

## Statement on Mental Health Awards

Following the announcement of the provisional Mental Health contract awards we have received a number of queries from both providers and representative bodies.

In order to deal with these queries and clarify how awards have been made we have summarised the most common issues arising into the following Q&A.

The Mental Health Information for Applicants (IFA) sets out in detail the procurement process which was followed.

### ***1. I have received a lot less matter starts than I tendered for. Why is this?***

The amount of work available for providers to tender for was based on historic demand for mental health services, taking into account a predicted increase in demand due to recent legislation (Mental Health Act 2007 and Mental Capacity Act 2005). In Mental Health Services for Strategic Health Authorities we invited tenders for 39,050 matter starts; around 1,500 more than were available in 2009/10. We received tenders to deliver approximately 96,500 matter starts. This overall amount tendered for was reduced to 91,650 after the 'capacity cap' of 150 matter starts per Full Time Equivalent (FTE) caseworker (Section 10 of the IFA) was applied but there remained significantly more work tendered for than available.

As confirmed in the consultation response (Civil Bid Rounds) the invitation to tender to deliver mainstream MH services was not a competitive tender.

Our approach was based on a pro rata allocation of matters for those tenders successfully passing the Pre Qualification Questionnaire and Essential Criteria. Since the invitation to tender was over-subscribed in all Procurement Areas (PAs) this resulted in all Applicant Organisations (except those tendering for the minimum tender size of 30 matter starts) receiving less than they had tendered for.

### ***2. I delivered 1500 matter starts last year from my London office but have received an allocation for less than half of that***

In some areas we had a significant increase in the numbers of 'new' providers. By this we mean providers who had not previously held a contract to deliver publicly funded Mental Health services (see *table below*). This was particularly evident in London:

Procurement Area	provisional no. successful applicants	no. new entrants	Total NMS requested	Total NMS capped at 150 NMS/FTE staff member	Total NMS provisional awarded <sup>1</sup>	Published procurement plan allocations
East Midlands	21	2	5073	4749	2840	2840
East of England	33	5	10051	9539	3423	3420
London	67	34	38235	35577	9940	9940
North East	13	0	2970	2890	1800	1800

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<sup>1</sup> Please note, divergence from published procurement plan allocations is due to rounding errors

North West	30	4	9978	9700	5553	5550
South Central	22	4	4370	4297	2150	2150
South East Coast	19	4	5332	5261	2409	2410
South West	21	4	4410	3810	2329	2330
Wales	17	4	2936	2874	1847	1850
West Midlands	20	3	6906	6747	3128	3130
Yorkshire and Humber	25	4	6298	6205	3631	3630
<b>Total</b>	<b>N/A</b>	<b>N/A</b>	<b>96559</b>	<b>91649</b>	<b>39042</b>	<b>39050</b>

Please note that previously, numbers of matter starts have been procured or allocated based on matter starts delivered from provider's office locations, though they may have been delivered to clients at some distance from that office.

In this invitation to tender process the total available matter starts for each PA were calculated in proportion to historic client demand for services in each PA in order to better match supply to demand and improve access. This has had a particular impact on London because providers are disproportionately concentrated there by comparison with client location. Combining this with the largest number of new entrants in any PA has resulted in London being the most over-subscribed PA. Consequently, Applicant Organisations' allocations of matter starts in London maybe less than the numbers tendered for compared with other PAs.

**3. *What further verification checks are you undertaking and will this mean that further matter starts will be available? What happens if I run out of matter starts and can't help vulnerable existing clients?***

We have previously said that we will carry out a verification exercise against all successful Applicant Organisations 8 weeks before the start of the contract to ensure that information provided in tenders remains correct. We will adjust matter starts if actual staffing levels do not correspond with the capacity test (Section 10.9 of the iFA).

We cannot confirm at this stage the approach we would take to reallocation since it will depend on the scale of the issue and other considerations such as local access.

The 2010 Standard Civil Contract Specification makes provision for the allocation of supplementary matter starts through contract management. Whilst we believe the total allocation of matter starts for each PA is an accurate prediction of demand, we may for example award additional matter starts if there is evidence of unmet need for services and our Controlled Work budget can accommodate it.

**4. *What are the allocations for other organisations in my PA?***

We intend to confirm the final awards made once the tender process (include any appeals) has concluded.

**5. *Why is my allocation as a percentage of my original bid size smaller/different than other organisations in my PA?***

The allocation methodology for Strategic Health Authorities is detailed at Section 10 of the IFA and this was the process that was followed when allocating matter starts. There are a number of considerations that have caused variation between successful organisations when comparing allocation as a percentage of original tender size:

- 1) Tenders were capped using the 150 NMS/FTE staff member maximum capacity cap. Therefore the original tender size was not necessarily the number used in the calculations.
- 2) All successful organisations were first allocated 30 matter starts before the remaining available matter starts were divided up on a pro rata basis. This means that the pro rata allocations were based on the difference between 30 and the capped tender size rather than the original tender sizes.
- 3) All allocations were rounded to the nearest single matter start.

Therefore, comparing allocation as a percentage of original tender size between organisations is not a meaningful analysis.

**6. *Why have matter starts gone to new entrants when I am already set up to deliver the service?***

Invitations to tenders must be open, fair and transparent, which includes ensuring it is open to new entrants and not just to existing providers.

We have used the information provided by Applicant Organisations to ensure that all those who are awarded contracts meet our minimum requirements as set out in the Pre-Qualification Questionnaire and Essential Criteria. As detailed in response to question 3., we will carry out a verification exercise 8 weeks before the contract starts to ensure that this information remains correct.

**7. *Why is the LSC reducing our matter start allocation when demand is increasing?***

As detailed in response to question 1., we have increased the total number of matter starts available in order to reflect a recent and predicted future increase in demand. Whilst individual organisations may have received an allocation smaller than that which they received in 2009/10 we have been successful in allocating an increased volume of matter starts, as we set out to do.

Additionally, organisations should bear in mind the change from allocating according to provider location to allocating according to location of client demand. Whilst some organisations may have received a reduced allocation in the PA where their main office is located (e.g. London) this may be partially or completely offset by a new allocation in other PAs where they carry out their work.

**8. *What are the next steps, particularly for those who have received far less than anticipated and may have to lay off staff? Is there a right of appeal against matter starts allocations?***

As set out in the IFA at Section 10.20 onwards, there is no right of appeal against matter starts allocations.

The tender process is still ongoing, and we will aim to complete the remaining activities according to the following timetable:

Activity	Timescale
Deadline for submission of appeals from those Applicant Organisations unsuccessful following assessment of the Strategic Health Authorities ITT	24 June 2010
Notification of decision on appeal	25 July 2010
Applicant Organisations notified of outcome of tender process in High Security Hospitals	08 August 2010
Deadline for submission of appeals from those Applicant Organisations unsuccessful following assessment of the High Security Hospitals ITT	22 August 2010
Notification of decision on appeal	13 September 2010
2010 Standard Civil Contract including Schedules issued to successful Applicant Organisations	<b>September 2010</b>
Contract start date	<b>14 October 2010</b>

**9. When does the contract run from until?**

In a change to our contract timetable, the new contract year will run from 14 October 2010 – 13 October 2011. The contract is for 3 years.

**10. The 2010 Standard Civil Contract includes a right to request formal review of matter starts allocation at section 27.4. Given there is no right of appeal, can we use this clause to review matter starts allocations now?**

Currently, the tender process is still ongoing hence the process is governed by the Terms and Conditions set out in the IFA. Contracts have not yet been signed and so are not in force.