

Save Lewisham Hospital Campaign Statement

Our attitude to PFI in south east London

Introduction

The Save Lewisham Hospital Campaign is two and a half years old. We are proud of our determined campaigning and the actions and positions we have adopted through some very challenging times. Two issues in particular have been fiercely debated and have led to some division in the Campaign:

- PFI
- the merger of Lewisham Healthcare Trust with Queen Elizabeth Hospital.

These issues overlap with the concern about the impact of the large QEH PFI on the stability of the newly created Lewisham & Greenwich NHS Trust. (See Appendix for a short history)

PFI and the SLHC

From the first moments of the Save Lewisham Hospital Campaign (SLHC) in October 2012, we voiced our unequivocal opposition to *private finance initiative* ('PFI') and indeed other forms of public-private partnership relying on finance capital sourced from the private sector.

SLHC has been led by Dr Louise Irvine, a Lewisham GP, chosen unanimously to chair the campaign in November 2012 and re-elected unopposed in April 2014. The overriding objective was and is to campaign to save Lewisham Hospital from threats to diminish or close its services.

The SLH Campaign has taken every opportunity to raise the connection between the demise of South London Healthcare Trust with its two large PFI contracts and the attack on Lewisham Hospital. We have done this from the platforms on our now historic demonstrations of November 2012 and January 2013, in leaflets, at the public meetings of SLHC and others, on our website, on Twitter and Facebook, in numerous media interviews, letters and articles, including on national TV.

PFI, despite its injustice, is popular with the biggest political parties. It was introduced by a Conservative Government (John Major), then massively implemented under the subsequent Labour Government. It continues to be recommended by the current Liberal Democrat/Conservative coalition Government. The Conservatives, Liberal Democrats, Labour Party and UKIP are all likely to continue to use PFI if elected into government, unless public opposition forces them to reconsider. It is a fault line among other political groups and parties – some support it, some have been complicit in its use, others have campaigned against it. *The Campaign's position has always remained the same – we oppose PFI!*

The PFIs in South London and the merger of Lewisham and QEH

There has been genuine concern about the impact of the large QEH PFI on the stability of the newly created Lewisham & Greenwich NHS Trust (LGT). There was a real worry that Lewisham Hospital and LGT would be destabilised, following the merger/takeover of QEH, by the taking on of the QEH PFI.

Some opposed the merger and had the right to do so. However, those who opposed the merger had the responsibility to examine the impact of their proposals on the local NHS and the patients who need QEH, and effect on the staff who work there (see below).

The dissolution of the South London Healthcare Trust (SLHT) was the one inevitable decision of the Secretary of State right from the start. It was evident to all that the hospitals within SLHT

would have to be found new organisational homes to manage them. QEH was a hospital with low morale amongst staff as a result of the way they had been treated, in the public eye, for over two years, including by the TSA regime which ran SLHT from July 2012 through to 30 September 2013.

The Campaign quite correctly neither called for the merger nor campaigned against it. We regarded it as a matter for NHS management to ensure safety and continuity of the services provided by the hospitals whose trust the Government was intent on dissolving (SLHT). But we kept our sights on:

- a) opposing the undemocratic attack on Lewisham Hospital by use of the TSA regime – and we were successful in this;
- b) campaigning to raise related issues, including PFI – we continue to do so;
- c) extending our campaigning after our court victory and after the merger to ensure health services in both Lewisham and Greenwich were preserved and strengthened rather than cut.

What realities on merger faced Lewisham and QEH staff?

The TSA had decided in the summer of 2012 to dissolve SLHT. He invited 'expressions of interest' from private and public sector parties to take over SLHT's hospitals and/or individual services provided by them. There were several such expressions apparently considered credible, including private interest in cherry-picking the cardiac pathway. Information on these has remained secret and we don't know who they were, except that Kings took over Princess Royal Hospital in Farnborough and Lewisham Healthcare merged with Queen Elizabeth Hospital in Woolwich.

For Lewisham: Lewisham Healthcare Trust (LHT) had just been blocked from Foundation Trust status by the TSA regime and NHS London. Without significant change in the trust's make up, this meant that it would have been cannibalised by an existing FT within a few years, in line with government intention and the Health & Social Care Act. In that context, and with a positive track record of management in Lewisham, when asked to run QEH services, LHT agreed. *It is doubtful that LHT was given much choice in whether it would make such a decision!*

For QEH staff: Broadly the merger of QEH with Lewisham Healthcare has been welcomed by staff. The merger was not going to be any panacea for the local NHS but was the start of the road to stability and improvement of services for both QEH staff and patients.

QEH had been in an extremely stressed position: it had been part of a trust with huge debt liabilities, with reputational damage, and a haemorrhaging of staff after a year in the eye of publicity. To pull the rug from under it (A Picture of Health and the TSA had already done so twice) and leave the hospital without any management would have left a continuing vacuum in clinical leadership and organisation. Disaster would have followed because, had the merger been successfully opposed, very limited options would inevitably have been played out:

- another provider taking over QEH;
- QEH standing alone; or
- QEH closing

The last two were not going to happen: there was no management at QEH to stand alone under – Lansley had removed them all and put in the TSA in for a fixed period. QEH was not in a position to be run autonomously by staff and the people of Greenwich and Bexley; and it had no personnel or management structure to run itself conventionally; neither could

QEH (or PRUH) be allowed to close (a) because of the local need and (b) because of the huge PFIs – closure would not negate the obligation to pay the PFI companies.

Lewisham (LHT) took on QEH and the merger ensued. After a lot of work, punctuated by a CQC visit which designated the A&E facilities at QEH ‘unfit for purpose’, the new Lewisham & Greenwich Trust has created over 70 extra beds and has restructured the layout of the A&E and associated acute pathway. That this should have happened years ago, as soon as the plan to close Queen Mary’s Sidcup was hatched is immaterial. The new LGT has worked hard to achieve this in advance of winter 2014/15. It would have bordered on humanitarian disaster if the status quo inherited from the TSA had been allowed to drift any longer.

If our campaign had actively opposed the merger, when there was no realistic alternative, we would have been campaigning for a clinically dangerous situation to continue. And even if some were willing to write off QE Hospital, the hospital closure would not write off its PFI debt!

- *The campaign quite rightly did not adopt a position on the merger, ie on what was essentially an NHS management issue. Instead we went on to campaign to defend local services and, in relation to that, to oppose PFI.*

QEH’s PFI and DoH subsidy: previously-laid plans for the worst-hit hospitals

The role of the Campaign is to highlight the iniquitous nature of PFI and to fight to protect the local NHS services from its damaging effects.

In fact, the QEH and PRUH are two of eight hospitals (*run by seven trusts: Barking, Havering & Redbridge, St Helens & Knowsley, South London Healthcare, Peterborough & Stamford, North Cumbria, Dartford & Gravesham and Maidstone & Tunbridge Wells*) where the DH had agreed that their PFI contracts had been so badly drawn up, that they would require DoH subsidies. That is: the DoH had itself recognised, even within its own rules, that the damaging financial demands on the trusts were destabilising their finances and services.¹

The DoH decision had been announced in February 2012^{2 3 4} *prior to the installation of the TSA and the Unsustainable Provider Regime in the SLHT in July 2012*. The TSA simply adopted the DoH decision as one of his final recommendations. The two hospital PFIs are now receiving an annual subsidy from central government to lessen the local impact of the two PFIs on the two trusts (Kings and LGT).

- *Our campaign did not call for the PFI subsidies – this was government policy. But what we did do, quite rightly, is to challenge the basis on which they were to be paid.*

Even though annual PFI payments increase annually dramatically, there was no written guarantee that the subsidies would do so. The TSA report tabled annual subsidies for the QEH and the PRUH for the five year duration of the TSA’s modelling. The figures did not extend to the end of the PFI contract. The TSA reports made reference to annual increase but the annual subsidy figures for 2013/14 to 2017/18 did not confirm this: figures for the subsidy for the PRUH did not appear to rise even with RPI. There was nothing written down

¹ Clearly the SLHC sees *all* PFI as financially damaging, but even the Government recognised here that eight hospitals were in so much trouble that they had to be subsidised.

² <http://www.ft.com/cms/s/0/263bd7d0-e538-11e0-852e-00144feabdc0.html#axzz3HIY8gY5R>

³ <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmpubacc/389/38905.htm>

⁴ <http://www.bbc.co.uk/news/health-16874630>

to underpin the expectation that the rise in subsidy would continue to the end of the PFI contracts.

We therefore submitted an FOIA to the DoH and asked:

- *Will the subsidy keep pace with the rapidly escalating annual PFI repayments?*
- *Will the subsidy continue to the end of the PFI contract?*

The DoH responded to our FOIA restating their view that *estimated PFI unitary repayments increase annually by RPI (averaged at 2.5%); that the subsidy would also increase in line with RPI; and that the subsidy would continue to the end of the contract.*

However, when we examined the DoH data, although the DoH subsidy increased by RPI, the annual PFI unitary payments increased by far more than the RPI⁵: the DoH assertion was wrong. The TSA's own figures, confirmed by the DoH itself, give a different picture: the final payment in 2029/30 was of £61.3m – 3.4 times the first year payment in 2000/01 and £18.8m more than predicted by the RPI model.

In reality, the predicted annual unitary payment rises outstrip the increase in subsidy such that by 2029/30 a *cumulative total of £141.3m* would have been paid to the PFI contractor by LGT *over and above what would have been paid between 2013/14 and 2029/30 if the DoH subsidy were to keep pace with actual annual increases in PFI unitary payments.* LGT faces a funding gap from this discrepancy from 2017/18 onwards that rapidly escalates.

- *This remains an issue which the Campaign has raised and will continue to question*

The role of SLHC on the QEH PFI

Government subsidies were the recommendation of the Department of Health (DH) for the most PFI-stressed trusts in the country (7 trusts running 8 PFI hospitals). The TSA adopted this for QEH and PRUH. SLHC pointed out the subsidies were still leaving the burden with the taxpayer. However, we did not oppose the subsidies: why would we oppose some of the immoral building debt being taken off the books of our local hospital? It was government policy that introduced PFI and made hospitals responsible for the payments. And it is this Government that has ended the Secretary of State's responsibility for the NHS, as he sits back and allows PFI debts contribute to the closure of up to a third of hospitals through being declared bankrupt.

- *The Campaign has taken on as part of its role the responsibility to clarify the facts of the PFI contract and make it our minimum demand that the DH owns the risk of unrealistic and toxic PFI contractual payments owed annually for the QEH hospital build.*

In the short term this means demanding that the DH-funded PFI subsidy increase at the same rate as the PFI payments are increasing until the end of the contract in 2029/30. This opposition to PFI is part and parcel of our commitment to save and strengthen local NHS services.

Essentially, we have explained here how it is wholly consistent to campaign on the one hand for the protection of our local services from the destructive impact of local PFI contracts and on the other hand to be part of a national campaign:

⁵ The rapid increase in annual PFI repayments reflect the complex way the PFI repayments are structured, which allow for relatively lower repayments in the first part of the 30 year contract, but escalating payments towards the end.

- *Locally, we defend our local NHS against the impact of national government policy.*
- *Nationally, we join the call to abolish PFI; and for a change in government policy on funding the NHS – both in terms of capital costs for new hospitals or community health centres and of revenue funding of NHS services.*

Conclusion

We are proud of the achievements and impact of the SLHC over the last two years. The campaign has been about saving Lewisham Hospital. *This has been much bigger than PFI alone.* Our campaign reaffirms our ongoing role:

1. To defend the full range of services which Lewisham & Greenwich NHS Trust (LGT) provides for the community from the threat of cuts and privatisation;
2. To demand transparency around the financial impact of LGT's PFI contract for Queen Elizabeth Hospital and, where there is lack of information, to ask for this using Freedom of Information Act (FOIA) requests;
3. To demand that LGT should not be financially compromised by charges incurred by PFI and nor should any trust. We demand that the Department of Health indemnify trusts against damage caused by PFI – this is consistent with the demand for re-establishing the primary responsibility of the Secretary of State for the NHS.
4. To support proposals to bring the NHS and therefore NHS hospitals back together within one unitary NHS service, reversing the policy changes that have made individual hospitals into separate accounting units with their own capital charges for their 'assets' – *our* hospitals.
5. To demand until then that the PFI burden be lifted from individual hospitals and health facilities and to make it the responsibility of the state; future governments must resolve the issue of toxic PFI debts.
6. Meanwhile to work alongside others fighting to end the pernicious effects of PFI.

If you want to campaign to save local NHS services and you oppose PFI, come to our meetings and help us!

Save Lewisham Hospital Steering Committee

February 2015

Appendix: Short background to recent history

July – October 2012

- South London Healthcare NHS Trust was declared bankrupt by Andrew Lansley, Secretary of State for Health at the request of NHS London (now NHS England – London Region); in July 2012 he instigated the first ever use of the emergency procedure of Unsustainable Provider Regime (UPR).
- Under UPR, a Trust Special Administrator, Matthew Kershaw was installed as acting Chief Executive.
- In October 2012 Kershaw made recommendations that went far beyond the resolution to the problems ‘in relation to’⁶ SLHT and made recommendations to close down all acute and maternity services at University Hospital Lewisham, part of the entirely separate neighbouring trust, Lewisham Healthcare NHS Trust (LHT).
- In so doing he sent shockwaves through the NHS. The NHS executive had indicated that it had reserved £300m to fund TSA regimes in 60 other trusts in England deemed by the NHS Executive to be at risk.
- The behaviour of the TSA in South East London meant that no trust in England, successful or otherwise, was now safe.
- In January 2013, the new Secretary of State for Health, Jeremy Hunt adopted the TSA’s main recommendations to close all acute & maternity services at Lewisham except for a form of urgent care centre and non-obstetric Birth Unit.

The response of Save Lewisham Hospital Campaign

- Lewisham is famous by now for two mass mobilisations of 10-15,000 people in November 2012 and 25,000 on 26th January 2013.
- Yet this community campaign was totally rebuffed by Secretary of State Jeremy Hunt when he announced acceptance of the TSA’s recommendations in his statement to the House of Commons five days later on 31st January 2013.
- The Campaign backed by Lewisham Council refused to give in. Our campaign escalated and we also launched a legal challenge by judicial review.
- On 31st July 2013 we won our judicial review in the High Court. The Government appealed
- At the Court of Appeal on 29th October 2013 we won a second victory: the TSA and the Secretary of State were found to have acted unlawfully in making recommendations, and in accepting those recommendations respectively, to shut down a separate hospital clearly not *‘in relation to’* the trust under UPR measures – SLHT. We had successfully defended Lewisham Hospital against closure.

Dissolution of the South London Healthcare Trust

- By then, one outcome was a given: that the original trust in question, South London Healthcare, was no more – its dissolution was a key recommendation of the TSA confirmed by Secretary of State Jeremy Hunt.
- The SLHT’s constituent parts, including two major hospitals, had to find new homes.
- QEH serves a deprived inner city population of Greenwich – the 13th most deprived local authority area in England – as well as half the population of Bexley borough. It absolutely had to be provided with sound management.

Lewisham & Greenwich NHS Trust established

⁶ The phrase ‘in relation to’ acquired huge significance during the process of the Judicial Review, won by the Save Lewisham Hospital Campaign and Lewisham Council in July 2013, and the subsequent government appeal. The terms of the TSA and the unsustainable provider regime (UPR) outline the duties of a TSA to investigate and make recommendations ‘in relation to’ the trust which has been deemed to be unsustainable. There is no provision to make recommendations ‘in relation to’ another neighbouring trust – in this case LHT and its hospital, UHL. The TSA actions and their adoption by Jeremy Hunt were found to be illegal – ‘ultra vires’ – by the Court of Appeal and UHL was saved 29th October 2013.

- On 1st October 2013 a new trust was formed from the merger of the successful Lewisham Healthcare NHS Trust and its new acquisition, Queen Elizabeth Hospital Woolwich (QEH): Lewisham and Greenwich NHS Trust was born.
- QEH is a PFI build with an annual PFI unitary payment of £29.2m in 2013/14 with payments continuing at an escalating rate up to the end of the 30-year contract in 2029/30 with a final payment estimated to be £61.3m

More on PFI

103 hospitals have been built under PFI schemes since 2000 at an initial cost of £11.3billion. By the end of the PFI contracts they will have cost an estimated £65.1billion⁷:

“The NHS currently pays back £1.25bn each year - a figure which rises year-on-year until 2030 when it will top £2.3bn. The final payment will not be made until 2048.”
– *BBC, August 2010.*

⁷ <http://www.bbc.co.uk/news/health-10882522>