

Co-operation and Competition Cases  
Monitor  
133-135 Waterloo Road  
London  
SE1 8UG

16 September 2013

Dear Sir

**Re: Response to Complaint into the commissioning of radiosurgery services – Statement of Issues  
(Case reference 01/13)**

Thank you for your invitation to respond to the Statement of Issues in respect of the above case. Having considered the information provided and the issues raised, we would wish to make the following comments:

**Background**

- We believe that the background to this matter is somewhat more complex than suggested. Following the commissioning of the original Gamma Knife at Sheffield Teaching Hospitals, activity levels rose to the point where there were significant delays in accessing treatment for patients.
- During this period The Leeds Teaching Hospital tendered for providers to partner in the development of St James's Institute of Oncology. Through discussion with the Trust, it was agreed that provision of Gamma Knife services would be desirable due to the waiting times experienced by patients locally who were being referred to Sheffield Teaching Hospitals.
- A proposal for the provision of SRS services at Leeds Teaching Hospitals NHS Trust was submitted to Yorkshire and The Humber Specialised Commissioning Group on 27 June 2008 by The Leeds Teaching Hospital Medical Director and Strategy and Business Development Officer. This detailed the Case for Change; Demand Projections; Service Delivery Model; Capacity Plan; Governance Arrangements and Costs and Benefits.
- Nova Healthcare entered into a partnership with The Leeds Teaching Hospitals to provide a range of oncology treatments. As part of this partnership, it was agreed that Nova Healthcare would provide an SRS service with the support of Leeds Teaching Hospitals NHS Trust.

- At a meeting of Yorkshire and the Humber SCG on 19 September 2008, a paper was presented by the Director of Yorkshire and the Humber SCG which updated members on the proposal for Leeds Teaching Hospitals NHS Trust to be designated as a new provider of stereotactic radiosurgery. The SCG was requested to ‘support the introduction of a gamma knife and stereotactic radiosurgery service in Leeds subject to formal service designation’.
- On 10 February 2009, a Designation Visit took place at Nova Healthcare in partnership with The Leeds Teaching Hospitals NHS Trust. The assessment panel included:
  - Director of Specialised Services, Yorkshire and the Humber SCG
  - Specialist Registrar in Public Health, Yorkshire and the Humber SCG
  - Consultant Clinical Scientist, Sheffield Teaching Hospitals NHS Foundation Trust
  - Specialised Services Commissioning Manager, Yorkshire and the Humber SCG
  - Consultant Neurosurgeon, Sheffield Teaching Hospitals NHS Foundation Trust
- The panel undertook a review of documentary evidence, received additional verbal evidence from the team via a formal presentation and a question and answer session. The panel visited the facilities available for patients receiving treatment.
- Following this visit a briefing paper was presented to the Yorkshire and Humber SCG on 20 February 2009. It stated that ‘As part of Yorkshire and the Humber SCGs work programme, commissioners formally proposed undertaking a designation process for the Stereotactic Radiosurgery service proposed to be provided collaboratively by Leeds Teaching Hospitals NHS Trust and Nova Healthcare.
- A number of recommendations were made including the submission of additional evidence after three months and a further visit after one year.
- The summary of this paper stated ‘The panel concluded that Nova Healthcare had taken all possible steps in the process of developing the new service. The service was commended for the work done so far, especially with respect to the facilities available and the commitment and enthusiasm of the team’.
- Overall the panel recommended that Nova Healthcare be granted conditional interim designation.
- The Director of Yorkshire and the Humber SCG wrote to confirm the approval of preliminary designation for Stereotactic Radiosurgery on 9 March 2009.
- Given this process, we would submit that any suggestion, implied or otherwise, that Nova Healthcare did not undergo a rigorous and independent review of its service prior to designation is wholly unfounded.

### **Summary of the complaint**

In response to specific statements with the summary of the complaint, we would wish to make the following observations and comments.

- We would concur with the NESCG that there were no ongoing capacity issues in Sheffield, not least as the city already had two of the six Gamma Knives in the UK. It would appear that as capacity issues were identified, Sheffield Teaching Hospitals decided to invest in a second gamma knife to meet the growth in demand and consequently any short term sub-contracting to Thornbury became unnecessary. There is no evidence that patients from the Sheffield area were unable to access the service. The capacity constraints which existed would have impacted the majority of England given the few providers of SRS that existed,

the only others at that time being in London. It seems entirely reasonable that if another centre were to be designated, this should be located in another area to allow greater access to the population local to the new centre.

- Whilst the clinical details are not specified, it is disappointing to note that a patient who required treatment was required to wait four months due to discussions regarding funding. It does not appear to be in the patient's best interests that such a delay occurred and there is no suggestion that an alternative provider was sought or suggested. I can confirm that had the patient been referred to Nova Healthcare, we would have discussed the case at the appropriate MDT with a view to early treatment.
- There is a suggestion that patient choice has been limited due to the decision by the NESCG to designate Nova Healthcare as an SRS centre. On the contrary, we would suggest that the NESCG's decision enhances patient's choice. Whilst Thornbury is a separate provider from The Sheffield Teaching Hospitals, the Consultants who are responsible for the clinical care at Thornbury are either current or former Consultants from The Sheffield Teaching Hospitals. Whilst an alternative location may be achieved by utilising Thornbury, choice in terms of clinical care is restricted to a group of four Consultant Neurosurgeons. Not only does the designation of Nova Healthcare add a further two Consultant Neurosurgeons to the available choice for patient's, in addition Nova Healthcare have two Consultant Clinical Oncologists who also deliver SRS.

### **Statement of Issues**

In respect of the Statement of Issues we would offer the following comments:

#### *Procurement objectives – Regulation 2*

We believe that the decision by NHS England not to procure NHS health care services from Thornbury Gamma Knife Centre assists in meeting the requirements of Regulation 2 in the following ways:

- Given the specialised nature of radiosurgery, and the low number of service providers, it is likely that patients will be required to travel significant distances in order to receive treatment. It is therefore in patient's interests that where other criteria are fulfilled, centres for contracting with are in a variety of locations. For example a patient referred from Middlesbrough would travel 74 fewer miles to have treatment at Leeds than in Sheffield.
- It has been widely acknowledged that healthcare services require a 'critical mass' of activity in order to maintain and enhance the quality of services. During our negotiations and contract management with NHS England, there have been ongoing discussions to ensure that activity levels are at an acceptable volume. The approval of a further centre in Sheffield would have the potential to lead to a reduction in activity across other sites which may in turn lead to a reduction in the quality of services as lower volumes of patients were treated.
- Furthermore, it has to be recognised that the services within Sheffield have historically been clinically and supported by Consultant Medical Practitioners from within the Sheffield Teaching Hospitals NHS Trust. We believe that the commissioners acted in the patients best interests by contracting with a unit which more than doubled the number of Consultants with the necessary skills and experience to deliver radiosurgery thereby mitigating the risk

associated with two centres (Sheffield Teaching Hospitals and Thornbury Gamma Knife Centre) who relied on the same Consultant support across both centres.

- We also believe that the decision taken improves the efficiency of the services provided. The provision of radiosurgery is associated with high initial investment and also high fixed costs. If activity volumes in centres decrease, this either puts pressure on pricing or ultimately leads to providers considering the viability of continuing to offer the service. The decision not to approve Thornbury Gamma Knife Centre assisted in ensuring the ongoing viability of other centres at the most cost effective price to the commissioners.

*General requirements – Regulation 3 (2) (b)*

- Provision of SRS at Nova Healthcare is based on the full integration of the service with the partner NHS Trust. During our review visit with the Yorkshire and The Humber SCG on 18 September 2009 they commented that ‘The service was praised for the achievement of a single integrated team’. All patients treated at Nova Healthcare are reviewed by the appropriate MDT which consist of wide and varied memberships. Crucially these MDTs consider and approve alternative treatment pathways to SRS which ensures the appropriateness of treatment decision and avoids suggestion of over treating of patients. As a key requirement of the Service Specifications, should any provider not be in a position to offer an integrated and comprehensive approach to patient care, in accordance with the national service specifications, we believe that this would be a justifiable reason not to commission care from that provider.

*Offering choice of an alternative provider, when maximum waiting times are not going to be met – Regulation 12*

- We believe that NHS England have chosen the most appropriate alternative provider if waiting times are likely to be exceeded. As previously stated given the low number of available sites, and the desire to minimise patient travel times where possible, it is wholly appropriate to select another suitable centre in an alternative geographical location. In addition, as we have already outlined, the choice of Nova Healthcare delivers additional Consultant choice and capacity above and beyond that offered by Thornbury. Furthermore the historic waiting times at Nova Healthcare have been significantly below target as per the table below:

Year	Cancer Treatments (Decision to Treat to Treatment days – maximum 31)	Non Cancer Treatments (Referral to Treatment average days – maximum 126)
2011/12	3 days	47 days
2012/13	3 days	59 days

In summary, whilst we clearly cannot comment on the discussions and contractual arrangements between NHS England and Thornbury, we are confident that the decision to commission care from Nova Healthcare is based on our ability to meet the Service Specifications, the additionality we offer, our low waiting times and our quality and value for money.

Should you require any further information, please do not hesitate to contact us.

Kind regards

Yours sincerely

Mark Almond  
Executive Director  
On behalf of The Board of Nova Healthcare