



West Yorkshire & Harrogate Joint Committee of Clinical Commissioning Groups

Summary report			
Date of meeting: 12 th January 2021		Agenda item: 07/21	
Report title:	Commissioning Out of Hours Primary Medical Care Services across West Yorkshire 2021 to 2024		
Joint Committee sponsor:	Carol McKenna, Chief Officer, Greater Huddersfield CCG Pat Keane, Joint SRO WY&H UEC Programme		
Clinical Lead:	Dr Adam Sheppard, Chair WY&H UEC Programme Board		
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Presenter:	Martin Pursey, Head of Contracting & Procurement, Greater Huddersfield CCG Pat Keane, Joint SRO WY&H UEC Programme		
Purpose of report: (why is this being brought to the Committee?)			
Decision	✓	Comment	
Assurance			
Executive summary			
<p>West Yorkshire Urgent Care (WYUC) provided by Local Care Direct (LCD) provides GP Out of Hours services to all CCGs in West Yorkshire with a core contract value of £19.2m p.a. The current contract expires at the end of March 2021. The work that was planned earlier this year to understand what would be required from April 2021 has been effectively put on hold since the start of the pandemic.</p> <p>LCD has long been seen as a key partner in the system's integrated urgent and emergency care space and during the Covid response this has been highlighted. With the continuing response to the pandemic; the level of LCD integration in our system; changes driven by national policy i.e. NHS111 First, Extended Access; and potential changes to the commissioner landscape with the emphasis on provider partnership working, we are not in a position to be clear about what should be commissioned and therefore offered to the market.</p> <p>Clearly there is a requirement to secure continuity of service from the 1st April 2021 but rather than continue a high level of uncertainty to LCD and system planning it is proposed that we make a pragmatic decision to extend the service for a further 3 year period allowing commissioners to understand and complete their intentions and requirements and also provide LCD with a more resilient and sustainable contract position.</p> <p>The Committee is being asked to approve a direct award of contract to allow Greater Huddersfield CCG to put the arrangements in place</p>			

Recommendations and next steps

It is recommended that the Committee:

- note the contents of this paper
- considers the proposed approach, associated risk and mitigation of risk
- approve the direct award of contract and provide authority to Greater Huddersfield CCG on behalf of West Yorkshire CCGs to negotiate an extension to the current service from LCD for the period 1st April 2021 to 31st March 2024 and publish an appropriate notice stating the commissioners' intentions to directly award a contract to LCD.

Delivering outcomes: describe how the report supports the delivery of outcomes (Health and wellbeing, care and quality, finance and efficiency)

The continuing provision of the GP Out of Hours service has a key role in supporting the ICS to have a safe, effective integrated urgent and emergency care system operating allowing access to patients and service users across West Yorkshire. The provider through having the infrastructure to provide this service also supports wider associated partnership, integration and system developments.

Impact assessment (please provide a brief description, or refer to the main body of the report)

Clinical outcomes:	Performance indicators are contained within the contractual framework to ensure services are safe and responsive to service user needs
Public involvement:	Feedback and collection of survey data is referred to within the main body of the report
Finance:	Referred to within the main body of the report
Risk:	Risks are described in the main body of the report
Conflicts of interest:	None identified

Commissioning of Out of Hours Primary Medical Care Services across West Yorkshire 2021/24

1. Introduction

1.1 The purpose of this paper is to provide an update on the developments of the commissioning and contracting of the West Yorkshire Urgent Care (WYUC) GP out of Hours (GPOOH's) and Leeds Urgent Treatment Centre (UTC) contract post March 2021. This paper sets out the background, current position and proposed approach going forward in the context of:

- The changing NHS landscape as defined within the NHS Long Term Plan (LTP):
 - Primary Care Networks (PCN's)
 - Out of Hospital care
 - Urgent and Emergency Care (UEC)
- Placed based developments and integration across the West Yorkshire & Harrogate Integrated Care System (ICS) footprint
- The recent system response to and future recovery from the COVID-19 pandemic
- Risk in respect of Commissioners' compliance with both regulatory and legislative requirements.
- Service sustainability, quality, capability and affordability

2. Current Service Offer

2.1 WYUC is a GP led service, providing primary care services to the West Yorkshire population during the hours of 18:30 to 8am, weekdays and 24 hours on weekends and Bank Holidays. Local Care Direct (LCD) is the current contract holder for the provision of services with NHS Greater Huddersfield CCG as the lead commissioner and the remaining West Yorkshire CCG's as associates. LCD provides a variety of services other than GPOOH's on behalf of West Yorkshire commissioners, some of which are included in the overall GPOOH core contract. The service manages on average 260,000 cases per year. The table below details the 2020/21 contract funding allocation per CCG based on activity.

WYUC 2020/21 Contract Value CCG Breakdown	
Bradford CCG	£6,597,073
Calderdale CCG	£1,727,229
Greater Huddersfield CCG	£2,028,512
North Kirklees CCG	£1,327,309
Leeds CCG	£5,685,795
Wakefield CCG	£1,794,808
Total	£19,160,726

3. Contracting Background

3.1 The GPOOH contract originated via subcontract arrangements with Yorkshire Ambulance service (YAS) NHS Trust as the provider of the Yorkshire and Humber & Bassetlaw NHS111 Service.

3.2 Since March 2013 LCD have provided the service in conjunction with the YAS NHS 111 service contract, formally acknowledged as NHS 111 West Yorkshire Urgent Care (WYUC). This contract came to an end in March 2018 where WY commissioners took unanimous decisions to award the GPOOH element of the 111/ WYUC contract directly to LCD for a 1 year contract term. As result Greater Huddersfield CCG as lead

commissioner placed a Voluntary Ex Ante Transparency (VEAT) Notice advising the market that an 'interim' contract would be negotiated with the incumbent provider. This decision was recognised as a practical approach due to lack of clarity regarding the future delivery model for GPOOH's.

3.3 During the period of extension the procurement of the Integrated Urgent Care and Core Clinical Advisory Service (IUC & CAS) 111 services commenced. Following discussions commissioners felt they would be in a better position to commission the GPOOH service for the population of West Yorkshire by extending the service through a two year direct award of contract in order to:

- Ensure the new IUC service had time to embed to inform the requirements for a local Clinical Advice Service (CAS) in line with national policy expectations.
- Support ongoing developments in the WYUC contract between CCG's and LCD through a longer term contract
- Support provider development and allow for the implementation of the new proposed model for GPOOH during year 1 and allowing time to assess the impact in year 2 to inform further commissioning intentions. This would include consideration regarding the 3 distinct elements of the contract separately; GPOOH's, Clinical Assessment Service (CAS), and the Leeds Minor Injury Units (MIU's) and Urgent Treatment Centres (UTC's).
- Confirm placed based developments and the integration of urgent care services e.g. extended access and Primary Care Networks, and how these will impact on future West Yorkshire commissioning intentions and procurement options.

3.4 This decision was made with the recognition that it was not without risk of challenge to the commissioners, however; there has been no such challenge made in respect of the action taken.

4. 2019/20 Contract Term

4.1 Due to the service experiencing operational pressure since initiation, primarily as a consequence of significantly higher than forecast demand and striving to meet challenging performance targets within a constrained financial envelope, commissioners agreed additional funding as part of the negotiated 2 year contract. This included service development plans and new service models enabling systems to test new concepts and deliver elements of UEC reform and integrated care as set out in the NHS LTP such as:

- UTC designation in Leeds
- Local CAS
- GP streaming
- The implementation of new standard rates for GP's
- The implementation of a Multi-Disciplinary Team clinical workforce

4.2 The above elements were successfully executed and as a result commissioners were in better positions to understand the future delivery model. However; further work was required in understanding service interactions and connectivity with core primary care.

5. 2020/21 Contract Term

5.1 The delivery of WYUC in 2020/21 has to date been entirely overshadowed by the outbreak of the COVID-19 pandemic and more particularly the initial and continuing response to the pandemic. It is useful to note that LCD have responded to this well and have supported the system in many means such as the immediate shift of service delivery models across WY, including:

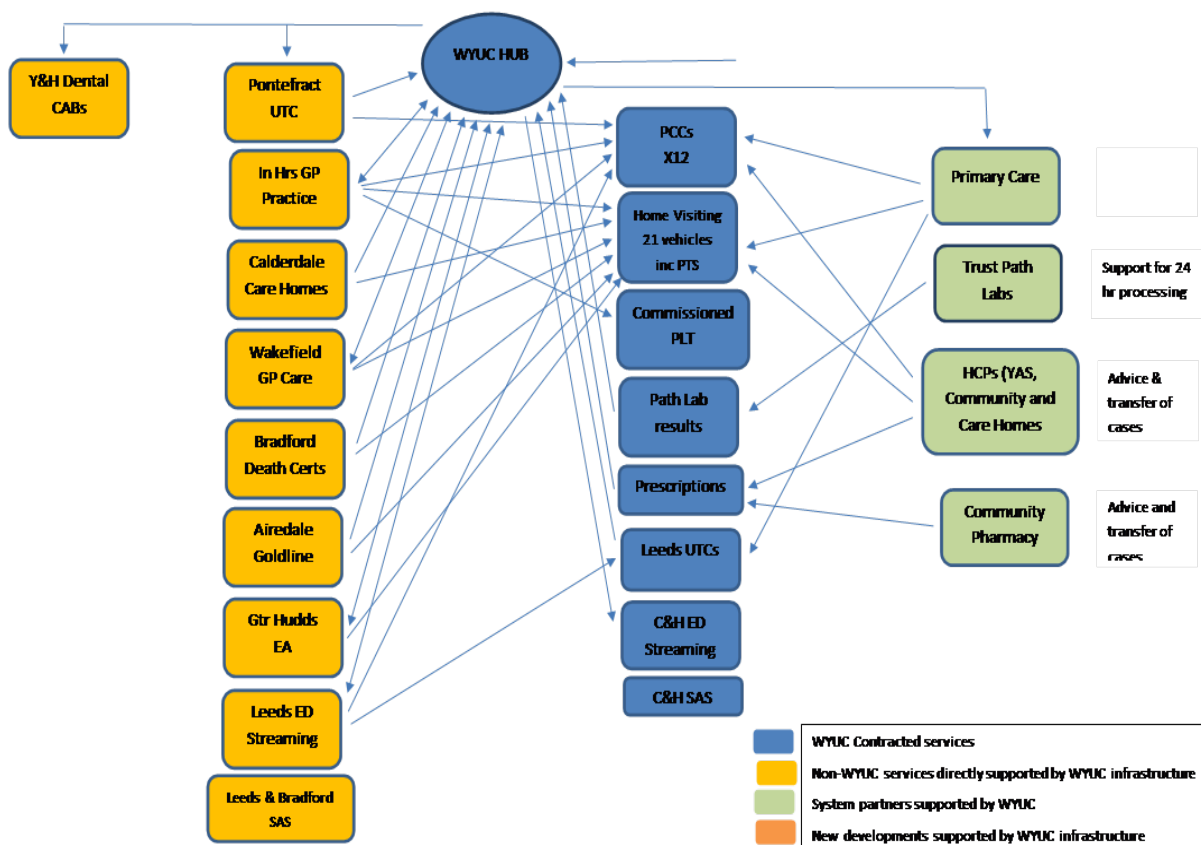
- The ceasing of all direct booking from NHS 111 in order to manage and prioritise clinical response
 - Increased hub rota or remote consultation rota to manage demand
 - Implementation of front door triage for all walk in services
 - Vast roll out of home working for clinicians
 - Roll out of video consultation systems
 - Roll out of Electronic Prescription Services (EPS)
 - Fast track of new clinicians
 - Mutual aid to A&E departments across WY as a result of less foot fall in LCD commissioned walk in services
- 5.2 Positively, in response to COVID-19, the operational delivery of the service has been restructured to operate a virtual clinical assessment model resulting in over 70% of contacts delivered via telephone or video consultation. This is a substantial shift in service delivery as opposed to pre COVID-19 where only 30% of contacts were completed via virtual delivery. This shift is underpinned via the diversity of clinical skill mix of the multi-disciplinary team (MDT) model, maximising resource and capabilities.
- 5.3 This new way of working clearly supports the future model of UEC and national directive in providing more options for patients via online 'digital' GP consultations. It is useful to note that clinical audit processes are in place ensuring cases closed via virtual consultation have not presented elsewhere in the system within 72 hours.
- 5.4 This new way of working has had positive impacts on overall National Quality Requirements (NQR's) with an average increase in achievement of 20% in NQR 12a (emergency within 1 hour), 11% in NQR 12b (urgent within 2 hours) and NQR 12 c (less urgent within 6 hours).
- 5.5 As a result of COVID-19 a revised contracting approach was adopted nationally which included effectively a moratorium on initiating procurement processes that would divert valuable system resources away from the collaborative response to the pandemic. This resulted in any work on the re-commissioning and procurement of the service essentially being put on hold from late March 2020. This included dedicated resource to understand the possible future commissioning for a 24/7 Primary care model, considering national and local programs of work in the context of GPOOH, Primary Care Extended Access and Extended Hours.
- 5.6 There is still significant work to do on the project establishing the future direction of travel at each place and to establish and understand the possibilities of an integrated model between core in hours primary care and GPOOH's and the future for the collaborative contract across West Yorkshire when taking into account the role, capacity, capability and impact of the developing Primary Care Networks and Direct Enhanced Services (DES).
- 5.7 Due to the onset of the COVID-19 pandemic this project has yet to deliver as intended. Initial engagement did take place with both primary care and UEC commissioners which confirmed that as a result of the pandemic various national mandates and guidance, particularly in relation to the National Access Review of Primary Care and the direction of travel of the PCN DES were yet to be recognised and the uncertainty around these developments would make the proposal on the future model challenging. However; commissioners supported the need to adopt a different model led from both a Primary and UEC perspective including an integration of delivery from an Extended Access and GPOOH's perspective.

5.8 The need to maintain a consistent service model across West Yorkshire was recognised in achieving economies of scale and ease of flow between regional services such as NHS 111.

5.9 The key element of initial engagement recognised that sufficient time is required to develop the right model; taking capacity and workforce into account underpinned by the 'left shift' approach, ensuring patients are seen in the most appropriate services to meet their needs. Equally the new ways of working, as a result of COVID-19, requires incorporation into the service model of 24/7 Primary Care such as developments on improved collaboration, heightened use of technology and the recognition that all services need to be reviewed to ensure that appropriate lessons are learnt.

6. WYUC going forward - collaboration and connectivity

6.1 Over the duration of the WYUC contact, LCD has become an integral part of WY's integrated urgent and emergency care system. This includes providing services directly, working in collaboration with partners and providing or allowing system partners to access LCD infrastructure to deliver a wide range of support. The following schematic provides the current 'reach' of LCD within the ICS and demonstrates the collaboration being undertaken involving LCD.



6.2 The above schematic illustrates that WYUC is effectively both a contract and an infrastructure. The contract requires LCD to deliver a range of services shown in blue in the accompanying diagram. The infrastructure required to deliver these services provides the capability to deliver other services which are not part of the WYUC

contract and to support local NHS systems due to the economies and benefits of scale it creates.

- 6.3 It is considered that WYUC/LCD is the only NHS service/provider which is aligned to the West Yorkshire footprint and can offer this service model across this footprint.
- 6.4 The WYUC contracted services (i.e. Primary Care Centres (PCCS's), Home Visit, Telephone consultations) operate as an integrated system so that demand (which has always exceeded the inherent capacity of the service) can be managed safely and flexibly without impact on other parts of the system. Unpicking this level of integration without clearly understanding what would replace it presents a risk to our system.
- 6.5 Other services which are not part of the WYUC contract are delivered using the same infrastructure and are shown in yellow on the diagram. Many of these are small, but important niche services which would be costly and difficult to provide without linking to a larger infrastructure.
- 6.6 Some of these services are now commissioned jointly. For example, LCD's delivery of the Pontefract UTC service overnight is delivered using the WYUC OOH resources.
- 6.7 Other providers benefit from the WYUC infrastructure and service in a number of ways. WYUC has on many occasions stepped in during emergency closures of practices; provides advice and takes cases from community pharmacies which they are unable to deal with; supports healthcare professionals in YAS, community care and care homes, with advice and has allowed Trusts to process path lab results round the clock although it should be noted that this particular change in practice by Trusts had an operational impact on LCD due the increase in requests to deal with 'abnormal' test results that were notified during the out of hours period.
- 6.8 WYUC infrastructure has also allowed LCD to provide anti-viral centres to support disease outbreaks and more recently was planned as a co-ordinating service for Covid (although this wasn't launched).
- 6.9 The scale of WYUC supports a corporate infrastructure which is beneficial to the system in terms of system leadership, clinical governance, pathway development, data and business intelligence.
- 6.10 Delivering services across multiple areas supports a consistent offering where this makes sense in terms of patient care, operational effectiveness and efficiency and cost.

7. LCD's role in the system

- 7.1 As a large social enterprise LCD brings their unique voice to the NHS conversation and enables the benefit of one voice for what is delivered in the out of hour's period. The expertise and experience provided by LCD results in complex pathways (as shown in the schematic) that are relatively seamless for patients.
- 7.2 LCD's organisational values supporting patients first, system working, flexibility, partnerships and efficient working is considered to add substantial value to both ICS and place-based structures.
- 7.3 Within West Yorkshire the role and commitment of LCD within our system is recognised, one such example is the collaboration between YAS, commissioners and

LCD on the potential service delivery of an in-hours clinical assessment to support the clinical advice element of the NHS 111 First national roll out.

	GP out of hours	Urgent Treatment Centres	Walk in Centres	GP Streaming	Extended Access
Bradford CCG	Local Care Direct (LCD)	N/A	N/A	Bradford Care Alliance (BCA) Virtual only	Modality / Bradford Care Alliance / Wharfedale, Airedale & Craven Alliance
Calderdale CCG	Local Care Direct (LCD)	N/A	Locala	Local Care Direct (LCD)	Pennine GP Alliance
Greater Huddersfield CCG	Local Care Direct (LCD)	N/A	N/A	Local Care Direct (LCD)	My Health Huddersfield & Local Care Direct (LCD)
North Kirklees CCG	Local Care Direct (LCD)	N/A	Locala	Mid Yorkshire Hospital Trust (MYHT)	Curo
Leeds CCG	Local Care Direct (LCD)	Local Care Direct (LCD)	Leeds Teaching Hospital Trust (LTHT)	Leeds Teaching Hospital Trust (LTHT)	Leeds GP Confederation
Wakefield CCG	Local Care Direct (LCD)	Mid Yorkshire Hospital Trust (MYHT)	Local Care Direct (LCD)	Mid Yorkshire Hospital Trust (MYHT)	Conexus/ GP Care

8. Commissioning considerations

- 8.1 From considering where commissioners are at this point in time in relation to the issues identified above there would be a number of areas that would suggest that commissioners are not in a position to embark on a procurement process in the short term and that further work is required in respect of the future service model; volume, type and scope of activity to be commissioned
- 8.2 On this basis the most pragmatic option would be to extend the provision of service for a further period with the current provider, such that a new contract would be entered into from April 2021 this would require negotiation and the direct award of a contract to LCD.
- 8.3 LCD is required to undertake patient survey feedback, although the survey has been suspended during the response to the COVID-19 pandemic, the last set of patient survey results were analysed for the period January to March 2020. This survey indicated that 95.3% of the WYUC surveys received from service users stated that they would be 'extremely likely' or 'likely' to recommend the service.
- 8.4 The potential changes to the commissioner landscape and the NHS's approach to procurement itself over the next 18 months brings a high level of uncertainty as to the resource required and the appetite to undertake a procurement process within this period and indeed for a period post any changes to organisational responsibilities. It is considered that embarking on a procurement process in the medium term would not be in the best interests of maintaining system sustainability and resilience. It is therefore suggested that the direct award of contract from 1st April 2021 would be for a period of 3 years up to 31st March 2024. This would require commissioners to make a further decision about procurement during the latter part of 2022.
- 8.5 Commissioners fully intend to advertise the procurement opportunity once this is developed should the prevailing regulations continue to require this.
- 8.6 The commissioners would act transparently by placing an appropriate notice setting out its actions with regard to the direct award in the short term and intention to decide whether to procure in the medium term.
- 8.7 At present, this approach presents the least risk to patients and users of the service as a result of the COVID-19 pandemic and uncertainty around the environment and future direction of travel of national directives and the most appropriate use of resources in terms of commissioner workload, return on investment and value for money.

9. Procurement considerations

- 9.1 The United Kingdom's exit from the European Community and the proposed regulatory changes to NHS competition rules are likely to have an impact on the detail of the public procurement process commissioners will be required to follow. It is generally felt that for the short term at least any procurement considerations are based on the existing rules, on this basis the consideration of any risk is deemed to be on the cautious side.
- 9.2 The re-commissioning of WYUC with a core estimated annual value of £19.2m clearly falls under the purview of the Public Contracts Regulation 2015 (the "PCR") and likely its successor legislation. In addition given that it is a CCG commissioned service the NHS Procurement, Patient Choice and Competition Regulations (No.2) 2013 (the "NHS Regulations") will also continue to apply. It is also expected the EU Treaty Principles of transparency, equal treatment and non-discrimination will continue to apply.
- 9.3 The WYUC commissioners are in principle and will continue to be under an obligation to undertake some form of process in respect of the commissioning of the WYUC services which involves: (i) issuing a contract notice to advertise the opportunity; (ii) structuring the procurement process based on compliance with the EU Treaty Principles; and (iii) issuing a contract award notice on award of the contract.
- 9.4 Under the current regulations, there is provision for an alternative procedure to be used without prior advertisement of the opportunity (i.e. a direct award of a contract) to the extent that the commissioners could demonstrate that *"the services can be supplied only by a particular economic operator for any of the following reasons: [...] (ii) competition is absent for technical reasons"*. Given the existence of other potential providers of the WYUC services, it is unlikely that this option could be used without an associated risk of legal challenge.
- 9.5 Similarly, the current NHS Regulations provide for the award of a new contract to a single provider without advertisement where the commissioners are satisfied that the services are capable of being provided only by that provider. Again, given the existence of other potential providers, it is unlikely that this option could be taken without risk of successful challenge.
- 9.6 The risk of a challenge actually being brought is however dependent on a number of factors, including the complexity of the service, the market for these services and whether or not there is an alternative provider who would be interested and capable of providing the services such that they would want to bring a challenge, notwithstanding that there is likely to be an opportunity to bid for the services at a later date.
- 9.7 With this in mind commissioners are required to consider this paper and support the following course of action in respect of the WYUC service:
- 9.7.1 Extend the current WYUC service for 3 years by way of negotiating a further direct award of contract with LCD and consider in 2022 whether to undertake a procurement process with a view to awarding a contract thereafter i.e. from the 31st March 2024. This will allow time for potential recovery from the current pandemic and realise national directives currently on hold as a result of COVID-19 whilst allowing further time implement and test new concepts.
- 9.7.2 Publish an appropriate notice setting out commissioners' reasons for the direct award and their intentions, should it be required, to re-procure a re-defined service from April 2024.

10. Consideration of the impacts of procurement on this service

- 10.1 As WYUC is LCD's largest contract accounting for 70% of their business LCD would be required to devote significant resources at all levels of the organisation to the procurement process and preparation of the bid. Whilst the delivery of existing contracted services would be maintained, there would be a knock-on effect on the organisation's ability to engage in system conversations and take on development work which may have to be paused pending outcome of the procurement.
- 10.2 There would clearly be the potential for some additional risk in light of the continuing response to COVID-19 and the pressures associated with this whilst responding to a procurement exercise.
- 10.3 There would be a very significant TUPE exercise as a significant number of LCD's 400 staff are engaged in whole or part in the delivery of the WYUC contract.
- 10.4 There would need to be an assessment and discussion of the impact of the potential outcome of any procurement exercise on the services commissioned and provided that are inter-dependent on the WYUC infrastructure and LCD.
- 10.5 In any procurement exercise, where the incumbent organisation faces a risk of losing a contract, there is a risk that individual members of staff at all levels make decisions about the risk to their jobs and seek alternative jobs. This could destabilise service provision during the period of procurement.

11. Risks and mitigation

- 11.1 Further extending the WYUC service is not without risk primarily around potential challenges from the market on the basis that the directly awarded contract ought to have been advertised, in line with the Light Touch Regime (LTR) of the Public Contract Regulations 2015 (or its successor regulation) and the NHS Procurement, Patient Choice and Competition Regulations (No.2) 2013. This will be the second occasion we have alerted the market of a short term WYUC contract award by way of publishing a notice. It should be noted that such a challenge could be brought either as a complaint to NHS England/Improvement as a potential breach of the NHS Regulations, or through the Courts on the basis of a breach of the public procurement regulations.
- 11.2 The potential sanctions following a successful challenge could include an instruction to undertake a procurement process in advance of when planned for, reputational damage to the commissioners and a possible claim for damages for the lost opportunity to bid for/win the contract depending on the case made by the challenger(s).
- 11.3 Whilst there is no guarantee that commissioners will receive a complaint and/or formal challenge, the risk of this being successful is mitigated by the following:
 - Commissioners will place an appropriate notice advising the market of its intention to directly award a contract to the current provider as well as the intention to advertise the opportunity once it is clear what that is. This could also include the clear intention to commence pre-procurement market engagement with all potential providers as soon as possible, allowing all potential providers to input into ideas as to the options for the service design. The publication of the appropriate notice will not prevent a challenge being brought, but would reduce the time limits for bringing a claim of ineffectiveness (cancellation of the contract that has been awarded) and in effect reducing the time limit for a claim for damages to 30 days following publication of the notice.

- The CCGs and key stakeholders will have the opportunity to undertake market engagement to understand what other providers may be available and how they could provide innovation in the service provision, alongside more focused intelligence gathering and patient involvement activities to understand the local 'place' position within our ICS footprint and design services accordingly.
- It remains the clear intent of the Commissioners to test the market in due course will mean that potential providers of a re-commissioned service will see the opportunity advertised in due course.
- We understand the risks in the options available to us and document our reasons for the recommended approach in an appropriate way.
- The current arrangements are considered to offer positive service user satisfaction and value for money when compared to similar scale contracts. A contract awarded recently in the North of England serving a population of 1.391m has an equivalent per capita value of £8.50. WYUC serving a population of 2.35m has an equivalent per capita value of £8.30.
- NHSE and NHSI would be fully apprised of this intent with supporting rationale.

12. Support of recommended option

- 12.1 The approach relating to extending the WYUC service through direct award of contract to LCD has been considered by West Yorkshire & Harrogate ICS Urgent and Emergency Care Commissioners. The proposed approach has received their full support and endorsement of the recommendation made in this paper.

13. Recommendations

- 13.1 It is recommended that the Committee:

- note the contents of this paper
- considers the proposed approach, associated risk and mitigation of risk
- approve the direct award of contract and provide authority to Greater Huddersfield CCG on behalf of West Yorkshire CCGs to negotiate an extension to the current service from LCD for the period 1st April 2021 to 31st March 2024 and publish an appropriate notice stating the commissioners' intentions to directly award a contract to LCD.