

**Joint Primary Care Committee**

1:00 pm - 23 February 2017  
Coach House, Worcester

<b>Title of Report</b>	<b>GP Access Fund Re-Procurement</b>
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<b>Presented by</b>	Denise Goddard, Primary Care Commissioning Manager
<b>Target CCG</b>	RBCCG <input type="checkbox"/> SWCCG <input checked="" type="checkbox"/> WFCCG <input type="checkbox"/> All CCGs <input type="checkbox"/>
<b>Recommendation</b>	To approve the issuing of a Prior Information Notice (PIN) without a call for competition, plus any subsequent actions following interest/no interest for re-procurement
<b>Purpose</b>	Assurance <input type="checkbox"/> Decision <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Discussion <input checked="" type="checkbox"/> Information/noting <input type="checkbox"/>

**Executive Summary**

An APMS contract for the South Worcestershire Prime Ministers Fund (now GP Access Initiative) in South Worcestershire ends on 31 March 2017. NHSE requires CCGs to test the market before re-issuing contracts. Procurement advice has been sought and the recommendation is to issue a Prior Improvement Notice without a call for completion for reasons specified below.

**Introduction**

Since April 2015 Stay Well Healthcare has provided additional out of hours appointments to patients in South Worcestershire via the GP Access Fund framework (previously Prime Minister's challenge fund).

The funding has been extended for a further two years, to the sum of approximately £1,810,000 pa (based on October 2016 weighted population) in line with meeting national specified criteria as per Appendix 1. It is anticipated that the funding source will then change, to a routine mechanism, aligning to £6/head for increased access for 2019/20 as per the Planning Guidance.

NHSE have not issued any guidance regarding the procurement route but seek assurance from CCGs that they have accessed professional advice. Midlands and Lancashire Commissioning Support Unit provide this function for the three Worcestershire CCGs and have advised that a PIN notice be placed to gauge interest, in the first instance, rather than full procurement. This method has been utilised by Hereford CCG for their GP Access Fund site re-procurement.

**Current Service**

Stay Well Healthcare, a federation of 32 gp practices in South Worcestershire, hold the current contract for provision of 153 hours of extended primary care appointments.

The service model has evolved over time according to usage. Some elements, eg pharmacy minor ailment service have been temporarily discontinued, and other aspects changed in order to meet changing national criteria (appendix 1).

This current service is a pre-bookable Advanced Nurse Practitioner clinical telephone appointment at a Clinical Contact Centre. These are early morning, evening and weekend appointments which can be for triage, to offer advice, prescribe or the option for the Clinical Contact Centre to book face-to-face appointments if requested or clinically appropriate.

Parallel to this a number of locality hubs either practice or group based operate at different times and days, out of hours, to provide additional appointments to South Worcestershire patients.

Practices, hubs and the Clinical Contact Centre have access to 30 practices' patient records via the EMIS system under a data sharing agreement.

The service has been extensively evaluated by Worcestershire University with both quantitative and qualitative analysis (including patient feedback). The evaluation has previously been presented to the South Worcestershire Primary Care Commissioning Committee. This information has helped mold the service model and has demonstrated considerable benefits in releasing capacity in in hours general practice of a minimum of 0.5 wte g per week.

### **Opportunities**

On an on-going basis the CCG and Federation have been reviewing any potential opportunities to improve the current model, release capacity and support practices to work at scale.

There are active plans to manage workload, based on local evidence, and to consider alternative health professional appointments to more appropriately meet patient need. These developments will need to fit the criteria before incorporating into any contractual framework; for example, physiotherapy, and community pharmacy.

The potential provider will be invited to present to a Panel its plans for continuing to innovate and develop the service. The CCG will want to see greater use of new technologies and ways of integrating with other services (eg the Out of Hours services and a move towards a Multi-Speciality Community Provider).

### **There are 3 possible procurement options:**

#### **Voluntary Ex-ante Transparency (VEAT) Notice**

A contracting authority may decide that a contract does not require prior publication through a contract notice in the Official Journal of the European Union (OJEU) or governmental portals. A reason for this decision may be that the contract meets the exceptional conditions described in Article 31 of Directive 2004/18/EC.

Issuing a VEAT is indicating an intention to sign a contract without opening it up to formal competition. A VEAT notice answers the requirement for transparency and the standstill period plus the requirement for the opportunity for scrutiny and review.

The notice requires a stand still period with 10 days to challenge. Potential providers can challenge if they feel it is a viable contract they would bid for.

The VEAT content must specify what the CCG proposes to buy and contract period.

Timescales: From date of publication of a VEAT notice a standstill period of 10 calendar days is given. From this point if there is no other potential provider that responds contract discussions can take place with the incumbent provider with a view to new contract being in place in April 2017.

#### **Rationale for using a VEAT:**

The CCG may decide that a contract does not require prior publication through a contract notice in the (OJEU). A reason for this decision may be that the contract meets exceptional conditions.

If the CCG decides to take this route, they must give sufficient information as to the justification for direct award and they must still observe the minimum 10 day standstill period. By doing this, it provides potential Providers the opportunity to challenge the decision. The VEAT must also state the proposed contact period.

Procurement advice received is to not take this route.

### **Prior Information Notice (PIN) With or Without Competition**

There are 2 types of PIN one open to competition, the other is without a call for competition. These are essentially both the same in content, but the one with the call for competition contains a Pre-Qualification Questionnaire (PQQ).

A PIN can be used as a means for calling for competition in place of a contract notice and can also be used in place of a Pre-Qualification stage, with selected providers being taken straight to the tendering stage. The use of a PIN notifies the market of a potential opportunity and can also act as a Pre-Qualification Questionnaire (PQQ). The PIN must contain standard information such as:

- Standard contact details and information as to how to access the tender documents
- Common Procurement Vocabulary (CPV) and NUTS codes
- A brief description of the procurement, including the nature, extent of services and value
- It must also reference the fact that interested Providers need to advise the CCG of their interest in the contract
- Name the award procedure that will be followed including if it involves a framework or dynamic purchasing system
- Outline the time-frame for delivery of the contract
- Set out the conditions for participation
- Provide a brief description of selection criteria and if known the award criteria
- Set the time limits for receipt of expressions of interest and the form of tender and
- Outline the minimum and where applicable maximum number of companies they intend to invite to tender (the minimum has been set as 5 bids for the restricted procedure).

Timescales:

Both PINs will take up to 35 calendar days. The advantage for the call for PIN with competition is to reduce the timescale for the call for tendering later on, if needed.

CSU advice issuing a PIN based on NHSE requirements and the recent case of Hereford CCG. However, this would be a call without competition at this stage.

If there is any interest, this would require more detailed preparation for the publication of full blown tender and the firming up of a specification, with the PIN reducing some of the timescales later on in a procurement exercise.

Planning for the high value service would take at least 6 - 12 months to implement a new procured service. The current service specification may need to be reviewed prior to the PIN advertisement being published.

Rationale for using a PIN is noted in the Procurement Advice.

### **Procurement Advice**

*Midlands and Lancashire CSU Procurement Team have advised a PIN without the call for Competition.*

We are mandated to consider procurement rules which comes under:

- The Procurement, Patient Choice and Competition Regulation 2013 and
- The Public Contracts Regulations 2015.

Procurement advice is clear that there are grounds for limited contract variations, but not excessive

contract extensions, that would not be in line with procurement regulations; we have already extended the contract.

Procurement noted this contract runs in close alignment with the ability to access full patient records and booking arrangements due to agreements signed with individual practices. This could not easily be replicated with other providers.

Service provision should not be disrupted in any circumstances; continued delivery of a high quality service must remain in place unencumbered.

We also need to act in accordance with Worcestershire CCG's Standing Financial Instructions and Standing Orders.

It is generally recognised that a procurement that exceeds £100,000 in total value (over the lifetime of the contract) or will attract market attention and would be formally advertised in Contracts Finder (note all procurements over £20,000 are required to be advertised on Contracts Finder and all procurements over £589,000 are advertised in the OJEU portal as well).

The PIN will be published in the Official Journal of the European Union (OJEU) and Contracts Finder making known the intention to award a contract subject to any interest generated from the market.

There may be a small number of providers in the market who may be interested in providing the service. However, this would be limited and the number who may actually be able to provide this service could be even fewer; possibly only to agencies such as NHS 111 or out of hours providers. This poses a risk to directly awarding a contract without advertising intent.

Given the circumstances outlined Midlands and Lancashire CSU Procurement team recommend that the CCG advertise their intent to award a 2-year contract for a total contract value of approximately £1,818,000 pa (£3,636,000 for 2 years) to the market, with a view to establishing if there is a viable suitable alternative source of supply. The placing of this PIN will mitigate the risk of any challenge should there be no response from the market.

Should the CCG be challenged following placement of this Transparency Notice further procurement options would need to be considered. This recommended approach would allow time for the Commissioner to review the inter-locking contractual relationship with NHS 111, Out of Hours and the practices.

## **Risks**

The use of a VEAT should only be used if the CCG believe there is very little possibility of an alternative supply for this service. If the CCG do not advertise this as an opportunity to the market the following remedies may be taken up as challenge.

The use of PIN with or without a call for competition should be used if there is a stronger belief in the availability of alternative supply for this service and the need to go out to competition.

This, however, does have some theoretical risks that the Executive/Committee need to consider before recommending this course of action, namely it is possible that other suppliers may challenge the Transparency Notice thus forcing the CCG to consider a procurement exercise.

- An aggrieved provider may have recourse to a number of forms of redress which can be accessed through the courts – including:
  - The automatic suspension of a procurement procedure where a claim is issued following the notification of the contract award decision.
  - Orders to suspend a process, set aside decisions or to amend any document.
  - Damages.
  - In more limited situations, the potential for contract ineffectiveness, contract-shortening orders, and fines.

- The service needs continuity and any delays do not support this. Not issuing a VEAT or PIN will potential put continuity of the service at risk.

Other considerations:

The only other potential providers could be Out of Hours and NHS 111. Whilst they could mobilise quickly, the viability of running the number of required appointments, an out of hours only service would not necessarily make it an appealing option. In addition for new providers there is currently no access to patient records, or the ability to book direct appointments.

The CSU have advised that the risk of a challenge following a VEAT or PIN is low, as the market is aware of the proposed intent reference contract award. If challenged the CCG could go out to formal full competitive re-procurement.

We are aware that the impact of a challenge or expression of interest on service continuity following a PIN is Medium to High - due to tender timescales; ie not sufficient time for contract mobilisation for a new Provider, which may impact on service provision.

Of note, Hereford CCG recent used a PIN notice without a call for competition to re-procure their GP Access Fund contract with Taurus Healthcare. This was issued on 21 December 2016 and no other provider came forward. There has been an article in the HSJ on 30 January 2017 commenting that the CCG have launched a procurement process for a single provider for a contract worth more than £1 million.

We do not perceive that patients would benefit/gain from this going out to full procurement in the short to medium term because of the following reasons:

- The existing provider will offer continuity, minimising disruption
- There are data sharing agreements with practices and the provider to allow access to records, improving safety and clearer pathways for patient management, and this would be difficult for other providers to replicate easily and rapidly
- The current service provision has been evaluated positively, by Worcester University.

In order to continue a service, it is proposed that the Committee approve the issue of a PIN without a call for competition thus notifying the marketplace of the opportunity. A single tender action can be taken if no other potential Providers respond to the PIN. If other potential organisations express their interest in this opportunity then the CCG would need to consider conducting a formal competitive tender process and extending the current contractual arrangements to allow the competitive tender process to be completed.

## Recommendations

1. **Approve placement of a Prior Information Notice, without a call for competition, in OJEU and in the Government's Contract Finder Portal, outlining the CCGs intention regarding the direct award in line with procurement regulations.** This is a well-run service, offering proven additional capacity and is therefore a valuable resource for primary care. We need to cause as little disruption to the service, and work within the procurement timescales.
2. **To agree that if there is any wider interest noted to provide this service, to go to full procurement, and in the meantime issue a contract variation extension of a further 9 months to the current provider.** This will allow the CCG to follow the recommended regulations, as advised by the CSU procurement team.
3. **If no timely interest is noted following the PIN, to approve the direct award of a 2-year (plus a year to extend) APMS contract to South Worcestershire Primary Care Ltd, also known as SW Healthcare Ltd.** This will enable continuity of service and build on current models, utilising existing infrastructure.

## Appendices – Appendix 1 - Core requirements

### Timing of appointments:

- commission weekday provision of access to pre-bookable and same day appointments to general practice services in evenings (after 6:30pm) – to provide an additional 1.5 hours a day;
- commission weekend provision of access to pre-bookable and same day appointments on both Saturdays and Sundays to meet local population needs;
- provide robust evidence, based on utilisation rates, for the proposed disposition of services throughout the week; and
- appointments can be provided on a hub basis with practices working at scale.

### Capacity:

- commission a minimum additional 30 minutes consultation capacity per 1000 population, rising to 45 minutes per 1000 population.

### Measurement:

- ensure usage of a nationally commissioned new tool to automatically measure appointment activity by all participating practices, both in-hours and in extended hours

### Advertising and ease of access:

- ensure services are advertised to patients, including notification on practice websites, notices in local urgent care services and publicity that into the community, so that it is clear to patients how they can access these appointments and associated service;
- ensure ease of access for patients including:
  - all practice receptionists able to direct patients to the service and offer appointments to extended hours service on the same basis as appointments to non-extended hours services
  - patients should be offered a choice of evening or weekend appointments on an equal footing to core hours appointments.

### Digital:

- use of digital approaches to support new models of care in general practice.

### Inequalities:

- issues of inequalities in patients' experience of accessing general practice identified by local evidence and actions to resolve in place.