
Meeting of the Cabinet – 26th July 2018

Report of the Strategic Director People

Dudley Multi Specialty Community Provider – Identification of a Preferred Bidder

Purpose

1. To provide Cabinet with an update on the procurement of a Multi-Specialty Community Provider (MCP) to deliver health and wellbeing outcomes for the population of Dudley
2. To consider the evaluation of the bid submitted in response to the joint Clinical Commissioning Group and Council proposal to commission and enter into a contract for the provision of integrated health and care services to be delivered by a Multi-Specialty Community Provider (MCP) through the proposed National Health Service (NHS) Accountable Care Organisation (ACO) contract.
3. To identify further issues to be addressed prior to entering into the ACO contract with the MCP Provider, should both the CCG and the Council approve the appointment of a preferred bidder subject to the conditions set out in this report

Recommendations

4. It is recommended that;
 - Cabinet note the procurement process that has been undertaken
 - Council enter into a Section 75 Agreement between the Council and Dudley CCG, for the co-commissioning of the MCP which will be overseen by an Integrated Commissioning Board
 - Cabinet to decide whether to identify a preferred bidder for the provision of integrated health and care services, subject to:
 - Approval by the CCG Governing Body of a preferred bidder
 - Specific conditions identified through the evaluation process
 - Successful completion of the NHS Integrated Support and Assurance Process (ISAP)
 - Successful outcome of the Council's Scrutiny process
 - The availability of a suitable contracting mechanism and required derogations

Background

5. The 'multi-specialty community provider' (MCP) is intended to integrate primary care, community health services, mental health and some public health services into a single organisation led by primary care on a 10 year contract ("the ACO contract") with the option to extend to a total of 15 years. The MCP will be able to

operate under a new outcomes based contractual framework, which does not apply to other NHS providers, which are generally paid for units of activity, rather than for the difference they make to people's health and wellbeing.

6. The key features of the MCP are:

- Primary care will be at the heart of the model of care and will lead its development
- The MCP will be contracted to achieve population health outcomes through a new ACO contract which allows an alternative to payment of standard NHS tariff, which pays for activity rather than outcome
- The MCP will be incentivised to prevent avoidable admissions to hospital and deliver preventative approaches
- The MCP will have a 10-15 year ACO contract in order to encourage investment in 'upstream' interventions designed to support prevention and demand management
- The Council will jointly commission the MCP through a Section 75 agreement with the CCG

Dudley Council Services in the Scope of the MCP

7. At its meeting in September 2016, Cabinet approved the inclusion in the MCP scope of a number of commissioned public health services to an annual value of £12 million. These services are:

- Adult Substance Misuse Service and inpatient Detox Beds
- Health Visiting and Family Nurse Partnership Services
- School Nursing service
- Integrated Adult Wellness Service – Let's Get Healthy
- Young People's Wellness Services (Brook and Switch)
- NHS Health Checks
- Sexual Health and contraception services
- Emotional Health and Wellbeing Services

8. It was also decided at this time that Adult Social Care (ASC) would not be included in the initial MCP scope, however elements of ASC may be identified for inclusion and phased in over the contract period. Children's Social Care is not within the scope of the MCP.

9. Cabinet agreed that before any additional commissioned services are transferred into the MCP, the following tests must be met:

- i) Can the service be transferred at decreased cost to the Council?
- ii) Can the services be transferred within both the existing regulatory and statutory requirements (without unnecessary increase in regulation of adult social care, undermining the diversity of the local adult social care market)?
- iii) Has modelling been undertaken to clearly describe improved outcomes for the people of Dudley?
- iv) Are services anticipated to be able to adapt to taper or decreasing resources throughout the contract period?
- v) Will the transfer avoid any decrease income to the Council or increase in costs in the form of either VAT and/or client contributions?

10. The Council will need to apply these tests to adult social care services at regular intervals throughout the duration of the contract, to assess whether these should be phased into the scope of the MCP.
11. The procurement process has been led by Dudley CCG and governed by a Project Board consisting of CCG and Council representatives and supported by appropriate staff and external advisers.

Benefits of involvement in the MCP

12. Council involvement in the MCP provides a number of opportunities for the people of Dudley and for the Council. These include:
 - The ACO contract incentivises care to be provided in general practice and the community, thereby enabling services responsive to the different needs of local communities
 - The public health services in scope for the MCP deliver return on investment which impacts on the NHS first, and therefore their integration into an organisation that is incentivised to achieve prevention has the potential to increase their effectiveness
 - The integrated approach of the MCP will enable partners to deliver new approaches to challenging issues such as frailty and social isolation
 - The transfer of some public health commissioned services into the MCP will allow the Council to retain the public health programmes with synergies to other council services, giving us the capacity to focus on determinants of health and wellbeing
 - The service specification for the MCP includes a prevention framework, which ensures that prevention is embedded in all pathways and requires that front line staff make every contact count and connect patients to local community assets. The MCP provider will also be expected to implement healthy working practices
 - The MCP is also required to contribute to improving Dudley as a place, supporting the local economy and the social and physical environment
 - Increase local democratic accountability of the local NHS services, through elected members being involved in the governance of the co-commissioning of the MCP

Update on the procurement of the MCP

13. Dudley CCG ("The CCG") has led a procurement process using a dialogue approach, overseen by a Procurement Board with representation from senior officers of the Council. Council officers have contributed to the development of a service specification and the invitation to tender documents.
14. In the commissioning of the MCP, the CCG is subject to a rigorous approval process by NHS regulators called the Integrated Support and Assurance Process (ISAP). The first stages of this process were completed in November 2016. Further stages include Checkpoint 2, which will assess whether the procurement has been conducted properly, and Checkpoint 3, which will assess whether the contract is ready to commence.

15. Prior to the publication of the contract notice, a market engagement event took place in January 2017, involving 69 interested potential prime providers and potential subcontractors. This was followed by a period during which potential bidders had the opportunity to engage with primary care. The contract notice was published on 9th June 2017, with potential bidders invited to complete a pre-qualification questionnaire (PQQ).
16. A single bidder, which was a consortium of local GPs, Birmingham Healthcare NHS Foundation Trust, Dudley Group of Hospitals NHS Foundation Trust, Dudley and Walsall Mental Health Partnership NHS Trust and Black Country Partnership NHS Foundation Trust, was invited to dialogue and the dialogue process began in September 2017. Dialogue took place until end of March 2018 and the bidder was invited to submit its final tender.
17. The NHS nationally requires that the MCP provider be a single purpose vehicle, whose only purpose is the provision of MCP services. As the bidder is currently a partnership of organisations, a new organisation will need to be established to hold the ACO contract. The current intention is that Dudley Group of Hospitals NHS Foundation Trust will split, creating two new NHS Foundation Trusts, one of which will provide acute hospital based services and the other of which will provide and sub contract services in scope of the MCP.
18. The governance of the co-commissioning of the MCP will be provided through a Section 75 agreement between the Council and the CCG, which will be overseen by an Integrated Commissioning Board.

The Evaluation of the bid

19. The evaluation of the bid began on 9th May 2018 and continued until 25th May 2018. A range of Council Officers from Public Health, Adult Social Care, Commissioning, Finance, ICT and Human Resources participated in the evaluation process, with external expert advisers.
20. The submitted bid obtained the support of 40 of Dudley's 45 practices, indicating through a letter of intent, their willingness to enter into an Integration Agreement with the MCP. This represents a population coverage of 294,745 patients registered with a Dudley GP, or 92.4% of the total population registered with a Dudley General Practitioner.
21. Cabinet and Shadow Cabinet have been briefed on the detail of the evaluation.

Conditions

22. Having considered the evaluation report, should the CCG Governing Body and the Cabinet decide to identify a preferred bidder, there are a number of issues to be resolved prior to contract signature. These are identified below.

23. Actions to be undertaken by the bidder
- Appointment of a Chair of the new MCP organisation
 - All requirements for ISAP Checkpoint 2
 - Production of a consolidated financial strategy
 - Production of a Foundation Trust Constitution for agreement with commissioners
 - Provision of assurance for commissioners in relation to issues arising from the bid evaluation
 - Quantification of the costs of the split of the Foundation Trust into two
 - Agreement of the form of sub-contracts to be entered into with material sub-contractors for commissioners approval
24. Actions to be undertaken by the CCG
- All requirements for ISAP Checkpoint 2
25. Actions to be undertaken by the CCG and Council
- Scrutiny undertaken by Health and Adult Social Care Scrutiny Committee
 - Approval of Commissioner Requested Services
 - Approval of the form of sub-contracts to be entered into with material sub-contractors
26. Actions to be undertaken jointly by the bidder, CCG and Council
- Agreed system wide financial model, including assessment/plan for stranded costs and any gain/loss share
 - Appropriate due diligence to meet ISAP requirements
 - Combined risk analysis and register supported by external advice
 - Populated contract

Next steps

27. As well as regular progress reports from the Project Board which will address outstanding issues, Cabinet will receive reports on:
- The outcome of scrutiny undertaken by the Health and Adult Social Care Scrutiny Committee
 - The constitution of the MCP Foundation Trust – particularly in relation to public involvement mechanisms
 - Commissioner Requested Services
 - Final Contract/sub-contract form

Finance

28. The Council has agreed that just under £12 million of public health services are included in the scope of the MCP. The Public Health Grant that the Council receives from the Government is reduced by 2% each year and this proportion reduction will be passed to the MCP. Detailed financial projections were produced for the invitation to tender documents in early 2017, which will require updating.

Subject to the identification of a preferred bidder, these projections will be reviewed by the CCG, the Council and the bidder in the mobilisation phase.

29. To safeguard the Council's financial position it has been agreed that:

- The Better Care Fund payments to the Council continue to be paid directly from the CCG, rather than via the MCP
- The Council's liability in the case of any challenge to the procurement process is limited to 4% of the total value and this is reflected in the Section 75 agreement
- The new organisation which provides MCP services will be set up to be VAT efficient to avoid irrecoverable VAT costs.

Law

30. The procurement has been conducted under the Public Contract Regulations 2015 and the NHS (Procurement, Patient Choice, and Competition No.2) Regulations 2013. The Section 75 Agreement will be made under the provisions of the NHS Act 2006. The separation of Dudley Group NHS Foundation Trust will be made under the provisions of Section 56B of the NHS Act 2006
31. Specialist legal advice has been obtained throughout this Project and has been set out in detail to Corporate Board on two occasions and discussed with Cabinet and Shadow Cabinet members.
32. An essential recommendation of that advice is to ensure that the Section 75 agreement is completed before the approval of any preferred bidder may be given.

Equality Impact

33. The MCP evaluation process includes assessment of the bidder's plans to ensure that services provided and subcontracted contribute to equality and diversity and reduce health inequalities.

Human Resources/Transformation

34. Dudley Council HR staff have participated in the evaluation of the MCP bid
35. Due diligence includes assessment of the current contract provisions where the Council is the commissioner of the services in relation to TUPE. Whether TUPE is applicable is a matter of law and there is a need to ensure that notice periods and provisions take account of any potential TUPE liabilities.



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Background Documents

None