HSJ LOCAL briefing

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CCGS DRAW UP COMMISSIONING SUPPORT DEALS

HSJ Local Briefing is our new in-depth analysis of the key issues facing the NHS's major health economies

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In brief

Issue Clinical commissioning groups are agreeing their service level agreements with commissioning support units. Also, the NHS Commissioning Board is finalising deals with CSU suppliers being brought in to help with its direct commissioning responsibilities. In some areas negotiations are still continuing even though the board told CCGs they should have these agreements signed by the end of November.

Context Since the launch of the 2010 white paper which led to last year's Health and Social Care Act, it has been policy to develop a market of independent commissioning support suppliers. CSUs, being set up by primary care trusts under the oversight of the board, are now striking deals with CCGs to supply them with essential back office functions such as communications, finance, human resources, IT, data analysis and contract management. Around 8,000 staff, mostly from PCTs, are expected to transfer to 22 CSUs at the end of this financial year. Their ability to enable CCGs to transform the NHS through commissioning is considered essential to the success of the coalition government's NHS reforms.

Outcome Data gathered by HSJ reveals a more than threefold variation in the amount CCGs plan to spend on CSUs, and suggests that average spend will be just over £9 per head of population. Some CSUs appear to be defying board guidance to limit their SLAs to 18 months. The commissioning board is also planning to spend £9.4m on CSUs to help it discharge its direct commissioning responsibilities. The ability of CCGs and CSUs to establish strong long-term working relations will ultimately make or break the CSUs – something their bosses and the commissioning board will be aware of as the next stage of the development process approaches.

Context

Negotiations over the first set of service level agreements for commissioning support services are now being finalised, marking the beginning of what is expected to become a market for support services provided independently of commissioners.

That the negotiations are still ongoing in many areas is noteworthy in itself – the NHS Commissioning Board told CCGs that they should finalise service requirements with their commissioning support units by the end of October last year, and have the agreements nailed down by the end of November.

With authorisation having been the most pressing concern during the autumn and winter, some CCGs are a bit behind the timetable in working out what they want to do in-house and what they want to outsource to CSUs. There are also ongoing negotiations on how service lines that have never been costed before in the NHS should be priced.

At the same time, the NHS Commissioning Board is finalising its deals with CSU suppliers who will be brought in to help with its direct commissioning responsibilities. To the annoyance of some CSU managing directors, the board never set itself a deadline for those deals to be finalised, so it isn't technically late. The majority of those agreements are now worked out.

Transparency

HSJ has gathered information on commissioning support agreements for more than half of CCGs, although this includes some 32 who have not yet finalised their CSU deals.

There is no uniformity of approach on transparency on deals, making it hard to gather comprehensive data from across the sector. Some primary care trusts willingly released full details of the service level agreements or expected spend on CSUs, while others took the stance that the information should be considered confidential for commercial reasons.

Spending variation

There is a more than threefold variation in the amount that clinical commissioning groups will spend on external commissioning support, and overall, it appears the market might be smaller than initially thought. So far we have identified two CCGs that have confirmed plans to spend less than £5 per head of population on their CSU: Sunderland and Isle of Wight. Meanwhile another two plan to spend more than £15 per head of population: Corby, and Ashford.

On average, the CCGs we received responses for are planning to spend just over £9 per head of population on their local CSU. If that trend were replicated across the CSU sector, that would make the market worth about £500m, around 30 per cent smaller than earlier commissioning board estimates. However, our data is partial so firm conclusions cannot be drawn.

Variations in spend will largely reflect how far the functions currently carried out by PCTs are being taken over in full by CCGs, and how far they are being outsourced to CSUs. However, one source in the Central Southern area said that some of what the CSUs were offering depended on the people recruited by the CCGs – not just what their job titles were.

A CCG which happens to inherit the most experienced or talented members of staff from the local PCT could end up needing to spend less on CSU provider contract management services than its neighbour, even if both have the same headcount in that function.

The beginnings of choice

There are also early signs that some CCGs are starting to pick and choose where they source their support from. Corby CCG is planning to spend £220,000 on support services from neighbouring Nene CCG. Cambridgeshire and Peterborough CCG, although supplying most of its own services in house, was planning to spend £1.5m a year with Serco.

It is also becoming clear from anecdotal evidence that many CSUs are expecting to receive income from outside the CCG running cost allowance, often for commissioning continuing healthcare. We understand that the Greater East Midlands, North East and Central London and Central Southern CSUs are just two expecting to receive some income from the continuing healthcare budget.

Some respondents to our survey differentiated between CSU income coming from the running cost allowance and income from other CCG revenue streams. West Essex, for example, said they would spend £2.7m on Essex CSU, of which £2.2m would score against the running cost allowance, and a further £5.2m on in-house support services, £4m of which would be paid for through the running costs.

Meanwhile, in an early sign of possible market diversity, East Riding of Yorkshire CCG is in tentative discussions with Humber Foundation Trust over commissioning support for continuing care.

Nature of agreements

Although a service level agreement does not have the same legal status as a full blown commercial contract, HSJ has learned that some of the deals being struck have a very

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businesslike feel to them. "We've treated ours like a commercial contract", one commissioner told HSJ. "This hasn't been a gentlemen's agreement."

In more than one CSU area, for instance, the service level agreement is running like a commercial contract, with a regime of detailed metrics in place that goes beyond the commissioning board's balanced scorecard assessment system for CSUs. The system has been drawn up locally and is intended to measure the CSU's performance against what each CCG has asked them to do.

CSUs taking that approach are conscious of the need to be able to objectively demonstrate that they are providing a good service. Some CSUs feel it is necessary to cover their backs to ensure they cannot be held responsible in the event of a financial failure or service quality problem. Being able to show they are performing well also serves as an early guard against CCGs wanting to take their business elsewhere, and could be useful in the event of scrutiny by the commissioning board.

HSJ has also heard of frustrations over loosely worded agreements. One CCG told HSJ there are some parts of their agreement which looked tight when they signed it, but now they are not sure whether it actually requires their CSU to do anything.

"There are a lot of grey areas", a CCG board member told HSJ. "When you read the agreement sections of it could be interpreted in a number of ways. For instance, there's a bit about developing a piece of work for us around human resources. Does that mean they will write it? Or will they just give us some ideas? The language does not nail them down."

SLA length

It seems that CCGs and CSUs are being a little more liberal than the commissioning board might have expected in their interpretation of how long the agreements should last. The board's legal advice on this subject suggested no longer than 18 months, as the deals were being entered into without any normal procurement process, and agreements any longer than that could be open to legal challenge.

On the whole CSU leaders would have preferred longer timescales – although one phlegmatic managing director told HSJ that "we shouldn't be holding CCGs hostage", and should accept the procurement processes as "simply part of our business now".

However, critics of the 18 month rule say that it will mean that, as procurement will have to begin months earlier, CCGs will not have had much of a chance to decide what they like and what they do not, while CSUs will not have time to fully develop all their service lines.

One senior CSU source said the board had been over-cautious, adding that potential new entrants were unlikely to seek to break their way in through litigation. However others describe the 18 month directive as "prudent".

An 18 month deal from April this year would finish in September, and CSU bosses differ on whether that is a good thing or not. Some welcome a reprocurement in September, as it would mean they would not have to renegotiate with CCGs at the same time as working with them on the commissioner/provider contracting round, which peaks in April.

However, others fear that it will lead to unnecessarily complex costings for half a year's work, for instance.

HSJ has learned that South Yorkshire and Bassetlaw CSU's CCG agreements get around that issue by having them start last October, meaning they are due to finish in April 2014. Meanwhile, we hear that the 12 CCGs served by the North East and Central London CSU have signed up for two, three or five years.

Although earlier guidance from the board was fairly definite on what the timescales should be, it seems the line is relaxing, and the board now acknowledges that CCGs can take their own advice and decide what is an appropriate term.

That will be news to the CSU bosses who wanted to enter into longer-term deals but thought they were not allowed, and could potentially be seen as a minor victory for CCG autonomy.

Commissioning board contracts

The board went to tender late last year inviting commissioning support units to bid for the right to provide services to help it to carry out some of its direct commissioning functions.

HSJ can report that these were broken down into three lots: support around commissioning military health services; procurement advice for direct commissioning; and support for specialised commissioning, secondary dental care and prison health.

The military health services contract has not yet been awarded, although the Central Southern commissioning support unit is understood to be the front runner for the deal.

For procurement advice, the lot was divided into four regional lots. The winners were:

- North of England CSU for the north
- Kent and Medway CSU for the south
- Greater East Midlands CSU for the midlands and east, and
- South London CSU for London.

The tender for specialised commissioning was divided into ten "sub lots", roughly along the old strategic health authority boundaries. The winners confirmed so far are:

- South CSU for South Central
- Best West CSU for South West
- North and East London CSU for London
- Birmingham and the Black Country CSU for the West Midlands
- Greater East Midlands CSU for the East Midlands
- Cheshire and Mersey CSU for the North West
- North of England CSU for Cumbria and the North East
- South Yorkshire and Bassetlaw CSU for Yorkshire.

Two winners are yet to be confirmed. These are for one sub lot covering East Anglia, and another for the South East Coast area.

A commissioning board spokesman said the remaining winners would be chosen "very soon" but could not be more specific.

The total value of the three contracts is £9.4m, which seems small compared to the hundreds of millions of pounds worth of CCG income in play, but will be a useful secondary income stream for CSUs that win the contracts.

Future prospects

While it is interesting to look as closely as possible at the emerging market in commissioning support services, how CSUs settle their deals with CCGs will also have long term implications for the sector.

This is because because CSUs that cannot get enough income through service level agreements with CCGs will wither on the vine – and the commissioning board is anxious that the financial failure of a CSU could undermine a local health economy as fatally as a bad CCG.

Although last summer the board committed to developing 23 CSUs until the end of 2013-14, there is a

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widespread expectation that there could be as few as ten CSUs which end up being "externalised" in the long term.

Numbers are already quietly reducing, for both financial and personnel reasons. Merseyside and Cheshire, Warrington and the Wirral CSUs merged late last year. Essex and Hertfordshire CSUs, who share David Stout as their managing director, are now being run as a single organisation with two business units.

South Yorkshire and Bassetlaw CSU boss Ming Tang was this month appointed director for data and information management systems at the commissioning board. Her former CSU will be run by Alison Hughes of West Yorkshire. The two CSUs – both of which are fairly small – already shared information and finance functions.

Meanwhile Norfolk and Waveney CSU still does not have a permanent leader – Robert Garner is only running it on an interim basis and is due to leave at the end of March. No replacement has been announced. Towards the end of 2012 Surrey and Sussex lost two of its CCGs to South CSU, and another one to South London CSU.

"Checkpoint four" in the board's assurance process for CSUs is due in April, and will focus on financial viability. CSU bosses are bracing themselves for "tough love".

"The conversation gets harder", one said, "every time they talk to you." The outcome is not expected to be pass/fail, as that could introduce needless instability and uncertainty in areas which lose their CSU. However, there is an expectation that where CSUs are not viable, the board will help any necessary "natural evolutions" to take place – possibly through encouraging mergers or sharing of services between CSUs.

The board also retains the ability to remove CSU leaders or finance directors, or to parachute a leader, possibly of a successful CSU, into the top slot of one that is giving cause for concern.