

The procurement of NHS dental services – a guide

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VERIFIABLE CPD PAPER

IN BRIEF

- Strategic Government documents have shaped the background to commissioning of primary care dental services responsive to local needs.
- Potential providers need to be aware of the process of procurement and its associated legal requirements.
- If invited to tender, potential providers need to focus their responses on the needs of the PCT.

GENERAL

This paper gives an overview of the strategic background for procurement of NHS primary care dental services and an outline of the processes involved in procurement. The main aim is to bring procurement to the attention of a wider audience of dental practitioners and provide advice for potential primary care dental service providers. The move towards local procurement of healthcare services, including primary care dental services, has been shaped by a number of strategic Government publications and is supported by law. In line with other public bodies, the NHS is subject to the European Union and international rules regarding procurement and awarding contracts. Primary Care Trust (PCT) Dental Service Commissioners have to ensure that their procurement strategy is transparent and non-discriminatory so that all providers have an equal opportunity to compete for contracts. In order to successfully tender for future service provision contracts, dental practitioners not only need to be aware of the process of procurement and its associated legal requirements. It is also important that they have a grasp of the expectations of PCTs. Commissioning services via procurement is set to become more commonplace and it is likely, in time, that competition for some contracts will increase in intensity. The importance of researching proposals thoroughly and adopting a professional, businesslike approach to tendering cannot be understated as this maximises chance of success in the new commissioning environment.

Introduction

Procurement is the process by which a PCT secures locally responsive health care services to meet the needs of their population. It involves identification of needs, evaluation of existing contracts and procurement options, through to formal agreement of a services contract.¹

Procurement is a relatively new concept with respect to primary care dentistry but one which is set to become more prominent in the working lives of all NHS general dental practitioners (GDPs) in the near future. In order to successfully tender for future service provision contracts, GDPs need to be aware of the procurement process and its associated legal requirements.

The main aim of this short paper is to bring the main issues to the attention of a wider audience of dental practitioners, identify the key features of the tendering and procurement process, and provide advice for potential providers.

Background

The new-found commissioning responsibility of PCTs sits within a wider accountability for the NHS modernisation programme; a number of strategic documents identify the key themes behind commissioning locally responsive primary care services.

In 2000, *The NHS Plan*² was unveiled which outlined the Government's vision of a health service designed around the patient. Further to this publication, there has been a continuing commitment to the process of reform with a drive towards responsive, personalised services and the priorities of the NHS being set out in detail.³

The over-arching Government goal was the delivery of increased choice and more personalised care for patients.⁴ In order for this to be realised, it was necessary to

implement a change in the way services are commissioned to reflect patient choice. Ultimately, there was a steer to transform PCTs from being provider-driven services to commissioning-driven services and it became necessary for them to be optimally configured in order to carry out this new role effectively.⁵

Local Strategic Health Authority-led (SHA) consultations took place which resulted, in many cases, to reconfiguration of PCTs designed to be fit for purpose with an effective commissioning function.

The shift in the way in which services are delivered was described in the 2006 White Paper, *Our health, our care, our say*⁶ which reiterated the Government objective of more personalised health services, with local health and social care commissioners working together to understand and address local inequalities. More recently *World Class Commissioning*⁷ (2007) acknowledged the changing commissioning landscape and illustrated the need for local partners in health to work together in order to deliver the best possible services for the local community.

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In light of all the Government policies, commissioning primary care health services has changed significantly. With respect to primary medical care, general medical practitioners (GPs) have engaged in Practice Base Commissioning (PBC) since 2005⁸ with all being involved since December 2006.⁵ While PCTs continue to hold responsibility for the overall commissioning strategy, PBC entitles general practices to hold a budget for commissioning health services locally and therefore empowers them to develop more personalised services to reflect patient needs. Fairness in Primary Care (FPC) procurement⁹ has been developed to deliver the Government's commitment of tackling health inequalities and providing greater access and choice to patients with respect to the primary care services in their area.⁶

Despite sustained modernisation and investment in the NHS, the recent report by Lord Darzi^{10,11} highlighted significant health inequalities; reinforcing the importance of achieving more personalised care. This has highlighted the importance of improving commissioning to support the delivery of the Government's vision.² The aim of the World Class Commissioning programme⁷ is that it will deliver a long-term plan of action with respect to commissioning services which have a clear focus on improving health outcomes.

Procurement of primary care dental services

With regards to primary care dentistry, the main focus for PCTs is to commission services in a way that meets the principles outlined in the strategic publications and is supported by law:

In accordance with The Health and Social Care (Community Health and Standards) Act 2003¹² Primary Care Trusts (PCTs) and Local Health Boards have a legal responsibility to provide or secure provision of primary dental services in their area.

More recently, The NHS Act 2006¹³ established local commissioning and enables PCTs to specify exactly where primary care dental services are provided and the types of services they deliver, thereby meeting their legal obligations.

Until recently, primary care dentists were independent practitioners who could ultimately provide the treatment services

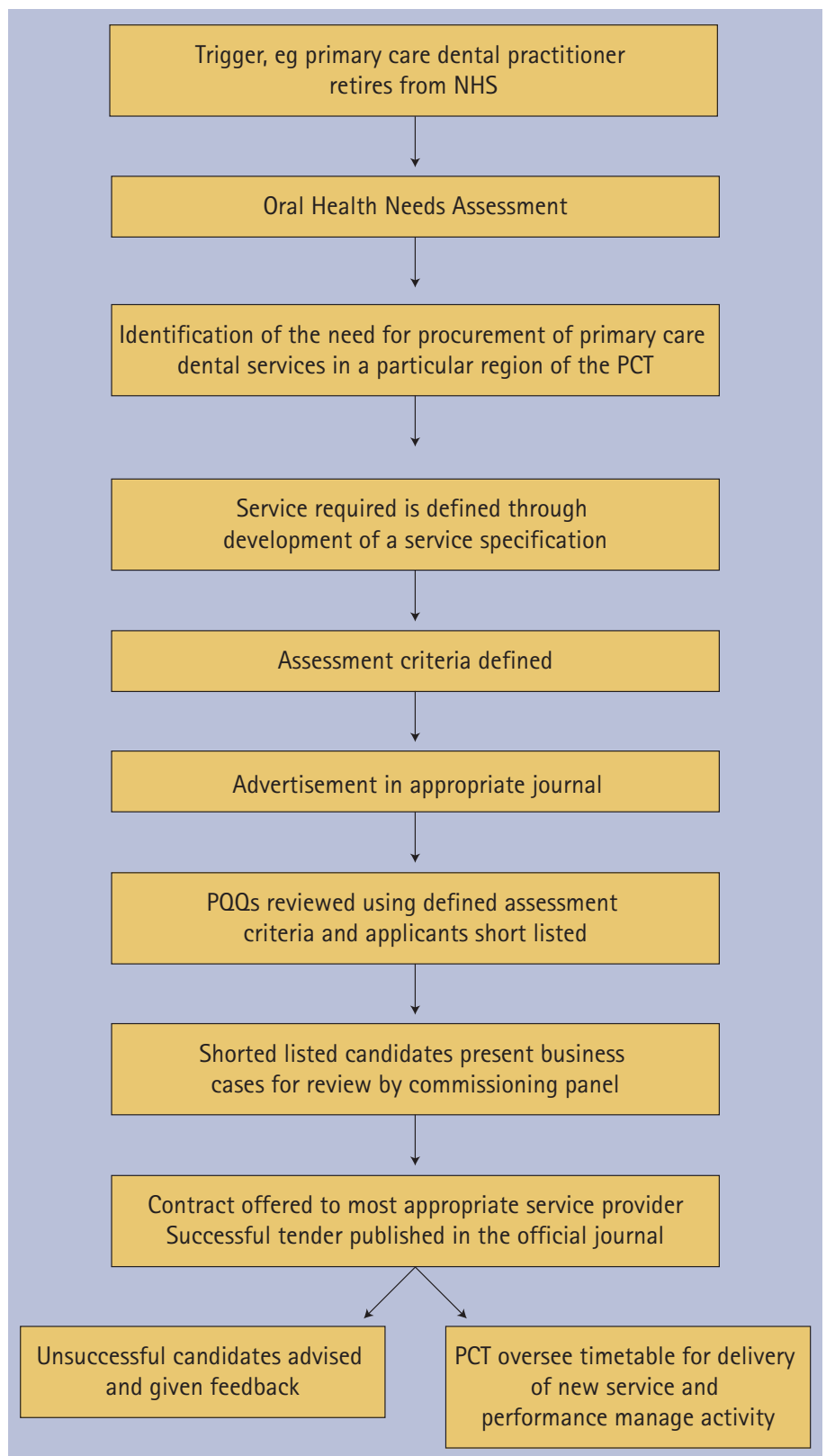


Fig. 1 The process of procuring primary care dental services

they wanted to in the area of their choice. April 2006 saw the introduction of the new NHS dental contract (encompassing GDS Contracts,¹⁴ PDS agreements¹⁵ and Service Statements for Salaried Primary Dental Care Services)¹⁶ whereby dental practitioners (the contractors) enter into a local

contract with their PCT to provide NHS dental services.

Anecdotally, it would appear that in the main, the transition to local commissioning of primary care dental services and has maintained service provision arrangements which have been shaped by the historical

business decisions taken by the previously independent dentists regarding the location of their dental practices.

This arrangement may or may not be consistent with the PCT's views on where services need to be delivered to best meet patient needs and reduce dental health inequalities. PCTs may be financially able to address issues of provision by establishing additional new service contracts; alternatively, they may wait until existing contracts end (due to retirement or other reasons) and use this opportunistically available financial resource. In the latter situation, the PCT can choose to simply replace the service, as it was, in its original location. However, in order to provide more locally responsive care to improve and secure oral health, they may choose to commission different types of services in the same, or alternate, locales.

In order to secure the right type of service in the right place, the PCT will undertake some form of procurement process.

The procurement process

The process of procuring primary care dental services has been summarised in Figure 1. Most procurement processes involve some element of tendering and presentation of business plans aimed at meeting the service specifications developed by PCTs.

The procedures that public bodies, including the National Health Service, use to award contracts are subject to European Union and international rules. The latter derive from a World Trade Organisation Government Procurement Agreement (GPA) signed in April 1994;¹⁷ the European Union has been party to this GPA since 1996. The agreement has rules which guarantee fair and non-discriminatory conditions for international competitive tendering. The governments participating in the GPA have to put in place domestic procedures by which non-successful bidders can challenge the procurement decisions and be redressed should these be found to be inconsistent with the GPA rules.

Procurement of all public sector services (including the NHS) is subject to principles of non-discrimination, equal treatment and transparency. Supply and service contracts with a total value in excess of £90,319 (from 1 January 2008) must be advertised in the supplement to

the Official Journal of the European Union (OJEU, <http://www.ojeu.com/>) in order that expressions of interest and tenders from all potential providers in the European Union can be submitted.

Primary care dental services fall under the category of 'medical services' which are exempt from the full tender process, therefore do not need to be advertised in the OJEU. However, commissioners are still responsible for ensuring that all those replying to an advertisement have an equal opportunity to express interest regarding tendering and that none of the potential suppliers are disadvantaged throughout the course of the process.

Once a PCT has identified a need for additional or alternate primary care dental services, a service specification is developed. This is a detailed and precise statement defining the requirements and characteristics of the service to be procured, including quality and performance measures, location of service to be provided, and timescale for delivery. An advert requesting expressions of interest to tender will normally follow and is usually published in the *BDJ* and may also be printed in local newspapers or copied to providers already in contract with the PCT. Those responding to advertisements are usually invited to submit a Pre-Qualification Questionnaire (PQQ). This asks for general information about the potential supplier, including contact details; additionally, questions relating to supplier inter-relationships, experience, and ability to perform general contractual requirements may be asked. More specific information about the required service will also be sought, including:

- Business details of the practice including financial information and details of performance on other NHS contracts
- How the potential provider will ensure provision of access to NHS dental services for residents in the locale
- Confirmation of how the potential provider will provide high quality general dental services that meet the demands of diverse population groups
- How the potential provider will establish positive working relationships with the PCT in order to maximise service delivery
- Details of the proposed locations,

opening times, proportion of NHS commitment, promotion of NHS brand and proposed staffing structure, including recruitment strategies

- Contingency arrangements for loss of staffing, major incidents or communications failure, and disaster recovery plans
- Indicative prices associated with the delivery of the number of Units of Dental Activity.

All those selected to tender must receive the same information on which to make their bid. There must be comprehensive, unbiased evaluation criteria for progression of tenders to interview or negotiation. Responses to the PQQ should be scored according to pre-determined evaluation criteria, based upon the service specifications. Unsuccessful suppliers may legally challenge a decision if they believe that fairness and open competition is not evident throughout the process so it is important that protocol with respect to evaluation criteria is adhered to. The panel scoring the PQQ may include PCT dental leads, Non-Executive Directors, Directors of (Dental) Commissioning, finance representatives and professional advisors including Consultants in Dental Public Health or Dental Practice Advisors.

Once the PQQs have been scored, the PCT will normally shortlist the higher ranking potential providers who will progress to the next stage. These potential providers are sent final documentation, with full instruction as to the detail required by the PCT, and invited to negotiate for the contract; they are asked to clarify their proposals and may be invited to meet with a PCT panel, consisting of members similar to the panel who scored the PQQ. In addition to an interview, they may be required to undertake a formal presentation of their proposal, using PowerPoint, or another software package.

After the meeting, they may be invited to submit their full and final offers to the PCT

Following the conversations with short-listed potential providers, the interview panel must identify the provider or providers who most closely fulfil the criteria linked to the service specifications and duly award the contract. The PCT's decision to award a contract must be based

upon the evaluation criteria linked to the requirements of the specification documents; this must be demonstrable in order to stand up to any challenge of the final decision by an unsuccessful provider.

Depending on the PCT's Standing Financial Instructions (SFIs) there may be a further PCT Board approval stage.

Details of the successful provider and details of the contract may be published in accordance with the Freedom of Information Act.¹⁸

Following award of the contract the PCT has the subsequent responsibility to ensure that the successful provider establishes the desired service, under an agreed GDS contract, PDS agreement or PCT Service Statement in an appropriate time frame.

From advertisement to provision of services usually requires a minimum 17-20 weeks.

Advice and support for potential providers

In order to successfully tender for future service provision contracts, dental practitioners not only need to be aware of the process of procurement and its associated legal requirements. It is also important that they have a grasp of the expectations of PCTs.

The approach to procurement described above, and the diagram at Figure 1, identifies the key processes involved in procurement and is becoming fairly standard although there may be minor variations on this approach.

A tendering and procurement case study (North Cumbria) plus sample documentation can be downloaded from the 'Shared Learning' section of NHS Primary Care Contracting (PCC) website (www.pcc.nhs.uk). A procurement helpdesk is available through the website which commissioners and providers can access to ask questions and seek advice on procurement matters. Further guidance is also available from the British Dental Association.^{19,20}

Dental practitioners may wish to consider the following points when responding to a PCT advert seeking expressions of interest for a contract to provide dental services:

Background knowledge and service commitment

In addition to the prerequisite legal aspects of being a dental service provider under

the GDS or PDS regulations PCTs expect those expressing interest to have a good working knowledge of the area in which the contract is based; the types of communities they will serve and the oral health needs of the local population. Practitioners will also be expected to have a demonstrable commitment to the NHS and to the promotion and display of NHS branding and logos within their practice.

Comprehensively completed PQQs

Submission of professional, typewritten questionnaires and tenders is preferable; high-quality presentation is important as it gives an impression of the competence of the bidding provider.

Practitioners should assume that those assessing PQQs know nothing of their existing working relationship with the PCT and should give detailed answers to all questions. Questions relating to quality assurance programmes currently in place at an existing place of work, or to contingency planning for continued provision of service should the dental premises be compromised by natural disaster, fire or flooding, or be there long term staff sickness, should be completed in as much detail as possible. Further clarification and evidence of processes in place may be requested at a later stage.

Dental practitioners wholly capable of providing a specified service may fall at this stage if the business case they submit is not professionally presented, or lacks sufficient detail.

Clear business plan and evidence of experience

Practitioners invited to an interview for further clarification would be expected to provide a reasonably prepared business case including details of facilities, staffing, recruitment and funding additional to the information supplied in the PQQ. If a dentist has a track record of establishing a new dental practice, it may be helpful to provide brief details with respect to how this was achieved, in particular regarding experience of recruitment which is often a critical issue. They could also be expected to provide evidence of the quality of their existing practice, including clinical governance arrangements, continuing professional development (CPD) records, details of staff training and development programmes running in their current

practice, and substantiation of their ability to deliver, within tolerance, any other existing NHS contracts.

A presentation covering the main points of their proposals should be slick and concise in order to reflect the professionalism of the provider.²¹

Realistic timescales

Whilst it is preferable for the timescale for implementation of a new dental service generally to be minimal, potential providers should exercise caution with respect to this; achievable goals should be set out and presented, with rationales, to the PCT. Should a practitioner be awarded a contract and not deliver it within the agreed period, the PCT are entitled to withdraw the contract and re-advertise it

Discussion

There have been, and continue to be, considerable changes in the way in which local primary care dental services are commissioned. Relationships between PCTs and providers are changing and developing to enable the delivery of responsive dental health services to local communities.

Commissioning and procuring primary dental care services has already taken place in a number of areas and is likely to increase as PCTs address dental issues raised in the 2009/10 NHS operating framework.²² The experience of the authors is that there is a fairly standard approach to procurement, as described (see Fig. 1). If current providers wish to develop their provision of dental services for the NHS, they need to focus their responses on the needs of the PCT.

The procurement process ensures that potential providers of primary care dental services are provided with a clear understanding of what they are required to deliver and offers them the chance to consider how they will supply the desired service. It enables fair competition and transparency of process ensuring equity of opportunity when new business opportunities arise. Decisions to award contracts are open to challenge.

Inevitably, procuring new or extended dental services is not without difficulties. The process of completing PQQs and preparing initial business proposals can be expensive in terms of the applicant's time. Developing an understanding of the

area and population to be served, sourcing potential premises and putting together a well founded business plan all take time to develop and it is important that sufficient attention is given to these aspects.

From a PCT perspective, procuring services in the way described in this paper allows PCTs to clearly specify the types of services they require and to redistribute dental services as necessary in order to address local requirements, and improve dental access.

The processes enable PCTs to meet a range of potential providers of services and to compare the quality and cost of the potential services and their best fit against the specification. It is, however, a process which requires considerable investment in time. Convening commissioning panels to assess the PQQs, shortlist applicants and subsequently interview potential providers can represent a significant cost to the PCT. The length of the overall process can mean there may be a long period of inactivity before a new service is up and running. This may impact on the delivery of service to the local population leading to complaints from patients and local media interest.

Conclusion

Ultimately, procurement is part of the 'new world' of NHS dentistry and affords

benefits to both PCTs and providers of primary care dental services.

Commissioning services via procurement is set to become more commonplace and it is likely, in time, that competition for some contracts will increase in intensity.

General dental practitioners who wish to develop their business by providing more service to the NHS need to raise their awareness of, and be responsive to, the procurement process. The importance of researching proposals thoroughly and adopting a professional, businesslike approach to tendering cannot be understated as this maximises chance of success in the new commissioning environment.

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