

## Response ID ANON-DNK6-JPWM-H

Submitted to **NHS Provider Selection regime: Consultation on proposals**

Submitted on **2021-04-07 16:59:51**

### Application

**1 Should it be possible for decision-making bodies (eg the clinical commissioning group (CCG), or, subject to legislation, statutory ICS) to decide to continue with an existing provider (eg an NHS community trust) without having to go through a competitive procurement process?**

Agree

**Please explain your answer below::**

If the provider is providing a high quality service that is cost effective and provides good quality patient outcomes, then the commissioning organisation should not have to go through a competitive procurement process to continue such a service. Contracts should also be for a stated minimum period of time (subject to no breaches of contract) to enable sustained service planning and provider investment in service provision.

**2 Should it be possible for decision-making bodies (eg the CCG or, subject to legislation, the statutory ICS) to be able to make arrangements where there is a single most suitable provider (eg an NHS trust) without having to go through a competitive procurement process?**

Agree

**Please explain your answer below::**

If it is obvious that a single provider is the most suitable provider then the commissioning organisation should be able to make this decision without having to go via a competitive procurement process. The reasons for suitability, however, should be documented and recorded in case of future challenge

**3 Do you think there are situations where the regime should not apply/should apply differently, and for which we may need to create specific exemptions?**

Agree

**Please explain your answer below::**

If new providers are established who could be commissioned to provide a particular service, they should be provided with the opportunity to tender for services. They may not have a history of service provision in the area so would not automatically be considered.

**4 Do you agree with our proposals for a notice period?**

Agree

**Please explain your answer below::**

**5 It will be important that trade deals made in future by the UK with other countries support and reinforce this regime, so we propose to work with government to ensure that the arranging of healthcare services by public bodies in England is not in scope of any future trade agreements. Do you agree?**

Agree

**Please explain your answer below::**

### Key criteria

**6 Should the criteria for selecting providers cover: quality (safety effectiveness and experience of care) and innovation; integration and collaboration; value; inequalities, access and choice; service sustainability and social value?**

Agree

**Do you have any additional suggestions on what the criteria should cover/how they could be improved? :**

None

### Transparency and scrutiny

**7 Should all arrangements under this regime be made transparent on the basis that we propose?**

Agree

**Please explain your answer below::**

Potential conflicts of interest should be addressed separately and explicitly under transparency and scrutiny. In advance of an award of a contract, the decision makers should be identified and any conflicts of interest declared so that any issues arising can be addressed in advance of the award and are not the subject of complaint or concern afterwards (unless there was no disclosure or failure to address the conflict of interest appropriately). This is particularly important to ensure collaborative working between different sectors. We are not convinced that the existing arrangements for managing conflicts of interest are adequate.

**General questions**

**8 Beyond what you've outlined above, are there any aspects of this engagement document that might:**

**Beyond what you've outlined above, are there any aspects of this engagement document that might: have an adverse impact on groups with protected characteristics as defined by the Equality Act 2010? Widen health inequalities?:**

**9 Do you have any other comments or feedback on the regime?**

**Do you have any other comments or feedback on the regime?:**

Any changes in legislation should not have a negative impact on patient choice.

It states that this regime would not apply to community pharmaceutical services, as separate regulations already set out how community pharmaceutical services are to be arranged, negating the need for additional rules. So, the regime would not apply to nationally contracted pharmaceutical services (Essential and Advanced pharmaceutical services) and those agreed locally (Enhanced services). We agree with this.

But many services provided by community pharmacies are commissioned by Local Authorities (LAs) and Clinical Commissioning Groups (CCGs) and our understanding is that the proposed regime would apply to these services

However, community pharmacies may also be capable and willing to provide services that would not normally fall within the pharmaceutical services remit and are commissioned by Local Authorities and Clinical Commissioning Groups. Examples of local commissioning from community pharmacies includes sexual health services, needle and syringe exchange services, or smoking cessation services. We assume the proposed regime would apply to these pharmacy services as there must be a mechanism available to allow them to tender for services when they are open to tender.

Community pharmacy must be recognised by local commissioners as a key provider of healthcare services in primary care.

We also have a concern around representation on ICS Boards and ICS Health and Care Partnerships. Sectors, organisations and healthcare providers with representation on ICS Boards or Partnerships will have a better opportunity to inform and educate decision-makers and showcase the potential of their sectors, organisations and healthcare providers. This is particularly so in the absence of any formal tender process. While there are some safeguards proposed, for example, publication of intention to award contracts, this is often too late in the day to make a real difference, as the opportunity to influence the commissioning of services is often at an earlier stage of the commissioning process, when consideration is given to addressing patients' health needs or the scope of the service specification or patient pathway. Better informed and educated, commissioners are more willing to commission relevant services. Therefore, we consider that it is vital for pharmacy to be represented on ICS Health and Care Partnerships

**10 In what capacity are you responding?**

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Professional representative body

**11 Are you responding on behalf of an organisation?**

Yes

**If yes, please give organisation name::**

Royal Pharmaceutical Society