

**NHS BRENT COMMISSIONING**

**MEMORANDUM OF INFORMATION**

**FOR**

**THE KILBURN MUSCULOSKELETAL PILOT**

**FOR**

**THE PROVISION OF GP DIRECT ACCESS  
COMMUNITY PHYSIOTHERAPY SERVICES  
IN THE KILBURN CLUSTER AREA  
THROUGH THE ANY WILLING PROVIDER (AWP)  
PROCUREMENT PROCESS**

**THE SERVICES**

**TENDER A - ADULT / PAEDIATRICS (8YEARS+) MSK  
PHYSIOTHERAPY**

**TENDER B - WOMENS HEALTH PHYSIOTHERAPY**

**SEPTEMBER 2009**

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## 1 PURPOSE AND NEXT STEPS

### 1.1 Purpose of this document

This Memorandum of Information (MOI) provides an overview of the NHS Brent Commissioning Requirements for the GP Direct Access Community Physiotherapy Services in Kilburn as a pilot project, procured through the Any Willing Provider (AWP) Procurement Process as set out in the Practice Based Commissioning: Practical Implementation Guide (DH, November 2006) and details of:

- An overview of the NHS BRENT Primary Care Trust (**PCT**), demographics and background for the **Service** requirements
- The AWP Procurement and its objectives
- Procurement process and assessment criteria
- Procurement commercial framework
- Procurement governance, administration requirements and award criteria
- Contract Management , monitoring and reporting arrangements

The purpose of this MOI is to set out the NHS Brent Commissioning Intentions, aims and objectives of the AWP procurement, the Service requirements and conditions, the timescales, an overview of the key stages of the AWP procurement process and details of the assessment and award criteria.

Potential Providers must adhere to these requirements and make an informed decision about whether they wish to participate in the AWP process and to submit a bid to NHS Brent for the Services in accordance with the requirements set out in the Tender Documents.

### 1.2 Next Steps for Providers

Potential Providers interested in participating in the NHS Brent AWP Procurement **must** submit a bona fide sealed non collusive Bid consisting of **Stage 1 and 2** submissions **by the closing date of 12 noon on the 25<sup>th</sup> September 2009**.

All Submissions (Stage 1 and 2) shall be submitted in hard (5 copies) and soft (two CD-rom copies) with the reference number indicated in the top right hand corner of the documents and on the CD-rom label. The reference number will be provided by NHS Brent at the time of registering interest and obtaining the documents.

The hardcopies should be printed on both sides of A4 paper with pages numbered and the documents bound. The soft copies should be submitted on CD-ROM in Microsoft Word, Arial 12pt with pages numbered and pdf format. The Stage 2 Submissions should have all company identifiers including logos removed to ensure anonymity.

The Stage 1 and Stage 2 Bids must be sealed in separate envelopes and marked as 'Stage 1 Submission AWP KILBURN MSK PILOT' and 'Stage 2 Submission AWP KILBURN MSK PILOT', then delivered, in a sealed envelope marked 'Bid Submission AWP KILBURN MSK PILOT' to NHS BRENT, for the attention of Sue Little, Board Secretary by 12noon on 26<sup>th</sup> September 2009 as follows:

**MSK AWP TENDER RETURN LABELS**

<p align="center"><b>NHS BRENT BID SUBMISSION AWP MSK KILBURN PILOT</b></p> <p align="center"><b>REFERENCE NR:.....</b></p>	<p>Sue Little Board Secretary NHS Brent Wembley Centre for Health and Care 116 Chaplin Road Wembley HAO 4UZ</p>
<p align="center"><b>NHS BRENT STAGE 1 SUBMISSION AWP MSK KILBURN PILOT</b></p> <p align="center"><b>REFERENCE NR:.....</b></p>	<p>Sue Little Board Secretary NHS Brent Wembley Centre for Health and Care 116 Chaplin Road Wembley HAO 4UZ</p>
<p align="center"><b>NHS BRENT STAGE 2 SUBMISSION AWP MSK KILBURN PILOT</b></p> <p align="center"><b>REFERENCE NR:.....</b></p>	<p>Sue Little Board Secretary NHS Brent Wembley Centre for Health and Care 116 Chaplin Road Wembley HAO 4UZ</p>

## **2 INTRODUCTION, OVERVIEW AND BACKGROUND**

### **2.1 Background and Context to the Development of a Pilot for an Any Willing Provider List for GP Direct Access Community Physiotherapy Services**

The Kilburn Practice Based Commissioning (PBC) Cluster identified GP Direct Access Community Physiotherapy as Primary Care Services that they wished to take a more active role in commissioning as it recognised that these Services are an important part of community services for the health, well being and rehabilitation management of its patients.

The demand on Services delivered in the Secondary Care Hospital setting has led to long waiting times and this has been an issue for patients in the locality. Kilburn Practice Based Commissioning (PBC) wishes to provide high-quality responsive Services in community settings for patients, which will reduce waiting times, improve their clinical outcomes, increase patient satisfaction and reduce the demand and number of referrals to Secondary Care to those most in need of specialist care.

NHS Brent's Investment Panel has approved the Kilburn PBC business case for a one-year pilot project for GP Direct Access Community Physiotherapy services in February 2009 to be procured through the 'Any Willing Provider (AWP)' Procurement process. The Services, to which this relates, fall under Part B of Schedule 3 of the Public Contracts Regulations 2006 (The Regulations).

### **2.2 Objectives of the Procurement of Primary Care Services**

The key objectives of the procurement of these Primary Care Services for NHS Brent and Kilburn PBC Cluster are as follows: :

- To reduce waiting times, the number of referrals to Secondary Care Hospital Settings by providing a high quality community-based Physiotherapy service in the Brent and Kilburn locality.
- To provide patients with direct access to community-based Musculoskeletal Physiotherapy for adult and paediatrics(over 8's) and women's health conditions
- To provide care closer to home by improving the range of locations and increasing the capacity and access to services by increasing the number of appointments available for patients through extended opening hours i.e. 8 am to 8pm.
- To increase the choice and locality of community based services for patients
- To deliver high quality affordable and Value for Money Community based primary care services.

### **2.3 Scope of the Services**

The current changes in health service provision and the reconfiguration of secondary and primary care services along with the need to commission high quality primary care services which deliver value for money are such that some services can be delivered more cost effectively in a community setting closer to home. Musculoskeletal Services are Services identified by the Department of Health as being suitable for the relocation of a large proportion of work from secondary to primary care under the "shifting care Closer to Home" policy (DOH 2008) and Musculoskeletal Service Framework (DOH 2006).

The Services required are as follows:

### **2.3.1 Services Tender A**

**GP Direct Access Community based Musculoskeletal Physiotherapy Services for adults (18+) and Children (8+) in accordance with NHS, NICE and CSP Standards**

### **2.3.3. Services Tender B**

**Women's Health Conditions Physiotherapy Services for Patients (16+) in accordance with NHS, NICE and CSP Standards**

Providers may Bid for all the Services set out in Services Tender A and B or Bid for only one Service Tender A or B.

Providers may submit Tenders as individual companies or as part of a team of professionals in a Consortia arrangement. NHS Brent will enter into a contract with the Provider or Lead Provider where the Bid has been submitted on behalf of a Consortium. Liability under the contract will be between NHS Brent and the lead provider identified in the Bid documents.

The Lead Provider must ensure that all sub-contractors are able to satisfy all the relevant professional Standards and requirements, including but not limited to CSP professional competency, insurance and governance requirements.

The community services contract, clause 48, states that NHS Brent PCT requires consent for any sub contracting arrangements. All Approved Lead Providers will be required to set out and list all their proposed sub contractors in Schedule 10 of the contract. Where Lead Providers wish to sub contract Services as part of their service delivery then they must ensure that they list the proposed sub contractors and their details in their Bid submission documents. Failure to do so may invalidate the Bid submission.

## **2.4 Outcomes and Critical Success Factors (CSFs)**

NHS Brent and the Kilburn PBC Cluster require the successful Providers to meet the following Outcomes and Critical Success Factors (CSFs) for the duration of the Contract:

- Access – The Services must be provided within easy access of at least one Kilburn PBC Cluster Practice and they must be open and provide services to patients 6 days a week; Monday to Friday, from 8am to 8pm and Saturdays from 8am to 1pm. The Women' Health Physiotherapy and MSK Paediatric service being more specialised and likely to have fewer referrals, then access will be provided in the urgent / routine timeframe but potential Willing Provider's may choose to offer less flexibility in the access and availability of appointment times.
- Capacity – one of the principle aims of the Services procurement is to reduce the waiting times and increase access and capacity in GP Direct Access Community Physiotherapy Services leading to achieve improved outcomes for patients.
- Quality – Patient-centred Physiotherapy services, delivered in a safe and effective manner and delivered through a learning environment that encourages clinically effective evidence-based practice closer to home.
- Value for Money (VfM) and Affordable – The GP Direct Access Community Physiotherapy services procured through this procurement must be affordable and provide VFM.
- Integration – Providers will be expected to communicate and integrate with, and positively contribute to, the local healthcare community by working with other providers who are contributing to the care of patients referred to them.

- Wellbeing -To improve wellbeing and clinical outcomes of patients referred to them. Patients will complete a Patient Satisfaction Form on completion of treatment.
- Self Care -To promote self care and sustainable rehabilitation programmes for all patients referred to them.
- Referrals –\_The Willing Provider's will not be able to refer patients to other primary or secondary care services. The GP will retain the right to refer patients for the most appropriate care. The GP's will aim to refer only those patients to secondary care who have complex care needs and who would benefit from further diagnostic investigations and specialist advice, care and treatment.

### 3 Commissioning PCT

#### 3.1 Practice Based Commissioning

NHS Brent is the Commissioning PCT for these Services, working on behalf of and in partnership with the Kilburn Practice Based commissioning (PBC) Cluster

The geographical location of NHS Brent and Kilburn area is highlighted in

**Figure 1** below:

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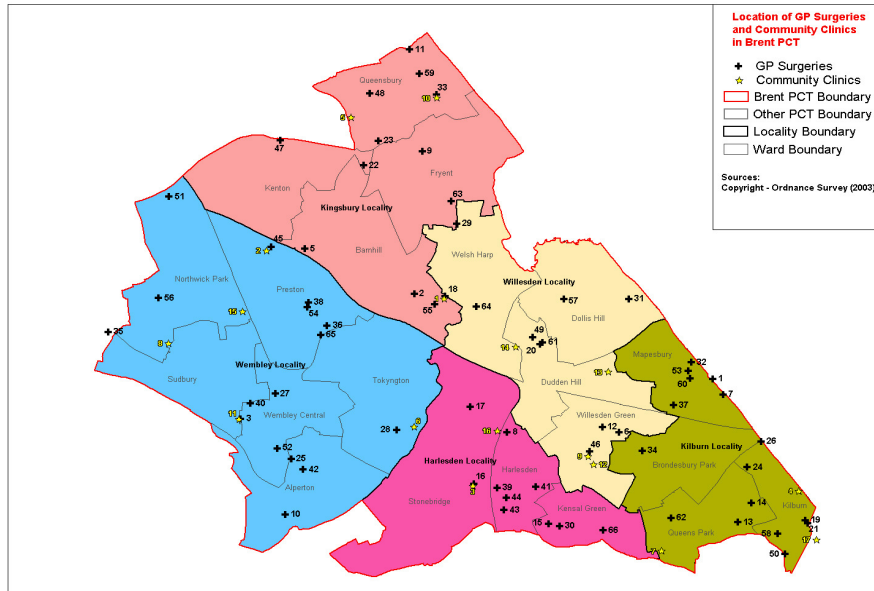
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**Figure 1: NHS Brent with the area covered by Kilburn PBC Cluster in green**



## **4 Procurement Process**

### **4.1 AWP Procurement Process**

The AWP procurement model is a mechanism whereby PCT's advertise Services and then accredit suppliers who apply to provide these Services against minimum standards set by Care Quality Commission. AWP Contracts are then offered to the successful Providers for these Service based on the agreed terms and conditions, but these contracts do not provide any guarantee of activity volume or payment. The successful Providers will then be added to local 'AWP List and GP's and patients will be able to select the Willing Provider that they would like to be referred to. When patients are referred to the Service and treated, the Provider will be paid for the treatment or activity volume in accordance with the agreed terms and conditions and payment rates as set out in the contract. If the patient does not attend the appointment then the Provider will not be able to claim for payment as no treatment or activity was carried out.

The AWP procurement process is a two Stage competitive tender process, comprising of Stage 1 Bid Submission and Stage 2 Bid Submission. The Stage 1 and Stage 2 Bid Submissions should be completed and submitted simultaneously to NHS Brent before the closing date. Bids received after the closing date and time will be rejected.

For the purposes of the AWP Tender pilot project NHS Brent and Kilburn PBC Cluster have decided to select up to a maximum of 5 Providers for the Any Willing Provider (AWP) Services lists for each of the Services. Inclusion on these AWP lists will not provide any guarantee of any volume of activity or payment to Providers. The AWP lists and the provider's performance will be reviewed at regular intervals and at the end of the 12 month pilot project period to assess the future of the pilot project and the Services.

The AWP procurement process has two options for award of contracts as either 'open' or 'managed'. NHS Brent has selected the 'managed' process and has set a closing date for receipt of Bids. Any Bids received after the closing date will not be considered.

NHS Brent has decided to set a maximum number of Potential Providers for each of the Services and has selected the 'Restricted Procedure' under the AWP procurement Process. NHS Brent intends to select up to a maximum of five providers for each of the Services to the Approved Willing Provider Lists. If more than five Potential Willing Providers meet the minimum criteria, then those with the highest score will be selected, sufficient to fill the maximum number of Willing Provider places available. NHS Brent reserves the right not to accept any Potential Willing Providers or to appoint less than five Willing Providers in its absolute discretion.

### **4.2 Submission Requirements**

Stage 1 of the process, requests information common to all Services that Potential Willing Providers must meet such as the background information on their organisation, the type and size of their healthcare business, references, contract performance, and financial information, insurances, quality assurance, health and safety and patient safety, hr and information governance.

- Patient Safety
- Governance
  - Provider's basic details
  - Financial information
  - Business activities
  - Business History
  - Insurance
  - Quality Assurance
  - Equal Opportunities

- Professional and business standing
- Declaration of non-collusion
- Information Governance
- Care Environment and Amenities
  - Health and Safety
  - Environmental Management

The Stage 2 Bid submission requests the Potential Willing Providers to submit Bid Proposals on how they intend to provide the Services and meet the Service Requirements set out in the Services Specification.

#### **4.3 Evaluation Process**

The AWP process is fair, open and transparent process with Potential Providers submitting Bids to demonstrate that they meet the appropriate competencies, quality and safety standards of service provision.

During the Tender Period any queries or clarification questions in relation to the Tender Documents must be submitted and emailed to [pbctenders@brentpct.nhs.uk](mailto:pbctenders@brentpct.nhs.uk) at NHS Brent PCT by deadline of 15<sup>th</sup> September 2009. Brent PCT will respond to all clarification questions and publish on their website by 18<sup>th</sup> September 2009 and responses to all the questions issued by email to all Bidders who expressed interest in submitting a Bid by the due date. Any Clarification questions received after this deadline will be rejected.

The Stage 1 and Stage 2 Bid Submissions will be evaluated and assessed by an Evaluation Panel in accordance with the Evaluation Criteria set out in the Tender Documents. NHS Brent has set minimum standards which must be achieved by Potential Willing Providers at Stage 1 of 65% of the overall score. Additionally some of the Stage 1 sections and questions are on the basis of 'pass' or 'fail'. Potential Willing Providers must pass all these sections. If they fail at any of these sections then their Bid will be rejected, even if their overall score exceeds the minimum standard of 65%. Potential Willing Providers who do not achieve these minimum standards at Stage 1 will be rejected and will not have their Bids considered and evaluated at Stage 2. Similarly, NHS Brent has set minimum standards which must be achieved by Potential Willing Providers at Stage 2 of 65% of the overall score. Additionally some of the Stage 2 sections and questions are on the basis of 'pass' or 'fail'. Potential Willing Providers must pass all these sections. If they fail at any of these sections then their Bid will be rejected, even if their overall score exceeds the minimum standard of 65%.

At the end of the process the Potential Willing Providers who submitted a Bid, will be informed whether or not they have been successful.

During the evaluation and Assessment process, NHS Brent may, contact any or all of the potential Willing Providers to clarify any of their Stage 1 Bid Submission. The responses will be taken into consideration in the evaluation and assessment process.

As part of the evaluation and Assessment process NHS Brent's, may invite Providers to attend an interview with the Evaluation Panel to present and clarify their Bid Submission.

#### 4.4 Procurement Timeline

The timeline for the NHS Brent GP direct access Community based Physiotherapy Services is summarised and set out in table 1 below. . It should be noted that the dates indicated are those expected at the time of issuing this MOI and may be subject to change at NHS Brent's discretion.

**Table 1: Indicative Timetable for AWP Procurement**

<b>Milestones</b>	<b>Timescales Days (working days)</b>	<b>Date</b>
AWP MSK Advert published electronically on Supply to Health website. MOI Published and Procurement Documents Published (on PCT Website: <a href="http://www.brentpct.nhs.uk">www.brentpct.nhs.uk</a> .Tender submissions invited from local registered providers	<b>1 Day</b>	<b>7<sup>th</sup> September 2009</b>
Tender Period – 3 weeks	<b>15 Days</b>	<b>7<sup>th</sup> to 28<sup>th</sup> September 2009</b>
Clarification questions on Tender - deadline for receipt of potential Bidder Clarification Questions at NHS Brent	<b>1 Day</b>	<b>15<sup>th</sup> September 2009</b>
Response to Bidder Clarification questions and published on NHS Brent website	<b>1 Day</b>	<b>18<sup>th</sup> September 2009</b>
Deadline for receipt of Bids – (40 days is max period) Stage 1 Submission & all required information Stage 2 submission & all relevant documentation	<b>1 Day</b>	<b>25<sup>th</sup> September 2009 12:00 noon</b>
Evaluation of the Bids - Stage 1 submission and Stage 2 submission for potential Willing Providers for the Services.	<b>5 Days</b>	<b>2<sup>nd</sup> October 2009</b>
Prepare Evaluation Report	<b>1 Day</b>	<b>6<sup>th</sup> October 2009</b>
<i>PCT SRO approval of recommended accredited providers to AWP list. (40 days max from receipt of Bids)</i>	<b>1 Day</b>	<b>October 2009</b>
Inform successful and unsuccessful providers of outcome	<b>1 Day</b>	<b>October 2009</b>
Procurement Requirement - Alcatel - Ten day stand down period after decision	<b>10 days</b>	<b>October - November 2009</b>
Prepare contracts and issue to Willing Providers	<b>10 Days</b>	<b>October / November 2009</b>
Contracts Signed and exchanged	<b>5 Days</b>	<b>November 2009</b>
Providers Placed on 'Willing Provider' List	<b>1 Day</b>	<b>November 2009</b>
Publish 'Willing Provider' List and notify PBC / GP cluster	<b>1 Day</b>	<b>November 2009</b>
Service Start Date – 21 days lead in time	<b>3 weeks</b>	<b>November / December 2009</b>

#### 4.5 Advert

Adverts have been published by NHS Brent at [www.brentpct.nhs.uk](http://www.brentpct.nhs.uk) and at [www.supply2health.nhs.uk/](http://www.supply2health.nhs.uk/) for the AWP Procurement of the GP Direct Access Community based Physiotherapy Services.

NHS Brent wishes to encourage competitive Bids from as wide a range of potential Willing Provider organisations as possible. All Potential Willing Providers must register their interest in Tendering with NHS Brent to obtain the Tender Documents. A reference number will be provided to all parties who note interest and this reference number must be included in the Tender Submission Documents.

The Tender Documents will provide potential Willing Providers with sufficient information on the Services, Requirements, Commercial Framework and Contract Terms and Conditions to enable them to make an informed decision about whether they wish to Bid for the Services. The Bids must be submitted to NHS Brent by 12 noon on the closing date 25<sup>th</sup> September 2009.

## 5 Commercial Framework

NHS Brent has set the following commercial framework for Potential Willing Providers:

### 5.1 Contract

NHS Brent PCT will enter into a contract with the successful Willing Provider(s) based on the Standard NHS Contract for Community Services. This contract sets out the standard terms and conditions. The Willing Provider(s) shall accept the terms and conditions set out in the standard contract and no derogations, amendments qualifications or deletions will be accepted and where these form part of the Bid Submission(s) the Bid(s) will be rejected.

### 5.2 Contract Duration

The Kilburn MSK Pilot Project contract with Willing Providers will be for an initial duration of 12 months. NHS Brent reserves the right and the option to terminate the pilot project at the end of the 12 months period or to extend it for a further period of 12 or 24 months. The overall contract duration will not exceed 3 years.

### 5.3 Price

NHS Brent has selected the Price Range Option and has set the limits for acceptable price range within the Tender Documents and Willing Provider's must submit Bids within this range.

Potential Willing Provider's who submit bids above or below the acceptable price range may be rejected. The price range specified should be per unit of activity, not a global contract price, in keeping with the principle of no contractually guaranteed payment.

### 5.4 Financial Evaluation

The Financial price elements of the Bid Submissions will be evaluation in according with the following formula:

- Where  $P_T \geq 1.5 P_M$  the bid will score 0 out of 40 on price.

$$P_S = 20 + \left( 40 \times \left( \frac{P_M - P_T}{P_M} \right) \right)$$

- Where  $P_T \leq 0.5P_M$  the bid will score 40 out of 40 on price.

KEY	
	$P_S$ = Price Score out of 40 marks
	$P_M$ = Mean Price (calculated by summing the values of all the bids together and dividing by the number of bids)
	$P_T$ = Tendered Price (i.e. the price currently being scored)

Regardless of the above, formula NHS Brent reserves the right to return all or a selection of bids if it thinks that the prices submitted do not represent value for money.

### 5.5 Contract Award

Based on the outcome of the NHS Brent Stage 1 and Stage 2 evaluation, up to a maximum of five Willing Providers for each of the Services will be recommended to the PCT Project Board for inclusion on the Approved Willing Provider lists.

Following the NHS Brent Board approval, NHS Brent and the recommended Willing Providers will enter into the Standard Form of NHS Contract for Community Services. This will then enable the PBC Cluster to select suitable Providers from the Approved List of Providers, based on the pre-agreed terms and conditions and commercial framework. NHS Brent will not guarantee any activity or payment under these contracts or accept any liability for the Willing Provider Business operations. Payment will only be made where there is evidence that actual activity has been undertaken.

#### **5.6 Service Commencement**

The Willing Provider List will go Live and become active twenty-one days after the Contract award, date and all the Willing Providers will need to be available and ready to commence the Services on this date.

#### **5.7 Payment**

Payment to a Willing Provider will be on a cost and volume basis with no guarantee of activity levels.

The Provider shall be required to raise invoices monthly for all activity by GP to the relevant GP Practices. The GP practices will then review the invoices and issue to the NHS Brent NHS BRENT on a monthly basis for payment. NHS BRENT intends to pay Willing Providers in accordance with the terms of the contract and the spirit of the Public Sector Payment Policy.

#### **5.8 Financial Standing**

The financial standing of the potential willing Providers will be assessed at Stage 1 of the Bid process.

#### **5.9 Insurance**

Providers shall submit details of their Insurance cover in relation to professional indemnity insurance, public and product liability insurance, employer's liability insurance and premises insurance with their Bid submission and these will be evaluated at Stage 1.

Providers to provide evidence and ensure that the following insurance requirements are achieved:

- Valid Insurance Cover and copies of Insurance Policy Documents and Certificates to protect and ensure that NHS Brent interests are fully protected;
- Valid Insurance Cover and copies of Insurance Policy Documents and Certificates to ensure that Members of the public utilising the provider's premises and services are fully protected to the extent that they have a valid claim against the Provider and / or PCT; and
- The Provider maintains insurance which meets at least the minimum statutory requirements.
- Providers will be required to indemnify the PCT against any claims that may be made against the PCT arising from the provision of the GP Direct Access Community Physiotherapy Services by the Provider.
- NHS Brent will expect the Provider(s) to offer evidence that they have sourced appropriate (and sufficient) insurance or other arrangements. For the avoidance of doubt, this will include provisions for clinical negligence insurance covering all staff and operational risk in the facilities from which the Provider's services are to be provided.

### **5.10 Procurement Costs**

The Potential Willing Providers will be responsible for their own costs incurred throughout each stage of the NHS Brent Procurement process. Neither NHS Brent nor Kilburn PBC Cluster will be responsible for any costs including without limitation legal or other professional fees incurred by any relevant organisation or any other person through this process.

### **5.11 The Public Contract Regulations 2006**

GP Direct Access Community Physiotherapy Services to which this MOI relates fall within Part B of Schedule 3 to the Public Contracts Regulations 2006 (**"the Regulations"**) and Annex II B to Council Directive 2004/18/EC. Neither the inclusion of a Bidder selection stage nor any other indication shall be taken to mean that NHS Brent intends to hold itself bound by any of the Regulations, save those applicable to Part B services.

### **5.12 Conflicts of interest**

In order to ensure a fair and competitive procurement process, NHS Brent requires that all actual or potential conflicts of interest that a potential Bidder may have are identified and resolved to the satisfaction of NHS Brent.

Potential Providers should notify NHS Brent of any actual or potential conflicts of interest in their Stage 1 Submission. If the potential Provider becomes aware of an actual or potential conflict of interest following submission of Stage 1 and Stage 2 tender documentation it should immediately notify NHS Brent via email to [pbctenders@brentpct.nhs.uk](mailto:pbctenders@brentpct.nhs.uk). Such notifications should provide details of the actual or potential conflict of interest.

If, following consultation with the potential Providers, such actual or potential conflict(s) are not resolved to the satisfaction of NHS Brent, then NHS Brent reserves the right to exclude at any time any potential Provider from the NHS Brent Procurement process should any actual or potential conflict(s) of interest be found by NHS Brent to confer an unfair competitive advantage on one or more potential Provider(s), or otherwise to undermine a fair and competitive procurement process.

### **5.13 Non-collusion and Canvassing**

Each potential Provider must neither disclose to, nor discuss with any other potential Provider (whether directly or indirectly), any aspect of any response to any NHS Brent Procurement documents (including Stage 1 and Stage 2).

Each potential Provider must not canvass or solicit or offer any gift or consideration whatsoever as an inducement or reward to any officer or employee of, or person acting as an adviser to, either the NHS or the DH in connection with the selection of Providers or the Provider in relation to the NHS Brent Procurement.

Providers are required to complete a declaration of 'non-collusion' contained in the Stage 1 evaluation.

If a potential Provider is found to have colluded with any party in respect to their bid then they will be excluded from the tender process. If such collusion comes to light after the provider has been accepted onto the Approved List then they will be removed from that list.

#### **5.14 Freedom of Information**

NHS Brent is committed to open government and meeting its legal responsibilities under the Freedom of Information Act (**FOIA**). Accordingly, any information created by or submitted to NHS Brent (including, but not limited to, the information contained in the MOI, service specification, Stage 1 and Stage 2 submissions and clarification questions and answers) may need to be disclosed by NHS Brent in response to a request for information.

In submitting Stage 1 & 2 documentation or corresponding with the PCT at any stage of the NHS Brent Procurement, each potential Provider and each relevant organisation acknowledges and accepts that NHS Brent may be obliged under the FOIA to disclose any information provided to it:

- Without consulting the potential Provider ; or
- Following consultation with the potential Provider and having taken its views into account.

Potential Providers must clearly identify any information supplied in response to the NHS Brent Scheme Stage 1 and Stage 2 that they consider to be confidential or commercially sensitive and attach a brief statement of the reasons why such information should be so treated and for what period.

Where it is considered that disclosing information in response to a FOIA request could cause a risk to the procurement process or prejudice the commercial interests of any potential Provider, NHS Brent may wish to withhold such information under the relevant FOIA exemption.

However, potential Providers should be aware that NHS Brent is responsible for determining at its absolute discretion whether the information requested falls within an exemption to disclosure, or whether it must be disclosed.

Potential Providers should therefore note that the receipt by NHS Brent of any information marked "confidential" or equivalent does not mean that NHS Brent accepts any duty of confidence by virtue of that marking, and that NHS Brent has the final decision regarding the disclosure of any such information in response to a request for information.

#### **5.15 Disclaimer**

The information contained in this MOI is presented in good faith and does not purport to be comprehensive or to have been independently verified.

NHS Brent, Kilburn PBC Cluster, nor any of their advisers accept any responsibility or liability in relation to its accuracy or completeness or any other information which has been, or which is subsequently, made available to any potential Provider, Clinical Services Supplier, financiers or any of their advisers, orally or in writing or in whatever media.

Interested parties and their advisers must therefore take their own steps to verify the accuracy of any information that they consider relevant. They must not, and are not entitled to, rely on any statement or representation made by NHS Brent, the DH or any of their advisers.

This MOI is intended only as a preliminary background explanation of NHS Brent PCTs activities and plans and is not intended to form the basis of any decision on the terms upon which NHS Brent PCT will enter into any contractual relationship.

NHS Brent reserves the right to change the basis of, or the procedures (including the timetable) relating to, the NHS Brent Procurement process, to reject any, or all, of the Stage 1 and Stage 2 bids, not to invite a potential Provider to proceed further, not to furnish a potential Provider with additional information nor otherwise to negotiate with a potential Provider in respect of the NHS Brent Procurement.

NHS Brent shall not be obliged to appoint any of the Providers and reserves the right not to proceed with the NHS Brent Procurement, or any part thereof, at any time.

Nothing in this MOI is, nor shall be relied upon as, a promise or representation as to any decision by NHS Brent in relation to this NHS Brent Procurement. No person has been authorised by NHS Brent or its advisers or consultants to give any information or make any representation not contained in this MOI and, if given or made, any such information or representation shall not be relied upon as having been so authorised.

Nothing in this MOI or any other pre-contractual documentation shall constitute the basis of an express or implied contract that may be concluded in relation to the NHS Brent Procurement, nor shall such documentation/information be used in construing any such contract. Each potential Provider must rely on the terms and conditions contained in any contract when, and if, finally executed, subject to such limitations and restrictions that may be specified in such contract. No such contract will contain any representation or warranty in respect of the MOI or other pre-contract documentation.

In this section, references to this MOI include all information contained in it and any other information (whether written, oral or in machine-readable form) or opinions made available by or on behalf of NHS Brent, DH or any of their advisers or consultants in connection with this MOI or any other pre-contract documentation.

## **6 Clinical Governance and Administration**

### **6.1 Clinical**

NHS Brent is seeking Providers registered with the Care Quality Commission, Health Professionals Council and the Chartered Society of Physiotherapy with the necessary capacity and capability (or a demonstrable ability to provide the necessary capacity and capability) to deliver high quality, patient-centred, local services close to the PBC Cluster which deliver value for money for GP Direct Access Community based Physiotherapy Service, delivered in a safe, clean and effective manner and through a learning environment. The Service specification is included in Annex B.

### **6.2 Engagement**

NHS Brent and the PBC will lead on all local stakeholder engagement issues.

### **6.3 Policies and Strategies**

Providers will be required to provide evidence in their Bid Submission that all proposed workforce policies, strategies, processes and practices comply with all the relevant employment legislation applicable in the UK and in addition comply with the provisions outlined in:

- Safer Recruitment – A Guide for NHS Employers (May 2005);
- The Code of Practice for the International Recruitment of Healthcare Professionals (December 2004) (the Code of Practice); and
- Standards for Better Health (April 2006).

### **6.4 Pensions**

Potential Willing Providers will be responsible for the employment, health and welfare of their staff including but not limited to Pension provisions. In the Bid submission it should be assumed that the Willing Provider's staff would not be able to participate in NHS pension and injury benefit arrangements. The only exception to this is if the Provider is an organisation that meets eligibility conditions for PMS or GMS contracting and staff meet eligibility conditions for the NHS Pension Scheme.

### **6.5 TUPE Regulations**

This is a new Service and there are no TUPE transfers associated with these Services. The Willing Provider shall be responsible for all their staff and NHS Brent will not accept any liability in relation to these matters in the procurement of these Services or any potential future Tendering or procurement of Services.

### **6.6 Training and Development of Staff**

The Willing Provider(s) must ensure that their staff have the appropriate skills and experience to meet the relevant clinical standards required by the Chartered Society of Physiotherapy and that they support their training and development. If required by NHS Brent, be prepared to provide and / or accommodate training, education and development for referring clinicians to facilitate high quality management of referrals in Primary Care and to support appropriate referrals to the service.

## **7 Premises, Facilities Management & Equipment**

### **7.1 Premises**

Providers must make their own arrangements with regards to securing suitable premises local within easy access of at least one Kilburn PBC Cluster Practice. NHS Brent will visit any proposed premises or facilities as part of the evaluation process to check that they meet Health & Safety, Disability Discrimination Act (DDA) and Infection Control standards.

NHS Brent reserves the right to visit premises or facilities of any provider accepted to the ANY Willing Provider AWP list. Should the inspection result in the premises or facilities being considered to be below the minimum standards required by NHS Brent then, the Provider may be suspended from the AWP list until the appropriate remedial action outlined by NHS Brent has been carried out to NHS Brent's satisfaction, in accordance with the terms and conditions set out in the Contract. Failure to carry out such remedial action to NHS Brent's satisfaction may result in a provider being removed from the AWP list permanently.

NHS Brent will not be liable for any costs relating to premises or facilities management as this will be included in the cost per unit agreed in the contract with all the Providers.

### **7.2 Equipment**

Providers will be responsible for the provision, maintenance, servicing and replacement of all the equipment, unless there are compelling reasons in respect of the NHS Brent why this would not be the optimum equipment solution.

### **7.3 IM&T**

The provision of IM&T hardware and software is the responsibility of the potential Willing Provider. NHS Brent is not mandating any IM&T hardware or software requirements for the pilot but potential Willing Providers will have to supply such equipment and systems such that NHS Brent is convinced that the provider will be able to work to NHS information management standards and provide the service evaluation data, KPI's and minimum data sets as required by the PCT or PBC cluster.

## **8 CONTRACT MANAGEMENT and MONITORING**

### **8.1 Referrals to service**

The GP practices in the Kilburn Cluster will refer patients to the Services. The Patients will then choose the Provider on the basis of patient choice. As part of the contract management the Services will be monitoring process. Providers will be required to submit monthly activity reports. The contracts will be monitored by the NHS Brent, the PBC and the GP's on an ongoing basis with patient feedback at key stages of the process.

Willing Provider's will not be able to refer patients' to primary or secondary care services. They will only be able to refer patients' back to their GP either on completion of the course of treatment or with a letter setting out the reasons for referral back to their GP.

### **8.2 Monitoring**

NHS Brent will manage, monitor and report on the service at any point during the contract period and reserves the right to make decisions on the sustainability of the services based upon the outcomes including changes to the scope terms of the service provided or period of the contract.

## **ANNEXES**

- A. NHS BRENT AND KILBURN CLUSTER INFORMATION**
- B. SERVICES SPECIFICATIONS**
  - a. TENDER A – ADULT AND PAEDIATRICS (8+) MUSKULOSKELETAL**
  - b. TENDER B – WOMENS HEALTH PHYSIOTHERAPY**
- C. PERFORMANCE FRAMEWORK MINIMUM DATA SET**
- D. STAGE 1 CORE REQUIREMENTS DOCUMENT**
- E. STAGE 2 CORE REQUIREMENTS DOCUMENT**
- F. STAGE 1 ASSESSMENT AND EVALUATION DOCUMENT**
- G. STAGE 2 ASSESSMENT AND EVALUATION DOCUMENT**

## **ANNEXES**

### **A. NHS BRENT AND KILBURN CLUSTER INFORMATION**

## **ANNEXES**

### **B. SERVICES SPECIFICATIONS**

#### **TENDER A – ADULT AND PAEDIATRICS (8+) MUSKULOSKELETAL**

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### **B. SERVICES SPECIFICATIONS**

#### **TENDER B – WOMENS HEALTH PHYSIOTHERAPY**

## **ANNEXES**

### **C. PERFORMANCE FRAMEWORK MINIMUM DATA SET**

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### **D. STAGE 1 CORE REQUIREMENTS DOCUMENT**

## **ANNEXES**

### **E. STAGE 2 CORE REQUIREMENTS DOCUMENT**

## **ANNEXES**

### **F. STAGE 1 ASSESSMENT AND EVALUATION DOCUMENT**

## **ANNEXES**

### **G. STAGE 2 ASSESSMENT AND EVALUATION DOCUMENT**

## **ANNEXES**

### **H. NHS STANDARD COMMUNITY SERVICES CONTRACT**