

## **CABINET MEMBER FOR ADULT SERVICES AND CABINET MEMBER FOR FINANCE & PROPERTY– 29 FEBRUARY 2012**

### **RIDGEWAY PARTNERSHIP MERGER/ACQUISITION**

#### **Report by Director for Social & Community Services**

#### **Introduction**

1. Ridgeway Partnership (Oxfordshire Learning Disability NHS Trust) is commissioned by Oxfordshire County Council to provide both social care and specialist health services to people with learning disabilities in Oxfordshire. The total value is £20m per annum and they are the largest learning disability service provider in Oxfordshire. The specialist inpatient health services, community health professionals and step-down beds are commissioned by the Council on behalf of the PCT, through the section 75 Pooled Budget and Lead Commissioning arrangements. Oxfordshire commissions approximately 65% of Ridgeway's current business.
2. In line with the Department of Health's policy that all NHS Trusts have to become Foundation Trusts, or become part of an existing Foundation Trust by 2014, the Strategic Health Authority is currently leading a process through which existing Foundation Trusts are bidding to acquire Ridgeway Partnership. As the main commissioner of Ridgeway's services, the Council has a significant interest on the outcome of this process and Oxfordshire's Lead Commissioner for learning disability services is a member of the project board.
3. On 5th July 2011 the cabinet member for Adult Services agreed to include the services purchased from Ridgeway Partnership by Oxfordshire County Council in the NHS merger/acquisitions process. Progress with the identification of a preferred bidder was reported to cabinet on 17<sup>th</sup> January 2012.
4. This report provides information on the final stage of selection of the preferred bidder and requests approval to proceed with transfer of the Council's contracted business as part of the acquisition.

#### **Exempt Information**

5. The report refers to a separate confidential annex which identifies the preferred provider. The identity of the preferred bidder will not be made public until the decision has been approved by the County Council, the Strategic Health Authority and the Board of Ridgeway Partnership Trust. It is anticipated that this will be on 2nd March 2012.

6. The information submitted by the providers during the bidding process is commercially sensitive and cannot be shared publicly. It is important to communicate the decision on preferred provider in a planned way as it will have implications for services users, carers, staff and commissioners and they need to hear officially and at the same time.
7. The public should therefore be excluded during consideration of Annex 1 because its discussion in public would be likely to lead to the disclosure to members of the public present of information in the following category prescribed by Part I of Schedule 12A to the Local Government Act 1972 (as amended):

*Paragraph 3: Information relating to the financial or business affairs of any particular person (including the authority holding that information)*

and since it is considered that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information, in that such disclosure would prejudice the commercial position of the parties involved.

### **The Merger/Acquisition Process**

8. Progress to date was reported to Cabinet on 17<sup>th</sup> January 2012. Since then, the final stages of the process to identify the preferred provider have been completed.
9. The final submissions (Invitation to Submit Detailed proposals) for the 3 shortlisted providers, Calderstones Partnership NHS Foundation Trust, Hertfordshire Partnership NHS Foundation Trust and Southern Health NHS Foundation Trust, were evaluated during January. A Board to Board interview was held on 19<sup>th</sup> January, and the scores from both this and the final submissions were taken to the consolidation panel. The consolidation panel decided that some points of clarification were required from two of the bidders, and a number of additional questions were sent to them. The responses to these were considered by the consolidation panel who determined that the supplementary information confirmed and did not alter the initial scores that had been applied.
10. The final scores indicated a clear lead bidder, and the recommendation of preferred bidder was confirmed at a meeting of the project board on 15<sup>th</sup> February. It was also agreed to recommend that the bidder in second place, which had also submitted strong evidence of its ability to deliver a successful merger/acquisition, be maintained as reserve bidder during the transition phase.
11. This recommendation was submitted to Ridgeway Partnership Trust's Board and to the Strategic Health Authority's Chief Executive (as a delegated decision) during the week beginning 20<sup>th</sup> February.
12. Following approval, the Department of Health requires that the proposed acquisition is scrutinised by Monitor and by the NHS Competition and

Collaborations Panel. This process can take up to 6 months and as a result the anticipated date for transfer to the new provider is September 2012.

### **Corporate Policies and Priorities**

13. A successful transfer of Ridgeway's services to a new NHS provider in a way that minimises disruption for service users, maintains value for money, and enables people to continue to be supported in their communities is in line with the objectives of the Council's Corporate Plan. In particular it will contribute to maintaining Healthy and Thriving Communities through supporting people with disabilities to live in their own homes, and by protecting and safeguarding vulnerable people.

### **Financial and Staff Implications**

14. The Council commissions social care services to the value of £14m pa and specialist health services to the value of £6m pa from Ridgeway Partnership. This amounts to 65% of Ridgeway's total business. The Council's contracts were tendered in 2009 and run for a period of 5 years subject to continuing satisfactory delivery of service. Over this period of time there is a gradual reduction in cost built into both the social care and the specialist health contracts.
15. As part of the acquisition of Ridgeway Partnership, there will be a statutory transfer of contracts on the existing terms. The merger/acquisition process involves a detailed assessment of the financial standing of the acquiring bidders. The acquiring trust will also be required to meet Monitor's financial requirements as a Foundation Trust. The financial risk will therefore be less than that faced currently with a small organisation providing these services; there are no new financial implications for the Council as the main commissioner.
16. There are no implications for Council staff other than the need to develop positive working relationships with a new organisation.

### **Legal Implications**

17. As part of a merger/acquisition, the transfer of the Council's contracts to the new provider will take place as part of a statutory transfer, not a novation of contracts. The merger/acquisitions process has been a fair and transparent one which has invited and evaluated bids from any NHS provider. Ridgeway Partnership, the Strategic Health Authority, commissioners, service users and carers have been involved in the evaluation of bids. A Gateway Review was carried out by the Department of Health in January 2012 and rated the process as amber-green. The Council's legal services discussed the approach with the Strategic Health Authority's legal advisors at an early stage and are satisfied that there are no legal implications for the Council.

## Other Risks

18. As a key provider of services to vulnerable people, under contract to the Council, the quality, safety and financial stability of the acquiring NHS Trust's services is of considerable importance to the Council. There would be reputational risks to the Council as a result of failures of quality or safety on the part of a significant contractor. This risk is mitigated by a thorough and transparent competitive process used to identify the preferred provider, which incorporated detailed submission of evidence of the provider's performance in the areas of service quality, management of safeguarding and health & safety, and financial sustainability. Ongoing delivery of service will be underpinned by the contractual requirements to maintain quality and safety, which will be regularly monitored by the Council's contract monitoring team, with advice from the safeguarding team and the Council's Health Safety and Wellbeing team. The specialist inpatient services, and supported living services, will also be subject to registration and monitoring from the Care Quality Commission.

## Alternative Option

19. If the Council does not choose to maintain its contracts as part of the statutory transfer of Ridgeway Partnership's business to the new provider, it would be necessary to secure an alternative provider to deliver these services by September 2012. This option was considered by the Lead Member for Adult Services in July 2011 who took the decision that the interests of service users and the Council would be best served by transferring the business to the new NHS provider. It would not now be possible to carry out an open tender, identify an alternative provider, and allow for TUPE and safe transfer of services by September. However, the Council would have the option to give notice on the contracts with the acquiring NHS provider and to place the contracts with a new provider as soon as a tender could be completed.

## RECOMMENDATION

20. **The Cabinet Member for Adult Services and the Cabinet Member for Finance are RECOMMENDED to approve the transfer of the services the Council purchases to the preferred bidder, or to the reserve bidder in the event that transfer to the preferred bidder is not able to proceed.**

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Background papers: 1. Decision of Cabinet Member for Adult Services – 5 July 2011  
2. Decision Of Cabinet - 17 January 2012: Ridgeway Partnership Merger/Acquisition

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