

**PRIMARY CARE CO-COMMISSIONING COMMITTEE MEETING**

**Waterside Practice Subcontracting Proposal**

<b>Date of Meeting</b>	7 <sup>th</sup> January 2016	<b>Agenda Item</b>	10.
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**CCG Corporate Objectives**

<b>To extend the life of our citizens and their quality of life adding life to years as well as years to life.</b>	Y
<b>To ensure there will be no gaps, no duplication – with integrated services and partnership working; including better relationships with voluntary, community and faith sector organisations</b>	Y
<b>To engage and encourage patients and the public to participate in everything we do and the importance of self-care and family wellbeing.</b>	Y
<b>To improve services and tackle inequality, evidence best practice to inform decisions and root out poor practice.</b>	Y
<b>To offer effective service interventions which will provide a better experience for patients with privacy and dignity.</b>	Y

**CCG High Impact Changes**

<b>Delivering high quality Primary Care at scale and improving access</b>	Y
<b>Self-Care and Early Intervention</b>	
<b>Enhanced and Integrated Primary Care and Better Care Fund</b>	Y
<b>Access to Re-ablement and Intermediate Care</b>	
<b>Improved hospital discharge and reduced length of stay</b>	
<b>Community based ambulatory care for specific conditions</b>	
<b>Access to high quality Urgent and Emergency Care</b>	
<b>Scheduled Care</b>	
<b>Quality</b>	Y

**Programme Leadership:**

<b>Clinical Lead</b>	<b>Dr Stephen Gunn</b>
<b>Senior Lead Manager</b>	<b>Mr Peter Sellars</b>
<b>Report authorised by</b>	<b>Dr Malcolm Ridgway</b>

**Decision Recommendations**

- The PCCC Chair has taken action to allow Waterside to discuss subcontracting options with other providers in order to maintain services and now requires:
- That the PCCC receives and ratifies Chair's action.

**PRIMARY CARE CO-COMMISSIONING COMMITTEE MEETING**

**1.0 Introduction**

This paper sets out a proposal and rationale for the reasons for the Waterside Practice to subcontract services to another (as yet to be determined) contractor prior to mobilisation of new APMS contract arrangements. The PCCC Chair has provided Chairs action following discussion and support at the Executive Team meeting

**2.0 Background**

2.1 The CCG has been approached by Dr Iain Chorlton (Jalia Healthcare) as the Waterside APMS contract holder to seek support as he feels the practice is at risk of not being able to provide services due to problems in providing clinical cover. He does not intend to bid in the forthcoming APMS procurement and he wanted to relinquish the contract and merge this with another provider. The CCG and NHS England explored this possibility, but this was not thought to be a valid option given the practice was in the process of re-procurement.

2.2 A further option has been proposed whereby Waterside may be sub-contracted to another provider until the procurement process is complete. This option is credible and allowable within the APMS contract, subject to the clause below, and will need to be set out in writing. Jalia Healthcare will retain overall responsibility for the contract and any acts or omissions on the part of the subcontractor, and will need to agree any financial arrangements with the subcontractor. This option potentially gives stability to the services currently provided by Waterside. The CCG has to agree the subcontracted provider before services can commence.

**3.0 Contract Extract**

3.1 Extract from APMS contract between BwD Care Trust Plus and Jalia Healthcare (Waterside Practice).

(At the time the contract was drafted, Blackburn with Darwen was a Care Trust Plus (CTP) and the commissioner)

**19. Sub-Contracting**

Subject to Clause 19.4, the Provider shall not sell, assign, sub-contract or in any way otherwise dispose of any of its rights or duties under this Agreement in relation to the Services or any part thereof without the prior written consent of the CTP and subject to such conditions as the CTP may impose.

## PRIMARY CARE CO-COMMISSIONING COMMITTEE MEETING

A contract with a sub-contractor must, unless the CTP agrees otherwise: be in writing; contain substantially the same provisions set out in this Agreement; allow the CTP to take the benefit of all rights of the Provider (under the particular subcontract) through the Contracts (Rights of Third Parties) Act 1999; allow the subcontract to terminate if this Agreement terminates without payment of any compensation or damages or, if the CTP so elects, to transfer, assign or novate the subcontract to the CTP without any payment of compensation or damages; and prohibit the sub-contractor from sub-contracting the services it has agreed with the Provider to provide.

The Provider shall be responsible for the acts, omissions and defaults of its sub-contractors in performing the Services as though they were its own acts, omissions and defaults.

The Provider shall not:

- (a) assign, underlet or otherwise part with possession of the Lease of the Practice Premises in any circumstances whatsoever;
- (b) sub-contract any of its rights or duties under this Agreement. If the Provider has a list of Registered Patients or a list of Registered Patients is held in respect of it, the Provider shall not sub-contract any of its rights or duties under this Agreement in relation to the provision of Additional Services, Enhanced Services, Essential Services and Services provided outside the Opening Hours to a company or firm:
  - (i) owned wholly or partly by the Provider, or by any former or current employee or partner or shareholder in, the Provider;
  - (ii) formed by or on behalf of the Provider, or from which it derives or may derive pecuniary benefit; or
  - (iii) formed by or on behalf of a former or current employee of, or partner or shareholder in, the Provider, or from which such a person derives or may derive pecuniary benefit,

where that company or firm is or was formed wholly or partly for the purpose of avoiding the restrictions on the sale of goodwill of a medical practice in section 54 of the Act or any Regulations made wholly or partly under that section.

The CTP agrees that as at the date of this Agreement it has agreed that the Provider may subcontract the Services set out in Schedule 16 (Approved Subcontractors) to the subcontractors set out in Schedule 16 (Approved Subcontractors), subject to compliance with Clauses 19.2 and 19.3.

**PRIMARY CARE CO-COMMISSIONING COMMITTEE MEETING**

**4.0 Conclusion**

4.1 This paper provides a report on current issues regarding the Waterside practice and suggests an option to support the practice in maintaining patient services until the completion of the procurement exercise. The PCCC Chair has supported this action.

**5.0 Recommendations**

- The PCCC Chair has taken action to allow Waterside to discuss subcontracting options with other providers in order to maintain services and now requires:
- That the PCCC receives and ratifies Chair's action.

**Peter Sellars  
Primary Care Transformation Lead.  
November 2015**