Greater Manchester - CCG Chief Finance Officers

Date: June 2021

Subject: GM Contracting Principles

Report of: GM Contracting Group

PURPOSE OF REPORT:

In anticipation of the changes to the commissioning landscape with the closedown of Clinical Commissioning Groups (CCG's) and formation of Integrated Care Systems (ICS), planning around contracting and principles are required to ensure an orderly transition to arrangements from April 2022. This paper presents GM Chief Finance Officers with proposed principles to ensure consistency in approach across GM for agreement.

KEY ISSUES TO BE DISCUSSED:

The following keys issues are considered in this paper:

- Background and implications for Contracts
- Classification of Contracts and Contracting Principles
- Next steps and recommendations

RECOMMENDATIONS:

GM CFO's is asked to:-

- Support the principles outlines in section 3
- Agree to the next steps

CONTACT OFFICER:

Phillip Kemp, Head of Finance and Contracting – Salford CCG – phillip.kemp@nhs.net

David Warhurst, Chief Finance Officer – Salford CCG – david.warhurst1@nhs.net

GM Contracting Principles

June 2021

1. Background

1.1 In February 2021, the Department of Health and Social Care published the White Paper Integration and innovation: working together to improve health and social care for all, which sets out legislative proposals for a health and care Bill.

1.2 Whilst there are numerous proposals within the Bill one of the main changes will be the change in the commissioning landscape where Integrated Care System's (ICS) will become statutory organisations and will replace Clinical Commissioning Group's (CCG's) taking over much of the constitutional roles from 1st April 2022.

1.3 This change in commissioning landscape has meant that GM needs to respond and prepare accordingly with various programmes and working groups being created to allow for this change including finance. From a finance perspective there is numerous individual work streams within which are being completed on either a national, NW region or GM footprint. Whilst much of this work is in its infancy, it was agreed by GM CFO's and DOC's that in preparation there should be a work stream around contracting and consistent principles.

2. Contracting Implications

2.1 Currently GM CCG's commission a wide spectrum of health and care services with numerous providers; as a result, there are a significant number of contracts held with these providers.

2.2 With the changes expected these contracts will need to be novated to either the new statutory GM ICS or another locality organisation to be determined. In preparation for this, GM commissioning contract leads are working on re-establishing a granular contract database so that GM have the most up to date information to understand the volume, financial arrangements and end dates of contracts.

2.3 As this is the last year of CCG's there is a proposed requirement for consistent principles across GM to ensure that each locality works within the same guidelines when taking decision around contracts. These principles are also expected to help with providing assurance to parts of health and care system who are worried about the commissioning landscape changes such as the VCSE sector. It should also help with not burdening the new statutory GM ICS organisation with a significant amount of decisions around contracts and extensions when it will be finding its feet and working to new governance arrangements.

3. GM Contracting Principles

3.1 Table 1 below details the proposed principles from 22/23 and beyond by provider type for contracts held by CCG's in GM.

GM Contracting Principles			
Provider Type	**Current Principles**	**Contract Length and End Dates**	**Proposed Principles Approach & Considerations For 22/23 and Beyond**
NHS	As per national guidance	As per national guidance	In preparation for GM ICS and anticipated return to local contracting, consolidated contracting and finance payments for GM.
Acute Independent Sector including Increasing Capacity Framework	Local commissioning and contracting but GM oversight via IS Oversight Group and Elective Reform Board	1 Year as per GM agreement to end of CCG's 31/03/22	Consolidate contracting and finance payments for GM.
GM (Adult Hearing AQP) & Direct Access Diagnostics (DAD)	With outcome of the GM Procurement, agreement that new contracts will be constructed and monitored by GMSS contracting team on behalf of GM.	As per procurement 3 year initial award to 30/09/24 with 2 year extension option. Contracts will novate to GM ICS	No change. Consideration for Bolton and Wigan tender.
Continuing Healthcare	Local commissioning and contracting linked to locality and links to ASC residential care including rates.	Annual contracts as zero based and spot placements	No change initially.
Primary Care Local Commissioned Services	Local commissioning and contracting linked to locality plan.	As per local arrangements	No change initially.
VCSE including Grants	Local commissioning and contracting linked to locality plan.	As per local arrangements	For stability agree that arrangements are extended or direct award for a maximum period of 3 years (to 31/03/25) to ensure certainty for this sector.
Independent Sector Locally Commissioned (a) Multiple Commissioners and Contracts	Identify number of contracts and prepare to consolidate contracting across GM	As per local arrangements	Consolidate contracting and finance payments for GM where appropriate. Review the number of contracts in this category including end dates and take a decision on each individual contract around extension for a maximum of 2 years (to 31/03/24) or direct award to ensure certainty to the sector.
Independent Sector Locally Commissioned (b) Bilateral Commission and Contract	Local commissioning and contracting linked to locality plan.	As per local arrangements	Review the number of contracts in this category including end dates and take a decision on each individual contract around extension or direct award for a maximum of 2 years (to 31/03/24) to ensure certainty to the sector.

3.2 The proposal for NHS and acute Independent sector providers is that we move to consolidate contracting and finance payment for each provider for GM. Initially for 22/23 it would make sense that the current staff working on behalf of the current lead commissioner for each provider continue to provide financial and contracting support to ensure continuity.

3.3 For Continuing Healthcare and Primary Care providers with contracts such as GMS, PMS and APMS there is no change being proposed at this stage and decisions will still be taken by locality as these providers are more aligned to either Adult Social Care or Primary Care Networks. For Contracts where the provider just happens to be a Primary Care provider these should be considered in the same way as the Independent Sector in 3.5

3.4 For VCSE we recognise the concerns that this sector has voiced with the commissioner landscape and therefore we are proposing a maximum extension period of up to 3 years (to 31/03/25). This will need to be agreed by localities and subject to procurement rules; however there also cannot be an indefinite commitment especially as we go through the development of GM ICS.

3.5 For all other Independent sector providers and subsequent contracts these are split into two categories. The first is where there are contracts with either associate commissioners or indeed numerous contracts with the same provider; an example being Broomwell where each CCG contracts on a bilateral arrangement for the same service. We would expect a lead commissioner would be nominated and to pick up control of all payments on behalf of GM commissioners and contracting issues with that provider. The 2nd is where there is just a bilateral commission. For both we are suggesting a maximum extension period for the same reasons as VCSE, however the number of years is 2 (to 31/03/24).

3.6 A discussion has been had with Head of Market Management at GMSS to review the proposals. Initial comments are that despite there being a green paper regarding Transforming Public Procurement which is looking to simplify processes and requirements for the NHS, it still remains under the rules and framework of public contract regulations. Therefore any proposals has to be agreed through appropriate governance, appropriate due diligence should have taken place and an audit trail of decisions documented which can justify the decision would be in the interest of the population etc.

GMSS / SBS have supported many GM CCGs to directly award and also to extend contracts with incumbent VCSE providers, with no challenges being received so the proposal for these providers is deemed as low risk of challenge. Also the latest procurement policy (PPN-1120) permits lawful excluding of bidders to those within a locality for below threshold procurements; which will typically touch other IS contracts.

For reassurance it has been recommended to obtain legal advice to be sure on all risks. GMSS has stated they will continue to support this work stream and how this is implemented in localities. This will include consideration of each service / contract and advise on potential risks as well as how they can be mitigated / managed in a proportionate way.

4. Next Steps

4.1 A GM Contracting Review group was established in January 2021 to plan for 2021/22 and make achievable steps. As the 3rd wave of COVID-19 hit the national financial regime was extended for H1 of 2021/22 and it was agreed for this work to be paused to focus resource on responding to the pandemic and the vaccination programme.

4.2 We propose to re-establish this group to start working through the detail of contracts and try to safeguard that these principles are being adhered to and to respond to issues. Once the refreshed database of GM contracts has been created, this group will make recommendations on which IS locally commissioned contracts can be consolidated from 22/23 which will then be ratified by CFO's and DoC's.

4.3 We propose that initially; rather than take legal advice at a GM level, a discussion will be held with NHSE at Northwest level to raise the issues identified as these will be applicable to other ICS's. This is to ensure that we have understood the level of risk and challenge to this proposal. Following these discussions consideration will be taken whether to take legal advice.

4.4 For primary care there are a number of contracts held at GM level such as GMS, PMS and APMS; however the budget is delegated to CCG's. There will need to be consideration for these types of contracts and further discussion with leads for these contracts at GM, but it is expected it will be as per national arrangements.

4.5 We also need to link in with our NHSE Specialist commissioner colleagues to ensure that they are aware of the contracting work and principles being created by GM CCG's and to reflect on what is required from their perspective and whether this will change the approach further.

5. Recommendations

5.1 GM CFO's and DoC's are asked to:

- To discuss and agree on the principles outlined in table 1 in section 3 for CCG contracts from 2022/23.
- Agree to the re-establishment of the GM Contracting Review group and for that group to make recommendations on contracts that are appropriate to be consolidated across GM for GM CFO's and DoC's to ratify.
- Agree to initially raise the issues in the paper with colleagues at NW region NHSE to understand their position given this will be an issue for other ICS's before considering whether to commission some legal advice at a GM level to ensure all risks are identified for this proposal.
- Consider other next steps including how this will be taken back for localities to adopt these principles.