

Independent Patient Choice and Procurement Panel

Review of a proposed contract award

GP Led Out of Hours Services for Shropshire, Telford and Wrekin

Case Reference: CR0017-25

1 July 2025

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1 Executive Summary

1. On 10 April 2025, Shropshire Doctors Co-operative Limited (Shropdoc) asked the Panel to advise on the selection of a provider by NHS Shropshire, Telford and Wrekin Integrated Care Board (STW ICB) for its GP Led Out of Hours (OOH) Service for Shropshire, Telford and Wrekin. The Panel accepted Shropdoc's request on 14 April 2025 in accordance with its case acceptance criteria.
2. GP OOH and related services in the STW ICB area are currently supplied by Shropdoc, under separate contracts for: (i) Out of Hours GP cover and GP cover for protected learning time; and (ii) the Care Coordination Centre Single Point of Access (CCCSPA) service.
3. With the current OOH contracts due to end on 30 June 2025, STW ICB launched a public survey on 27 August 2024 "to understand what local people valued in an OOH service such as this" and "to inform the requirements of the service going forward". This was followed by a Prior Information Notice, published on 28 August 2024, inviting interested providers to a market engagement event on 13 September 2024 where STW ICB supplied information on the OOH service and the proposed procurement process.
4. On 7 October 2024, STW ICB published a contract notice stating that it would be using the competitive process to select a provider for the new contract. The new contract has an initial term of three years commencing on 1 July 2025, with the option of a two year extension, and an estimated total contract value, including the extension, of approximately £36m (excluding VAT).
5. STW ICB received six bids and, on 3 February 2025, it published a notice announcing that the successful bidder was Medvivo Group Limited (Medvivo). Shropdoc's proposal was ranked fifth, with a total score of 68.52% compared to 86.85% for Medvivo.
6. On 14 February 2025, prior to the end of the standstill period, Shropdoc made representations to STW ICB, and requested further information, about the provider selection process. On 3 April 2025, following a review of Shropdoc's representations by STW ICB's internal review panel, STW ICB wrote to Shropdoc communicating its further decision on the provider selection process, namely to proceed with the contract award to Medvivo.
7. The Panel's assessment of Shropdoc's representations and its findings on whether STW ICB complied with the PSR regulations address:
 - first, pre-procurement engagement;
 - second, the KPI information supplied to bidders;
 - third, the evaluation of bidders' financial proposals; and
 - finally, the decision to use the competitive process to select a provider.
8. The Panel's findings on the provider selection process carried out by STW ICB for the GP OOH service in Shropshire, Telford and Wrekin are as follows:
 - First, the Panel finds that STW ICB, in conducting pre-procurement consultations, did not breach its obligations under Regulation 4, and in particular its obligation to secure the needs of people who use the services, improve the quality of services

and improve efficiency in the provision of services, and its obligation to act transparently, fairly and proportionately.

- Second, the Panel finds that STW ICB, in not including the CCCSPA service in the Prior Information Notice, did not breach the PSR regulations, and in particular its obligation under Regulation 4 to act fairly.
 - Third, the Panel finds that STW ICB, in relation to pre-procurement consultation on the CCCSPA, did not breach the PSR regulations, and in particular its obligations under Regulation 4 to secure the needs of people who use the services, improve the quality of services and improve efficiency in the provision of services, and to act transparently, fairly and proportionately.
 - Fourth, the Panel finds that STW ICB provided limited information in the tender documentation on the specific KPIs that would be implemented, but did not breach the PSR regulations, and in particular its obligation under Regulation 4 to act transparently, fairly and proportionately.
 - Fifth, the Panel finds that STW ICB, in evaluating the financial aspects of Medvivo's proposal, did not breach the PSR regulations, and in particular its obligation under Regulation 4 to act with a view to securing the needs of the people who use the services.
 - Finally, the Panel finds that STW ICB, in deciding to use the competitive process, did not breach the PSR regulations, and in particular its obligations under Regulation 6, which sets out the conditions governing commissioners' choice of provider selection process. The Panel also finds that STW ICB, by providing information to Shropdoc in response to its request for information about the choice of provider selection process, did not breach its obligations under the PSR regulations, and in particular its obligations under Regulation 12(4).
9. Given the Panel's findings that STW ICB acted in accordance with the PSR Regulations, the Panel advises STW ICB to proceed with the proposed contract award as originally intended.

2 Introduction

10. On 10 April 2025, Shropshire Doctors Co-operative Limited (Shropdoc)¹ asked the Panel to advise on the selection of a provider by NHS Shropshire, Telford and Wrekin Integrated Care Board (STW ICB) for its GP Led Out of Hours (OOH) Service for Shropshire, Telford and Wrekin.
11. The Panel accepted Shropdoc's request on 14 April 2025 in accordance with its case acceptance criteria. These criteria set out both eligibility requirements and the prioritisation criteria the Panel will apply when it is approaching full caseload capacity.² Shropdoc's request met the eligibility requirements, and as the Panel had sufficient

¹ Shropdoc are a cooperative of GPs, providing services including NHS 111 and urgent care centres. Further information can be found on its website at <https://shropdoc.org.uk/>.

² The Panel's case acceptance criteria are available at <https://www.england.nhs.uk/commissioning/how-commissioning-is-changing/nhs-provider-selection-regime/independent-patient-choice-and-procurement-panel/>.

capacity, and no immediate prospect of reaching full capacity, there was no need to apply the prioritisation criteria.

12. The Case Panel's review has been carried out in accordance with the Panel's Standard Operating Procedures ("procedures").³
13. The Panel's Chair appointed three members to a Case Panel for this review (in line with the Panel's procedures). The Case Panel consisted of:
 - Andrew Taylor, Panel Chair;
 - Sally Collier, Case Panel Member; and
 - Alison Tonge, Case Panel Member.⁴
14. This report provides the Panel's assessment and advice to STW ICB and is set out as follows:
 - Section 3 briefly describes the role of the Panel;
 - Section 4 sets out the background to the Panel's review, including the events leading up to the provider selection process;
 - Section 5 sets out the concerns raised by Shropdoc;
 - Section 6 summarises the provisions of the PSR regulations relevant to this review;
 - Sections 7 sets out the issues considered by the Panel and its assessment of these issues; and
 - Section 8 sets out the Panel's advice to STW ICB.⁵
15. The Panel thanks both STW ICB and Shropdoc for their assistance and cooperation during this review.

3 Role of the Panel

16. The PSR regulations, issued under the Health and Care Act 2022, put into effect the Provider Selection Regime for NHS and local authority commissioning of health care services. The Provider Selection Regime gives relevant authorities (i.e. commissioners) greater flexibility when selecting providers of health care services and came into force with the adoption of the PSR regulations on 1 January 2024.⁶
17. The Panel's role is to act as an independent review body where a provider has concerns about a commissioner's provider selection decision. Panel reviews only take place following a commissioner's review of its original decision.
18. For each review, the Panel's assessment and advice is supplied to the commissioner and the potential provider that has requested the Panel's review. It is also published on the Panel's webpages. The commissioner is then responsible for reviewing its decision in light of the Panel's advice.

³ The Panel's Standard Operating Procedures are available at <https://www.england.nhs.uk/commissioning/how-commissioning-is-changing/nhs-provider-selection-regime/independent-patient-choice-and-procurement-panel/>.

⁴ Biographies of Panel members are available at <https://www.england.nhs.uk/commissioning/how-commissioning-is-changing/nhs-provider-selection-regime/independent-patient-choice-and-procurement-panel/panel-members/>.

⁵ The Panel's advice is provided under paragraph 23 of the PSR Regulations and takes account of the representations made to the Panel prior to forming its opinion.

⁶ The PSR Regulations are available at <https://www.legislation.gov.uk/uksi/2023/1348/contents/made> and the accompanying statutory guidance is available at NHS England, *The Provider Selection Regime: statutory guidance*, <https://www.england.nhs.uk/long-read/the-provider-selection-regime-statutory-guidance/>

4 Background to this review

19. NHS Shropshire, Telford and Wrekin ICB is one of 42 ICBs in the NHS in England. It is a statutory body responsible for planning health services to meet the health needs of the Shropshire, Telford and Wrekin population and managing the budget for the provision of NHS services to this population.⁷
20. GP OOH and related services in the STW ICB area are currently supplied by Shropdoc, under separate contracts for: (i) Out of Hours GP cover and GP cover for protected learning time; and (ii) the Care Coordination Centre Single Point of Access (CCCSPA) service.
21. With the current OOH contracts due to end on 30 June 2025, STW ICB launched a public survey on 27 August 2024 “to understand what local people valued in an OOH service such as this” and “to inform the requirements of the service going forward”.⁸ This was followed by a Prior Information Notice, published on 28 August 2024, inviting interested providers to a market engagement event on 13 September 2024 where STW ICB supplied information on the OOH service and the proposed procurement process.
22. STW ICB announced at the market engagement event that the CCCSPA service would be included in the procurement (whereas the Prior Information Notice had made no mention of the CCCSPA service). As a result, the OOH service being procured has four elements: (i) Out of Hours GP cover; (ii) GP cover for protected learning time; (iii) Outbreak Response;⁹ and (iv) the CCCSPA service.¹⁰
23. On 7 October 2024, STW ICB published a contract notice stating that it would be using the competitive process to select a provider for the new contract. The new contract has an initial term of three years commencing on 1 July 2025, with the option of a two year extension, and an estimated total contract value, including the extension, of approximately £36m (excluding VAT).¹¹
24. STW ICB received six bids and, on 3 February 2025, it published a notice announcing that the successful bidder was Medvivo Group Limited (Medvivo).¹² Shropdoc’s proposal was ranked fifth, with a total score of 68.52% compared to 86.85% for Medvivo.
25. On 14 February 2025, prior to the end of the standstill period, Shropdoc made representations to STW ICB, and requested further information, about the provider selection process.¹³ On 5 March 2025, STW ICB provided Shropdoc with documents in

⁷ Further information on STW ICB can be found on its website at <https://www.shropshiretelfordandwrekin.nhs.uk/>.

⁸ STW ICB, *GP Out of Hours Engagements Findings*, September 2024.

⁹ The Outbreak Response element is not currently commissioned by STW ICB, except for a retainer arrangement with Shropdoc for influenza. STW ICB, *Presentation to the Panel*, 28 May 2025.

¹⁰ (1) Out of Hours GP cover provides face-to-face, telephone and home visits cover for periods outside of GP core hours; (2) GP cover for Protected Learning Time (PLT) provides cover allowing GP practices to close for staff development; (3) Outbreak Response provides a year-round response to outbreaks of influenza and other highly infectious diseases; (4) CCCSPA delivers a model of unplanned referral management, supporting healthcare professionals in navigating their patients to the most appropriate service to meet their unplanned care needs. STW ICB, *Presentation to the Panel*, 28 May 2025.

¹¹ STW ICB, *Contract Notice on Find a Tender Service*, 7 October 2024.

¹² Medvivo is part of HealthHero and is a provider of integrated urgent care services, including NHS 111 and GP Out of Hours services. Further information can be found on its website at <https://www.healthhero.com/governments/about>.

¹³ Between 20 February and 7 March 2025, the parties exchanged further correspondence on explanations/clarifications in relation to Shropdoc’s representations.

response to its information request, following which Shropdoc – having reviewed these documents – made further representations.

26. On 3 April 2025, following a review of Shropdoc’s representations by STW ICB’s internal review panel, STW ICB wrote to Shropdoc communicating its further decision on the provider selection process, namely to proceed with the contract award to Medvivo.
27. On 10 April 2025, prior to the end of the standstill period, Shropdoc asked the Panel to review STW ICB’s provider selection decision. The Panel accepted this request on 14 April 2025. On being made aware of the Panel’s acceptance decision, STW ICB confirmed that it would hold the standstill period open for the duration of the Panel’s review, as required by the PSR regulations.

5 Representations by Shropdoc

28. Shropdoc’s concerns about the provider selection process, as summarised in its representations to the Panel, are as follows:

“Our representations focus on fundamental breaches of the Provider Selection Regime (PSR), the NHS Act 2006, and the principles of transparency, proportionality, and fairness underpinning public procurement law. Despite the ICB’s response, these issues remain unresolved and raise ongoing concerns about the lawfulness of the procurement process.

“The ICB failed to include any relevant Key Performance Indicators (KPIs) in the ITT; instead, the ITT signposted bidders to KPIs that are applicable to the regional 111 provider. This approach contradicts the principle of fairness under the PSR. Without defined KPIs, bidders were unable to develop like-for-like service models, resulting in bidders developing models on divergent assumptions, materially affecting cost and resourcing structures.

“The ICB’s reliance on subjective “clinical judgment” in lieu of objectively defined response-time standards further undermines the fairness of the process and risks a lower service standard than under the current contract. The lack of clarity and shifting guidance (evidenced in the clarification log) made it impossible for bidders to accurately price or plan the service. These likely advantaged bidders who assumed lower standards or resourcing levels. Without measurable performance metrics, the ICB lacked a robust and fair basis to assess models to improve the quality and efficiency of the services, in accordance with Regulation 4 of the PSR.

“The ICB also failed to meet its obligations under Regulation 4 of the PSR and Section 242 of the NHS Act 2006 by not properly consulting with GPs during the pre-procurement stage. GPs were not treated as stakeholders with critical insights into how services are delivered or how proposed changes might affect clinical practice, service safety, and workforce planning. The use of public engagement surveys from a patient perspective does not amount to meaningful consultation of GPs.

“The ICB’s justification, namely an alleged conflict of interest, misunderstands the nature of market engagement. Their exclusion deprived the ICB of expert insight and undermined the legitimacy of the engagement process. Equally concerning is the ICB’s erroneous view that the CCCSPA service is not ‘patient-facing’.

“We remain concerned that no due diligence was conducted into the deliverability of the winning bidder’s submission, which was markedly below both the ICB’s indicative value and the incumbent’s costed model. Accepting a substantially cheaper bid without detailed due diligence or a clear assessment of risk around sustainability is not consistent with obligations under Regulation 5. See also the concerns as to a lack of KPIs which could give rise to pricing being prepared on significantly different basis between bidders. The ICB has not provided a reasoned analysis explaining how the successful bidder’s price could be sustainable without compromising service quality or patient safety. The absence of a clear, documented evaluation of financial sustainability is a continuing concern and remains unaddressed by the ICB’s generalised statements in the panel report.

“The ICB also failed to correctly apply Regulation 6(5). The Competitive Process was adopted without demonstrating why Direct Award Process C was unavailable. The ICB has inconsistently asserted both that the “considerable change threshold” was met and that it was not met. These misstatements of the PSR casts serious doubt on whether the ICB gave due regard to its PSR obligations or properly understood the available procurement routes.

“Despite the conclusions made in its panel report, the ICB itself acknowledged the service was unchanged in scope or delivery model so the contract value increase was 23%, below the 25% required. There is no evidence that the ICB properly assessed or documented its decision-making in line with Regulation 24(f)–(g), This omission is not addressed in the ICB’s response, and no copy of such a record has been provided.”

6 PSR regulations relevant to this review

29. In its representations to the Panel, Shropdoc suggested that STW ICB had breached the PSR regulations in relation to the general obligations on commissioners (as set out in Regulation 4), the application of basic and key criteria (as set out in Regulation 5), the processes to be followed (as set out in Regulation 6), and the obligation to keep a record of all decisions made and their rationale (as set out in Regulation 24).
30. Those parts of the PSR regulations most relevant to this review are set out below:
 - Regulation 4 sets out the general obligations that apply to relevant authorities (i.e. commissioners) when selecting a provider of health care services. This states that commissioners must “act: (a) with a view to – (i) securing the needs of people who use the services; (ii) improving the quality of the services; and (iii) improving efficiency in the provision of the services; and (b) transparently, fairly and proportionately”.
 - Regulation 5 sets out the key criteria which a commissioner must consider when procuring relevant health care services. The five key criteria are: (a) quality and innovation; (b) value; (c) integration, collaboration and service sustainability; (d) improving access, reducing health inequalities and facilitating choice; and (e) social value.
 - Regulation 6 sets out the appropriate process a relevant authority must follow when procuring a relevant health care service to which the PSR regulations apply. This states that (5) where - “(a) the relevant authority is not required to follow Direct Award Process A or Direct Award Process B, (b) the term of an

existing contract is due to expire and the relevant authority proposes a new contract to replace that existing contract at the end of its term, (c) the considerable change threshold is not met ..., (d) the relevant authority is of the view that the existing provider is satisfying the existing contract and will likely satisfy the proposed contract to a sufficient standard, ... the relevant authority must follow one of Direct Award Process C, the Most Suitable Provider Process or the Competitive Process, such choice being at the discretion of the relevant authority.”

- Regulation 24 sets out the information that must be recorded by commissioners. This includes “... (d) the decision-making process followed, including the identity of individuals making decisions ... (f) where the competitive process was followed, a description of the way in which the key criteria were taken into account, the basic selection criteria were assessed and contract or framework award criteria were evaluated when making a decision; (g) the reasons for decision made under these Regulations; (h) declared conflicts or potential conflicts of interest; (i) how any conflicts or potential conflicts of interest were managed for each decision ...”.

31. The Provider Selection Regime Statutory Guidance “sits alongside the Regulations to support organisations to understand and interpret the PSR regulations”.¹⁴ Reference is made to relevant provisions of the Statutory Guidance in the Panel’s assessment of the issues in Section 7.¹⁵

7 Panel Assessment

32. This section sets out the Panel’s assessment of Shropdoc’s representations and its findings on whether STW ICB complied with the PSR regulations in relation to:
- first, pre-procurement engagement (Section 7.1);
 - second, the KPI information supplied to bidders (Section 7.2);
 - third, the evaluation of bidders’ financial proposals (Section 7.3); and
 - finally, the decision to use the competitive process to select a provider (Section 7.4).

7.1 Pre-procurement engagement

33. The Panel’s assessment of STW ICB’s pre-market engagement focuses on three points raised by Shropdoc, namely: (i) a lack of consultation with local GPs; (ii) STW ICB’s inclusion of the CCCSPA service in the procurement after publication of the Prior Information Notice; and (iii) STW ICB’s approach to engaging with users of the CCCSPA service prior to the procurement.¹⁶

7.1.1 Lack of consultation with local GPs

34. Shropdoc, in its representations to the Panel, said that STW ICB:

¹⁴ NHS England, *The Provider Selection Regime: statutory guidance*, 21 February 2024, p.2.

¹⁵ The PSR Statutory Guidance was updated in April 2025. However, references to the Statutory Guidance in this report are to the February 2024 guidance as this was the version in force during this provider selection process. Where relevant, differences between the two versions of the Statutory Guidance are noted in this report.

¹⁶ Shropdoc, *Pro forma submission to the Panel*, 10 April 2025.

“failed to meet its obligations under Regulation 4 of the PSR and Section 242 of the NHS Act 2006 by not properly consulting with GPs during the pre-procurement stage. GPs were not treated as stakeholders with critical insights into how services are delivered or how proposed changes might affect clinical practice, service safety, and workforce planning. The use of public engagement surveys from a patient perspective does not amount to meaningful consultation of GPs.

“The ICB’s justification, namely an alleged conflict of interest, misunderstands the nature of market engagement. Their exclusion deprived the ICB of expert insight and undermined the legitimacy of the engagement process” (see paragraph 28).

35. Shropdoc further told the Panel that “the ICB has not addressed the exclusion of local GPs from pre-procurement engagement, even though they are frontline experts in urgent and primary care and their input is vital to designing a safe, effective service. The rationale given, that involving GPs would create a conflict of interest, is not only unconvincing but contradicts normal NHS commissioning practice”.¹⁷
36. STW ICB told the Panel that, as part of STW ICB’s pre-procurement engagement, GPs were invited to share feedback on their own OOH service experiences (as professionals using the service) and provide service improvement suggestions via a survey, which was “promoted widely to other providers as well as to general practice”.¹⁸ It also told the Panel that it had secured clinical input into the development of the service specification and the provider selection process from its own Chief Medical Officer, Chief Nursing Officer and Quality Nursing Lead as well as from a GP outside the STW area.¹⁹
37. STW ICB told the Panel that its concerns about a conflict of interest arose when it received a letter from the GP Board of the Local Medical Committee expressing support for Shropdoc and seemingly attempting to influence the procurement process. STW ICB made the decision that “on the grounds of fairness and transparency they [the GP Board] could not have further involvement in the process, given that they had clearly supported the incumbent provider”.²⁰
38. The Panel, in considering Shropdoc’s concerns about consultation with local GPs, noted Shropdoc’s reference to STW ICB’s compliance with its obligations under the NHS Act 2006. Assessing compliance with the NHS Act 2006 does not fall within the scope of the Panel’s responsibilities, and as a result, the Panel’s review does not address this matter.
39. The Panel’s remit does, however, allow it to assess whether Shropdoc’s concerns about the extent of STW ICB’s consultation with local GPs constitutes a breach of the ICB’s obligations under the PSR. In this regard, the Panel notes that there are no specific obligations on commissioners in relation to stakeholder or market engagement in either the PSR regulations or statutory guidance.
40. The PSR statutory guidance says that commissioners, when following the competitive process, “will need to develop a service specification setting out the relevant authority’s requirements for the service. In doing so, relevant authorities may consider

¹⁷ Shropdoc, *Pro forma submission to the Panel*, 10 April 2025.

¹⁸ Panel meeting with STW ICB, 28 May 2025.

¹⁹ Panel meeting with STW ICB, 28 May 2025.

²⁰ Panel meeting with STW ICB, 28 May 2025.

undertaking a pre-market engagement exercise”.²¹ It also says that commissioners “are expected to develop and maintain sufficiently detailed knowledge of relevant providers, including an understanding of their ability to deliver services”.²² The Panel notes that there is no absolute requirement to carry out pre-market engagement, and that commissioners are able to develop and maintain their knowledge of providers in a variety of ways. As a result, the Panel’s view is that the PSR statutory guidance cannot be interpreted as placing an obligation on commissioners to carry out pre-procurement consultations.

41. There are further, more general, obligations on commissioners under PSR Regulation 4, which places a general obligation on commissioners when carrying out provider selection processes to “act: (a) with a view to – (i) securing the needs of people who use the services; (ii) improving the quality of the services; and (iii) improving efficiency in the provision of the services; and (b) transparently, fairly and proportionately”.
42. The Panel’s view is that Shropdoc’s concerns about pre-procurement consultation with GPs are not sufficient to call into question STW ICB’s compliance with the general obligations set out in Regulation 4. The Panel considers that STW ICB took reasonable steps once conflict of interest concerns about local GP participation in the procurement process arose to ensure that it had sufficient clinical input into its provider selection process. The Panel also considers that Shropdoc’s concerns about pre-procurement consultation with GPs did not affect STW ICB’s ability to conduct its provider selection process transparently, fairly and proportionately.
43. As a result, the Panel finds that STW ICB, in conducting pre-procurement consultations, did not breach its obligations under Regulation 4, and in particular its obligation to secure the needs of people who use the services, improve the quality of services and improve efficiency in the provision of services, and its obligation to act transparently, fairly and proportionately.

7.1.2 Inclusion of the CCCSPA service in the procurement

44. Shropdoc, in its representations, raised concerns about the inclusion of the CCCSPA service in the contract given that this service was not included in the Prior Information Notice published on 28 August 2024. In its representations to STW ICB, Shropdoc said that:

“A PIN [Prior Information Notice] ... was published on 28 August 2024, and outlined three services with a combined financial envelope of £30 million under CPV code 85121100 (General Practitioner Services). Notably, the Care Coordination Centre Single Point of Access (“CCCSPA”) service was not mentioned in this notice. However, during the Market Engagement Event on 13 September 2024, the CCCSPA service was introduced, and the financial envelope was increased to £36 million. This substantial alteration in the scope and budget was a significant change to the scope of the Procurement, yet the ICB failed to properly re-engage with the market to reflect this

²¹ PSR statutory guidance, February 2024, p.18.

²² PSR statutory guidance, February 2024, p.9.

updated position, meaning that potential providers who had reviewed the original PIN may not have been given a fair opportunity to express interest or prepare accordingly.”²³

45. STW ICB, in responding to Shropdoc’s concerns, said that “the PIN clearly stated that ... ‘All details provided by the STW ICB are in draft format, and the STW ICB reserves the right to change/amend any aspect of its requirement prior to any potential future procurement exercise’”. It went on to say that the market engagement presentation “outlined all four elements of the contract to be procured, including CCCSPA, and the revised indicative contract value of £36m over five years”.²⁴
46. The Panel notes that there is no requirement on commissioners to publish a Prior Information Notice. The PSR statutory guidance states that where a commissioner has decided to follow the competitive process, “it *may* also publish a prior information notice (PIN) in advance of the notice of a competitive tender opportunity” [emphasis added]. It goes on to say that “if publishing a PIN, relevant authorities are advised to include details of the service required, the proposed contract length and any proposed provision for extension or early termination, and any other matters (known or anticipated) that are likely to be of interest to prospective providers”.²⁵
47. The Panel’s view is that the content of the PIN was sufficiently clear about the provisional nature of the contract’s scope. The Panel considers that it is highly unlikely that there were potential providers who were disadvantaged by the omission of the CCCSPA from the PIN (i.e. potential providers who decided not to attend the market engagement event but might otherwise have attended if the CCCSPA had been included in the PIN).
48. As a result, the Panel finds that STW ICB, in not including the CCCSPA service in the Prior Information Notice, did not breach the PSR regulations, and in particular its obligation under Regulation 4 to act fairly.

7.1.3 Service user consultation in relation to the CCCSPA service

49. Shropdoc, in its representations to STW ICB, raised concerns about consultation with users of the CCCSPA service prior to the provider selection process. Shropdoc said that:

“the ICB’s failure to consult properly on the CCCSPA, which are fundamental components of the procured service, indicates a failure to comply with these statutory duties [referring to the NHS Act 2006 and the principles of fairness, transparency and proportionality in the PSR]. The fact that these elements were not referenced in the engagement survey carried out between 27 August and 15 September 2024, prior to the commencement of the Procurement, and subsequently the findings published in September 2024, strongly suggests that the local people and users of the service, were not given a genuine opportunity to provide meaningful input on the design of the service. As such, the market engagement exercise was deficient and did not meet the ICB’s requirements in this regard.”²⁶
50. In responding to Shropdoc’s concerns, STW ICB said that:

²³ Shropdoc, *Representations letter to STW ICB*, 14 February 2025

²⁴ STW ICB, *Outcome of the ICB PSR Review Panel (Appendix to Representations response letter to Shropdoc)*, April 2025.

²⁵ NHS England, *PSR Statutory Guidance*, February 2024, p.40.

²⁶ Shropdoc, *Representations letter to STW ICB*, 14 February 2025.

“there was no legal requirement for consultation and that patient/public engagement was not required as this service [CCSPA] is not patient facing. It is a clinician to clinician service and there had not been any changes in terms of the requirements within the specification which would lead to any substantive change”.²⁷

51. Shropdoc subsequently told the Panel that:

“the assertion that the CCCSPA service [Care Coordination Centre Single Point of Access] is not ‘patient-facing’ to justify lack of consultation is demonstrably incorrect. The Single Point of Access component involves direct triage and clinical engagement with patients. This failure in engagement reflects a misunderstanding of the services being procured and a breach of Section 242 of the NHS Act and Regulation 4 of the PSR, which require relevant authorities to act transparently and with a view to securing the needs of service users.”²⁸

52. STW ICB, however, told the Panel that the CCCSPA is “clinical facing and effectively provides a navigation and streamlining process to all of our local available services” and is accessed by healthcare professionals by phone or electronically.²⁹ Additionally, in its presentation to the Panel, STW ICB stated that:

“[CCCSPA] delivers a model of unplanned referral management that streamlines and improves patient care and optimises the use of available local resources across acute and community services. The aim is to support healthcare professionals in navigating their patients to the most appropriate service to meet their unplanned care needs, reducing demand on the ED and hospital admissions, while also improving quality of care, patient experience and outcomes. In addition, clinical pathways are developed between providers and do not form part of the specification. This is not a service that is accessed directly by patients or the public and part of the block contract.”³⁰

53. STW ICB’s description of the CCCSPA service is reflected in the service specification issued to bidders, which says that:

“The service will provide a single point of referral for primary, community and emergency care workers seeking alternatives to the ED for patients, simplifying access routes for health care professionals by bringing together a number of ‘single points of access’ across Shropshire, Telford and Wrekin. The CCCSPA’s trusted clinical assessors will support referring clinicians to find the most appropriate commissioned service in Shropshire Telford & Wrekin and facilitate patients being seen in the community or via direct access pathways in the acute setting where clinically appropriate.”³¹

54. The Panel, in considering Shropdoc’s concerns about consultation with users of the CCCSPA service, noted Shropdoc’s reference to STW ICB’s compliance with its obligations under the NHS Act 2006. As set out in paragraph 38, assessing compliance with the NHS Act 2006 does not fall within the scope of the Panel’s responsibilities, and as a result, the Panel’s review does not address this matter.

²⁷ STW ICB, *Outcome of the ICB PSR Review Panel (Appendix to Representations response letter to Shropdoc)*, April 2025.

²⁸ Shropdoc, *Pro forma submission to the Panel*, 10 April 2025. Shropdoc further said, when meeting the Panel, that STW ICB had “a clear misunderstanding of the service that’s actually being procured”, that the CCCSPA “is a patient facing service”, and that STW ICB should have engaged with various stakeholders and actual users of the service (Panel meeting with Shropdoc, 2 June 2025)

²⁹ Panel meeting with STW ICB, 28 May 2025.

³⁰ STW ICB, *Presentation to the Panel*, 28 May 2025.

³¹ STW ICB, *GP Out of Hours Service - Local Service Specification (Annex 2 of the ITT documentation)*, 7 October 2024.

55. In relation to whether Shropdoc's concerns about consultation with users of the CCCSPA service amounted to a breach of the PSR regulations, the Panel notes, as it has earlier at paragraph 39, that neither the PSR regulations nor statutory guidance place any specific obligations on commissioners in this regard. Further, the Panel does not consider that there is any evidence to support a conclusion that Shropdoc's concerns about consultation with users of the CCCSPA service affected STW ICB's ability to conduct its provider selection process transparently, fairly and proportionately or otherwise breach its obligations under Regulation 4.
56. As a result, the Panel finds that STW ICB, in relation to pre-procurement consultation on the CCCSPA, did not breach the PSR regulations, and in particular its obligations under Regulation 4 to secure the needs of people who use the services, improve the quality of services and improve efficiency in the provision of services, and to act transparently, fairly and proportionately.

7.2 Availability of clearly defined KPIs in the tender documentation

57. Shropdoc, in its representations to the Panel, raised concerns about the lack of KPI information in the tender documentation, and said:
- “This approach contradicts the principle of fairness under the PSR. Without defined KPIs, bidders were unable to develop like-for-like service models, resulting in bidders developing models on divergent assumptions, materially affecting cost and resourcing structures ... The lack of clarity and shifting guidance (evidenced in the clarification log) made it impossible for bidders to accurately price or plan the service. These likely advantaged bidders who assumed lower standards or resourcing levels. Without measurable performance metrics, the ICB lacked a robust and fair basis to assess models to improve the quality and efficiency of the services, in accordance with Regulation 4 of the PSR” (see paragraph 28).³²
58. Shropdoc elaborated on these concerns when meeting with the Panel during this review. It said that “there is no such thing as national KPIs for GP Out of Hours providers”, and that “there were no other KPIs published in the ITT”. It said that, as a result, it had used the current contract KPIs for the purposes of modelling its bid.³³
59. This section sets out the Panel's assessment of Shropdoc's concerns about a lack of clearly defined KPIs in the tender documentation. The assessment is set out as follows:
- first, by way of background, the role of KPIs and service standards for the GP OOH service is discussed (see Section 7.2.1);
 - second, outcomes from the provider selection process, given Shropdoc's concerns, are reviewed (see Section 7.2.2);
 - third, KPI and other relevant information provided to bidders during the provider selection process is reviewed (see Section 7.2.3);

³² Shropdoc's representations about a lack of KPI information in the tender documentation builds on its earlier representations to STW ICB about this issue. In its representations to STW ICB, Shropdoc said that STW ICB failed “to specify and correctly apply appropriate KPIs for the services being procured” and that, as the incumbent provider, Shropdoc had “prepared their bid based on actual delivery experience and the standards they have been required to meet under the existing contract. However, the absence of defined KPIs means that other bidders may have taken a different approach, potentially reducing resourcing or lowering their service delivery commitments, which would materially impact patient care” (Shropdoc, *Representations letter to STW ICB*, 14 February 2025).

³³ Panel Meeting with Shropdoc, 2 June 2025.

- fourth, requirements for KPI assumptions in bidders' proposals, and how STW ICB assessed these assumptions, is reviewed (see Section 7.2.4); and
- finally, the Panel's conclusions are set out (see Section 7.2.5).

7.2.1 Introduction to service standards and KPIs

60. This section provides background on the use of service standards and KPIs in the GP OOH service.
61. The current GP OOH service, where Shropdoc is the provider, is subject to a number of service standards (or quality requirements), which Shropdoc is obliged to meet. These service standards often have an associated KPI which, in many cases, is a percentage threshold that sets out the minimum rate at which Shropdoc is expected to meet the service standard. (Not all KPIs, however, need to be expressed as a percentage threshold; for an alternative KPI see paragraph 89.)
62. The relationship between a service standard and an associated KPI in the current GP OOH service in Shropshire is illustrated in the two examples set out below.
- The first example relates to patient discharges. Under the service standard, Shropdoc must provide to GPs of discharged patients a summary of the episode of care delivered by Shropdoc.³⁴ The KPI for this service standard is 100%. That is, the minimum acceptable rate of compliance with this service standard is 100%.
 - The second example relates to home visits. Under this service standard, a home visit (for eligible patients) must be carried out within 1, 2 or 6 hours, depending on the patient's condition. The KPI for this service standard is 85%. That is, the minimum acceptable rate of compliance with this standard is 85%.
63. Shropdoc provided the Panel with a list of 18 service standards that it said it was expected to meet in delivering the current GP OOH service, and for 12 of these standards there was an associated KPI, expressed as a percentage, that set out the minimum acceptable rate of compliance. These KPIs varied from 85% to 100%.
64. The Panel notes that in some of the correspondence between Shropdoc and STW ICB prior to the Panel review, and in some of the parties' correspondence with the Panel, the concept of "service standard" and the concept of "KPI" sometimes appear to have been conflated. However, the Panel, in carrying out its assessment, has distinguished between these two concepts, consistent with the evidence provided to it on service standards and KPIs in relation to the current GP OOH service, and consistent with the approach set out during the provider selection process.

7.2.2 Bidders' approach to standards and resourcing

65. This section reviews Shropdoc's concerns that the provider selection process "likely advantaged bidders who assumed lower standards or resourcing levels" (see paragraph 57).

³⁴ This summary must include the patient's diagnosis, treatment plan and several other details.

66. If a bidder assumes lower standards or resourcing levels (relative to other bidders), this may translate into a lower cost bid, allowing a successful bidder to win through offering a lesser quality service at a lower price. Where this happens, so long as the winning bidder's proposal meets the minimum quality requirements set by the commissioner, and so long as the requirements set by the commissioner are consistent with its obligations under PSR Regulation 4 (e.g. the commissioner acting with a view to securing the needs of the people who use the services), there is no question of the provider selection process breaching the PSR regulations in this regard.
67. The Panel reviewed whether, in this case, the winning bidder, Medvivo, offered a lesser quality service at a lower price, potentially bringing into question STW ICB's compliance with its obligations under Regulation 4. In doing so, the Panel reviewed: (i) the workforce model proposed by Medvivo in comparison with that proposed by Shropdoc; and (ii) the overall quality assessment of the Medvivo proposal compared with the Shropdoc proposal.
68. In terms of workforce models, Medvivo proposed a smaller number of additional clinical staff to that offered by Shropdoc. As a result, Medvivo does not appear to have gained a bidding advantage by offering lower resourcing levels in terms of clinical staff. In terms of non-clinical staff, Medvivo proposed substantially fewer non-clinical staff than Shropdoc. STW ICB told the Panel that the difference in the number of non-clinical staff offered by the two bidders was indicative of their different business models, and their different abilities to benefit from economies of scale, rather than being related to service quality.³⁵
69. In terms of STW ICB's overall assessment of the quality of Medvivo's offer, the Panel notes that Medvivo scored approximately 25% more points than Shropdoc on the quality based elements of its proposal. This is a further indication that Medvivo did not "assume lower standards or resourcing levels" as a means of winning the tender, and its success in being selected was not solely due to pricing.
70. Given these observations on quality and resourcing, the Panel's view is that Medvivo did not "assume lower standards or resourcing levels" as a means of winning the tender, and given the outcome of concern to Shropdoc did not eventuate, there is no consequent need to assess whether such an outcome gave rise to STW ICB breaching its obligations under Regulation 4.

7.2.3 STW's provision of KPI and related information to bidders

71. This section reviews Shropdoc's concern that "the lack of clarity and shifting guidance (evidenced in the clarification log) made it impossible for bidders to accurately price or plan the service" (see paragraph 57). A lack of clarity about a material element of the requirements for bidders could potentially bring into question STW ICB's compliance with its obligations under Regulation 4 to act transparently and fairly.

³⁵ STW ICB, *Response to Panel questions*, Q13-RA.

72. The Panel reviewed the tender documentation and clarification questions to assess the extent to which bidders had clarity over both service standards and KPIs (given the conflation between these terms described in paragraph 64).

73. In relation to service standards, the service specification (part of the tender documentation) says that:

“The winning bidder “will ensure that the Service is delivered in accordance with best practice in health care at all times and shall adhere to the current standards, and any future updates to standards, as outlined in this specification”. It goes on to note that these standards may evolve during the contract to “improve patient care, efficiency and integration across the patient journey” and the winning bidder “will be required to be flexible to change with the latest clinical evidence and best practice”. Further, the winning bidder “must continually make use of intelligence/research to understand how delivery can be refined to improve standards.”³⁶

74. The service specification goes on to set out numerous standards which, by way of example, include the following:

- For GP Speak to Dispositions: “The patient will be informed by NHS 111 that a clinician will call them back within an allotted timeframe of between 1 and 6 hours. The GP OOH Provider will deliver a telephone first consultation model which could result in one of three outcomes:
 1. Consultation and any required interventions completed, no further actions.
 2. Face -to-face in-clinic appointment required – appointment booked for same day.
 3. Face to face home visit required – visit booked for same day.”³⁷
- For Telephone Triage: “The local GP Out of Hours Provider’s clinical systems must be able to offer telephone triage of all patients received from NHS 111 and process this in a timely manner ... Following telephone triage, it may be deemed that the patient’s condition is such that they can wait to be seen in primary care during normal working hours, and no further action will be taken by the GP Out of Hours Provider. The Provider will ensure the patient’s GP is informed of the consultation and its outcomes by 08:00 in the morning of the next normal working day.”³⁸
- Face to Face Consultations – Home Visits: “The local GP Out of Hours Provider system must be able to triage all requests for home visits in a timely manner. Response times will be measured from the point of receipt of the request for telephone triage, and national IUC KPIs 2022 stated that 95% of patients should be seen within the timeframe agreed,³⁹ for example:
 - Emergency Within 1 hour
 - Urgent Within 2 hours
 - Less Urgent Within 6 hours”⁴⁰

75. In relation to KPIs, the service specification says:

³⁶ STW ICB, *GP Out of Hours Service - Local Service Specification (Annex 2 of the ITT documentation)*, 7 October 2024, pp.12-13.

³⁷ STW ICB, *GP Out of Hours Service - Local Service Specification (Annex 2 of the ITT documentation)*, 7 October 2024, p.16.

³⁸ STW ICB, *GP Out of Hours Service - Local Service Specification (Annex 2 of the ITT documentation)*, 7 October 2024, p.16.

³⁹ The Panel notes that within this description of a service standard there is also a reference to a KPI. STW ICB, in response to a clarification question, said that this was an example of a KPI, not necessarily a KPI that would be applied to the successful bidder (see response to Question 115 in the table at paragraph 78).

⁴⁰ STW ICB, *GP Out of Hours Service - Local Service Specification (Annex 2 of the ITT documentation)*, 7 October 2024, p.18.

“Key Performance Indicators will be set out in Schedule 4 Part A-C [of the contract with the winning bidder]. The latest national Data and Reporting requirements are detailed in the IUC KPIs 2023/24 <https://www.england.nhs.uk/publication/integrated-urgent-care-key-performance-indicators/>. However, it is expected that a revised set of KPIs will be in place at the point of contract award and these are therefore subject to change.

“In addition to national and regional requirements, the Provider must comply with the additional requirements detailed in the local activity and finance templates which will be agreed with the successful Provider during mobilisation, in line with the latest NHS England and NHS STW operational planning guidance.”⁴¹

76. A limited number of KPIs are also included in the specification. For example, in relation to complaints handling, the specification says that the provider must ensure that “100% of complaints are acknowledged within 2 working days” and “85% of complaints are responded to in 25 working days”.⁴²
77. The service specification also refers bidders to several documents outside the tender documentation that set out potentially relevant standards and KPIs, including:
- the National Integrated Urgent Care Specification (August 2017);
 - NHS Digital Booking and Referral Standard; and
 - NHS England’s Integrated Urgent Care Key Performance Indicators 2023/24 (see paragraph 75).⁴³
78. STW ICB’s responses to bidders’ clarification questions concerning service standards and KPIs are set out in the table below.⁴⁴

No.	Clarification Question	STW ICB response
6	Can we have a list of the Dx [Disposition] Codes that are to be taken into the OOHs service? ⁴⁵	The attached includes all codes which may be taken into the OOH service.
8	Page 16 [of the STW ICB service specification] states: “The patient will be informed by NHS 111 that a clinician will call them back within an allotted timeframe of between 1 and 6 hours.” – given the Pathways timeframes, what dispositions need a 1 hour callback, and which require 6 hour callbacks?	Callbacks should be completed as per the Pathways disposition and are measured using KPIs 5a and 5b of the National IUC KPIs.
9	Page 18 [of the STW ICB service specification] details home visits in 1, 2, 6 hour timeframes. Would the commissioners consider aligning to Dx timeframes as outlined by NHS Pathways?	Home visit timeframes can be aligned with Dx timeframes as outlined by NHS Pathways.
15	Palliative Care – KPIs For the palliative care line, are there KPI expectations?	KPIs will be agreed during mobilisation in line with the most recent national and local guidance. It is anticipated that there will be KPIs and/or reporting requirements relating to activity levels and response times for the palliative care line.
68	Performance Monitoring	IUC standards will be used to monitor operational performance and associated improvements, while

⁴¹ The service specification goes on to say that additional KPIs may be developed during the lifetime of the contract (i.e. after the initial set of KPIs are agreed during mobilisation (STW ICB, *GP Out of Hours Service - Local Service Specification (Annex 2 of the ITT documentation)*, 7 October 2024, pp.55-56).

⁴² STW ICB, *GP Out of Hours Service - Local Service Specification (Annex 2 of the ITT documentation)*, 7 October 2024, p.57.

⁴³ STW ICB, *GP Out of Hours Service - Local Service Specification, (Annex 2 of the ITT documentation)*, 7 October 2024.

⁴⁴ Clarification question logs track questions raised by bidders during the tender period, along with the answers provided by the relevant authority. Typically, these answers are circulated to all bidders, unless there is an agreement between the bidder and the relevant authority that a particular question and answer is commercially confidential and will not be shared with other bidders.

⁴⁵ A disposition is a call outcome, such as “Speak to GP practice within 1 hour”.

	Could commissioners confirm if performance will be monitored via NRQ or IUC standards?	NQR (National Quality Requirements) will be used to monitor quality of care and impact of harm when performance is poor. Local performance plans will also apply.
115	In your response to Qu8 you reference National IUC KPIs 5a and 5b, which are not applicable to this ITT. They are measured solely at the 111 provider level. Please clarify the home visit timeframes expected as the specification is quite clear that the timeframes should be 1, 2, 6 hours and not Dx code timeframes. A significant relaxation of home visit priorities may require patient involvement according to s242 of the NHS Act	Question 8 referred to call backs, not home visits. Response times should be decided on the basis of clinical judgement and priority. KPIs relate to Provider performance and will be finalised during mobilisation in line with the latest IUC KPIs and local requirements. The timeframes stated within the specification are from the IUC KPIs 2022 and are utilised as an example (page 18 of the service specification). Any significant changes will sit with the Commissioner in terms of statutory duty for public engagement and involvement.
116	Re Response to question 8 and 9 – Pathways Dx Codes as provided are up to 12 and 24 hours. Will the expectation be that the 12/24 hour dispositions be answered within 12/24 hours, or is the expectation that they will be in a shorter timeframe?	Response times should be decided on the basis of clinical judgement and priority. KPIs relate to Provider performance and will be finalised during mobilisation in line with the latest IUC KPIs and local requirements.

Source: STW ICB, *Clarification Log*, 30 October 2024.

79. The Panel’s view, having reviewed the tender documentation and clarification questions, is that STW ICB was clear about service standards in the tender documentation, and it was also clear that KPIs would be finalised with the successful bidder during contract mobilisation. The Panel does not consider that there was a “lack of clarity” about STW ICB’s intention to finalise KPIs during contract mobilisation or that there was shifting guidance from STW ICB on this intention. The Panel agrees, however, that there was a lack of clarity, albeit intentional, over what the KPIs would be, and assesses the implications for compliance with the PSR regulations in the following section.

7.2.4 Requirement for KPI assumptions in bidders’ proposals

80. This section sets out the Panel’s assessment of Shropdoc’s concern that:
- “Without defined KPIs, bidders were unable to develop like-for-like service models, resulting in bidders developing models on divergent assumptions, materially affecting cost and resourcing structures ... [and] Without measurable performance metrics, the ICB lacked a robust and fair basis to assess models” (see paragraph 57).
81. Shropdoc’s concerns, as set out above, potentially raise issues about STW ICB’s compliance with Regulation 4 in that bidders may not have been treated fairly. This would be the case if proposals were not evaluated consistently as a result of divergent assumptions about KPIs not being taken into account in the evaluation.
82. In assessing Shropdoc’s concerns, the Panel identified two questions in the tender documentation where bidders potentially had to make assumptions about KPIs as part of their response. These were, first, Question A4, which asked bidders about how they will ensure that they achieve their KPIs, and second, Question C7, which asked bidders about capacity modelling. The responses to these questions, and their evaluation by STW ICB, are discussed in turn below.

Question A4 – Ensuring that KPIs are achieved

83. In Question A4, bidders were asked:

“Please describe and evidence, where relevant, how your organisation will approach performance monitoring and reporting, and how you will ensure that KPIs are achieved e.g. response times, availability of appointments?”

“Also include details regarding the reporting of KPIs, remedial action, resolution and nationally mandated surveys.

“Please provide examples of the information pack you would provide on a regular basis to the Commissioners to support the management and monitoring of the service.”

84. The Panel reviewed Shropdoc’s and Medvivo’s responses to this question. Both bidders set out their overall approach to delivering against KPIs and provided examples of KPIs that both bidders currently work against in GP OOH services. Neither bidder set out any assumptions about KPIs as part of their response to this question. (The Panel also notes that neither Shropdoc nor Medvivo, in responding to this question, expressed any concerns about STW ICB’s plan to finalise KPIs during contract mobilisation.)

Responses to Question C7 concerning capacity modelling

85. In Question C7, bidders were asked:

“Please provide an overarching narrative of your approach to capacity modelling.

“Include clear details of your contingency arrangements to ensure that service delivery is maintained at commissioned, in the event of an unanticipated short-term peak in demand for the service or a sudden shortage of operational staff/clinicians.

“Based on the anticipated activity, please fully complete Appendix [or Annex] 10 as indicated.”

86. Annex 10, referred to in Question C7, is a demand and capacity template, comprising four worksheets, namely: (i) instructions for bidders; (ii) an activity worksheet, where bidders were asked to set out their forecast demand profile for GP OOH services; (iii) an assumptions worksheet, where bidders were asked to set out the assumptions used to convert forecast demand into forecast workforce capacity; and (iv) a workforce worksheet, where bidders were asked to set out the workforce that would be used to meet forecast demand.

87. In the instructions for completing the template, bidders were asked to set out their “anticipated profile of demand and the capacity needed to fulfil this demand in Whole Time Equivalent (WTE) numbers by type” and to “clearly demonstrate how you have modelled the WTE numbers required to meet the anticipated demand and achieve performance targets”.⁴⁶

88. Bidders were asked to use activity data supplied with the tender documentation to formulate their demand profile: (i) by month for the first year of the contract; and (ii) by hour for the average weekday and weekend. This demand profile was, in turn, used to inform bidders’ capacity modelling. The Panel notes that STW ICB may have found it

⁴⁶ STW ICB, *GP OOH Demand and Capacity Template (Annex 10 of the ITT documentation)*, 7 October 2024.

easier to ensure that it was evaluating bids on a like-for-like basis if it had itself set out the demand profile, rather than requiring its estimation by bidders. However, the Panel's view is that this did not materially affect STW ICB's overall ability to evaluate proposals.

89. The Panel, in reviewing the capacity and demand template, did not identify any need for bidders to make assumptions about those KPIs that currently apply to Shropdoc's current GP OOH service in order to complete the template. Bidders did, however, have to make an assumption about the number of consultations per hour, and both Shropdoc and Medvivo cited this metric as an example of a KPI in their responses to Question A4.
90. Shropdoc in the "Narrative & Assumptions" worksheet for the Financial Model Template said that its "GP OOH staffing model is based on achieving current locally agreed KPIs", and provided an assumption about the number of consultations per hour. Medvivo, in its proposal, said that the number of consultations per hour would be within a range, and following a clarification question from STW ICB refined its range to a single point estimate that was similar to that put forward by Shropdoc.
91. STW ICB in its evaluation of Medvivo's proposal, said "the activity per clinician gives rise to a minor concern regarding meeting demand that may push work into the following day or into other services. Through clarification the bidder did provide some assurance but did not fully explain the appointment time range".⁴⁷ Medvivo was awarded a score of 3 (Acceptable) for its answer, as was Shropdoc. The Panel's view is that evidence does not suggest that STW ICB's evaluation of the two bidders' responses to this question was unreasonable.

Panel assessment of KPI assumptions in bidders' proposals

92. In summary, the Panel notes that the tender documentation only placed a very limited requirement on bidders to formulate KPI assumptions to support their proposal. In relation to the one KPI assumption in bidders' proposals that the Panel identified (i.e. consultations per hour), Medvivo and Shropdoc made very similar assumptions. As a result, the Panel does not accept Shropdoc's suggestion that "bidders were unable to develop like-for-like service models, resulting in bidders developing models on divergent assumptions, materially affecting cost and resourcing structures".

7.2.5 Panel conclusions on KPI information in the tender documentation

93. In conclusion, regarding the concerns raised by Shropdoc regarding a lack of defined KPIs in the tender documentation, the Panel's view is that:
 - first, the tender documentation contained sufficient information about the service standards that would be expected of the successful bidder, and it was also clear that KPIs would be finalised with the successful bidder during contract mobilisation;
 - second, bidders did not need to make extensive assumptions about KPIs in order to respond to the proposal, and for the one possible KPI where bidders

⁴⁷ Medvivo initially set out a wider range for its assumption about activity per clinician, but this was narrowed as a result of the clarification question.

had to make an assumption, Medvivo's and Shropdoc's assumptions were very similar; and

- finally, the evidence from the assessment of the quality of Medvivo's tender response and the resources it has proposed does not support a suggestion that its success in winning the bid was based on any assumption of lower standards.

94. Given these conclusions, the Panel finds that STW ICB provided limited information in the tender documentation on the specific KPIs that would be implemented, but did not breach the PSR regulations, and in particular its obligation under Regulation 4 to act transparently, fairly and proportionately.

7.3 Evaluation of bidders' financial proposals

95. This section sets out the Panel's assessment of Shropdoc's concerns about the evaluation of bidders' financial proposals.

96. Shropdoc, in its representations to the Panel, said that:

"no due diligence was conducted into the deliverability of the winning bidder's submission, which was markedly below both the ICB's indicative value and the incumbent's costed model. Accepting a substantially cheaper bid without detailed due diligence or a clear assessment of risk around sustainability is not consistent with obligations under Regulation 5 ... The ICB has not provided a reasoned analysis explaining how the successful bidder's price could be sustainable without compromising service quality or patient safety. The absence of a clear, documented evaluation of financial sustainability is a continuing concern and remains unaddressed by the ICB's generalised statements in the panel report." (see paragraph 28).⁴⁸

97. The Panel notes Shropdoc's reference to Regulation 5, which sets out the five key criteria that commissioners must take into account when evaluating proposals. One of the five key criteria is Integration, collaboration and service sustainability, which refers to "the stability of good quality health care services or service continuity of health care services"). Shropdoc's concerns, to the extent that they are valid, are, however, more likely to give rise to a potential breach of Regulation 4, which requires commissioners to act with a view to "securing the needs of the people who use the services".

98. To evaluate Shropdoc's concerns about how STW ICB assessed the deliverability and financial sustainability of bidders' submissions, including that of Medvivo, the Panel reviewed the relevant provisions of the tender documentation, including the Financial Model Handbook (FMH) and the Financial Model Template (FMT).⁴⁹

99. The Panel notes that the FMH:

⁴⁸ Shropdoc further said that "the ICB accepts that the successful provider's price was £3.5 million lower than the indicative budget, and £6.75 million lower than the incumbent's bid, yet relies on vague references to 'back-office efficiencies' without evidencing a rigorous financial risk assessment or confirming how service quality and safety will be maintained. The ICB also failed to explain how the successful provider's financial structure, group governance, or past trading performance (given concerns about their wider corporate structure) were factored into the risk appraisal" (Shropdoc, *Pro forma submission to the Panel*, 10 April 2025).

⁴⁹ The FMH contains instructions on how bidders should complete the FMT.

- explains that the FMT “will allow NHS Shropshire, Telford and Wrekin ICB to assess the ‘Value for Money’ of the bid and to take a view as to the Bidder’s capacity and long-term sustainability”;
- tells bidders to “ensure all costs are included within the FMT”;
- advises bidders that “there will be an appraisal of the robustness of the deliverability of bids based on an analysis of their accounts and their ability to operate on an ongoing concern basis as part of the Standard Questionnaire questions ... [and] As part of this process the Authority shall review resources to ensure correlation between the written bids submitted and the FMT (Annex 5) and the Demand and Capacity Template (Annex 10). Where there may be discrepancies or concerns identified, the Authority reserves the right to seek clarification and should those concerns be of a significant nature and not be resolved via clarification, the Authority reserves the right to disqualify the bidder from further participation in the Procurement process”.⁵⁰

100. The Panel also notes that the FMT tells bidders that:

- “For the GP OOH element of this contract, Bidders should ensure that their costings reflect the anticipated split of activity by telephone/base visit/home visit”;
- “As described in the service specification, it is anticipated that activity may increase as a result of transformation initiatives within the UEC arena. Bidders are therefore asked to complete two sets of costs for this service, based on two different levels of activity”.
- to “evidence how Opening Cash balance will be funded and also how any periods of negative cash flow will be managed. The sheet gives examples of the types of funding which could be included. The analysis of cash flow and cash flow management forms part of the overall Financial Evaluation and Bidders must be aware that supporting evidence should be provided of any stated sources of funding”;
- to “provide full details and disclosure of any key assumptions made in the FMT”; and
- “All premises and associated costs are the responsibility of the provider. This includes but is not limited to: IT software and hardware, administration costs, facilities maintenance, etc”.⁵¹

101. The Panel’s view is that the requirements set out in the FMH and FMT provided STW ICB with the means of ensuring that (i) bidders were able to operate as an ongoing concern; (ii) relevant costs were captured in bidders’ financial proposals; and (iii) that there was consistency between bidders’ financial proposals and other elements of their proposals.

102. The Panel also reviewed STW ICB’s evaluation of Medivivo’s financial proposals, and noted that no reservations were expressed regarding the formulation of its financial proposal. (This contrasts with the Shropdoc proposal where the evaluation says

⁵⁰ STW ICB, *Annex 4 -FMT Handbook OOH Procurement Final*, 7 October 2024.

⁵¹ STW ICB, *Annex 5 - OOH Procurement Financial Model Template Final v2 (BR)*, 7 October 2024.

“Concerned that within the mobilisation plan there is a statement re agreeing the financial envelope for the contract ... there are statements that put commissioners at risk re additional costs which are not yet transparent in terms of numbers and assumptions.”)

103. The Panel notes that Shropdoc’s representations to the Panel raised issues about information provision. Shropdoc says that “The ICB has not provided a reasoned analysis explaining how the successful bidder’s price could be sustainable without compromising service quality or patient safety. The absence of a clear, documented evaluation of financial sustainability is a continuing concern and remains unaddressed by the ICB’s generalised statements in the [ICB review] panel report” (see paragraph 96).
104. STW ICB provided the Panel with relevant financial evaluation records and was able to explain its approach to the financial analysis. Further, the Panel’s view is that STW ICB met its obligations in terms of disclosure to Shropdoc regarding the evaluation.
105. In summary, the Panel’s view is that the evidence does not support a conclusion that STW ICB failed to assess the deliverability and financial sustainability of Medvivo’s proposal. As a result, the Panel finds that STW ICB, in evaluating the financial aspects of Medvivo’s proposal, did not breach the PSR regulations, and in particular its obligation under Regulation 4 to act with a view to securing the needs of the people who use the services.

7.4 STW ICB’s choice of procurement process

106. This section sets out the Panel’s assessment of Shropdoc’s concerns about STW ICB’s decision to use the competitive process to select a provider for the GP-led OOH services contract.

107. Shropdoc, in its representations to the Panel, said that:

“The Competitive Process was adopted without demonstrating why Direct Award Process C was unavailable. The ICB has inconsistently asserted both that the ‘considerable change threshold’ was met and that it was not met. These misstatements of the PSR casts serious doubt on whether the ICB gave due regard to its PSR obligations or properly understood the available procurement routes.

Despite the conclusions made in its panel report, the ICB itself acknowledged the service was unchanged in scope or delivery model so the contract value increase was 23%, below the 25% required. There is no evidence that the ICB properly assessed or documented its decision-making in line with Regulation 24(f)–(g). This omission is not addressed in the ICB’s response, and no copy of such a record has been provided” (see paragraph 28).

108. STW ICB, in response to Shropdoc’s representations and request for information, had earlier provided Shropdoc with a redacted copy of its paper to the Strategic Commissioning Committee which “sets out the basis for the ICB’s decision to use the Competitive Process for the Procurement”⁵², and a redacted copy of its Contract Award Recommendation Report. STW ICB further told Shropdoc that it was unable to use Direct Award Process C as the new contract was materially different to the current

⁵² STW ICB, *Representations response letter*, 5 March 2024.

contract and that, in any event, even if Direct Award Process C was available, it was open to STW ICB to decide to use the competitive process.⁵³

109. The Panel agrees that STW ICB was able to decide to use the competitive process without having to demonstrate that Direct Award Process C was unavailable. There is no indication from STW ICB's documentation of its decision to use the competitive process that it did not understand the available procurement routes. This stated that:

"Of the five procurement processes available, direct award process A, B and C are not suitable, and NHS STW [ICB] is not able to determine who the Most Suitable Provider might be without understanding the service offer of alternative providers. It is therefore recommended that the competitive process is used for the procurement."⁵⁴

"the ICB undertook a full review of the options available under PSR for the procurement of the service alongside the specific criteria detailed within the regulations which can be summarised as follows:

"... This service did not meet the test for considerable change under Direct Award C, where a service must not be materially different in character to the existing service and the new contract must not exceed £500,000 of the lifetime value of the existing Contract or be 25% higher than the lifetime value of the Contract. When the GP Out of Hours service was procured in 2018, the original annual value was ... per annum. The new annual value is estimated to be £7.2m, which exceeds the 'considerable change' value of £500,000.

"During the Extraordinary Strategic Commissioning Committee held on 1st October 2024, it was agreed that a competitive process should be undertaken to identify all potential providers and ensure the best quality service and value for money for the local population was procured."⁵⁵

110. As a result, the Panel finds that STW ICB, in deciding to use the competitive process, did not breach the PSR regulations, and in particular its obligations under Regulation 6, which sets out the conditions governing commissioners' choice of provider selection process. The Panel also finds that STW ICB, by providing information to Shropdoc in response to its request for information about the choice of provider selection process, did not breach its obligations under the PSR regulations, and in particular its obligations under Regulation 12(4).

8 Panel Advice

111. In summary, the Panel's findings on the provider selection process carried out by STW ICB for the GP OOH service in Shropshire, Telford and Wrekin are as follows:
- First, the Panel finds that STW ICB, in conducting pre-procurement consultations, did not breach its obligations under Regulation 4, and in particular its obligation to secure the needs of people who use the services, improve the quality of services and improve efficiency in the provision of services, and its obligation to act transparently, fairly and proportionately.

⁵³ STW ICB, *Outcome of the ICB PSR Review Panel (Appendix to Representations response letter to Shropdoc)*, April 2025.

⁵⁴ STW ICB, *Paper to the Strategic Commissioning Committee*, 1 October 2024.

⁵⁵ STW ICB, *Contract Award Recommendation Report*, 22 January 2025.

- Second, the Panel finds that STW ICB, in not including the CCCSPA service in the Prior Information Notice, did not breach the PSR regulations, and in particular its obligation under Regulation 4 to act fairly.
- Third, the Panel finds that STW ICB, in relation to pre-procurement consultation on the CCCSPA, did not breach the PSR regulations, and in particular its obligations under Regulation 4 to secure the needs of people who use the services, improve the quality of services and improve efficiency in the provision of services, and to act transparently, fairly and proportionately.
- Fourth, the Panel finds that STW ICB provided limited information in the tender documentation on the specific KPIs that would be implemented, but did not breach the PSR regulations, and in particular its obligation under Regulation 4 to act transparently, fairly and proportionately.
- Fifth, the Panel finds that STW ICB, in evaluating the financial aspects of Medvivo's proposal, did not breach the PSR regulations, and in particular its obligation under Regulation 4 to act with a view to securing the needs of the people who use the services.
- Finally, the Panel finds that STW ICB, in deciding to use the competitive process, did not breach the PSR regulations, and in particular its obligations under Regulation 6, which sets out the conditions governing commissioners' choice of provider selection process. The Panel also finds that STW ICB, by providing information to Shropdoc in response to its request for information about the choice of provider selection process, did not breach its obligations under the PSR regulations, and in particular its obligations under Regulation 12(4).

112. Given the Panel's findings that STW ICB acted in accordance with the PSR Regulations, the Panel advises STW ICB to proceed with the proposed contract award as originally intended.