

Health and Social Well-Being Overview and Scrutiny Commission

12th October 2018

**NHS HULL CLINICAL COMMISSIONING GROUP
PROCUREMENT OF PRIMARY CARE SERVICES**

Briefing Paper of the Strategic Lead - Primary Care, NHS Hull Clinical Commissioning Group

1. Purpose of the Paper

The purpose of this paper is to provide the Health and Social Well-being Overview and Scrutiny Commission with information on the commissioning and procurement of primary care services, and to summarise the process followed for the recent procurement of the Extended Access Service.

2. Background

The Health & Social Care Act 2012 established the NHS Commissioning Board and Clinical Commissioning Groups (CCGs) as the cornerstone of the health system. Each of the 8,000 GP practices in England became part of a CCG. The role of CCGs was to commission the majority of health services, including emergency care, elective hospital care, maternity services, and community and mental health services. The NHS Commissioning Board, now NHS England, had responsibility for commissioning of primary care services whilst CCGs had a duty to support quality improvement in primary care. The scope of commissioning responsibility of CCGs was and remains significantly reduced compared to the former Primary Care Trusts (PCTs) and consequently CCG resource allocations are lower than those that were received by PCTs. NHS Hull CCG's resource allocation is approximately £440m compared to approximately £550m for the former NHS Hull PCT.

3. Co-commissioning of Primary Care Services

In May 2014 CCGs were invited to submit Expressions of Interest to take on an increased role in the commissioning of primary care services through co-commissioning with NHS England. The aim was to harness the energy of CCGs to create a joined up, clinically-led commissioning system which delivers seamless, integrated out-of-hospital services based around the needs of local populations. In response NHS Hull CCG submitted an Expression of Interest.

Subsequently NHS England Guidance in November 2014 invited CCGs to submit formal proposals to develop co-commissioning arrangements at one of three levels:

- Level 1: Greater involvement in primary care decision-making
- Level 2: Joint commissioning arrangements
- Level 3: Delegated Commissioning arrangements

A proposal to develop Level 2: *joint commissioning arrangements*, was subsequently approved by the CCG Council of Members in January 2015. The proposal was approved by NHS England. Terms of Reference for a Primary Care Joint Commissioning Committee between the CCG and NHS England were established based on guidance provided by NHS England. The Committee was required to be chaired and vice-chaired by a Lay CCG Board member with wider membership including the Directors of the CCG, a CCG Board GP without a pecuniary interest in a general practice in Hull and representatives from NHS England. In addition non-voting attendees included the remaining CCG Board GPs, an elected member representative from the Health & Well Being Board and Healthwatch Hull. Whilst there were more members from the CCG than NHS England, weighting was applied to voting members such that the CCG and NHS England had equal votes. The CCG operated at Level 2 between April 2015 and March 2017.

During 2016 NHS England's Board committed to support the majority of CCGs, who were operating under joint commissioning or greater involvement arrangements, to assume full delegated responsibilities for the commissioning of primary medical care from April 2017. CCGs which did not have delegated arrangements for the commissioning of primary medical care services were invited to apply for delegated responsibility (to operate from April 2017) up to 5 December 2016.

NHS England believed the delegated commissioning model was delivering a number of benefits for CCG local populations. It was seen as critical to local sustainability and transformation planning, supporting the development of more coherent commissioning plans for healthcare systems and giving CCGs greater ability to transform primary care services. CCGs had also reported that delegated commissioning was giving them greater insight into practice performance issues, greater opportunities to develop a more sustainable primary care workforce and was helping to strengthen relationships between CCGs and practices.

Following consideration at the CCG Council of Members in November 2016 an application was submitted to move to fully delegated arrangements from April 2017. The application was approved by NHS England in early 2017.

In order for the CCG to deliver its new responsibilities a Primary Care Commissioning Committee was established to replace the Primary Care Joint Commissioning Committee. This Committee was put into place from April 2017. Membership of the Committee is similar to that of the previous Primary Care Joint Commissioning Committee with the CCG Board GP without a pecuniary interest being a member and the remaining Board GPs non-voting attendees. NHS England representatives now attend the Committee as non-voting attendees.

4. CCG Procurement

Effective procurement is an essential function of a high quality commissioning organisation and NHS Hull CCG must be able to demonstrate both compliance with regulatory and legislative frameworks and the application of high standards when it spends taxpayers' money in order to deliver services locally.

NHS Hull CCG is committed to commissioning high quality services for the people of Hull, which will be delivered through our commissioning strategy and supported by our procurement framework. The CCG aims to commission services that ensure that the residents of Hull continue to receive high quality, safe health care, delivered in the right place by staff with appropriate skills.

The Health and Social Care Act (2012) made NHS Improvement (the successor to Monitor) the sector regulator for health care services in England and gave them a responsibility for enforcing rules on procurement, patient choice and competition.

The regulations published by NHS Improvement are the *Procurement, Patient Choice and Competition (No.2) Regulations 2013*. These regulations are designed to ensure CCGs procure high quality and efficient health care services that meet the needs of patients and protect patient choice. They also prohibit anti-competitive behaviour unless this is in the interests of health care service users.

It is for the commissioner to decide which services to procure and how best to secure them in the interests of patients. For this reason, the regulations set out a principles-based framework to enable commissioners to decide in individual cases what is best for the people that they serve. NHS Improvement's role is to ensure that the framework is respected so that decisions are taken in patients' interests.

Other legislative requirements that commissioners may be required to comply with are:

- Commissioners' duties under Chapters A1 and A2 of Part 2 of the National Health Service Act 2006;
- the Local Government and Public Involvement in Health Act 2007;
- the Equality Act 2010;
- the NHS (Clinical Commissioning Group) Regulation 2012 no. 1631 (2012);
- the Public Contract Regulations 2015, the Public Sector Directive (Directive 2004/18/EC) and general European Union (EU) Law; and
- the Public Services (Social Value) Act 2012.

NHS England's Guidance for commissioners on the procurement of NHS-funded health care services in England complements NHS Improvement guidance.

There are a number of general requirements that NHS Hull CCG must comply with when procuring NHS health care services.

Transparency

NHS Hull CCG must conduct all of its procurement activities openly and in a manner that enables our behaviour to be scrutinised.

Proportionality

NHS Hull CCG decisions and actions must be proportionate to the value, complexity and clinical risk associated with the provision of the services in question.

Equality/Non-Discrimination

NHS Hull CCG must treat all providers equally and must not favour one provider (or type of provider) over another. Differential treatment between providers will require objective justification.

Additionally, NHS Hull CCG is required to procure NHS health care services from one or more providers that:

- Are most capable of securing the needs of NHS health care service users and improving the quality of services and the efficiency with which they are provided; and
- Provide best value for money in doing so.

When acting with a view to improve quality and efficiency, NHS Hull CCG will consider appropriate means of making such improvements, including through:

- Services being provided in a more integrated way;
- Enabling providers to compete to provide services;
- Allowing patients a choice of provider.

5. Extended Access Procurement

The Extended Access to Primary Care Medical Service has been procured in response to the General Practice Forward View (April 2016) which identified improving access to primary care medical services as a key national priority and included a commitment to make extra funding available *“to enable CCGs to commission and fund extra capacity across England to ensure that by 2020, everyone has access to GP services, including sufficient routine appointments at evenings and weekends to meet locally determined demand, alongside effective access to out of hours and urgent care services.”*

5.1 Procurement Guidance

The NHS Operational Planning and Contracting Guidance 2017-19, refreshed in February 2018, brought forward the requirement to implement improved access to 1 October 2018. The guidance stated *“CCGs will be required to secure services following appropriate procurement processes.”*

NHS England published further guidance in relation to Extended Access, Improving Access to General Practice: Delivering the Core Requirements (2018), which stated *“Commissioners should secure services through appropriate procurement processes which means they must ensure they are compliant with the Public Contract Regulations 2015 and the NHS (Procurement, Patient Choice and Competition) (No2) Regulations 2013.”*

5.2 Corporate Governance

Procurement decisions for significant contracts (above £0.5million over the contract life) are usually taken by the CCG Board. However for decisions relating to primary care services the constitution of the CCG Board is such that conflicts of interest exist to the extent that a quorate decision cannot be achieved. In these circumstances the CCG Board delegates the responsibility for decision-making to the CCG's Primary Care Commissioning Committee whose members are not conflicted. This process was used for the Extended Access to primary Care Medical Service procurement.

5.3 Engagement with Patients

NHS Hull CCG conducted a patient engagement exercise during the period 12 January - 11 February 2018. The goals of the engagement exercise were to:

- Gain people's views on the current ways to access services in primary care;
- Determine what extended opening hours would be preferred by the general public;
- Gauge the appetite for alternative ways of booking and accessing primary care support, e.g. the use of online resources, alternative practitioners.

The report was made available to all potential providers to assist in the development of their proposed service models.

5.4 Service Model and Service Specification

The specification was developed by a project group taking into the requirements for both Hull CCG and NHS England. The final version to use for the procurement was approved by the Primary Care Commissioning Committee on 25 May 2018.

5.5 Procurement Procedure

The selection of procurement procedure was undertaken following a rigorous appraisal of the available options including researching the procurement procedures available, and those being used by other CCG across the country. The option appraisal was presented to the NHS Hull CCG Primary Care Commissioning Committee on 27 April 2018 and the preferred option of an Open Procurement was approved.

5.6 Invitation to Tender (ITT) Development

A comprehensive set of bidder questions was developed by multi-disciplinary work-streams, the members of which were drawn from the following:

- NHS Hull CCG commissioning, communication and engagement, finance, contract management and quality teams;
- eMBED Health Consortium (commissioning support) including IM&T and Human Resources professionals.

The ITT questions covered the following areas:

Section Title	Weighting %
Potential Provider Information	-
Grounds for Mandatory Exclusion	Pass / Fail
Grounds for Discretionary Exclusion	Pass / Fail
Economic and Financial Standing	Pass / Fail
Bidding Model - additional information	-
Modern Slavery Act 2015	Pass / Fail
Additional Questions - Insurance	Pass / Fail
Service Delivery	51
Service Quality Assurance	25
Workforce	6
Information Management and Technology (IM&T)	8
Equality	Pass / Fail
Health & Safety	Pass / Fail
Finance	Pass / Fail
Potential Provider Presentation / Interview Meeting	10
Legal & Eligibility	Pass / Fail
TOTAL	100

In summary the procurement was weighted 100% Quality (with 90% written responses and 10% Potential Provider Presentations).

5.7. Pricing

Potential providers were not requested to submit a commercial offer for the service as funding for the service is based on allocations provided by NHS England using NHS Hull CCG weighted population list size, and variations will be based on changes to weighted population and national uplifts.

5.8. Contract Term

The contract terms offered was 5 ½ years with an option to extend for a further two years. Contract commencement date was 1 October 2018. The contract documentation is based on the NHS England Standard Alternative Provider Medical Services Contract.

5.9. Publication of the Invitation to Tender

The Invitation to Tender documents were published on the NHS e-tendering portal on 31 May 2018. The deadline for submission of tender response was 13:00, 2 July 2018. The CCG received 40 clarification questions from Potential Provider during the tender period which were all responded to. Two tender submissions were received.

5.10 Evaluation Process

a) Compliance Assessment

This involved preliminary compliance checks on the bid in terms of: grounds for Mandatory Exclusion; grounds for Discretionary Exclusion; Economic and Financial Standing; Modern Slavery; Insurance; Equality; Health and Safety; Legal and Eligibility.

This stage is scored as PASS or FAIL. Any potential provider that fails the Compliance Assessment will have no further evaluation take place on their bid.

b) Capability Assessment

This involved consideration of the tender submissions against the service requirements defined by the CCG in the ITT documentation. The questions were scored on a scale of 0 to 5, with 0 being '*Does not meet the requirement*'; and 5 being '*Exceeds the requirement*'.

c) Potential Provider Presentation and Interview

10% of the scores available were allocated to this element and scored on the same scale as the Capability Assessment.

The session took the following format:

- Overview of the proposed service model (not scored);
- Response to five scenarios posed by the commissioners including Q&A.

The successful tenderer passed the Compliance Assessment and scored sufficiently highly on the Capability Assessment and the Presentation/Interview to proceed to contract award. This provider is City Health Care Partnership CIC acting as Lead Provider on behalf of Hull Primary Care Collaborative.

5.11 Standstill Period and Service Mobilisation

A standstill period of 10 calendar days was observed following contract award. The mobilisation period commenced following the end of the standstill period and was led by the Preferred Provider. CCG representatives worked collaboratively with City Health Care Partnership CIC throughout the mobilisation phase and will continue to do so during the service implementation phase following service commencement on 1 October 2018.

6. Recommendation

It is recommended that the Health and Well-being Overview & Scrutiny Commission note the contents of this report.

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Officer Interests: None

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