

## Elective Outpatients and Day case Procurement at the Nottingham Treatment Centre

### Purpose of briefing

- To provide as much information as possible regarding a legal challenge to the procurement of services at the Nottingham Treatment Centre
- To provide an update on the procurement of the Treatment Centre and to provide assurance on actions being taken to maintain services for patients
- To provide an overview of the coverage in the media

**Please note that due to the ongoing procurement exercise and other reasons of confidentiality we are only able to share limited information about the legal challenge and our analysis of potential impact.**

### Context

The Nottingham Treatment Centre has been operated by Circle Nottingham Ltd since opening in 2008. Their current contract was awarded in July 2013 for five years, expiring on 31 July 2018.

Currently Circle offers a variety of services including outpatients, surgical theatres and dedicated diagnostic facilities such as scans and x-rays. In addition, the centre has some inpatient beds for patients who have undergone surgery and cannot go home that night.

### 2018 Procurement

The contract was retendered by the Greater Nottingham Clinical Commissioning Partnership in January 2018 then reissued in February 2018 with a deadline for submissions of the 7 March 2018.

The scope of services outlined in the Invitation to Tender (ITT) covers the following specialties:

- |                         |                    |
|-------------------------|--------------------|
| • Colorectal Surgery    | • Vascular Surgery |
| • Dermatology           | • Endocrinology    |
| • Gastroenterology      | • General Surgery  |
| • Gynaecology           | • Hepatology       |
| • Rheumatology          | • Respiratory      |
| • Trauma & Orthopaedics | • Urology          |

Based on the current contract it is anticipated that the service provision resultant of this procurement will have an annual agreement of approximately £50m.

As part of the bidding process providers were required to submit transformation plans to demonstrate how they will reduce activity in line with wider transformation plans to develop a local Integrated Care System (ICS). These plans could include innovations in clinical practice, improving the quality and responsiveness of service user care and reducing unwarranted clinical variation.

Service specifications were developed with local GPs and specialist clinicians, as well as public health professionals and with advice from relevant professional bodies.

Circle Nottingham Ltd confirmed their intention to withdraw from the competitive process in a letter to NHS Rushcliffe CCG on the 16 March. Bids from other providers were received and the evaluation and moderation process on these bids has been carried out.

### Circle legal challenge

Circle Nottingham Ltd issued two sets of proceedings against NHS Rushcliffe Clinical Commissioning Group at the end of March on the basis of procurement law and by way of Judicial Review. Proceedings are sealed and therefore confidential to the court and the two parties involved.

### CCG Actions & Next Steps

Our priority is to ensure continuity of services for patients and this is being considered in relation to both the legal challenge and how we can proceed with the procurement.

### Media coverage

Colleagues may note the following press coverage regarding the formal legal challenge and current media statement on behalf of the Greater Nottingham Clinical Commissioning Partnership.

- Nottingham Post, 26 March

The following coverage includes statements by Circle Nottingham Ltd describing their reasons for withdrawing from the bid.

[Provider withdraws from bidding to run NHS treatment centre for first time in decade](#)

- Health Service Journal, 27 March

‘Circle threatens legal action over £150m treatment centre procurement.’ (Link unavailable)

- Financial Times, 3 April

[‘Circle Health to launch legal challenge over NHS tender’](#)

Article describes national context of the legal challenge using comparisons to claims brought by private sector providers against NHS bodies regarding contracts.

- BMA online, 9 April

[Private firm Circle withdraws treatment centre bid](#)

Article highlights that the treatment centre could ‘be handed back to the NHS’ following

withdrawal of the bid by Circle Nottingham Ltd.

- Statement on behalf of the Greater Nottingham Clinical Commissioning Partnership:

*“The Procurement has been advertised in accordance with procurement law and has had the benefit of extensive clinical input. The procurement is for a range of elective care treatments historically provided at the Treatment Centre.*

*“As a result of the legal proceedings no announcement will be made regarding the procurement process at this time.”*