

Procurement update including progress
against 2013-14 Procurement Plan

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Governing Body meeting

4 July 2013

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Key messages	
<p>This report is intended to provide Governing Body an update on the following:</p> <ul style="list-style-type: none"> - an overview of the mechanism for undertaking procurement within the CCG from 1 April 2013 - progress against the 2013-14 procurement plan - recently completed procurements 	
Assurance Framework (AF) and Risk Register (RR)	
<p>No specific strategic or principal risks have at this stage been identified for inclusion in the CCG's new Assurance Framework being presented to this meeting of the Governing Body for approval</p> <p>Risk Register Reference Number: Within the new Risk Register developed during June 2013 there are 2 specific risks listed re. market stimulation and provider capacity (RR 11) and risk of legal challenge with financial and reputational consequences if inappropriate procurement or public consultation on new services/service change (RR12)</p> <p>How does this paper provide assurance to the Governing Body that the risk is being addressed? Paper highlights how we are revisiting the CCG's Procurement Strategy to ensure compliance with new Regulations and how will use the Commissioning Support Unit specialist procurement team to ensure we have appropriate support in understanding our market for each procurement and that robust procurement process are being applied in line with legal requirements and other national guidance.</p>	
Equality/Diversity Impact	
For each of the identified procurements an Equality Impact Assessment will be completed.	
Public and Patient Engagement	
There are no specific actions associated with this report.	

Recommendations

The Governing Body is asked to:

- Note progress to fully refresh the CCG's Procurement Strategy in the context of new legal requirements and Monitor guidance
- Note progress against the previously approved 2013-14 procurement plan.
- Formally endorse the procurement approach being taken for both the new city-wide Care Planning Service and the North Locality's similar service.

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1) Refresh of CCG's Procurement Strategy

From 1 April 2013, NHS Sheffield CCG has entered into an agreement with South Yorkshire and Bassetlaw Commissioning Support Unit (CSU), for the delivery of procurement support to the CCG. This agreement sees the CSU working on our behalf to provide all aspects of procurement support from offering specialist support to delivering individual procurement exercises.

The CCG has a Procurement Strategy approved by Governing Body in August 2012 as part of its authorisation processes. In subsequent updates, most recently in a paper to private session in April 2013, we have highlighted that this strategy needs to be refreshed following the Health and Social Care 2012 Act and the more recent National Health Service (Procurement, Patient Choice and Competition) Regulations 2013. One of Monitor's new responsibilities from April 2013 is to enforce these Regulations and we have been waiting on its guidance, which was published on 20 May, before asking CSU to support us in refreshing our Procurement Strategy. This work has been slightly delayed whilst CSU has recruited to its senior posts in the procurement team, but is now ongoing and we expect to be able to present a fully updated CCG Procurement Strategy for approval in September. In the meantime, the CSU have produced a briefing note for all of its CCG clients on Monitor's guidance which is attached at **Appendix A** for information.

2) Progress against the CCG's Procurement Plan for 2013-14

The Governing Body approved the CCG's Commissioning Intentions for 2013-14 in April and in parallel officers had been scoping out potential procurement activity for 2013-14 to support delivery of the Commissioning Intentions. As a result, a draft procurement plan was presented to Governing Body in private session for discussion in April 2013. As we discussed, most of the service change we are seeking to deliver in 2013-4 for example on unscheduled care through the Right First Time programme, we are seeking to do with existing key partners in the city. However, we identified a relatively small number of procurements that we are likely to need to pursue to put in place new services or where contracts come to an end. The table below lists these with an explanation of the current position covered in the following notes.

In addition to services listed in Table 1 below, the CCG concluded competitive procurement process for certain Patient Transport Services, which was run during Q4 of last year. Governing Body previously approved Arriva Transport Solutions Ltd as the preferred bidder and since then the contracting team have been working on agreeing the contract which was signed on 25 June 2013 and the implementation plan including appropriate communication to GPs and hospitals. The 'On Day discharge from hospital' transport service will start from August 2013 and the 'GP urgent' transport to hospital service will start from September 2013. These are not services directly accessed by

patients. The 999 emergency services contract remains with Yorkshire Ambulance Services NHS Trust.

Table 1: 2013/14 Procurement Plan

Procurement	Overview	Est. Value of Procurement	Timescale for delivery
Adult Autism Assessment and Diagnostic service	Requirement for the CCG to have in place Autism assessment service as part of the national Autism strategy. As this is a newly established service with new funding there is a requirement to test the market via a competitive procurement.	£500,000	April 2013 – July 2013
Re-Procure Musculoskeletal service (MSK)	The existing MSK provision was awarded through a tender process for an initial period of 3 years to March 2013. PCT/CCG agreed to extend the service for a further 12 month period to March 2014. It is likely that the CCG will need to conduct a new procurement exercise but the timing and nature of this will be linked to decisions on whether to pursue the COBIC model for MSK services. Governing Body to consider options on this in September 2013.	£3.5 million	September 2013 – March 2014
Establishment of AQP frameworks for existing Local Enhanced Services (LES) where responsibility transferred to CCG	The current understanding is that there is a national requirement for all existing LES agreements with primary care contractors to move towards AQP arrangements using the national standard NHS contract. The CCG is exploring the options available.	TBC	July 2013 – December 2013
Re-procure Headache and Migraine Services	The existing provider has served notice on the CCG indicating that they are no longer in a position to deliver the service.	£50,000	April 2013 – June 2013
Care Planning Service	This will be a new service to offer systematic integrated holistic care planning for a cohort of patients with a particular risk stratification score. The contract will be offered to all GP Practices in the city via the standard NHS contract. This is considered to be a service which can only be offered by GP practices related to their registered lists of patients and hence there is no requirement for competitive tendering process	£600,000	From September 2013

The CCG is currently at the invitation to tender stage for the Autism Assessment and Diagnostic Service, with the intention to approve a preferred provider by the August 2013.

We have undertaken a small-scale procurement exercise to re-procure the community Headache and Migraine Services, this exercise is near completion and we have identified Primary Provider Ltd as the preferred provider. They will offer the service on an interim basis for a period of nine months while the CCG undertakes a review of the options for future delivery.

The CCG is currently reviewing all historic Local Care Enhanced Service agreements with primary care contractors for which the CCG has inherited responsibility from the PCT. Once these reviews are complete (expected September 2013), consideration will be given to the suitable procurement approach.

The CCG's Commissioning Executive Team (CET) approved in June the business case for implementing the Care Planning Service which is an important part of the investment programme for 2013/14 within the Right First Time initiative. This has a budget of £605k. Governing Body members have previously had sight of this business case for information. CET approved that all GP practices in the city would be offered a one year contract from September/October 2013 with payment linked to the number of patients from their registered list for which they initiate a care plan and continue to monitor as per the terms of the service specification.

In addition, CET approved in June a business case from North Locality to utilise up to £500k of their historic Practice Based Commissioning freed up resources funding to test a similar model of Care Planning for a different cohort of patients within GP practice lists in North Locality. Governing Body is asked to formally endorse the procurement approach being pursued for each of these business cases which is to offer a one year standard NHS contract to GP practices who sign up to the schemes. The rationale for pursuing this route is that the services can only be provided effectively by one service provider – ie the GP practices, because the work is intrinsically linked to the core contract GMS/PMS work carried out by GP practices for patients on their individual patient registered lists.

Should funding become available for other local priorities listed in the Commissioning Intentions it is likely that in some cases the relevant procurement process will need to be followed.

3. Recommendations

The Governing Body is asked to:

- Note progress to fully refresh the CCG's Procurement Strategy in the context of new legal requirements and Monitor guidance
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- Formally endorse the procurement approach being taken for both the new city-wide Care Planning Service and the North Locality's similar service.

Paper prepared by Ian J Atkinson, Head of Contracting
On behalf of Julia Newton, Director of Finance
27 June 2013

Briefing on Monitor's Guidance on the Procurement, Patient Choice & Competition Regulations 2013

1. Introduction

The NHS Procurement, Patient Choice and Competition Regulations 2013 issued in March 2013 replace the "Principles and Rules for Cooperation and Competition" and the "Procurement Guide for Commissioners of NHS Funded Services". The Monitor draft guidance published on 20 May 2013 is designed to ensure commissioners –

- Adhere to good practice in relation to the procurement of health care services funded by the NHS;
- protect the rights of patients to make choices with respect to treatment or other health care services funded by the NHS; and
- do not engage in anti-competitive behaviour unless this is in the interests of NHS health care service users.

As part of the Health and Social Care Act 2012, "Monitor" was given the role of administering the Regulations to ensure the aforementioned bullet-points are achieved. This essentially brings about a more rigorous monitoring of the Regulations application by commissioners and the guidance is intended to assist in explaining how this more rigorous testing of the adherence to the Regulations will take place.

Essentially the monitoring criteria will be familiar to commissioners involved in the procurement of healthcare services. Much of what Monitor is seeking to test is basically good practice which should be integral to any good procurement process.

2. Procurement Objectives - Monitor's testing criteria

The overarching purpose of the Monitor testing criteria is to ensure that any healthcare procurement achieves the following –

- Securing the needs of health care service users;
- Improving the quality of services; and
- Improving the efficiency with which services are provided.

The following not only applies to let contracts but also when selecting providers for frameworks or shortlisting as potential future providers. The criteria that Monitor will evaluate in assessing whether the aforementioned objectives have been met are as follows –

- Steps taken to establish the levels of public engagement in the local community to establish whether the services being procured meet local health need.
- Establish whether a holistic view of the needs of healthcare users has been undertaken when procuring particular services, including their needs for related services. i.e. services that health care users/patients can access from the same provider on the same site.

- Whether the commissioner has considered the needs of all health care users for which it is responsible when procuring services, including:
- What steps the commissioner has taken to ensure equitable access to services, including by vulnerable and socially excluded members of the population;
- Whether the commissioner has had regard to the different needs of groups of patients, such as the need for some patients to receive a service in a particular setting.
- Whether the commissioner has considered the sustainability of services, including the impact that a procurement decision relating to one set of services may have on the ability of providers to deliver other services that health care users require.
- Whether the commissioner has monitored the quality and efficiency of existing service provision and identified any areas where improvements are needed in advance of procuring services.

3. **Procurement – General Standards**

Some general standards are still required when considering any healthcare procurement and are as follows –

- **Transparency** – Commissioners requirement to publish procurement strategies and intentions to procure, feedback to unsuccessful bidders, details of awarded contracts, maintaining availability of records which demonstrate how procurement decisions were made.
- **Proportionality** – The level of capacity and resource involved in the procurement process both on behalf of the commissioner and the potential providers in relation to the value and complexity of the service being procured.
- **Equality/Non-discriminatory** – The duty to treat all potential providers equally. This could include level of engagement with certain providers on service design. To ensure service spec has not been designed to exclude certain providers without appropriate justification. Ensuring the deadline for submissions have not been set to favour certain providers.

4. **Integrated Care, Choice & Competition**

A key feature of the new regulations is the emphasis on Integrated Care. Regulation 3 of the “Procurement, Patient Choice and Competition Regulations” requires commissioners to consider how they can procure services in a more integrated fashion to consider other Healthcare services, Healthcare related services and Social services. The Regulations ask commissioners to consider when procuring services the impact on the patient who may have multiple healthcare needs and hence may traditionally have had to –

- Receive treatment from a number of different healthcare teams across a range of disciplines.
- Receive treatment over a number of different sites.
- Receive treatment from a number of different healthcare providers.

No direct solution is given to address the issue other than to ensure that when procuring services they interface in a way which gives the patient a seamless service. Monitor may test a commissioner’s

effectiveness in this by asking providers how they will co-operate in the delivery of a patients care with other providers.

In relation to Choice and Competition, commissioners are required to ensure appropriate choice and competition exists in the market to drive up quality and efficiency. In testing this Monitor will assess how available “Choice” is for patients and whether the number of providers in a particular market impacts on the incentive for providers to improve patient care. Where plurality of providers doesn’t exist there is no requirement to introduce this until the incumbent provider’s contract is up for renewal.

5. Publishing Contract Opportunities

Basically this Regulation deals with the requirements for –

- NHS England to maintain a website in which commissioners can publish notices i.e. Supply 2 Health
- Arrangements to be put in place to enable providers to express interests in providing services
- Commissioners to publish a notice where they do intend to publish their intention to seek offers from providers for a new contract
- The content of published notices
- The ability of commissioners to avoid posting a notice where they don’t wish to invite interest from providers and which to award the contract with a single provider

In assessing the decision to not publish a notice “Monitor” would assess whether there is only one provider available to provide a service or whether after a detailed review of local healthcare provision it is concluded there is a particular provider which is clearly superior in delivering the particular service and where the benefits of competitive tendering are outweighed by the cost of publishing the notice or running a competitive tender exercise.

There are certain benefits in selecting a particular provider and this could be due to location of provision, availability of particular infrastructure or where there is an immediate clinical need for which the selection of a particular provider is necessary on clinical safety grounds.

6. Award Criteria

Regulation 7 deals with the development and application of award criteria in selecting providers for procured services. The criteria essentially fits within 3 categories which are -

- **Transparency** – e.g. All award criteria has been made clear and disclosed to all providers
- **Proportional** – e.g. Whether financial criteria has been applied which is proportionate to the risk and value of the contract
- **Non-Discriminatory** – e.g. Whether criteria has been developed which doesn’t favours the incumbent provider, prevent certain criteria from being waived part-way through the process which advantages a certain provider

7. Anti-Competitive Behaviour

This not only covers award of contracts but also informal agreements between commissioners and providers. In assessing whether anti-competitive behaviour has taken place “Monitor” will seek to determine whether adverse costs have outweighed benefits which can only be gained by avoiding a competitive process. Adverse costs could be loss of value for money or a lack of incentive for providers to improve the quality of services. Benefits assessed could be a higher level of integration and co-operation between services and/or providers.

Anti-competitive behaviour can also exist where competition has been introduced. This could be via a lack of incentives for providers to attract patients due to either a lack of available resource or a restriction on providers to differentiate themselves to attract patients.

8. CSU Procurement Service

The CSU Procurement Service will work with the CCG intelligent client to develop the organisations Procurement Strategy over the coming weeks to take account of the NHS Procurement, Patient Choice & Competition Regulations and the associated guidance. This will ensure not only that the CCG remains within the regulatory framework but also that the Procurement Strategy delivers solutions which both enhances patient care and obtains value for money for the SCCG registered population.