditions under TUPE rules.
- Option 4 is more complex to introduce and is a solution that the Trust has not delivered in the past. By contrast the Trust has successfully TUPEd staff to outsourced providers in the past. Option 4 was therefore scored the highest against the final risk.

4.7 Value for Money

Option 4, a MYHT WOS is the preferred option under the value for money test which considers all three aspects of the appraisal "in the round", as demonstrated in the table below (options ranking shown in brackets).

Figure 29: Value for money summary

Measure	Option 1	Option 3	Option 4
Benefits score / (rank)	29.96 (3)	41.74 (2)	71.5 (1)
Financial appraisal (NPV) £000's	£0 (3)	£988k (2)	£2,546k - £5,405k (1)
Risk appraisal	18 (1)	47 (3)	39 (2)

4.8 Sensitivities and switching points

As described under the relevant sections above there are no credible scenarios under which the order of preference would switch from Option 4 being the preference to Option 3 (or Option 1).

4.9 The preferred option

The proposal is that MYHT will set-up a wholly owned subsidiary which has the purpose of:

- Delivering support services to the Trust. The range of support services delivered by the WOS is as described above, although the Trust will leave open the option of transferring more services into the WOS where this makes sense to do so;
- Pursuing commercial opportunities to generate profit for MYHT. Income generation will be an important aspect of the WOS's role, but in line with "Teckal" rules at least 80% of WOS activities will relate to the provision of support services to the NHS;

The Trust intends to transfer certain assets to the WOS – the exact list of assets to be transferred will be determined at FBC (see Section 5.10). The WOS will be wholly owned by MYHT and will be established on a consistent basis with WOS set-up by other trusts within WYAAT. This creates the opportunity for the WOS to collaborate and potentially bring together certain services into a joint organisation at some point in in the future.

The initial WOS service offer will focus on securing new contracts from the NHS and non-NHS bodies in West Yorkshire where we have existing contracts and could include:

- Advisory services – providing advisory and consultative support to clients, developing new infrastructure schemes from concept through to specification, business case development, and providing training and people development services;
- Managed services – supporting interventions to manage services for clients, contracting to support a client and its teams to improve existing infrastructure programmes and services;
- Service Operations – operating infrastructure services, including transferring staff into the WOS as part of the transfer of employment responsibilities.

Through this combined approach of developing service offerings and a new employment model the Trust will:

- Grow as a consequence of the market within the NHS
- Grow and nurture a workforce drawn from our community at all levels of qualification and background
- Generate income and profit as a result of providing specialist services and expertise to other NHS/non-NHS bodies in the surrounding areas and beyond. As a consequence, this will support the trusts within the collaborative WOS and create an opportunity for employees of the new organisation to benefit from their own drive to improve efficiency, productivity and the quality of front line services; and in general, create a dynamic to produce an alternative to the public or private sector in the context of a changing world. Examples for income generation are included at Appendix Three. However, it should be noted that as MYHT has significant PFI estate it may have greater challenge in terms of income generation than some other trusts.

This will enable the newly created WOS to become the competitive provider of choice. Further work is being undertaken to assess the external market for support services to inform income generation potential.

There are over 700 w.t.e. MYHT staff working across the departments which would transfer under TUPE rules, into the WOS. Each service would be reviewed prior to confirming inclusion for TUPE transfer and staff engagement and consultation would continue to be undertaken.

Figure 30: Staff potentially transferring to the WOS – key metrics

Department	Staff in-post headcount	Staff in-post w.t.e.	Sickness rate	Annual turnover
Estates Operational Maintenance	56	52.1	6%	8%
Capital Delivery	7	6.6	0%	7%
Facilities Management	672	469.2	8%	9%
PFI Management	4	4	2%	0%
Medical Physics	31	29	5%	9%
HSDU	92	74.3	5%	7%
IT Services	60	56.5	2%	10%
Procurement	19	16.8	5%	2%
Total/ average	**941**	**708.5**	**7%**	**9%**

Staff will TUPE to the WOS under their existing terms and conditions. These terms and conditions will be maintained for the duration of the contract between the WOS and the Trust for all transferring staff.

The MYHT Workforce Strategy explains how the Trust will foster a culture where people feel valued, motivated and engaged. The workforce strategy has four principle priorities and the following table indicates how the preferred option could align with those.

Figure 31: Alignment of workforce strategy to preferred option

MYHT Workforce Strategy Priorities		Potential Alignment of the Preferred Option
1	To be an excellent employer providing a great place for people to work.	The WOS would be owned by the Trust and work for the Trust. The Trust's values will be intrinsic to it. This will include ensuring that recruitment practice standards mirror that of the Trust.
2	To recruit and retain staff who have the right values and behaviours, promote their health and wellbeing and equality of opportunity	The WOS will both attract and retain high calibre staff who are proud to work for the WOS.
3	To invest in the skills and development of our staff	The WOS will support the development of its people, equipping them will skills to deliver high quality care by supporting the Trust by delivering against its strategic aims.

MYHT Workforce Strategy Priorities		Potential Alignment of the Preferred Option
4	To continue to develop the leadership skills of our staff that are consistent with the Trusts values and behaviours, as well as Mid Yorkshire Quality Improvement system.	The WOS will mirror the Trusts 'well led' requirements. The WOS will also adopt MY behaviours.

In considering the establishment of a wholly owned subsidiary MYHT wishes to ensure that staff remain well informed and well treated. The same services would be provided by the same staff, there is no proposal to lose service functions or staff. TUPE transfer ensures that staff retain existing terms and conditions at the point of transfer and if the Board agree to proceed to develop the preferred option then the details of how terms and conditions will apply will be worked through. This includes:

- Whether or not transferring staff on Agenda for Change terms and conditions retain those conditions on promotion or applying for a new job with the WOS;
- Terms and condition for new staff including pension provision. It is understood that the WOS may not be able to offer new staff access to the NHS pension scheme. The Trust will need to make a decision on the level of employer contribution to make into a pension scheme for new staff;

The Trust is already committed to:

- Guaranteeing Agenda for Change terms and conditions for transferring staff, for the duration of the contract between the Trust and the WOS;
- Applying for access to the NHS pension scheme for transferring staff;

MYHT has no desire to disadvantage staff and wishes to ensure that these matters are resolved as quickly as possible if a decision to develop a WOS is taken. Because the workforce model is directly linked to the commercial model, it will be necessary to run a range of workforce scenarios and consider how they impact the commercial model before engaging and consulting with staff on a preferred position. Developing and finalising the commercial model does require a significant investment of time, effort and resource.

Whilst MYHT cannot set out the terms and conditions to be offered to staff without developing the commercial model further, the principles for the development of the preferred option are:

- If the WOS makes a profit, all of it (after tax) will be available to the Trust to determine how it is to be used;
- The Trust will not sell the WOS;
- Unions will be recognised by the WOS;
- If the WOS is a company with shares the Trust will own 100% of the shares. A Limited Company is the most likely vehicle for the WOS;
- The Wholly Owned Subsidiary will apply to the Department of Health to use the NHS logo.
- There will be a move towards productivity and staff incentives;
- The new organisation will become more commercial and will have targets to achieve to increase turnover/ bring on board new contracts;

- There will only be improvements in quality (no reduction in quality of goods or services).

5 Commercial case

5.1 Introduction to the commercial case

The commercial case sets out procurement and contractual issues associated with the preferred option. In common with the financial and management cases, from this point onwards the OBC focuses solely on the preferred option.

The commercial case including the commercial model will be fully developed in the FBC. There are however, several key considerations to be aware of at this stage and in this regard, Bevan Brittan were engaged to advise the project regarding the legal aspects of establishing a subsidiary company.

5.2 Procurement of the WOS

Under the Public Contracts Regulations 2015, contracting authorities must, as a general principle, use competitive processes when they wish to award a "public contract" to a separate legal entity.

The “Teckal exemption” is an exemption under European Union law which allows public bodies to set-up a separate legal entity to carry out some of the body’s tasks (or to co-operate with other contracting authorities to jointly perform or share the delivery of tasks) without a procurement. The Teckal exemption can be applied if the following two conditions are fulfilled:

- Control - the contracting authority (in this case MYHT) must exercise over the company (the WOS) a control "which is similar to that which it exercises over its own departments":
    - There must be a strong organisational relationship between the contracting authority and the company, similar to the relationship between departments within a public authority.
    - 100% contracting authority ownership indicates a certain control, but this is not sufficient to assert that the control condition is automatically met.
    - The control condition is likely to be fulfilled where the board of the company (the WOS) has a very limited autonomy and the decisions that can be adopted without prior approval of the contracting authority are strictly related to the matters related to the everyday work.
    - A company (the WOS) does not fulfil the control condition if it has a board with considerable managerial powers, which may be exercised independently of the owner contracting authority.
    - Control which exists only of the latitude conferred by company law on a majority shareholder might not be sufficient to constitute control for the purposes of the Teckal control condition.
    - The owner authority must exercise "power of decisive influence over both strategic objectives and significant decisions" of the Teckal company.
- The activity condition - established in the Teckal case and now set out and clarified in recent case law, requires that more than 80% of the activities of the company (the WOS) are carried out in the performance of tasks entrusted to it by the controlling contracting authority (the Trust). The activity condition aims to limit the participation of the company on the commercial market and to ensure that public procurement law remains applicable if that company is in competition with other undertakings on the market.

The Teckal exemption will be applied in creating the WOS

5.3 WOS delivery vehicle

The Bevan Brittan recommended delivery vehicle for the subsidiary company is a company limited by shares. A company limited by shares is an independent incorporated entity, registered at Companies House and formed pursuant to the Companies Act 2006 for the purpose of operating a business, usually where such business is intended to be profit-making. It is the most commonly used company structure.

The key characteristics of this independent legal entity are that the company can own assets of the business itself, employ staff, enter into contracts and sue and be sued in a court of law. The company is responsible for the debts and liabilities of the business. This means that the directors and shareholders of the company benefit from limited liability.

A company limited by shares has a share capital which is allocated (equally or unequally) between the shareholders. Each shareholder pays a certain amount to the company as equity funding, for its shares. The liability of each shareholder is limited to the amount unpaid on the shares that the shareholder holds, which would be payable in the event of the insolvency of the company. Shareholders and directors may be liable to pay further amounts on insolvency if they have acted dishonestly. Shares in a private company cannot be offered for sale to the public.

A company limited by shares has a governing structure of shareholders and directors. Directors have the role of managing and running the day to day business of the company and have numerous duties under the Companies Act 2006 which they must comply with. Failure to comply with these duties can result in unlimited personal liability of the Directors, such as damages or criminal offences.

The shareholders own the company and have certain rights through the holding of their shares and under the Companies Act 2006, such as (amongst others) a right to appoint, remove and delegate to directors, vote at shareholder meetings and to receive a distribution of the profits of the company. Shareholders typically make the more fundamental decisions relating to the company. The relationship between the shareholders may be governed by a shareholder's agreement (which is a private document) which sets out terms governing the relationship between the shareholders including the issue and transfer of shares, directorships and so on.

A company limited by shares is governed by its memorandum and articles of association. The articles of association will set out the governance structure of the company and the provisions governing conduct of meetings and decision making by both the directors and shareholders. The memorandum and articles of association are publicly available documents and therefore shareholders often enter into a private shareholders' agreement in which confidential governance arrangements are agreed between the shareholders.

5.4 Service provision and employment model

The initial service offer is expected to encompass the support service functions described in Section 2.4 . This proposed scope is wider than that suggested in the WYAAT business case due to the inclusion of procurement/ materials management, IT and HSDU.

Using the WOS approach there is significant scope to develop an employment model to overcome perceived barriers within the existing structure. Challenges highlighted include:

- Difficulty in attracting the right talent in some areas of the business and a need to streamline the recruitment process to improve agility and hence our response to business development opportunities;
- The need to maintain consistent performance management across all business areas and so deliver services to customers at appropriate standards and to ensure effective staff motivation and engagement;
- The need to explore within the boundaries of Agenda for Change (AfC) alternative methods of rewarding and attracting high performing staff, to support talent management and succession planning;
- The need to provide a strong focus on learning and development for all staff, with everyone given the ability to develop to their maximum potential, to enhance business performance.

The new employment model would therefore like to establish new ways to:

- Motivate and reward staff appropriately, e.g. for improved productivity and efficiency allowing the leadership team and staff to be incentivised to create commercial value and grow revenues and profits;
- Respond quicker to market opportunities, through access to dedicated business development support within the collaborative WOS;
- Operate with greater autonomy and flexibility than is currently allowable as a pure directorate of the Trust, to enable more commercially focused investment decisions;
- Work with staff side to develop options for greater productivity and consider staff incentives to achieve;
- Continue to innovate and create opportunities to support the Trust to deliver high quality care for patients.

5.5 Staff transfer

MYHT recognises the absolute value and importance of its workforce. We are committed to not disadvantaging transferring staff. The following key principles will frame our approach to managing the transfer:

- For any individual compulsorily transferred from the Trust to the WOS, these terms and conditions will remain the same in their entirety as per TUPE regulations;
- For all individuals currently paying into the NHS Pension Scheme, their pension status will remain unaffected by the transfer;
- We will abide by the Cabinet Office Principles of Good Employment Practice which includes a commitment to fair and reasonable terms and conditions, at the time of transfer and subsequently;
- All staff will be kept fully engaged and supported during the change process;
- We will work in partnership with staff representatives throughout the transfer;
- The process of change will be fair and transparent;
- We avoid delay and uncertainty in the transfer;
- Change will be planned, not reactive;

- No employee will receive less favourable treatment on grounds of age, gender, marital status, race, religion, creed, sexual orientation, colour, disability, working patterns, or on the grounds of trade union membership.

The framework for managing the transfer of employees will consider the following:

- The provision of accurate information – the Trust will need to provide all relevant staffing information and potentially warrant the accuracy of such information so that the WOS would be certain as to the resourcing position and the operating costs likely to be incurred in respect of staff going forwards. This information would enable the WOS to plan for ongoing service provision;
- A reciprocal apportionment of liabilities - such that all liabilities pre-transfer date would be the responsibility of the Trust and all liabilities post-transfer would be responsibility of the WOS (with the only exception being TUPE liabilities that arise because of either side failing to meet their specific TUPE obligations);
- Exit provisions – a clear framework in place as to the obligations of any provider (such as the WOS) in the event of termination or expiry of the proposed arrangements to enable liabilities to be apportioned appropriately and to enable any commissioner of such services to achieve a competitive procurement process going forwards. Equally, in the event that TUPE is not applicable, the parties may wish to consider how any potential redundancy liabilities should be apportioned;
- Pension protection provisions – provisions in place to ensure all transferring staff eligible to participate in the NHS Pension Scheme (or other relevant public-sector pension scheme) retain such eligibility and access to the relevant pension scheme after any TUPE transfer (provided they continue to be engaged in the provision of the services originally transferred). It will be established whether all transferring employees are entitled to NHS Pension Scheme membership, and if so, their pensionable service will not be interrupted. The WOS will become an employer within the scheme. Any employees who do not have an entitlement, i.e. third-party contractors may be subject to TUPE but not to pension protection. There are pension consultation obligations that may apply in relation to the transfer of employees, although these can usually be dealt with as part of the wider TUPE consultation process. The Trust is planning on the basis that new staff employed by the WOS will not be entitled to join the NHS Pension Scheme, as this has been the norm in similar circumstances, however, the Trust understands that new recruits to the Northumberland WOS have been able to join the scheme. The Trust will clarify the position of new staff as part of work on the FBC, but even if staff can not join the NHS pension scheme, the Trust is committed to making alternative pension arrangements affected WOS employees.

5.6 Phasing of the Project

The West Yorkshire Association of Acute Trusts (WYAAT) have worked together to look at the benefits and risks associated with establishing a wholly owned subsidiary and developed a case for change which was approved in March 2017. Having continued to work together to appraise the short-listed options it became evident that there were several factors indicating that a single wholly owned subsidiary operating across all four trusts involved would be difficult to configure and agree initially due to:

- The different statutory status of the trusts;

- The different financial status of the trusts;
- The different terms and conditions the Trusts have for staff that may transfer to a WOS;
- Different trust policies;
- Different trust values.

Having developed a business case on a WYAAT basis it has been concluded that each trust will form their own company and transfer staff under existing terms and conditions individual trust WOS (this business case is concerned with phase one only).

At the same time phase two work will begin to look at the development of service-by-service Improvement plans to establish opportunities for wider collaboration including with other public-sector bodies. This phase of work will include consideration of the potential creation of a single WOS for delivery of specialist services on a WYAAT footprint basis or alternative such as local trust WOS remaining in place and a separate WYAAT WOS being established to operate those services where a wider footprint would make sense.

Shortly after the planned "go live" date for the MYHT WOS (see Section 7.5), there will be an opportunity to consider the option of in-housing some functions currently provided via the PFI contract.

5.7 Implementation checklist

As well as establishing the limited company (or other vehicle), the Trust will need to consider each of the issues set out in the checklist below.

Figure 32: Implementation checklist

Item	Details
A Business Transfer Agreement	Which will be used to transfer assets, staff, equipment etc from the Trust to a subsidiary
Managed Services Agreement	Detailing the services and any facilities the subsidiary will provide to the Trust
Licence to occupy	From a financial perspective, it is imperative for VAT, corporation tax and Stamp Duty Land Tax purposes that the Trust grant their subsidiary a non-exclusive right/license to enter any site/premises site and provide services, rather than an exclusive right of occupation via a lease
Any Building Contract documents	(If required)
Support/Service Level Agreement	Which will document the support services to be provided by an individual trust to its subsidiary
Finance documents	These will cover any loans made by the Trust to the subsidiary and any third-party funding from say charities etc
Novation Agreements	To enable current contracts to be transferred directly to the subsidiary. All contracts will need to be reviewed as part of this work
Insurance	The WOS is likely to need its own employers and public liability insurance
Risk Transfer	Review of risk transfer options
Lifecycle Payments	Agreement on Capital Investments required by the Trust to the WOS

Item	Details
Governance & Monitoring	Agreement on formal and informal Governance and Monitoring arrangements
Director Appointments	Appointment of Key Roles within the WOS

5.8 Risk Transfer

The following is a list of potential areas where there needs to be agreement between the Trust and the WOS. This will be completed as part of the planning phase in conjunction with the development of the contracts, service level agreement and pricing process.

Figure 33: Risk transfer

Risk area	Trust risk	WOS risk	Shared risk
Demand for healthcare services			
Clinical Cost			
Design-Design not complying with planning requirements			
Construction works risk			
Planning			
Change in law			
Damage			
Decant			
Underutilised estate and income from hire			
Repair and maintenance			
Grounds maintenance			
Industrial Action			
Availability of utilities and negotiation			
Availability of facilities			
Car park revenue			
Training, development, and recruitment of operational staff			
Lifecycle costs (subject to budget agreement)			
Vandalism			
Negotiate insurance			
Consequential effects of sub-contractor failure			
Statutory compliance			
Responsibility for the delivery of healthcare services and fulfilling			

Risk area	Trust risk	WOS risk	Shared risk
regulatory requirements			

5.9 Key contractual issues

The Trust will need to agree the term of the contract for specialist support services that it enters into with the WOS. The WYAAT business case proposes a contract term of 25 years.

The WOS is likely to be incorporated with articles of association which will form the basis for the governance framework, including provision for the Trust (on an ongoing basis) to establish certain restrictions on WOS as may be appropriate to its governance. This includes reserved matters. An example of draft reserved matters is included at Appendix Four. The table below indicates some of the main documents that will be needed to form the contract.

Figure 34: Contracts

Title	Purpose
Loan Agreement/s	For capital funding
Shareholding	Equity investment
Project Agreement	To set out the specification for the services which must be provided, the payment method used to calculate the Unitary Charge and the performance regime used to monitor and incentivise WOS performance
Operational Sub-Contracts	Operational sub-contracts will be put in place between SPV and the facilities related sub-contractors (many will be novated from existing arrangements)

5.10 Asset and contract transfers

The Trust's intension of that the WOS would take over responsibility for managing and operating the Trust's retained estate, relevant assets and the services that are necessary to make the estate fully functioning. To achieve this, the Trust will either:

- Grant a leasehold interest or a licence in respect of the relevant estate and assets to the WOS;
- Or transfer the estate and assets to the WOS through a freehold sale.

The exact details of asset transfers will be worked through in the FBC, but initial indications are that:

- Existing stocks of consumables will be sold to the WOS at holding value;
- Equipment assets such as IT, HSDU and medical physics equipment would also be sold to the WOS at net book value;
- Whilst land and buildings can also be sold to the WOS (and once again this will be tested at FBC), at this stage, indications are that freehold ownership and existing leases will remain with MYHT. The PFI contract will not transfer.

The range and scope of asset transfers will impact upon the Trust's future ability to recover input VAT.

The Trust will need to put in place leases or licences between itself and the WOS, for land and properties that the WOS will need to use to fulfil its duties (the advice is that a lease is preferable to a licence and that this is the route being pursued by other WYAAT trusts). The properties that would be leased to the WOS and which the WOS would then licence back to the Trust (via back-to-back leases and licences), are those that make-up the retained estate. These are shown in the table below.

Figure 35: The retained estate properties to be leased to the WOS

Building	Year built	Area m^2
Dewsbury and District Hospital (whole site)	1930 - 2006	59,048
Pinderfields General Hospital:		
Eye Centre	2016	2,620
Trust HQ/ Training Centre	2010	4,000
Diabetic Centre	2007	495
Call Centre	1975	867
HSDU/CSSD	1975/2011	1,914
Rowan House	1909	1,553
Ward 9	2001	661
HG Jones	1892	1,403
Ashton Centre	1964	784
Stanley Hall	1902	2,465
20 Bar Lane	1922	245
Pontefract Hospital		
Friarwood House	2008	2,620
Hermitage and Dispensary Building	1900	96

The Trust also anticipates a need to novate several existing contracts to the WOS. Examples include equipment leases (e.g. the Dewsbury CT), equipment maintenance contracts and some service provision contracts such as pest control, to the WOS. The Trust may need to enter into parent company guarantees to allow the WOS to takeover some leases.

6 Financial case

6.1 Introduction to the financial case

The financial case considers the affordability of the project to the Trust and the impact on the wider health and care system. The incremental impact of the investment the Trust wishes to make is presented and the overall impact the investment would have on the Trust's financial position is discussed. For this business case the "affordability test" is the requirement that the preferred option must not make worse the Trust's financial position.

The requirement that the project does not make worse the Trust's financial position whilst a normal requirement for NHS investments, is particularly important in this case because the Trust is proposing to set-up a commercial entity (the WOS) for the purposes of income generation and under NHS rules contained in the NHS Finance Manual, contained in the NHS Finance Manual, an income generation scheme must meet the following conditions:

- The scheme must be profitable and provide a level of income that exceeds the total costs;
- The profit from the scheme, which the NHS body would keep, must be used for improving the health services;
- Whilst losses in the first few years may not be a barrier to establishing an income generation scheme, long term profitability is required, including third party income from outside of the NHS.

The financial appraisal has been undertaken in line with HM Treasury Guidance set out in the Green Book and the more recent NHSI publication, Capital regime, investment and property business case approval guidance for NHS providers.

The financial case differs from the financial assessment set out in the economic case in two important aspects:

- It only considers the preferred option (Option 4) unlike the economic appraisal which considered all short-listed options;
- The focus of the financial case is affordability as measured by the impact on the Trust's income and expenditure (I&E) account, balance sheet and cashflow, as opposed to net present values

6.2 Assumptions

The following assumptions underpin the numbers presented in the financial case:

- The project will incur non-recurrent project set-up and advice costs in years 0 and 1;
- There will be an ongoing contract management costs associated with operating the WOS. The non-recurrent project costs and ongoing contract management costs are only incurred because of the decision to proceed with the WOS;
- Three options relating to staff terms and conditions have been prepared:
    - An option based on the AN Other WOS. This option maintains basic pay rates at levels equivalent to NHS Agenda for Change, but reduces new staff entitlements to annual leave and sick pay, does not pay unsocial hours enhancements and reduces

staff pension benefits. All existing staff would transfer on existing terms and conditions;
    - An option described as "AN Other-lite", which is similar to the AN Other option, but which does include enhanced payments for unsocial hours. The alternate terms and conditions only apply to new starters;
    - A full NHS terms and conditions option which would apply Agenda for Change to all new starters, with the exception that new starters would not be able to join the NHS pension scheme (we have assumed identical employer contributions into an alternate scheme).
- Historic three-year average staff turnover rates and staff sickness rates (see Section 3.8) have been used to calculate the impact of new terms and conditions under the AN Other and "AN Other-lite" options.
- The introduction of a full materials management service would require an additional 9.4. w.t.e. Band 3 staff to be employed. The existing Band 2 staff working in procurement would be rebanded to Band 3. The efficiency benefit to ward/ department staff who would no longer be undertaking stock control duties is not included in the financial case (it does feature in the economic case), because it is not a cash releasing saving;
- One-off project implementation costs are shown in year 0 and year 1. Contract monitoring costs relating to the management of the contractual interface between the Trust and the WOS, have been included from year 1 onwards;
- Savings relating to collaboration and procurement are as per the WYAAT business case;
- £1m contribution from income generation is assumed by year 5. The Trust intends to use the WOS to generate income from non-NHS patient sources. The Trust has undertaken an initial market scoping exercise and has identified several opportunities which would be pursued through the WOS. These are:
    - Retail expansion at the Dewsbury site;
    - Development of housing on surplus land;
    - Development of additional car parking at the Trust's hospital sites;
    - Development of surplus land for retail;
    - Expansion of the decontamination service;
    - Establishing a production facility for patient food, laundry and linen;
    - Provision of specialist capital planning services.

Further details are provided in Appendix Three.

6.3 Impact on the Trust's income and expenditure account

The impact on the Trust's financial position is presented below from the perspective of impact on the consolidated group accounts MHYT would need to produce if a WOS is established. The Trust will also need to maintain separate accounts for the WOS and the activities of MHYT not transferring to the WOS. The relative apportionment of any profits generated by the WOS will need to be agreed at FBC.

The tables below summarise the financial impact of the three Option 4 sub-options. Under the AN Other option the Trust's consolidated financial position would improve by a cumulative £4.7m by the end of year five post-go live.

Figure 36: Impact on I&E – AN Other option

Option 4 (AN Other scenario)	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Total 5 year saving
Staff T&C	£0	£216	£432	£648	£864	£1,080	£3,240
Materials Management:							
Cost pressure re new staff	£0	-£289	-£289	-£289	-£289	-£289	-£1,445
Efficiency saving ward/ dep't staff	n/a	n/a	n/a	n/a	n/a	n/a	£0
Procurement	£0	£30	£30	£30	£30	£30	£150
Collaboration	£0	£30	£30	£30	£30	£30	£150
Sub total savings	£0	-£13	£203	£419	£635	£851	£2,095
Income generation	£0	£0	£727	£828	£929	£1,010	£3,495
Sub total savings/ income generation	£0	-£13	£930	£1,247	£1,564	£1,861	£5,590
Project costs	-£140	-£150	£0	£0	£0	£0	-£290
Monitoring costs	£0	-£120	-£120	-£120	-£120	-£120	-£600
Total	**-£140**	**-£283**	**£810**	**£1,127**	**£1,444**	**£1,741**	**£4,700**

The largest contributions to the £4.7m savings under the AN Other scenario are the income generation cumulative contribution (£3.5m) and the £3.24m cumulative saving resulting from changes to staff terms and conditions (these rise each year due to staff turnover and new staff being appointed on AN Other terms and conditions.

If the AN Other-lite model were selected, staff savings would decrease to £1.07m; all other financial impacts remain as per the AN Other model.

Figure 37: Impact on I&E – AN Other-lite option

Option 4 (AN Other-lite)	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Total 5 year saving
Staff T&C	£0	£71	£143	£214	£285	£357	£1,070
Materials Management:							
Cost pressure re new staff	£0	-£289	-£289	-£289	-£289	-£289	-£1,445
Efficiency saving ward/ dep't staff	n/a	n/a	n/a	n/a	n/a	n/a	£0

Option 4 (AN Other-lite)	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Total 5 year saving
Procurement	£0	£30	£30	£30	£30	£30	£150
Collaboration	£0	£30	£30	£30	£30	£30	£150
Sub total savings	£0	-£158	-£86	-£15	£56	£128	-£75
Income generation	£0	£0	£727	£828	£929	£1,010	£3,495
Sub total savings/ income generation	£0	-£158	£641	£813	£985	£1,138	£3,419
Project costs	-£140	-£150	£0	£0	£0	£0	-£290
Monitoring costs	£0	-£120	-£120	-£120	-£120	-£120	-£600
Total	**-£140**	**-£428**	**£521**	**£693**	**£865**	**£1,018**	**£2,530**

The final sub-option is to employ all staff including new starters, on existing NHS terms and conditions. This would result in there being no "staff T&C" saving as per the table below.

Figure 38: Impact on I&E – NHS T&C option

Option 4 (NHS T&Cs)	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Total 5 year saving
Staff T&C	£0	£0	£0	£0	£0	£0	£0
Materials Management:							
Cost pressure re new staff	£0	-£289	-£289	-£289	-£289	-£289	-£1,445
Efficiency saving ward/ dep't staff	n/a	n/a	n/a	n/a	n/a	n/a	£0
Procurement	£0	£30	£30	£30	£30	£30	£150
Collaboration	£0	£30	£30	£30	£30	£30	£150
Sub total savings	£0	-£229	-£229	-£229	-£229	-£229	-£1,145
Income generation	£0	£0	£727	£828	£929	£1,010	£3,495
Sub total savings/ income generation	£0	-£229	£498	£599	£700	£781	£2,350
Project costs	-£140	-£150	£0	£0	£0	£0	-£290

Option 4 (NHS T&Cs)	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Total 5 year saving
Monitoring costs	£0	-£120	-£120	-£120	-£120	-£120	-£600
Total	**-£140**	**-£499**	**£378**	**£479**	**£580**	**£661**	**£1,460**

As stated earlier, the Board of Directors will make a decision about which Option 4 sub-option to select after a detailed analysis has been completed. It is important to note that all three sub-options would improve MYHT's financial position, so therefore pass the affordability test.

6.4 Financial sensitivities

Savings relating to procurement and collaboration have been set at modest levels. The key downside sensitivity in the "NHS T&C" scenario is the WOS's ability to generate a contribution of over £1m by year 5 from income generation activities. A reduction of just under 42% in contribution is the point at which the WOS would become unaffordable to MYHT.

Not assumed in the base case modelled above are opportunities which may fall to the WOS in 2019 when some services associated with the Trust's PFI are due to be market tested. The Trust has recently commissioned a benchmarking report covering soft facilities management services provided by enGie (the PFI facilities services provider) and in-house services; this report identifies areas for efficiencies (see Appendix Five). At this point it is likely that the WOS would be in a strong position to take over the running of these services and the associated opportunities for efficiency savings. The largest opportunity relates to car parking – the Trust currently receives only a small amount of income from this source because the income raised is almost entirely offset by the PFI contractor's management fee; a WOS would create the opportunity to manage car parks at a significantly reduced cost.

6.5 Implementation costs

Implementation costs up until this point have been limited to contributing to the WYAAT programme of work. If a decision is taken to progress to develop the commercial model, then it will be necessary for the Trust to establish an internal project team. The benefits of the WYAAT approach will still be available to support the team, but the level of detailed work required at a trust level is significant. The estimated implementation costs are £290k.

6.6 Impact on the Trust's cashflow

The establishment of a WOS is not expected to result in any changes to the timing of cash flows.

Cash generated by the WOS would remain in the WOS's bank account subject to any agreement on the payment of dividends by the WOS to the MYHT (the parent organisation).

6.7 Impact on the Trust's balance sheet

The WOS would be a wholly owned subsidiary of the Trust and will be reflected in the Trust's balance sheet as such.

Any assets transferred to the WOS will need to be transferred from the Trust's asset register and fixed asset value on the balance sheet at an agreed transfer value. Assets transferring will include stocks and equipment, but not property (see Section 5.10). A corresponding asset in the form of 100% of the WOS share capital would be created.

The Trust will need to undertake a due diligence and condition appraisal exercise to decide what assets would transfer to the WOS and what form the transfer would take. For property assets, options include granting the WOS a licence to operate using defined assets. A sale and transfer of property freeholds is also possible. The decision on how assets are to be assigned and/ or transferred will be made at FBC.

6.8 Tax advice

NHS Trusts are not allowed to set-up subsidiary companies with the sole purpose of avoiding tax.

The opinion of the Trust's tax advisers, Ernst and Young has been sought on the likely tax implications associated with the establishment of a wholly owned subsidiary.

It should be noted that the option appraisal within this business case does not take account of tax impacts.

6.9 Accounting treatment

In accordance with IFRS 10 MYHT will need to produce consolidated accounts which include its 100% share, of the WOS. The consolidated accounts therefore, need to include all of the WOS' income, expenditure, assets and liabilities. All entities within the group will need to adopt the same accounting policies and the same reporting dates.

7 Management case

7.1 Introduction to the management case

The purpose of the management case is to demonstrate that the WYAAT programme and the MYHT project within the programme, is well managed and likely to succeed. For the purposes of this chapter of the OBC we refer to the WYAAT WOS as the "programme" and the MYHT WOS as the "project".

7.2 The WYAAT programme

The WYAAT project governance structure is detailed below – MYHT will replicate the WYAAT structure at Trust-level.

A WOS Programme Board has been formed with lead representatives from each organisation and holds a weekly teleconference which manages progress. A monthly report from the Programme Manager is received by the WYAAT Estates and Facilities Sub-group. This ensures the sharing of information and support at a programme level.

The WOS Programme Board is supported by groups covering finance, workforce, service delivery, and implementation and communications. Programme Management support is provided by WYAAT to the Project Sponsor, Lesley Hill, Director of Planning, Performance, Estates and Facilities at Calderdale and Huddersfield NHS Foundation Trust. A suite of project management tools is established including a risk register and issues log.

7.3 The MYHT project

MYHT will manage the project in accordance with PRINCE2 methodology which is recognised best practice across the public sector.

At MYHT level the Trust project team will include those individuals already engaged in the various WYAAT-programme level groups:

- Project Lead;
- Finance;
- Workforce and human resources;
- Service delivery and improvement;
- Communications and engagement.

The project team will report into the MYHT project steering group which will in turn, report to the Trust executive team.

Once the MYHT Board has approved this OBC, we will formally establish the MYHT project with initial actions including:

- Drawing up a project initiation document;
- Agreeing workstream leads (finance, workforce etc) and project group membership;
- Agreeing membership of the project group and the group's terms of reference;
- Establishing the MYHT risk register and issues log;
- Agreeing project reporting processes, frequencies etc;

- Drafting the project;
- Formalising the change management process;
- Agreeing the communication and engagement plan;
- Developing the benefits realisation plan;
- Confirming project resourcing.

7.4 Project milestones – WYAAT programme

There are two implementation phases for the WYAAT programme:

- **Phase one - creation of Individual WOS** involves the transfer of staff under existing terms and conditions into individual trust WOS with a new delivery model and contracts in place for services based on current contracts – this phase is the focus on this business case. A programme of collaborative options will be developed and overseen by a Joint Programme Board;
- **Phase two – collaboration** involves the development of service-by-service improvement plans to establish opportunities for wider collaboration including with other public-sector bodies. A review of the operating model will be undertaken to consider a more collaborative approach including the creation of single WYAAT WOS for delivery of specialist services. The diagram below explains the delivery approach for this phase and it is anticipated that phase two will begin at the same time as phase one.

7.5 Project milestones – MYHT project

Subject to Board approval to progress the project, the draft milestones for MYHT are as per the table below.

Figure 39: MYHT project milestones

Milestone	Date
Trust Board support and approval of OBC	May 2018
Trust Project Team established	May 2018
NHSI / Secretary of State approval of OBC	June 2018
Draft FBC	May – July 2018
Trust Board decision to progress based on draft FBC	August 2018
Progress of workstreams and development of final FBC	August - October 2018
Stakeholder communications and engagement	May- October 2018
Trust Board approval of FBC	October 2018
NHSI / Secretary of State approval of FBC	November 2018
Staff consultation (formal consultation)	November – January 2018
Company formation and appointment of interim Directors	November 2018
Contracts signed	January 2019
Staff transfer and WOS operational	1st February 2019

7.6 Board due diligence

Care has been taken in the drafting of the outline programme to ensure sufficient time for Board level due diligence. A series of workshops will take place to confirm:

- Service inclusion;
- Staff terms and conditions;
- The commercial model;
- Business continuity plans;
- Reserved matters and legal transfer.

7.7 Communications and engagement

Communication and engagement with potential effected staff has already started. Nevertheless, the Trust recognises that the project will only achieve its objective if there is an engaged set of staff and stakeholders throughout all the project phases.

Business engagement is defined as the framework that enables effective stakeholder engagement and communication throughout the life of the project. It is recognised as integral and critical success. The project team will develop a communications strategy to facilitate messaging (what will be communicated, by whom, how and when) as a key vehicle for delivering the engagement strategy.

It is important to note that business/stakeholder engagement, communications and the stakeholder landscape itself will evolve throughout the life of the project and it is therefore essential that the project establishes a flexible approach to business engagement and communications that is maintained and re-visited at each phase of the project.

7.8 Benefits realisation

Benefits realisation is concerned with putting in place the management arrangements required to ensure that the benefits detailed in the Economic Case are delivered. A detailed benefits realisation plan will be developed as part of this programme. The high-level benefits realisation plan is designed to:

- Identify the benefits and responsibility for their delivery;
- Establish baseline measurement where possible;
- Quantify benefits;
- Assign responsibility for the actual realisation of benefits throughout the key phases of the programme;
- Periodically assess realisation and initiate any actions required;
- Record further expected benefits identified during the project;
- Measure outcomes.

7.9 Risk management

A risk register for the project is being established to identify, assess and control risks that emerge during a project lifecycle. Its purpose is to support better decision making through understanding

the risks inherent in a programme of this size and their likely impact. Effective risk management helps the achievement of wider aims such as:

- Effective change management;
- Efficient use of resources;
- Better project management;
- Minimising waste and fraud;
- Supporting innovation.

A comprehensive project risk register has been developed at WYAAT Programme Level and this can be used to assist MYHT in the development of a local register.

The Trust will use the RAID (risks, assumptions, issues and dependencies) management process to manage risks. RAID has a simple step by step process of:

- Raising a risk, assumption, issue or dependency item;
- Registering the item in the RAID register with a description of the item and the impact;
- Assessing the probability of the item occurring, the severity if it were to occur and the proximity i.e. likely timescale of occurrence;
- Assigning actions including actions relating to dependencies;
- Implementing actions;
- Monitoring and reporting RAID.

7.10 Post project evaluation strategy

This section sets out how the various stages of the Project will be reviewed. Firstly, a project evaluation review will be carried out to improve project appraisal at all stages of a project from preparation of the business case through to the design, management and implementation of the scheme.

Secondly, a post-implementation review will be carried out to assess the implementation of the completed working solution. It usually takes place between six weeks and six months after the completion of deployment. The objectives of the review will be to:

- Identify how well the project aims and objectives have been achieved;
- Determine if the project timescales were met, both overall and for each key milestone, and what corrective actions, if any, were taken;
- Determine if the project costs were controlled and were within budget, both overall and for each of the parts of the project, and what corrective actions, if any, were taken;
- Against the benefits realisation plan identify what benefits have been achieved (both cash releasing and non-cash releasing) and seek the realisation of any outstanding benefits, including the implementation of any procedural and process changes;
- Assess the efficiency of the acquisition process and document the shortcomings for the benefit of future projects.

8 Clinical quality

8.1 Introduction to the clinical quality case

NHSI business case guidance for NHS Trusts undertaking capital investments has been updated to include a "sixth case" – clinical quality. The purpose of the clinical quality case is to provide a patient-centred clinical quality review framework facilitate the review of capital business cases from a clinical quality, workforce, patient safety and patient experience perspective, and to support engagement with key stakeholders for the benefit of patients, the public and the wider health community. It ensures that the scheme estates plans are appropriately clinically informed and meet national best practice guidance and standards.

Whilst the MYHT business case for the WOS is not a capital investment business case, we have reviewed the requirements of the clinical case to ensure that due attention has been paid to the potential impact of the WOS proposal on clinical quality.

The figures below cover the key headings in the checklist:

- Clinical strategy and commissioning intentions;
- Design and buildings;
- Leadership and stakeholder engagement;
- Patient experience and safety;
- Workforce;
- Sustainability;
- Learning and continuous improvement.

8.2 Clinical strategy and commissioning intentions

Figure 40: Delivering clinical quality: strategy and commissioning intentions

Checklist item	This business case
Describe how the scheme will support the delivery of the organisation's clinical strategy and is aligned to commissioning intentions.	The creation of the WOS will enable the Trust to focus entirely on delivering its clinical strategy i.e. its core purpose, rather than also needing to focus on the provision of support services. Local commissioning intentions are not directly impacted to this proposal, with the exception that the WOS will contribute to STP plans to delivery more efficient and effective services.

8.3 Design and buildings

Figure 41: Delivering clinical quality: Design and buildings

Checklist item	This business case

Checklist item	This business case
Describe the purpose of the building and the suitability of the design and layout to the proposed scheme, with attention to patient, staff and visitor needs.	This test is not directly applicable; however, it is worth noting that the WOS could be a vehicle through which the Trust can more easily attract external capital funding for the development of its estate (and other assets).

8.4 Leadership and stakeholder engagement

Figure 42: Delivering clinical quality: Leadership and stakeholder engagement

Checklist item	This business case
Can the organisation demonstrate engagement with clinical leaders, frontline clinical and non-clinical staff, and other key stakeholders in shaping investment proposals? • Stakeholder engagement • Clinical leadership, engagement and oversight • Interface with community partners	This business case responds to the WYAAT-wide programme. The next stage of development (see Section 7.7) includes a focus on stakeholder engagement within which the Trust will liaise closer with affected and other staff to ensure the proposal results in the safe transfer of services into the WOS.

8.5 Patient experience and safety

Figure 43: Delivering clinical quality: Patient experience and safety

Checklist item	This business case
The organisation describes how the project will improve the quality of care and the experience of patients. The organisation has carried out a full quality impact assessment using a nationally approved tool and can evidence that the proposal will enhance the quality of patient care and experience. Where any negative impact has been identified, measures to mitigate this have been included in the business case.	The benefits anticipated from this development are described at a strategic level in sections 3.4 and 3.7. An assessment has been made of how each strategic benefit will be delivered by the preferred option, and this is described at Section4.4. This will provide the foundation for a full benefits realisation plan which will be drawn up in parallel with (and informed by) the procurement process, and which will therefore be presented in the FBC. A formal Quality Impact Assessment will also be carried out during the FBC stage, as will an Equality and Diversity Impact Assessment. During the procurement and FBC phase, full consideration will be given to business continuity, including major incident responses and emergency planning, to ensure that disruption is minimised and safe working is never compromised.

8.6 Workforce

Figure 44: Delivering clinical quality: Workforce

Checklist item	This business case
How have national drivers for workforce been incorporated in the	This project recognises the challenges facing the NHS in recruiting and retaining staff across all services. By setting-up a WOS focused on support services, the Trust believes staff recruitment and

Checklist item	This business case
proposal?	retention will be improved. This was one of the benefits tested as part of the options appraisal process.

8.7 Sustainability

Figure 45: Delivering clinical quality: Sustainability

Checklist item	This business case
Have sustainability, demand and capacity modelling been carried out across the lifetime of the scheme?	This test is not applicable to this business case.

8.8 Learning and continuous improvement

Figure 46: Delivering clinical quality: Learning and continuous improvement

Checklist item	This business case
Does the organisation have arrangements in place to evaluate lessons learned and opportunities for continuous improvement?	The FBC will describe the arrangements to be put in place to learn lessons from this project (see Section 7.10).

9 Conclusion

This OBC has demonstrated:

- That there is a sound strategic case for the scheme, with a clear case for change and clear benefits;
- That a preferred option has been identified that represents best value for money out of the wide range of options drawn up at SOC;
- That there is a sound foundation for procurement and that a clear approach has been agreed;
- That the project is affordable to the Trust;
- That there is a strong project management structure and processes in place to take the work forward;
- That the impact on clinical quality is positive.

10 Appendices

Appendix One – Procurement Gap Analysis Report, Attain, March 2018

Appendix Two – AN Other terms and conditions

Appendix Three – Report on income generation opportunities

Appendix Four – Example of Reserved Matters

Appendix Five – Soft Facilities Management Benchmarking Report, GK Transformation, April 2018

Appendix One – Procurement Gap Analysis Report, Attain, March 2018

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Appendix Two – AN Other terms and conditions

Item	All terms are pro rata as appropriate.
Pay	Pay bands will be: Grade A = £15,600 Grade B = £19,500 Grade C = £24,000 Grade D = £29,000 Grade E = £34,000 Grade F = £39,000 Grade G = £44,000 Grade H = £49,000 Grade I = £54,000 Staff recruited above Grade I will have their Salaries negotiated on an individual basis with the exception of Board Directors which will be appointed by the parent company, AN Other NHS Trust. The minimum pay for any role within AN Other will be £8.00 per hour for Domestic Assistant and Porters. Staff will also be able to earn an annual £500 bonus which will be related to performance and productivity. This applies to all staff up to Grade D.
Pay Progression	Spot rates as outlined above. Cost of living increases will be aligned with the pay award offered by the NHS for staff in similar sectors as a minimum.
Unsocial Hours	AN Other will not have unsocial hours payments and will provide flexible opportunities for staff to work hours to meet personal and family needs.
Overtime	Overtime will be paid at basic rate apart from Bank Holidays which will be paid at 1.5 times the basic pay plus equivalent time back in lieu. Overtime on Christmas day, Boxing day and new years day will be paid at double time for all staff up to Grade F.

Appendix Three – Report on income generation opportunities

MYHT already generates income via a number of sources, for example:

- Retail;
- Decontamination Services;
- Car parking;
- Medical Physics.

MYHT has selected a number of areas below to showcase the current projects and expansion opportunities in providing profitable income to the Trust.

Retail Overview MYT

The Trust is currently reviewing options for retail expansion at the Dewsbury site.

Although options at the other sites are restricted under the terms of the PFI there may be options linked to the review of commercial opportunities outlined below

Commercial Developments - Opportunities will be explored around the use of Joint Ventures and other commercial partners to determine the optimum advantage and leverage that can be delivered in relation to commercial developments

Pinderfields - There is much housing development currently being carried out within the Wakefield area and the Trust is reviewing its options utilizing existing land in two key ways:

- Development of Housing (Estimated £*****)
- Development of car parking facilities (Estimated 800 Space £'s)
- Development of Land for Retail Use adjacent to third party developments (£*****)

Both opportunities would benefit from the focused approach an SPV would bring and have the potential to contribute significant income to the Trust as well as providing benefits to the local community

Dewsbury - As part of the Dewsbury site reconfiguration and development there will be pockets of lands that will be considered for reuse.

Pontefract - The north of the Pontefract site provides a number of opportunities for reconfiguration, further collaboration with Wakefield County Council and social housing or land sale opportunities.

Decontamination Services

The Trust currently provides services with a value of £***** per annum to organisations across the NHS and the third sector and options are being investigated to utilize the existing capacity within the facility within the Mid Yorks site. Estimated opportunity of a further £***** income.

The other 3 trusts are currently outsourced to a third party. When the contract for the other trusts ends in 2022 there will be an opportunity for the joint vehicle to explore a range of commercial models, including direct provision, that will aim to reduce costs and improve quality. Whilst the direct provision aspect will be considered in the efficiency plans, the Trust believes there is an opportunity to gain income for infection control and decontamination from GPs, nursing and care homes and private sector providers. No financial assumptions have been incorporated in the figures at this point due to the current contractual arrangements.

MYHT would look to lead on this project overall.

Production Facility

MYHT is developing with the other WYAAT Trusts options for the establishment of a Production facility. This could provide the opportunity to deliver a more efficient patient food process and a laundry and linen service centre.

The Trust has identified this as an opportunity to both generate income but also to provide a more cost-effective service across the region and is considering a range of services which could be provided from this site.

Currently patient food is produced in the south of England and transported to West Yorkshire for the PFI sites and produced locally under a cook chill model at Dewsbury.

The nearest linen services are provided by third parties: Berendsen in Leicester and Synergy Health in Sheffield.

Now the Trust is assuming the majority of benefit would come from efficiencies for the four trusts and income from other trusts, it is researching opportunities to seek business from third party organisations such as local private health care providers as well as nursing and care homes. At the moment no financial assumptions have been included for non-NHS income.

Specialist FM Services and Capital Planning

The Trust anticipates that there are several specialist services across the four Trusts that with, again a focused approach to commercial opportunities, could create additional income mainly from the NHS but also from Universities or GPs, for example. A few opportunities are listed below:

- Energy Management;
- Property management;
- Computer Aided Design services;
- Fire management team/ advisors;
- PFI management support;
- Capital planning;
- Procurement of new facilities;
- Business cases;

MYHT would be a full and equal partner in the development of these service options.

Private Orthopaedic Insurance Income

The Trust is looking at the potential to host Private Insurance Orthopaedic activity at Pontefract Hospital from 2018/19. The SPV would be a sub-contractor for provision of inpatient, outpatient, theatre and diagnostic services and receive a sessional payment based on a share of the associated income. Early financial assumptions of this suggest through a focused approach of an SPV this would aid delivery of an additional net income of around £***** per annum.

Private Patient Income

The Trust is looking at to increase private patient in specific targeted areas where there is a known demand and gaps in the market with the area particularly around Varicose Vein Surgery, Dermatology and also baby 4D scanning facilities. Although in the early developmental phase early

indicators are that this could deliver additional income of £***** per annum

The table below shows the draft anticipated income, costs and profits anticipated in these areas and for which additional work is being undertaken between now and the final approval of the business case:

	Current	2018/19	2019/20	2020/21	2021/22	2022/23
	£000	£000	£000	£000	£000	£000
Income	*****	*****	*****	*****	*****	*****
Costs	*****	*****	*****	*****	*****	*****
Profit Margin	*****	*****	*****	*****	*****	*****
Profit Margin %age	*****	*****	*****	*****	*****	*****

Summary

The above examples are to show that MYHT has been obtaining income due to the expertise contained within the organisation and needs to establish a mechanism, a focused and incentivised system, to allow this to grow.

Appendix Four – Example of Reserved Matters

The following items should be included within the WOS's articles of association as reserved matters.

- Approving and signing off plans for the strategic direction of the Company.
- Approving the Company's annual business plan.
- Deciding whether the Company should incur expenditure outside the annual business plan which exceeds 1% of the projected budget.
- Deciding whether the Company should join, leave, establish or wind-up any pension scheme or materially alter participation in or, where relevant, the terms of any existing pension scheme.
- Deciding whether the Company should take out any borrowings, except for normal trade credit in the ordinary course of business, except as contemplated in the annual business plan.
- Deciding whether the Company should make any significant change in the nature of the business of the Company, except as contemplated in the annual business plan.
- Deciding whether the Company should enter into, vary, renew or terminate any contract or other arrangement which exceeds the term of the Operated Healthcare Facilities Agreement with the Trust.
- Deciding whether the Company should enter into any partnership or joint venture arrangement or vary or terminate any existing arrangement, or establish any subsidiary except as contemplated in the annual business plan or a separately approved business case.
- Deciding whether the Company should acquire or dispose of any patent, trademark, registered design or other know-how or any intellectual property rights.
- Deciding whether the Company should give or create any guarantee, indemnity, mortgage, or charge over its business, assets or undertakings or sell, discount or otherwise dispose of any of its book or other debts owing to it from time to time, except early payment discounts given in the ordinary course of business, except as contemplated in the annual business plan or any separately approved business case.
- Deciding whether to pass any resolution or take any other corporate action for the winding up of the Company.
- Following a decision by the Company board of directors as to the level of a dividend, deciding whether the Company should pay any dividend or make any other distribution.
- Deciding whether to change the Company's accounting reference period.
- Setting the Company's accounting policies and deciding whether to change them.
- Deciding whether the Company should acquire or agree to acquire any freehold or leasehold interest in or licence over land.
- Deciding whether the Company should sell, lease, license, transfer or otherwise dispose of any of its assets at a total price per transaction exceeding £20,000.
- Approving any outsourcing arrangement or agreement (including by way of subcontract) in respect of the Company, where such arrangement or agreement will, or may, result in the TUPE transfer of staff employed by the Company to a third party

Appendix Five – Soft Facilities Management Benchmarking Report, GK Transformation, April 2018

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