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Mrs Sally Cheshire
Chair
NHS North West
4th Floor
3, Piccadilly Place
Manchester, M1 3BN

29 MAR 2011

Dear Mrs. Cheshire,

I am writing regarding the outcome of the investigation by the Cooperation and Competition Panel (the Panel) into the procurement practices of the North West Specialised Commissioning Group (NWSCG) following a complaint raised by Hanover Healthcare.

Given the facts of the case, I agree with the conclusion drawn by the Panel that the use of an exclusive framework for four years is inconsistent with the Principle and Rules for Cooperation and Competition. I would therefore ask the SHA to review the operation of the NWSCG framework for medium and low secure mental health services and take action to ensure that the arrangements are acting in the best interests of patients and the taxpayer in accordance with the recommendations set out by the Panel. In particular:

- put in place a mechanism to periodically undertake a market analysis against identified service needs analysis (at least every two years) and thereafter acquire the relevant services from providers whether or not they are admitted to the Framework Agreements, thereby ensuring improved services offers can be taken advantage of, including those from new entrants;
- undertake mini competitions between providers on the Framework where it is considered this could provide better value or quality and where this is practicable (transaction costs are not disproportionate) and does not adversely affect patient safety. The Panel recognised this is not suitable for urgent placements, NWSCG should set out proportionate timescales eg where there is period of a month before a placement is required;

- ensure transparency and publish the details of contracts on its website and keep accurate records as per the Panel's recommendation (iii); being mindful of commercial confidentiality and that information should not be presented in such a way that could allow agreements between providers that are not in patients' or taxpayers' interests.
- use a similar approach in taking forward future framework agreements by considering the advice and findings of the Panel and also any relevant advice and guidance from other competition authorities, to ensure these do not raise competition concerns, and set out this approach publicly, eg on the NWSHA website.

Department officials have also been considering the impact of the Panel's recommendations on current and future policy. I am clear that in accepting the Panel's recommendations there is no question of the value of framework agreements generally as a tool for commissioners in reducing transaction costs in contracting with multiple providers. The Panel's report does not say that framework agreements are anti-competitive, but rather that the level of exclusivity in this case was not acceptable.

The SHA should inform Hanover Healthcare of the arrangements set out in this letter.

Yours sincerely,

Earl Howe

EARL HOWE

Cc Lord Carter, Chair of the Cooperation and Competition Panel