

**Health Committee 11 September 2014, agenda item 11**

**QUESTION** [from Martin Booth, on behalf of the Stop the NHS Sell-Off Campaign]

We are concerned that the public consultation exercise on the Older People's Programme was narrow in scope, covered responses from only 1800 people, 41% of whom were interviewed by telephone and two-thirds of whom neither used the service themselves nor cared for someone who did use the services under review. The bidders were only required to address the responses to the service proposals which were put in a limited and often contradictory format.

However, 18 responses were received from groups representing thousands of people, many with considerable knowledge and expertise in health and social care. While there was widespread support for the reasons for change and the vision for joined-up care, this should not be taken as blanket support for the way of delivering the new services and there is widespread concern about the possible commissioning of a non-NHS provider. Responses given by the CCG to other concerns are to "explore" "develop", "expect to see", "a need for clarity" and other such vague assurances.

There is also evidence that GP practices have only recently been involved in their role as providers of services, with a small number meeting with the bidders to learn "about both the bidders and the procurement process itself" (giving) "an opportunity for the bidders to refine their understanding of the environment they are proposing to operate in (and) increase their chances of proposing a solution that might work" (LMC newsletter, June 2014). There seems to be no widespread understanding from practices of their role in the new contract, particularly worrying at a time when primary care is struggling and cuts in funding are already affecting some practices in the area.

How confident can the Health Committee be

- that this consultation exercise has adequately taken into account the concerns of ALL respondents;
- that general practice is sufficiently involved in the planning of the new services;
- that the contract specification is likely to be sufficiently robust for signature by 30 September;
- that, at a cost of more than £1million pounds, the CCG made the correct decision to go to competitive tender, acknowledging that we have yet to be informed of the process by which this decision was arrived at.
- that the CCG has the means to sufficiently monitor the performance of the contractor, especially given the revelation that a national sample of public contracts revealed that over half 'had issues in the amount billed', according to the Commons Public Accounts Committee.?

**ANSWER** [from Councillor Kilian Bourke, Chairman of the Committee]

*Firstly, it is important to stress that Health Scrutiny's responsibility and capacity is more limited than the questions imply. We do not have the resources that would be required to arrive at a definitive assessment of any procurement programme, and so we are simply not in a position to provide answers on these points. NHS commissioners and their regulators can do this.*

**Secondly**, you point out that many people object to the possibility of using a private sector provider. This is clearly the case, we acknowledge this, and the CCG's consultation response acknowledges these objections.

**Thirdly**, as most of your questions are about the consultation process, it may be helpful to provide a short summary of our involvement in this.

To start with, the committee's working group was extremely concerned that no formal public consultation was planned to take place until the contract had been awarded to the winning bidder - particularly given the history of the very similarly designed procurement of Hinchingbrooke hospital in 2009, which didn't involve formal public consultation.

The working group therefore called for a formal public consultation to take place before the final procurement round, so that the public's views could feed into the service design.

The CCG Governing Body agreed with this recommendation, and did carry out a full formal public consultation.

The working group supported the proposed consultation process, and was heavily involved in the design of the paper, including format, wordings, and questions, which we felt were taken into account. We asked the CCG to include anonymised summaries of the bids to date, which it did.

The CCG also met with the working group to discuss its draft response to the consultation document, and next steps. The working group again made numerous suggestions about format and wording, and asked that several elements of the CCG's response be given greater prominence and emphasis - which the CCG did. We were also allowed to read the responses that had been received, to check that the summary reflected them, if we wanted to, and we read some of them, but only a limited few.

Finally, as set out in item 11 of today's agenda, in order to ensure that the consultation's findings were fed into the commissioning process, we asked the CCG to put the findings of the consultation in the form of detailed questions to the bidders.

The CCG did this at our request, and the working group subsequently met with them to verify that it had received responses on these points from the bidders - which it had.

To summarise, the working group has been as fully involved in the consultation exercise as it desired to be, from its design through to its conclusion; and indeed we were offered even more detailed involvement which we declined, because we were concerned to stick very carefully to our agreed role.

**So, to reply to your specific questions....**

1. We are not in a position to say that the CCG's consultation response absolutely reflected every single response, because we weren't able to read them all, and it's probably not possible for any consultation to reflect every single response. It did reflect the scrutiny committee's concerns very fully, including the points about rejecting a predatory bid, and incorporating them into questions to the bidders.

2. This is not one of the areas that the working group has explored, so we are not in a position to offer an opinion.

*3. Again, we cannot possibly provide a definitive view on the robustness of the contract as a whole. This is the CCG's and its regulator's job, and would require very significant professional resource.*

*However, we have asked that commissioners test the realism of the bids very rigorously; reject a predatory bid or a loss-leader; and supported the inclusion of appropriate escalation and termination provisions in the contract, and have received assurances that these will be included in the formal contract.*

*4. What is clear from our MLR on delayed discharge is that an integrated care service for older people is very badly needed, and we do support the need to create an integrated care service. Commissioning such a service would have had a significant cost even if it was internally commissioned, although we cannot quantify this cost.*

*We do not have a view on whether competitive tendering of the contract was the correct way to proceed - although we have asked the CCG about this and were informed that it would have been extremely difficult not to go out to tender, especially given the scale of the contract and the fact that commissioners had previously tried to commission a service like this for older people.*

*Our scrutiny work focussed on improving the outcome of the commissioning programme, rather than arriving at a view on whether it should have been competitively tendered or not.*

*5. We cannot possibly determine whether the CCG has sufficient resource to properly monitor the contract, however our response to the consultation did specifically call for the CCG to make sure there was sufficient expertise to interpret the data from a health perspective and manage this complex outcomes-based contract properly.*

**QUESTIONS** (from Steve Sweeney, Regional Organiser, GMB London Region)

The announcement that the Health Service Journal, in association with NHS Employers, has published today its 'top 100' NHS organisations to work for in England, celebrating the best places to work in the health service in 2014. CCS is one of the top 100 organisations, the only community trust to feature asks questions as to why it is being broken up.

To compile the list, Best Companies Group used NHS staff survey findings to analyse each organisation across seven core areas: leadership and planning; corporate culture and communications; role satisfaction; work environment; relationship with supervisor; training and development; and employee engagement and satisfaction.

**Is the Health Committee satisfied that the procurement process is robust given the expose and concerns raised about the bidders by unions and others?**

Answer (from Councillor Kilian Bourke): *As stated in response to the previous question, we are not in a position to have a comprehensive overview of any procurement process and so cannot offer definitive assurances of this kind.*

*However, we have sought to make the process more transparent and consultative, and are happy that this part of the process is much improved, we think with our involvement.*

*We have made a number of recommendations about how to make the process and the contract work, including calling on the commissioners to rigorously test the realism of the bids.*

*We have called for quality of service to be the main driver of the procurement, as opposed to mere cost, and have received assurances on this point; although, again, we cannot offer a definitive assessment.*

**Is Health Committee satisfied that consultation has been adequate and reflects the views and opinions and has responded to concerns raised during the process?**

Answer: *We are confident that it has been adequate. We asked commissioners to take a "maximal" approach rather than a "minimal" one, and believe they did. We approved the consultation programme, and had extensive input into the consultation paper itself.*

*We are obviously not in a position to say whether the response reflects all of the views and opinions of the respondents, as we were not able to read every single one of them.*

**Is Health Committee happy that CCS have not been given the right to appeal the decision not to short-list for a service they currently run?**

Answer: *This is a legal question and not something we are in a position to answer.*

**Is Health Committee confident that the process should be allowed to continue?**

Answer: *Yes. Our response to the consultation paper made it clear that we support the aims of the programme, and hope that these can be achieved.*