

Report to: Health and Care Integrated Commissioning Board
Date: 7th September 2016
Report for: For Information
Report of: Joint Commissioning Board

Report Title

MCP Procurement Update

Summary

The purpose of this report is to:

- Provide the Health and Care Integrated Commissioning Board (HCICB) with a summary of the current position regarding the procurement process employed by the Joint Commissioning Board (JCB)

Recommendations

The recommendation of this report is that the Joint Committee:

- Note the contents of the report

Contact person for access to background papers and further information:

Name: Sharon B Robson
Phone: 07817 882 169

STAR Procurement, a shared service for Stockport, Trafford and Rochdale Councils is providing procurement support to the Joint Commissioning Board.

1. Background

- 1.1 The Joint Commissioning Board (JCB) is actively progressing the long-term vision of a fully integrated, population-based system of health and social care provision that is funded and rewarded on the basis of a capitated, outcomes-based contract. These services are proposed to be supplied principally through a Multi-Specialty Community Provider (MCP), which will act both as the principal provider of the services and the integrator so that the individual services are supplied and operated more effectively. The long term vision is that the MCP manages the whole population capitated budget on behalf of the population for the vast majority of health and social care services. The development of the MCP will initially focus on services for the over 65 population of Stockport.
- 1.2 The MCP will be the vehicle for delivering significant services. The shadow Provider Board will consider and make proposals regarding the organisational form of the MCP through the procurement process. The CCG and the MBC, through the JCB and Health and Care Integrated Commissioning Board (HCICB) established under the S75 agreement, will respond to those proposals.
- 1.3 External legal advice was sought as to the most appropriate route which allowed us to progress at pace (and in line with the expectations of being a Vanguard site), whilst complying with regulatory requirements with regard to procurement legislation.
- 1.4 The proposed procurement of the MCP vehicle is complex because of differing regulatory requirements between Health and Local Government. External legal advice was sought to consider and recommend the approach in view of the procurement law duties for the CCG and SMBC.

2. Procurement Approach - CCG Duties

- 2.1 Prior to the 18th April 2016 the procurement of NHS Health Services by CCGs took place under specific NHS Procurement Regulations (the section 75 Procurement Regulations). The procurement process for the Stockport Together MCP commenced on the 14th April 2016 and so the section 75 Regulations apply to this process.
- 2.2 An additional consideration is whether there is a need to publish a public notice in relation to the MCP procurement. Such a notice would be required in the event that there is a realistic prospect that a potential provider in another

EU state would be interested in providing the MCP services. After careful consideration and seeking legal advice, it was decided that there was little prospect of cross border interest and so no public notice was required.

3. Procurement Approach – SBC Duties

- 3.1 The position for SMBC is different to the CCG, as the Section 75 Procurement Regulations do not apply. The range of services that SMBC will commission from the MCP fall within the services covered by what is known as the Light Touch Regime (LTR) within the Public Contract Regulations 2015. The LTR permits SMBC to devise a flexible procurement process to select the MCP provider.

4. Procurement Strategy Employed

- 4.1 The CCG and SMBC considered the procurement options that were available to jointly commission the MCP. The commissioners concluded that to achieve the intended population benefit, to avoid service disruption by securing the continued involvement of the fixed point providers and to establish an MCP that has a significant role in service integration, they should seek to establish the MCP within a procurement process that involves negotiation with the current service providers (Appendix 1). The rationale for this approach is that as the MCP model is the desired provider mechanism and the fixed point providers of the services will continue and indeed must be, the providers after the MCP is established, they are best placed to plan and then deliver that arrangement.
- 4.2 Procuring these services without an open, competitive process will involve some element of risk due to the possibility of challenge from other external suppliers on the basis that the opportunity should have been openly advertised. However, the view of the commissioners, which is supported by external legal advice, is that the benefits in terms of service continuity associated with the closed procurement process that has been adopted, outweigh the risks associated with a legal challenge arising from not going to the open market.

5 Current Position

- 5.1 Expressions of Interest were sought from the current providers on the Provider Board on 14th April 2016, the providers collaborating through a Provider Board.

- 5.2 The Provider Board Members provided their initial responses on 28th April 2016.
- 5.3 Further questions were asked with responses to the questions required by 30th May 2016.
- 5.4 Appraisal was undertaken, and clarification questions were sought. Additional guidance from NHS England was issued and released to the Provider Board on 3rd August 2016, to consider as part of their response. The involvement of NHS England is necessary in order to ensure that the MCP arrangements in Stockport are compatible with national MCP developments, in which NHS England is leading.
- 5.5 The providers' responses to the further clarification questions were received on 19th August and appraisal is currently being undertaken.
- 5.6 The commissioners have recognised that the establishment of an MCP is a significant innovation and will require careful planning across the provider organisations. Given this complexity it is unrealistic to expect the providers to have a fully articulated business model which addresses all elements of organisational structure, governance and delivery pathways at this point in the procurement process. The providers' responses to the clarification questions will enable the commissioners to gauge progress to date and assess the suitability of the proposed approach to establishing the MCP.
- 5.7 The responses will now be formally appraised with a view to assessing whether or not they represent proposals that are likely to result in an MCP that meets the commissioners' requirements. If the appraisal outcome is positive then the next stage will be identification of specific issues including the legal structure for the MCP and the contractual arrangements that will need to be implemented for its establishment.
- 5.8 In the event that the appraisal has a negative outcome then other options to achieve the benefits of the MCP will need to be considered.
- 5.9 If the appraisal is positive then a negotiation strategy has been developed to enable commissioners and providers to work together and develop the existing dialogue with a view to eventually agreeing detailed proposals. These proposals will eventually need to be formalised in contractual agreements. Subjects to be covered in this dialogue will include organisational form and exchanging information relating to Finance & Resources, Clinical, Performance, and Corporate Governance.

- 5.10 NHS England as the national lead for MCP development, will be issuing a proposed standard MCP contract in September 2016 and this will inform further thinking. The Joint Commissioning Board is liaising with NHS England in order to contribute to the development of the Standard MCP Contract, to share our experiences of establishing an MCP and to influence where possible the relevance of the National Contract to the Stockport Together programme.
- 5.11 It is currently proposed that following broad agreement on the way forward, detailed negotiations on the establishment of the MCP and a new contract will commence in November 2016. Fundamental elements of this contract will be the outcomes framework and capitation based payments.

6 Summary

- 6.1 The establishment of an MCP represents a complete re-shaping of health and social care provision within Stockport and is a significant and challenging ambition. Wide ranging changes will be required to service delivery arrangements, including the adoption of a common outcomes framework which requires considerable planning and preparation. This work has been commissioned and is underway.
- 6.2 Within the Vanguard programme it is clear that Stockport's aim to work across the whole of health and social care sector is one of the more ambitious approaches to an MCP model. Commissioners believe that this is necessary and appropriate to maximise benefit for the whole population.

The intent is to have an MCP contract in place by 1st April 2017 and commissioners continue to work at pace towards this aim. However, achieving the right business and contractual model for the Stockport Together MCP is the primary objective. With this in mind, and in view of the complexity of the systems involved, it is anticipated that certain aspects of the contractual arrangements will not be fully operationally on the 1st April 2017.

- 6.3 The Joint Commissioning Board will continue to review the schedule as the programme progresses.

7 Recommendations

- 7.1 To note the content of the report.
- 7.2 The Joint Commissioning Board will provide a further update at the next Health and Care Commissioning Board.

Report Appendices

1. Fixed Point Provider Schedule

Appendix 2: Indicative Timeline

Level 1: From:	Level 2: Activity	Completion Dates
Approach to MCP Procurement v1.0 (3) document		
Process of formal and management of engagement between Commissioners and Providers	Prepare JCB position and response to Stage 1 & 2 respondents	Early Aug '16
	Issue JCB position and response to Stage 1 & 2 respondents as to next stages	Early / Mid Aug '16
Business Case developed by Providers for creation of MCP and submitted to Commissioners	Invite Detailed Operational Model Provider Board (release final JCB Position) – Finance+Resource, Clinical, Performance+Corp Gov.	Mid Aug '16
	Submission of Detailed Operational Model (Stage 3) from Provider Board	Mid Sept '16
Stage 3 Procurement Evaluation Panel Convened	Paper Based Assessment of Responses (Stage 3)	Mid / Late Sep '16
Commencement of contract negotiations for 2017/18 year	Engage with legal support on development of draft contracts	September - November
	Agree areas not open for negotiation, and parameters for negotiation elsewhere Agree who will be on negotiation panel, chair, etc. and their roles	Late Aug / Early Sep '16
	Issue invitation for initial responses and contract for formal comments to Provider Board (incl. indicative dates and themes for negotiation meetings)	Mid / Late Sep '16.
	Deadline for responses	Mid / Late Oct '16
	Review responses, and seek legal opinion as relevant to suggested changes prior to any meetings	Late Oct / Early Nov '16
	Initial meeting with Provider Board to discuss Theme 1	Early Nov '16
	Consider results of initial meeting, and amend contract documents as appropriate	Mid Nov '16
	Issue amended documents (2 nd Theme)	Mid Nov '16
	2nd meeting with Provider Board to discuss Theme 2	Late Nov '16
	Consider results of 2 nd meeting, and amend contract documents as appropriate	Late Nov / Early Dec '16
	Issue amended documents (3 rd Theme)	Early Dec '16
	3rd meeting with Provider Board to discuss Theme 3	Early Dec '16
	Consider results of 3 rd meeting, and amend contract documents as appropriate	Mid Dec '16
	Issue amended documents (4 th Theme)	Mid Dec '16
	Christmas Period	
	4 th meeting with Provider Board to discuss Theme 4	Early Jan '17
	Consider results of 4 th meetings, and amend contract documents as appropriate	Early Jan '17

	Issue amended documents (5 th Theme)	Mid Jan '17
	5 th meeting with Provider Board to discuss Theme 5	Late Jan '17
	Consider results of 5 th meeting, and amend contract documents as appropriate	Late Jan / Early Feb '17
	Issue amended documents (Final Review and Agreement)	Early Feb '17
	6 th and final meeting with Provider Board to agree final contractual documents and any sticking / missed issues (Mop Up)	Mid Feb '17
	Issue final docs for written formal agreement to contents	Late Feb / Early Mar '17
	Issue hard copies of documentation for signature	Late Feb / Early Mar '17
Contract Signature		Early / Mid Mar '17
Contract Commencement		1st April 2017
Implementation of Shadow MCP should commence straight away		