

10 September 2015

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Dear Sir/Madam

Re: Case reference: Pricing/CCD 07/15 – Investigation into commissioning of elective care services at the North East London Treatment Centre by Barking and Dagenham CCG, Havering CCG, Redbridge CCG and Waltham Forest CCG

Please find attached the response from Barking, Havering and Redbridge University Hospitals NHS Trust in relation to the case referenced above.

Adding the Elective Care Service contract to our portfolio will:

- Enable us to deploy our professional expertise across a wider provision of services
- Enable us to offer a more innovative pathway leading to better outcomes for patients
- Free up capacity within our existing departments
- Enable us to use proven methods to improve patient care and theatre efficiency
- Enable us to improve patient access by reducing waiting times
- Achieve significant savings to both the Trust and the local health economy.

We would specifically like to respond to a number of points raised in your Statement of Issues dated 21 August 2015. We have repeated the points from your statement below along with our response:

13. Care UK's contract with the CCGs to provide services at the treatment centre expires in October 2015. Care UK's lease for the premises also expires in October 2015.

29. Care UK said that because the services at issue are elective services, the CCGs should have renewed its contract for as long as Care UK continued to qualify to provide the services. Care UK has also said it is concerned that the CCGs' decision to tender the services was discriminatory because they have not run a comparable procurement process for NHS services provided by other organisations. This issue is relevant to compliance with Regulations 3(2)(b) and 7 of the Procurement, Patient Choice and Competition Regulations.



Trust Response: Care UK's comment is unusual since it would not be good practice to award contracts with no end date, and in fact contracts between the CCG and NHS Trust's only cover a year. Care UK would have been aware that its contract had an expiry date when it first bid for and was awarded the contract. It would have made plans to exit the contract had it not been renewed. The Trust provided the most suitable bid of the highest quality to run the services going forward. Any decision to tender other contracts or not should be considered entirely separately and is irrelevant in this consideration.

24. Section 7.2 of the national tariff sets out the rules for agreeing local variations to the national prices contained in the national tariff. One rule set by Section 7.25 is that local variations must comply with the principles set out in Section 7.1:

"Commissioners and providers should apply the following principles when agreeing a local payment approach:

- ☐ local payment approaches must be in the **best interests of patients**;
- ☐ local payment approaches must **promote transparency** to improve accountability and encourage the sharing of best practice; and
- ☐ providers and commissioners must **engage constructively** with each other when trying to agree local payment approaches."

Trust Response: The Trust is confident that the local payment approach is in the best interests of patients, will promote transparency and encourage the sharing of best practice, and will involve constructive engagement between the provider and commissioner.

The variation is in the best interests of patients, demonstrated by the following:

- Streamlining of pathways across the services will improve access for patients across the whole health economy. These pathways will be best practice and will be shared across the NHS.
- The local payments will support and enable the reconfiguration of services, for instance in services such as paediatric ENT we will be able to improve access to a wider range of patients by streamlining the provision of other related patient pathways within BHRUT.
- BHRUT has a full team and the skills to deliver the service, including the complex paediatric care required, which is unique amongst local health providers. This will provide an improved patient pathway for paediatric ENT patients and will fit with the Trust's strategic plan to improve access for all ENT patients by increasing our capacity across the service.
- We are in a position to maximise the use of the elective care centre, as we remain the preferred provider of care for a wide range of surgical services in the local health economy. This will provide the greatest efficiency in terms of use of resources. BHRUT is able to use this capacity to meet increasing demand on our health services and reduce waiting times.
- We already have an extensive theatre management team and would anticipate significant cost reductions in the operational management required to deliver this service and will reinvest these savings in patient care.

- We have the ability to extend our surgical workforce to deliver some of the activity, saving on recruitment costs.
- We will extend the use of new technologies to ensure maximise theatre productivity and throughput.
- We benefit from existing contracts with the providers for the provision of clinic space and will see minimal additional cost in providing the access as required in the bid.

The variation will promote transparency, accountability and best practice:

- We participated in an open tender process and believe the process to be fully transparent.
- We demonstrated through this bidding process we can deliver this at the bid price, having undertaken in-depth analysis of the implications and benefits to ourselves, local commissioners and the taxpayer.

25. Care UK said that the CCGs placed too much weight on price and too little weight on quality in the criteria they used to evaluate bids; therefore Care UK thinks the process did not allow the CCGs to identify a provider most capable of meeting patients' needs and improving the quality and efficiency of services. This issue is relevant to compliance with Regulations 2 and 3(3) of the Procurement, Patient Choice and Competition Regulations.

Trust Response:

It is essential that bidders win on the basis of best value to the NHS and its patients, providing the highest quality care for the best price. The scoring matrix was published and each bidder had a fair opportunity to put their bid forward. In the answers we submitted to the CCGs, we were extremely thorough and represented in our bid that we know we can provide a high quality NHS service to local residents requiring treatment. It would not be appropriate or acceptable under procurement regulations for these weightings to be changed post contract decision.

We would highlight that the savings we would achieve through winning the contract, or that the local NHS were to accrue from awarding the contract, would be reinvested in the care of local patients, so would enable further improvements to the quality of local healthcare.

The quality of our bid is supported by the evidence we have described and we have clearly demonstrated our strengths as a provider for meeting patients' needs and improving the quality and efficiency of services.

We strongly dispute any suggestion that we are not able to support the quality and safety of patients. We considered safety as a key consideration of the quality of the service we will provide, for example, the provision of care for higher risk patients including the ASA 3, the high BMI and for paediatric surgery, all of who, require a surgical team that has regular experience in handling such patients and an ability to manage the potential risks incurred when operating on

this group of patients. As an acute trust we are qualified to deliver this level of care and have the full support of our onsite Intensive Care, Acute Outreach and Resuscitation teams should these prove necessary. With the inclusion of a much wider range of patients, some of whom have increased risk factors, we believe it is important that the winning bidder has extensive experience of operational delivery with all the necessary safeguards for this group of patients.

26. Care UK also said that the CCGs were not justified in scoring Care UK lower than the winning bidder on certain criteria. This issue is relevant to compliance with Regulation 3(2) of the Procurement, Patient Choice and Competition Regulations.

Trust Response:

We have not been provided with full details of the scores allocated, so are unable to provide a response on this. However, we know that we provided detailed information and were subjected to a challenging and robust bid process. We believe we are in a unique position and are confident that our bid is of the highest quality and offers the best value for money as we have extensive experience of operational delivery with all the necessary safeguards.

We would have to consider our formal response to any 'post assessment panel' revisions to scores carefully.

32. Care UK said that the CCGs did not follow the required principles for establishing a local variation from the national prices set out in the national tariff. Care UK also said that use of price competition to achieve a price for services below the national price represents a risk to the quality and safety of those services.

Trust Response:

National guidance sets out specific conditions under which there can be variation from national tariff. The Trust in its bid, and during the evaluation process, were able to demonstrate how we can streamline the patient pathways and operate the services at the price, whilst for the reasons highlighted in our responses above, providing the highest patient quality and experience.

The flexibility the award of this contract would give us allows us to make significant savings and therefore reduce the overall financial pressure to the local NHS.

As set out above, we are confident that in delivering the contract we would improve the quality and safety of the services for patients. These are our patients and part of our local community and their care is our only consideration. We are also deeply concerned about the delay to the contract award. This is delaying our ability to offer these services to our patients, which we would deliver with improved safety for them, and improved use of resources for the local NHS. We have staff ready to take this work on who are keen to implement the improvements this contract would offer to our service as a whole.

Yours Sincerely

Jeff Buggle
Director of Finance and Investment