**KEY COMMERCIAL FEATURES**

**PROCUREMENT OF A NORTH WEST LONDON INTEGRATED MUSCULOSKELETAL CLINICAL ASSESSMENT AND TREATMENT SERVICE**

1. **PURPOSE**

This paper sets out the key commercial features and assumptions regarding an intended contract that is expected to be awarded following an imminent competitive procurement process being conducted by NHS North West London (NWL) Integrated Care Board (the ICB), for the provision of a NWL Musculoskeletal (MSK) Clinical Assessment And Treatment Service.

This paper is intended to:

* inform the design of the procurement process;
* confirm the level of market interest in delivering the proposed MSK service;
* inform all relevant stakeholders of the intended commercial aspects of the contract;
* inform interested providers (potential bidders) as they consider the opportunity; and
* support effective governance and organisational authorisation of the contract.

1. **CONTEXT**

There is considerable variation in provision of MSK services across NWL, resulting in inequality of access to evidence-based intervention and significant variation in prescribing and surgical rates and unequal waiting times. The burden of long-term MSK condition is also expected to vary, based on socio economic variation between regions.

Last year the market was made aware of the upcoming contract opportunity and early engagement with interested providers concluded there to be sufficient market interest to support a competitive procurement process.

For transparency and clarification, this paper details the final version of the service specification (Annex A) and seeks further market input regarding particular aspects of the contract, including the clinical model and commercial structure, prior to commencing a formal procurement process.

1. **CONTRACT**

## **CONTRACTING AUTHORITY**

NHS North West London Integrated Care Board are the contracting authority and responsible for ongoing contract management of any awarded contract.

## **FORM OF CONTRACT**

The contracting authority intends to use the full-length NHS Standard Contract, as mandated by NHS England and available at <http://www.england.nhs.uk/nhs-standard-contract/>. It is a condition of this procurement that bidders confirm acceptance of the contract.

## **CONTRACTING MODEL**

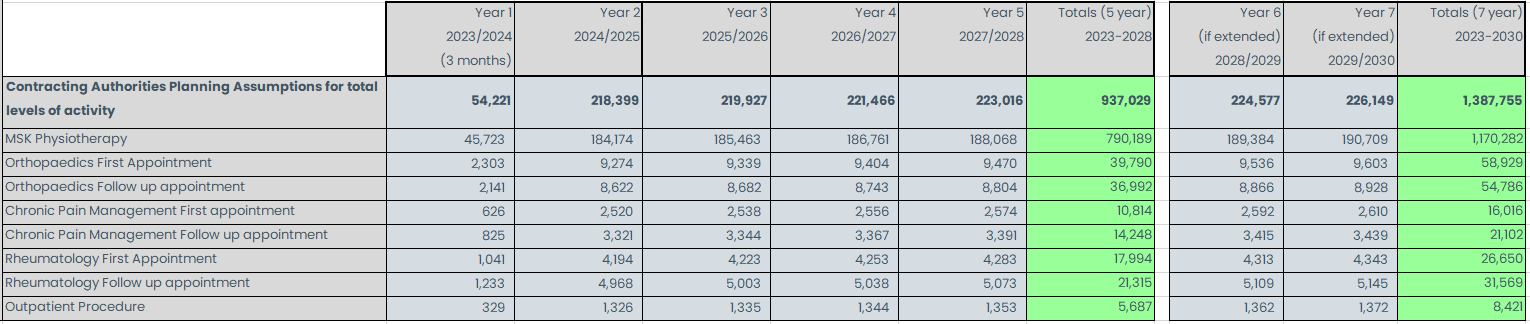
The procurement process intends to award a single contract to a single or lead provider.

## **CONTRACT DURATION**

The contract will run for an initial term of 5 years, reserving the option to extend the contract for up to a further 2 years, with an assessment and decision to be made during the final year of the contract.

**PLANNING ASSUMPTIONS**

The financial envelope for this contract is based on the activity assumptions below and the bidder is expected to deliver the “Expected activity”. The Contracting Authority has based their planning assumptions on 0.7% year-on-year activity growth.

Table 1: “Expected activity” to be delivered by the treatment type.

The contract assumes a total level of “**Expected Activity**”, as stated above, for which the ICB will make payment through a “**block**” arrangement with clearly defined tolerances of between 93% to 107%, meaning that where the contract value is delivered between 93% to 107% of the contractually agreed level, full payment will be made by the ICB. It is expected that the service will manage all activity within the financial envelope provided in Table 3, within a tolerance of +/-7%.

Where the costs of the contract are above or below the tolerances, an additional payment will be made to the provider for over-performance, or a credit will be due to the commissioner for under-performance. The payment or credit due will be calculated on the final year end position and based on a marginal rate of 70% of the value of the under/over-performance. A reconciliation will be undertaken on a quarterly basis to track progress on delivery of the contracted activity levels. The previous years’ performance will inform the activity levels and finance for the following year of the contract.

**WORKED EXAMPLES**

Table 2 (Example 1):The contract value is higher than the 7% tolerance set. Activity is 9% higher, resulting in 8% cost variance. The value of the over-performance is £1,102,000. The value of the 7% tolerance is £930,000 based on an annual contract of £13,283,000. A 70% marginal rate is applied to the value of the over-performance resulting in a payment owed to the provider of £120,000.



Table 3 (Example 2):The contract value is lower than the 7% tolerance set. Activity is 9% lower, resulting in costs being 8% lower. The value of the under-performance is £1,063,000. The value of the 7% tolerance is £930,000 based on an annual contract of £13,283,000. A 70% marginal rate is applied to the value of the under-performance resulting in a credit owed to the commissioner of £93,000.

As part of their response, bidders will need demonstrate that the proposed service can be delivered in a financially sustainable manner, within the financial envelope that is set out below (Please see Annex C, MSK Financial Model Template).

Table 3 – Annual Financial Envelope

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | Year 1 2023/2024 (3 months) | Year 2 2024/2025 | Year 3 2025/2026 | Year 4 2026/2027 | Year 5 2027/2028 | Totals (5 year) 2023-2028 |  | Year 6  (if extended) 2028/2029 | Year 7  (if extended) 2029/2030 | Totals (7 year) 2023-2030 |
| Annual Financial Envelope to deliver Expected Activity | £3,243,000 | £13,283,000 | £13,602,000 | £13,928,000 | £14,262,000 | **£58,318,000** |  | £14,604,000 | £14,954,000 | **£87,876,000** |

## **PRICE & PAYMENTS**

The contract will include the following payment provisions, based on a locally developed contract price (block):

* **Monthly:** One twelfth (1/12) of the total annual contract price will be payable in equal monthly instalments at the commencement of each calendar month, on the launch of the service and on first of each month thereafter, except where affected by a quarterly adjustments (please see below).
* **Quarterly:**
  + **KPI adjustment**

The achievement of KPIs will be monitored over each three-month period, with the following month’s payment being potentially adjusted (please see KPI Adjustments section below).

* + **Activity adjustment**
    - Where activity exceeds the Upper Tolerance of the Core Activity, the ICB will pay the provider an additional sum, calculated as shown in the worked examples (see page 4).
    - Where activity falls below the Lower Tolerance of the Expected Activity, a deduction will be applied to the provider, calculated as shown in worked example tables (see page 5).

**QUALITY ASSURANCE**

The contract will include a clearly defined approach to assure the provision of a quality service and to define the routine information required to inform contract governance.

**KPI ADJUSTMENTS**

Details of the provisional KPIs are provided within Annex B. Quarterly performance related adjustments will be calculated based on KPI achievement over each three-month period, impacting up to 15% of the monthly payment for the following month (e.g., months 4, 7, 10 and 13 etc.).

The following 15% outcome-based payment will be contingent upon performance across the following five key measures:

1. % of patients referred to secondary care orthopaedics who receive an interventional / surgical procedure (‘surgical conversion rate’) (Proposed Target >70%).
2. % of patients referred to rheumatology started on cDMARD, bDMARD treatment (proxy measure of referrals for inflammatory conditions), or secondary-care based osteoporosis treatment (Proposed Target >70%)
3. % of patients referred to secondary care pain services who receive an interventional pain procedure (Proposed Target >70%).
4. Patients with a stable or long-term MSK condition receive a care plan that was developed in conjunction with them (proposed target >90%)
5. Number of advanced practitioners per registered population (Proposed Target TBA)

The outcome -based payment will be calculated against 3 bands of performance delivery:

* Band A – KPI achievement of 95.00% or above, will result in no deduction.
* Band B – KPI achievement of 90% to 94.99%, will result in a 5% deduction of the monthly payment.
* Band C – KPI achievement of 80% to 89.99%, will result in a 10% deduction of the monthly payment.
* KPI performance of less than 80% will result in a 15% deduction of the monthly payment.

Calculation of KPI achievement will be based on the weighted average performance over the previous three-month period.

The National KPIs and other contractual KPIs will be detailed within the service specification and in the Standard NHS contract (including Schedule 2L) that will be made available at the launch of the procurement.

Should there be evidence that certain KPIs are consistently failed but the average is met, the commissioner reserves the right to alter that KPIs to ensure patient service quality is maintained.

**TERMINATION – NO FAULT**

The contracting authority is committed to the contract being in place for the duration as set out above, however recognition is given to the potential for unforeseeable exceptional events which could trigger a need to terminate the provision of services.

The default no-fault termination notice on the part of the contacting authority or provider will be 6 months. The contract makes explicit the ability of the parties to terminate the contract at any time by mutual consent.

**EXIT PLAN**

Prior to contract signature the successful provider will draft a detailed exit plan for approval and inclusion within the contract. To inform transparency and acceptance of financial risk by both parties in relation to early termination, due to specified exceptional events, the plan will include confirmation of financial obligations and responsibilities.

**INSURANCE**

Prior to service commencement, the provider will be expected to evidence that the following level of insurance cover (to be held for the duration of the contract):

(i) Employer’s (Compulsory) Liability Insurance\* = £5m

(ii) Public and Products Liability Insurance = £5m

(iii) Professional Indemnity /Medical Malpractice Liability Insurance = £5m

(iv) Clinical Negligence Insurance = £5m

1. **FINANCE**

**COMMISSIONER RESPONSIBILITIES**

**ESTATES**

The contracting authority will not be liable for any estates related costs.

**PAYMENT RESPONSIBILITIES**

The contracting authority is responsible for payment of invoices directly with the Lead Provider in relation to this contract.

**PROVIDER RESPONSIBILITIES**

**ESTATES**

The Lead Provider is responsible for all associated estates related costs, both regarding their own premises and ensuring that such responsibility is appropriately managed in their supply chain (where applicable).

**SERVICE DELIVERY**

The provider will detail its ongoing costs to deliver the service over the term of the contract, following successful mobilisation, which will include all workforce costs, overheads (e.g., contract management), and profit.

**SUBCONTRACTORS**

Where applicable, the Lead Provider is responsible the timely remuneration of subcontractors and ensuring that growth, as provided for in this contract, is reflected in any subcontracting arrangements.

**PERFORMANCE**

Where KPI performance warrants, the Lead Provider is responsible the timely issuing of service credits.

1. **PROCUREMENT**

**PROCESS**

As a Healthcare Service, this contract falls under the Light Touch Regime (LTR) of the Public Procurement Regulations 2015 (PCR 2015). The ICB therefore intends to follow a single-stage competitive process, akin to the open procedure, that includes a bidder interview stage and is designed to instil the ICB with a level of confidence regarding the Lead Bidder’s ability to deliver a high-quality integrated community MSK service (as specified), in an economical and sustainable manner.

The procurement process will include selective evaluation, through which bidders will need to provide assurance of the following:

* + - * + Reasonable financial stability;
        + No prior contract termination relating to matters that may negatively impact this contract; and
        + Three references (or appropriate supporting narrative, where this is not possible)
        + Details of subcontracting arrangements and supply chain relationships (if applicable).

**CONTRACT TERMS**

Bidders will be required to confirm acceptance of the contracting authority’s contract terms and conditions, including the service specification.

**VAT**

Bidders must include all relevant input VAT within its costing assumptions and ensure that the bid price excludes output VAT.

**CASH-FLOW**

Financial evaluation of the bidder will include an assurance that the bidder organisation is able to financially sustain all necessary costs involved with operating the service and evidence how any subcontracts will be managed to support financial sustainability of the wider supply chain.