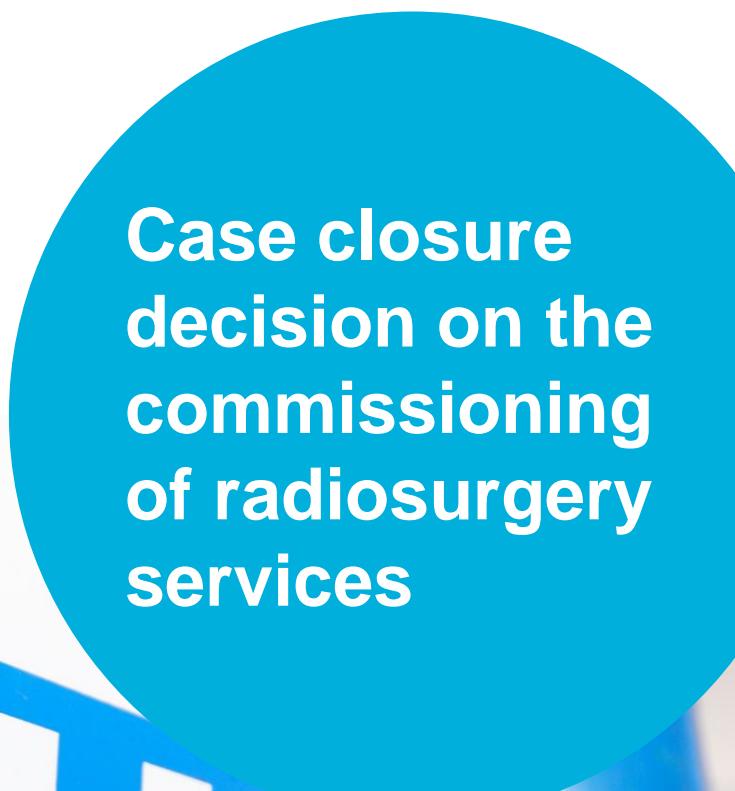




Making the health sector
work for patients



**Case closure
decision on the
commissioning
of radiosurgery
services**



NHS

A large, white, three-dimensional NHS logo is set against a blue background. The letters are slightly shadowed, giving them a 3D appearance.

Case closure decision on the commissioning of radiosurgery services

CCD 01/13

26 February 2014

We have decided to close our investigation into the commissioning of radiosurgery services. This document explains our reasons for closing the case. To assist commissioners facing similar circumstances in the future, we also intend to publish guidance on some of the issues raised in this investigation.

Our investigation

We [opened an investigation](#) into the commissioning of radiosurgery services after receiving a complaint from Thornbury Radiosurgery Centre Limited (Thornbury), a provider of gamma knife radiosurgery services (gamma knife services). The complaint related to the conduct and procurement practices of the North of England Specialised Commissioning Group and of its successor from 1 April 2013, NHS England.¹

The conduct and procurement practices that Thornbury complained of took place either side of a change in the relevant rules. Matters occurring before 1 April 2013 were subject to the Principles and Rules for Co-operation and Competition,² while those occurring since 1 April 2013 are subject to the National Health Service (Procurement, Patient Choice and Competition) (No.2) Regulations 2013 (the Regulations).³ We decided to focus our investigation on NHS England's compliance with the Regulations rather than the conduct of its predecessors before 1 April 2013. We published a [statement of issues](#) on 30 August 2013 which set out our decision to do this.

Decision to close the case

To ensure we use our resources in a way which delivers the greatest potential benefit to patients, we apply a prioritisation framework⁴ when deciding whether or not to open an investigation. We also apply this framework when we consider whether or not to continue an investigation once under way.

Since we opened our investigation, NHS England has confirmed that it has now entered into a contract with Thornbury. In the circumstances, it appears to us that closing our investigation and issuing guidance is the course of action likely to create

¹ The NHS Commissioning Board.

² See [Principles and Rules for Co-operation and Competition](#).

³ The National Health Service (Procurement, Patient Choice and Competition) (No 2) Regulations 2013 (SI. 2013 No.500).

⁴ Our prioritisation framework is set out in Section 2 of our [Enforcement Guidance on the Procurement, Patient Choice and Competition Regulations](#).

the greatest potential benefit to patients and is a proportionate means of achieving our objectives. This will enable us to support commissioners facing similar issues in the future and ensure that patients benefit from what we have learned in this case.

Closing our investigation prior to a final decision being taken means that we have not made findings in relation to the matters under investigation. In particular, we have not determined whether or not the conduct carried on by NHS England or its predecessor was consistent with the applicable rules. The decision to close our investigation does not prevent us from opening a new investigation in relation to the commissioning of radiosurgery services if concerns arise. Any decision to open a new investigation would be made in line with our duty to protect and promote the interest of patients.



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