ANTICIPATED MERGER OF THE ROYAL BOURNEMOUTH AND
CHRISTCHURCH HOSPITALS NHS FOUNDATION TRUST AND POOLE
HOSPITAL NHS FOUNDATION TRUST

Notice of proposal to accept Final Undertakings pursuant to section 82 of and
Schedule 10 to the Enterprise Act 2002 and public consultation on the
proposed undertakings

1. On 8 January 2013, the Office of Fair Trading (OFT) referred the anticipated merger
of The Royal Bournemouth and Christchurch Hospitals NHS Foundation Trust
(RBCH) and Poole Hospital NHS Foundation Trust (PH) (the merger) to the
Competition Commission (CC) for investigation and report under section 33 of the
Enterprise Act (the Act).

2. In its report on the anticipated merger of The Royal Bournemouth and Christchurch
Hospitals NHS Foundation Trust and Poole Hospital NHS Foundation Trust (the
Report) dated 17 October 2013, the CC concluded that:

(a) the anticipated merger by RBCH and PH may be expected to result in the
creation of a relevant merger situation;

(b) the creation of that situation may be expected to result in a substantial lessening
of competition (SLC) in the Dorset area in respect of:

(i) 19 elective inpatient services and 33 outpatient services;
(ii) inpatient and outpatient maternity services; and
(iii) private inpatient cardiology services; and

(c) the CC should take action to remedy the SLCs and the effects flowing from them
by way of prohibition as outlined in Section 10 of the Report.

3. The CC has reached agreement with RBCH and PH as to the terms of the draft Final
Undertakings. The acceptance of these undertakings would have the effect that
RBCH and PH may not merge (or otherwise cease to be distinct) without the prior
written consent of the relevant competition authority.

4. The CC hereby invites written representations on them from any interested person or
persons. Representations should reach the CC by 5pm on Thursday 5 December
2013 and should be addressed to:

Bríd McHugh
Competition Commission
Victoria House
Southampton Row
London WC1B 4AD

Or by email to brid.mchugh@cc.gsi.gov.uk

5. The CC will have regard to any representations made in response to this Notice and
make any modifications to the proposed Undertakings as a result. In the absence of
any written representations, or in the event that the CC decides on consideration of
representations made not to amend the Undertakings, the CC proposes to accept the
Undertakings in their present form pursuant to section 82 of the Act. If the CC considers that any representation necessitates any material change to the proposed Undertakings the CC will give notice of the proposed modifications.

6. The Undertakings may be varied, superseded or released by the CC under section 82(2) of the Act.

7. This notice and a non-confidential version of the proposed undertakings will be published on the CC website.

(signed) Roger Witcomb
Group Chairman
20 November 2013
ANTICIPATED MERGER OF THE ROYAL BOURNEMOUTH AND CHRISTCHURCH HOSPITALS NHS FOUNDATION TRUST AND POOLE HOSPITAL NHS FOUNDATION TRUST

Proposed Final Undertakings to be given to the Competition Commission by The Royal Bournemouth and Christchurch Hospitals NHS Foundation Trust and Poole Hospital NHS Foundation Trust

On 8 January 2013, the Office of Fair Trading (OFT) referred the anticipated merger of The Royal Bournemouth and Christchurch Hospitals NHS Foundation Trust (RBCH) and Poole Hospital NHS Foundation Trust (PH) (the merger) to the Competition Commission (CC) for investigation and report under section 33 of the Enterprise Act (the Act).

The CC published A report on the anticipated merger of The Royal Bournemouth and Christchurch Hospitals NHS Foundation Trust and Poole Hospital NHS Foundation Trust (the Report) on 17 October 2013.

The Report concluded that:

(a) the anticipated merger of RBCH and PH may be expected to result in the creation of a relevant merger situation;

(b) the creation of that situation may be expected to result in a substantial lessening of competition (SLC) in the Dorset area in respect of:
   (i) 19 elective inpatient services and 33 outpatient services;
   (ii) inpatient and outpatient maternity services; and
   (iii) private inpatient cardiology services; and

(c) the CC should take action to remedy the SLCs and the effects flowing from them by way of prohibition as outlined in Section 10 of the Report.

RBCH and PH propose to give to the CC the following undertakings under section 82 of the Act for the purpose of remedying the SLCs identified in the Report and the adverse effects which flow from them.

1. **Commencement and duration**

   1.1 The Undertakings shall commence on the Commencement Date and shall continue in force until the date ten years from the Commencement Date, unless the Undertakings are varied, released or superseded under the Act.

2. **Prohibition of the merger**

   2.1 Except with the prior written consent of the Relevant Competition Authority, RBCH and PH each undertakes not to:

   2.1.1 apply for or implement a merger within the meaning of section 56 (Mergers) of the National Health Service Act 2006, as amended by section 168 of the Health and Social Care Act 2012, of their respective organizations; or
2.1.2 apply for or implement an acquisition by RBCH of PH, or by PH of RBCH, within the meaning of section 56A (Acquisitions) of the National Health Service Act 2006, as inserted by section 169 of the Health and Social Care Act 2012.

2.2 RBCH and PH recognize that the undertakings in paragraph 2.1 shall continue to apply regardless of who controls or has an interest in RBCH or PH.

3. Compliance

3.1 Each of RBCH and PH undertakes to comply with such written Directions as the CC or the OFT may from time to time (acting reasonably) issue to take such steps within their competence for the purpose of carrying out or securing compliance with these Undertakings.

4. Provision of information to the CC and the OFT

4.1 Each of RBCH and PH undertakes to provide to the CC promptly such information as the CC may reasonably require for the purpose of performing any of its functions under these Undertakings or under sections 82, 83 and 94(7) of the Act.

4.2 Each of RBCH and PH undertakes to provide to the OFT promptly such information as the OFT may reasonably require for the purpose of performing any of its functions under these Undertakings or under sections 92, 93(6) and 94(6) of the Act.

5. Effect of invalidity

5.1 Should any provision of these Undertakings be contrary to law or invalid for any reason, each of RBCH and PH undertakes to continue to observe the remaining provisions.

6. Governing law

6.1 Each of RBCH and PH recognizes and acknowledges that these Undertakings shall be governed and construed in all respects in accordance with English law.

6.2 In the event that a dispute arises concerning these Undertakings, each of RBCH and PH undertakes to submit to the courts of England and Wales.

7. Termination

7.1 Each of RBCH and PH recognizes and acknowledges that the variation, release or supersession of these Undertakings shall not affect the validity and enforceability of any rights or obligations that arose prior to such variation, release or supersession.

8. Interpretation

8.1 Words and expressions defined in the recitals to these Undertakings shall have the same meaning in these Undertakings.

8.2 The headings used in these Undertakings are for convenience and shall have no legal effect.
Expressions in the singular include the plural and vice versa and references to persons include corporations.

References to any statute or statutory provision shall be construed as references to that statute or statutory provision as amended, re-enacted or modified whether by statute or otherwise.

References to recitals, paragraphs, subparagraphs and annexes are references to the recitals to, paragraphs and subparagraphs of and annexes to these Undertakings.

For the purposes of these Undertakings and the annexes, the following terms mean:

- **the Act**: means the Enterprise Act 2002;
- **CC**: means the Competition Commission and any successor body;
- **Commencement Date**: means the date on which these Undertakings are accepted by the CC;
- **OFT**: means the Office of Fair Trading and any successor body;
- **PH**: means Poole Hospital NHS Foundation Trust;
- **RBCH**: means The Royal Bournemouth and Christchurch Hospitals NHS Foundation Trust;
- **Relevant Competition Authority**: means the OFT if consent is provided prior to 31 March 2014 and Competition and Markets Authority if consent is provided after that date;
- **Report**: means the report published by the CC on 17 October 2013 titled *A report on the anticipated merger of The Royal Bournemouth and Christchurch Hospitals NHS Foundation Trust and Poole Hospital NHS Foundation Trust*; and
- **Undertakings**: means these Undertakings given by RBCH and PH for the purpose of remedying the SLC identified in the Report.

FOR AND ON BEHALF OF RBCH
[Signature block]

FOR AND ON BEHALF OF PH
[Signature block]