
**A REVIEW OF COMMISSIONING ARRANGEMENTS FOR AUTISM SPECTRUM
DISORDER SERVICES IN SOUTH STAFFORDSHIRE**

Autism Spectrum Disorder – Diagnosis and Intervention Service for Children and
Young People

External review on behalf of NHS England/NHS Improvement

SKSN Consultancy & Support

June 2022

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1.0 Acknowledgments

The reviewer would like to thank all those who participated in the review for sharing their insights and valuable information about the Staffordshire Autism Spectrum Disorder Service (ASD). The verbal feedback provided by officers of the CCGs and carers with lived experience of these services obtained through face-to-face interviews and phone calls, alongside the considerable volume of information and evidence provided, enabled the reviewer to gain valuable insight into the commissioning of and the experience of using these services. This has added considerably to the overall findings of this review.

The reviewer would also like to thank all those who provided support and hospitality in arranging meetings and venues.

1.1 Executive summary

This review has been commissioned by NHS England/NHS Improvement following a series of high-profile concerns about the autism spectrum disorder service (ASD) for children and young people in South Staffordshire. It has assessed how the commissioners of this service monitored the quality, activity, and finance elements of the service contract that was in place until 30 September 2019 and the effectiveness and strength of the commissioner's oversight and governance frameworks associated with this. It has also reviewed the governance and procurement processes that led to the award of an interim contract for the service from 1 October 2019.

The review has found that:

- The initial service specification was lacking in sufficient details and as such can be described as an 'incomplete contract' hampering effective contract performance and management
- Historically poor relationships between the providers of the ASD service and the Child and Adolescent Mental Health Service (CAMHS) were initially interpreted by the commissioners as the probable explanation for the lack of joint working between these providers. However, the potential impact of this on the quality of care during the early stages of the ASD contract appears to have been less understood
- Structural changes within some of the organisations involved, coupled with poor access to legacy documentation about complaints contributed to a loss of organisational memory in the CCGs. This gave rise to a missed opportunity by the CCGs to respond to some concerns about the service in a timely manner
- There were challenges relating to the inclusion of service user representatives in the commissioning functions of the clinical commissioning groups (CCGs), including the involvement of such stakeholders in the monitoring of quality and development of service specifications
- The demands associated with this procurement are likely to have diluted commissioner attention away from challenges in engaging with some stakeholders. A greater appreciation of the risks associated with this may have avoided the potential for reputational damage to the CCGs
- A greater appreciation of timescales needed to conduct a new procurement may have enabled the commissioners to avoid the need for an interim contract and the risks associated with this, including the award of an interim contract to a new provider without a formal open competitive process.

The review has made several recommendations which are summarised below:

1. The CCGs to strengthen their governance processes with respect to corporate risk management to ensure that reports to their governing bodies include effective triangulation of all strategic risks.

2. The CCGs to review their corporate governance policies for the safe storage of corporate records/documentation and establish a robust system for access to and management of legacy records.
3. The CCGs to ensure all contract awards to have robust service specifications with clarity on activity levels, key performance indicators (KPIs), and expectations of operational relationships with other providers so that these form a foundation for sound contract management.
4. Ensure there is clarity on the roles and responsibilities for contract management between the CCGs and the Commissioning Support Unit (CSU) including defining which parties are responsible for escalating concerns to senior management(s) and appropriate committees within the CCGs.
5. The CCGs to consider new contract models so that individual contracts are not managed in isolation but that services within the overall pathway are monitored to ensure there is appropriate integrated working and positive relationships between providers. This could be facilitated by application of the alliance contract model.
6. The CCGs to establish a strategic forum to develop a strategy and pipeline for future procurements and ensure arrangements for oversight of these.
7. The CCGs to adopt a clear strategy and process for engagement of stakeholders across their commissioning functions including procurement and quality. This should include formal processes for dealing with challenges and complaints from service users and their representatives and should be consistent with the CCGs' governance framework and be mindful of potential conflicts of interest.
8. The CCGs to ensure that they are aware of the procurement regulations relating to the award of interim contracts, and that where contracts are coming towards their expiry date, sufficient time is allowed to complete negotiations and/or conduct a compliant procurement process for an interim contract.

2.0 Introduction

2.1 Context to the review

This review was carried out while the mental health and autism services for children and young people in South Staffordshire were provided by two organisations. The Autism Spectrum Disorder (ASD) service was provided by a not for profit Social Enterprise, **Midlands Psychology (MP)**. The Child and Adolescent Mental Health Service (CAMHS) continues to be provided by **Midlands Partnership NHS Foundation Trust (MPFT)**.

These services are commissioned by South East Staffordshire and Seisdon Peninsula CCG as host commissioner on behalf of Cannock Chase CCG, East Staffordshire CCG and Stafford and Surrounds CCG.

The contract for Autism services was initially held by South Staffordshire and Shropshire Healthcare Foundation Trust (SSSFT). To improve services, the contract was put out to competitive tender in 2010 and MP were awarded the contract for a period of three years. The MP bid was designed in partnership with parents and became an award winning service. The contract was re-tendered, and MP were awarded it again from 1st October 2014 for a three year period with the option to extend for a further two years. In line with the contract terms, it was extended for a further two years to expire on 30th September 2019.

During 2018-19 the CCGs began preparation to commission a new autism service to commence on 1 October 2019, however the planned procurement was delayed by several months. Several options were reviewed including a potential extension of the existing contract, however following an unsuccessful period of negotiation with MP to extend the contract for a further four months beyond September 2019, the CCGs decided to secure an alternative interim provider. MPFT was selected to provide the interim service. The MP contract ended on 30 September 2019.

On 17 September 2019 MP raised a formal complaint to the CCGs under the NHS complaints process about the way the CCGs had managed its function in respect to the re-procurement of the ASD service. MP also disputed the CCGs' process to secure interim arrangements pending a full procurement of the service. A range of stakeholders were copied into the complaint including the Secretary of State for Health and Social Care and the NHS Chief Executive.

NHS England and NHS Improvement (NHSE/I) have commissioned an independent review to assess the arrangements used by the CCGs to manage the ASD contract when it was held by MP and to assess the CCGs' decision-making process to award the interim contract to MPFT. NHSE/I is also seeking to identify any lessons that may be learnt by the CCGs as well as the wider health system.

2.2 Terms of reference for the review

This review has aimed to cover two key lines of enquiry:.

- How the commissioners monitored the quality, activity, and finance elements of the MP contract and to consider the effectiveness and strength of the commissioner's oversight and governance frameworks.
- Review the governance and procurement processes that led to the awarding of the interim contract to MPFT from 1 October 2019.

2.3 Limitations of the review

The focus of this review has been on the MP contract within the wider context of ASD services for children and young people (CYP) in South Staffordshire. This review did not seek to review the CAMHS service provided by MPFT other than to understand the respective roles and responsibilities of the two providers working together to provide a joint approach to the care of CYP with autism disorders.

The review has covered a period where there were significant changes in the Staffordshire and Stoke-on-Trent health and social care system. During this time new commissioning and provider organisations were formed as well as greater joint working with the county council. Due to these changes some of the original officers working with the ASD service are no longer in post. It has therefore not been possible to substantiate some of the information provided from third parties in the CCGs.

The views of several carers with lived experience of these services (here on in described as the carers) have been included in this review. The carers formally approached NHSE/I, requesting that they be allowed to provide important information about the commissioning arrangements for the current and new ASD service. The review has recognised the limitation of small sample sizes and has therefore triangulated the information provided by the carers with a range of other relevant information such as user feedback from the CCGs' engagement survey for the procurement of a new ASD service in 2019, the external review into the current service in 2018, and where available, minutes and records of numerous CCG meetings. The review has also assessed information from officers in the CCGs and the Chief Executive of MP, all of whom were interviewed during the review process.

2.4 Methodology

The review has examined each key line of enquiry in turn. The review has also been mindful of the interdependencies between the two areas and where appropriate it has reviewed and referenced the relationships between these. A mixed methodology was used to undertake the review and consisted of extensive document review and analysis of the CCGs' governing bodies' papers, report of the external review into the ASD service as undertaken by Northumberland, Tyne and Wear Foundation Trust (NTW) in 2018, reports of formal CCGs' visits, minutes, and file notes of contract review meetings (CRMs), correspondence between commissioners and providers, and interviews with CCG officers.

Face-to-face interviews with key CCG officers were undertaken during November 2019. The following officers were interviewed:

- Accountable Officer (AO)
- Managing Director for South West Locality (MDSW)
- Deputy Director of Finance and CCGs' Contract Portfolio Lead (Dep DOF)
- Executive Director of Nursing and Quality (DON)
- Deputy Director of Nursing, Quality and Safety (Dep DON)
- Senior Strategic Lead (SSL)
- Quality Improvement Manager (QIM)
- Service Director, Midlands and Lancashire CSU (MLCSU).
- Several unsuccessful attempts were made to interview the Care Quality Commission (CQC) Inspection Manager for Staffordshire and Shropshire Team.

A meeting with the carers was undertaken during March 2020 with a further meeting taking place in January 2021. They also provided a large amount of evidence and an extensive review of this was undertaken.

Two meetings were undertaken with the Chief Executive of MP during June and July 2021. A significant amount of information was also reviewed.

Reports from the CQC, Healthwatch and several complaints from service users were also reviewed.

2.5 Background to the review

The review has covered a period where there were significant changes in the Staffordshire and Stoke-on-Trent health and social care system. The Midlands Partnership NHS Foundation Trust (MPFT) was formed on 1 June 2018 following a merger between South Staffordshire and Shropshire Healthcare NHS Foundation Trust (SSSFT) and Staffordshire and Stoke-on-Trent Partnership NHS Trust (SSOTP). There were also significant changes in the commissioning landscape at the time as primary care trusts (PCTs) were disestablished and clinical commissioning groups (CCGs) were created. Further changes followed as the four South Staffordshire CCGs formally joined to work with Staffordshire County Council. This was followed by a further partnership of these CCGs with the two North Staffordshire CCGs.

In 2016, Sustainability and Transformation Partnerships (STPs) were established and as part of this arrangement the Staffordshire health and social care system came together to form the *Together We're Better* STP.

2.6 CCGs' governance

There are six clinical commissioning groups (CCGs) in Staffordshire. Four of these CCGs cover the South Staffordshire geography as highlighted below.

South Staffordshire CCGs

- Cannock Chase CCG
- East Staffordshire CCG
- South East Staffordshire and Seisdon Peninsular CCG
- Stafford and Surrounds CCG

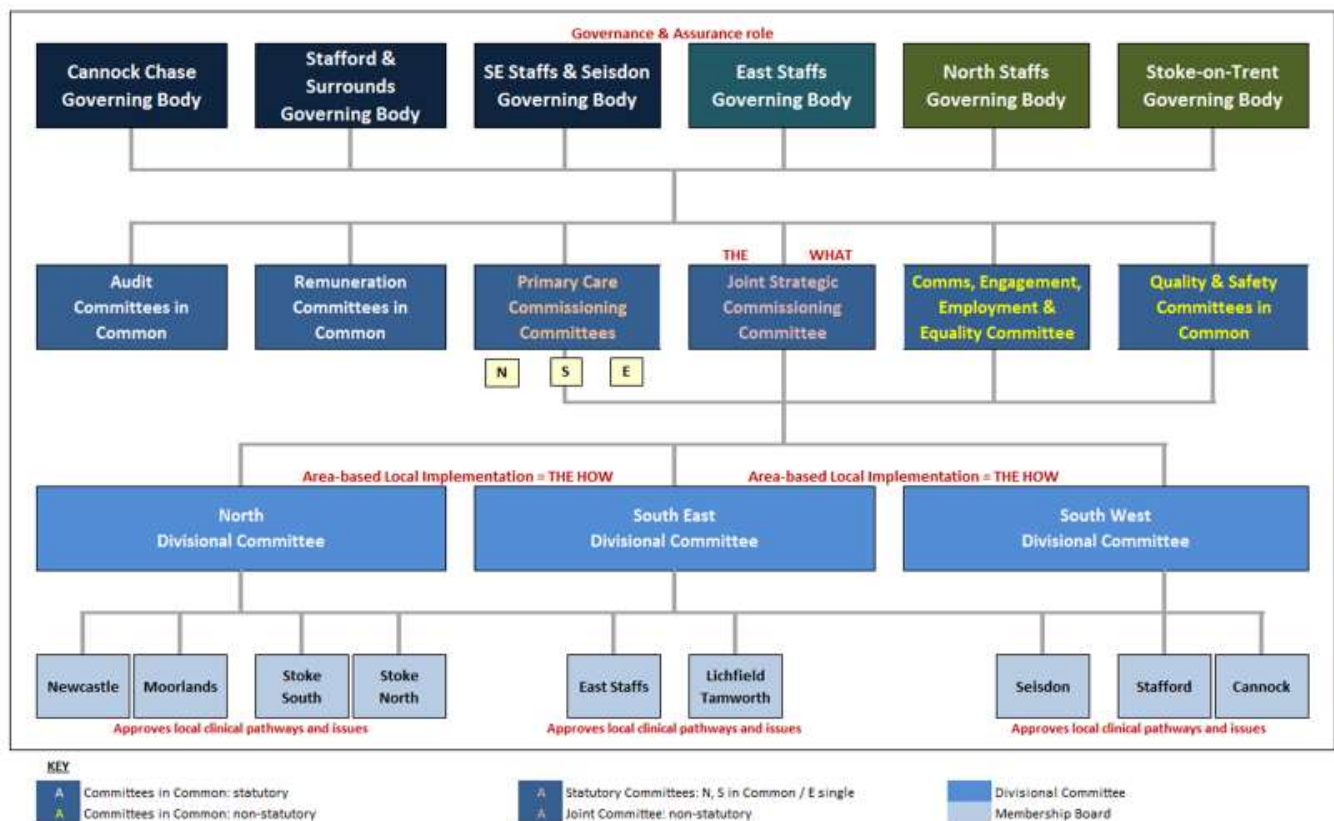
North Staffordshire CCGs

- North Staffordshire CCG
- Stoke-on-Trent CCG

Within this framework, the six CCGs have increasingly been working closer together to integrate their commissioning functions. This aims to enable them to identify opportunities to commission integrated services further, thereby improving the experience of service users and carers and ensure the most cost-effective use of resources.

While each CCG has remained individually accountable for undertaking their statutory functions, all the CCG governing bodies hold their board meetings in common. During February 2019, the CCGs revised their governance structure to reflect the new working arrangements as set out below.

The New CCG Governance Structure



As part of the CCGs' arrangements to integrate their commissioning functions, there were two significant Management of Change (MOC) processes which took place over the last five years. This led to numerous changes in CCG staff including commissioners for the ASD services in South Staffordshire and this contributed to some loss of organisational memory within the CCGs. This was reported by some officers interviewed to have impacted on commissioning

activities and relationships at that time and subsequently as new commissioners sought to establish themselves and improve several aspects of the CCGs' commissioning functions.

2.7 Context timelines

There were several important events that took place during the second award of MP contract period and subsequent extension which provide useful context for this review, shown below:

2010-14	The contract for ASD services was held by MP.
February 2011	MP raised a formal complaint to Monitor against South Staffordshire and Shropshire Healthcare Foundation Trust (SSSFT) alleging that SSSFT has engaged in a hostile handover of ASD services.
2014-17	Contract re-tendered, and MP awarded it again for a three-year period with option to extend for a further two years.
2017-19	Contract extended for a further two years to expire on 30 September 2019.
September 2015	MP raised a formal complaint to Monitor against South Staffordshire and Shropshire Healthcare Foundation Trust (SSSFT) alleging that SSSFT has breached the integrated care, choice and competition aspects of their provider license.
March 2016	CCGs received a complaint from the parent/carer of a service user which raised concerns about the autism service provided by MP and the CAMHS service provided by SSSFT.
August 2016	Significant period of Management of Change within the CCGs. AO of Cannock Chase and Stafford and Surrounds CCG became AO of South East Staffordshire and Seisdon Peninsula CCG.
September 2016	Carer who made the above complaint to the CCGs made a complaint to SSSFT. The complaint echoed the issues raised within an earlier complaint made to Monitor in 2015.
November 2017	New AO for all Staffordshire CCGs.
April 2018	Significant period of Management of Change within CCGs.
June 2018	SSSFT and SSOTP formally came together and established MPFT.
July 2018	CCGs commissioned independent review of current service provision. The review was undertaken by NTW in July 2018. Draft report shared with CCGs in Dec 2018 and reported back early 2019.

3.0 Phase one of review

3.1 Terms of reference

- How the commissioners monitored the quality, activity levels and finance elements of the Midlands Psychology (MP) contract.
- Consider the effectiveness of the commissioner's oversight and governance frameworks and the strength of these arrangements.

3.2 Service specification

While it is recognised that the service specification is an integral part of the contract management process, for the purposes of this review the key issues relating to it are set out separately here.

The service specification signals that commissioners were seeking to enhance integration of service pathways between the commissioned ASD service and other related services to this client group. It sets out an expectation that all providers would comply with NICE issued guidelines in relation to the recognition, referral, and diagnosis of autism in children and young people and the management and support of children and young people on the autistic spectrum. It also sets out an expectation of further changes to the commissioning of ASD services concerning special educational needs provision in England (subject to Parliamentary approval) and that this would need to be implemented in the future.

The CCGs reported that the referral and eligibility criteria for the autism service was the subject of considerable debate between the CCGs and MP. The main area of discussion was the age range for the service whereby MP's understanding of eligibility was that it was 0-18 years. The commissioner's view was that it was 0-19 years. Upon review of the specification, its title is referred to as a 0-18 years' service, however the text within the contract advises that patients aged over 18 would be seen until their 19th birthday and then discharged from the service. The CCG reported that there was a lack of paperwork documenting discussions that had taken place between the previous commissioner of this service and MP about this anomaly or whether any resolution had been reached.

The CCGs stated that MP had advised that budgets had also been reduced to align to a 0-18-year-old service and that they had been instructed by previous commissioners to specifically stop seeing patients once they turned 18. They reported that MP had felt that it was the CCGs' responsibility to ensure there was consistency between the service specification and the contract, while commissioners held the view that it was clear within the specification that the age range for the service was 0-19. Following discussions between the two parties, agreement was reached that given the low volume of 18-plus that this age group would also be included by MP within the existing funding arrangements. MP have challenged this account stating that the reduction in contract value had occurred due to the application of a national deflator which had been applied to all CCG contracts at the time.

During April 2016, the CCGs received a complaint from the parent/carer of a service user which raised concerns about the autism and associated services provided by MP, the CAMHS service provided by SSSFT, and about Stafford and Surrounds CCG. The complainant asked that the CCGs carry out a review of the services provided by CAMHS West Team and MP to assess service provision and whether the service was delivering against the specification for the children and young people in the service at the time (34 in total). MP provided a copy of the audit findings which showed that a high level of referrals from MP had been rejected by the CAMHS service at that period.

The previous AO for the CCGs (Cannock Chase, South East Staffordshire and Seisdon Peninsula, and Stafford and Surrounds CCGs) at the time responded to the complainant, that the CCGs had reviewed the service specifications and performance management reports for both providers and had concluded they were not “adequate or fit for purpose and therefore, disappointingly, could not at that point feel assured, or provide the complainant with assurance in regard to the quality of services”. In his response he also gave a commitment to the CCGs improving services and committed to reviewing the service specifications and performance measures so that the CCGs could be robust in assuring themselves as commissioners, along with patients and their families and carers, that they were commissioning services that were meeting the needs of service users.

Findings

The initial service specification was lacking in sufficient details and as such can technically be described as an ‘incomplete contract’ hampering effective contract performance and management.

Early signs of difficulties in the relationship between the commissioners in post at the time and MP started to emerge early in the contract during 2014 with an initial dispute about activity levels which MP had consistently reported without resolution. The subsequent move towards a more rigorous Contract Management (CM) approach by the commissioners in 2017 appears to have added further to the frustration felt by MP as this was a significant move away from a hitherto ‘light touch’ CM regime. This was reported by commissioners as a cultural change for MP, which while appropriate from a commissioning perspective to ensure best use of resources, was felt by MP to be disproportionate to the size and nature of their contract.

During interview, MP challenged this view about their relationship with the CCGs reporting that it was productive and that the only dispute they had with commissioners was at the end of the contract in 2019. They stated that a false narrative about their services had been generated by MPFT which the CCGs were aware of, and this had enabled the CCGs to ‘justify their own poor management of the MP contract’.

3.3 Contract management (CM)

The CCGs had from inception outsourced their CM function to Midlands and Lancashire CSU (MLCSU) and these arrangements evolved over time to align to each CCG’s internal management arrangements and priorities.

During 2014-17 the arrangements were based upon the CSU supporting the CCGs with the mechanical aspects of CM by providing them with templates and paperwork for contract review meetings (CRMs), with the CCGs discharging their CM arrangements directly. At this time, the

MP contract had been jointly designated as 'not actively managed' by the CSU/CCGs. This meant that CRM meetings with MP were described as 'light touch' with quarterly meetings and minimal requirements for reporting schedules for data collection, quality monitoring and risk management. MP challenged this account of CM meetings stating that a more vigorous approach to CM had been taken than described. They provided a range of additional information about activity, workforce and training which was available for contract monitoring.

These arrangements evolved further over time to become more comprehensive, with the CSU directly undertaking more of the CM functions on behalf of the CCGs. From 2017 onwards the CCGs began to work within a revised set of locally agreed frameworks for CM. These arrangements deployed a 'hierarchical' approach to contract management with the segmentation of the various CCGs' contracts into different categories dependent on a set of pre-determined criteria including contract value, strategic priorities, and complexity of contract. The contract with MP was aligned to category three which was deployed for 'passive associate acute, community and mental health' contracts of less than £5m. A risk assessment for assigning contracts was undertaken by the CCGs/CSU using the (CSU's) grid-based review to confirm contract categorisation. A review of this grid indicates that alignment of the MP contract to category three was consistent with the grid criteria however there was no evidence as to whether the risk assessment included Monitor's response to MP's complaint about SSSFT or the previous AO's response to the complaint made about autism services in South Staffordshire.

Findings

The CCGs' initial approach to CM within an outsourced CM function was in line with a contract that had been designated as 'not actively managed.' As such, CRMs were held on a quarterly basis with minimal reporting requirements.

Commissioners' initial documentation for meetings with MP was minimal and of poor quality. There was insufficient information contained within the available notes from the CCGs for the review to fully test the extent to which the contract was being effectively managed. There were several references in the minutes reviewed to the contract 'not being previously managed.' The review found that MP were collecting additional information about activity, workforce and training and this was available for contract monitoring.

Given the rising number of issues with this contract, a more robust approach to CM would have been helpful earlier on. This, along with good quality documentation including numerical and financial analysis, clear accountability, greater knowledge of the service and prioritisation of performance indicators would have greatly enhanced the quality of CRMs. Regular discussion of disputed areas was also warranted to ensure that these concerns were addressed. In addition, there needed to be both formal and informal opportunities for the commissioners and CSU team to feedback any concerns regarding the relationship between the CCGs and MP, together with any concerns about contractual performance, to senior management in the CCGs.

An earlier recognition of the emerging issues may have led to greater oversight of the contractual relationship with MP earlier in the contract and potentially avoided or mitigated against some of the subsequent breakdown in the relationships between the commissioner and provider. During 2017, the MLCSU's service specification with the CCGs (CM-SPEC-025)

included a reference to their role in advising and assisting the CCGs with the design and support process by which contract matters (including significant risks and issues, material changes to the contract or disputes) were escalated to the appropriate governance level within the authority. This indicates that the CCGs rather than the CSU were responsible for escalation of issues within the contract.

It is not clear from the CRM notes whether there was a 'contract mobilisation' period following the initial contract award to MP in 2017 and following the contract extension period. This would have provided an opportunity to 'iron out' any early issues/risks with the new contract, however as MP were also the previous contract holder this may not have been deemed to be necessary.

During 2017 there were also some issues with the contract management support arrangements provided by MLCSU. There was a lack of continuity in CM leads for the MP contract and one interviewee described how five different CM leads were allocated to this contract before the issues were resolved. The CSU service specification for contract management support to the CCGs (CM-SPEC-010 IV) states that the quality of the CM relies in part, on the quality of relationships maintained between key authority personnel and key personnel provided by the supplier. Given this dynamic, "the quality of the overall relationship will be a relevant feature in measuring supplier performance." Continuity in CM leads was reported by the CCGs to have impacted upon the length of time taken for the development of a robust set of CM processes for the MP contract, however there was also recognition that that these issues had been resolved by the CSU.

Over the next 12 months the new leadership team further strengthened the existing CM arrangements, and these included greater senior management scrutiny and oversight of contracts. During March 2019, the CCGs' senior strategic lead for mental health requested support from the leadership team with the contract. The MDSW began to attend CRM meetings with MP, advising them that he was happy to have open, transparent conversations with them around the management of the existing contract pending the procurement of a new service and to ensure that services for children and young people were safe during this period. He stated that he requested that this should be undertaken by working collaboratively rather than through the formal letters of correspondence which MP had sent to the commissioners.

During September 2019, the CCGs' governing bodies made the decision not to award the contract to MP and this led to further difficulties in the relationship between the two parties.

3.4 Finance and activity

While it is recognised that finance and activity is an integral part of the CM process, for the purposes of this review the key issues relating to it are set out as a discrete section.

Disputes between the CCGs and MP about contracted levels of activity were a dominant feature of the MP contract. This was particularly the case during the first two years of the contract whereby in 2014, MP informed commissioners that the contract was 'overheating' as referral rates were higher than contracted levels. MP was commissioned to deliver 600 assessments and 600 interventions per year with roughly a 50/50 split which was anticipated to remain relatively consistent throughout the quarters however the provider consistently reported that referrals were above these levels. Given the stated split between assessments and interventions it is unclear in which category referrals fall, it is presumed that this was under assessments. In this case 10-12 referrals per week equates to 600 which was the contracted

number of assessments. MP reported that they were in fact receiving referrals in the order of 100 per week and supported these statements with data. This was disputed by the CCGs as the data showed that many of the referrals were rejected by the service.

In 2015 there were several discussions about referral levels being up on quarter four of the previous year's contract however, there was agreement between the CCGs and MP that current rates were in line with quarter one and quarter two of the prior contract year.

During 2016 commissioners reported that some of the CCGs were exceeding previously agreed referral thresholds. Stafford and Cannock CCGs had exceeded their referrals and there was an agreed position from the CCGs for MP to contain activity to end of September 2016 (quarter four) to ensure they remained within the financial envelope. No further referrals were to be accepted over the summer for Stafford and Cannock and a limited number of referrals were agreed for SESSP. There were discussions about whether a waiting list would become necessary and, if required, this would need to be broken down on an individual CCG basis. Commissioners confirmed this would be the case if it became apparent that the increase above contracted levels was ongoing and, in this case, they would need to liaise with the relevant CCG to manage this. They confirmed to MP that all four CCGs would therefore require separate data to be provided rather than the current format of an overall activity report. Each CCG had been made aware by MP of the impact of a reduction in individual CCGs' funding, leading to longer waiting lists. MP reported that it had always provided disaggregated invoices, showing activities and associated costs for each CCG individually and provided the reviewer with examples of these .

The commissioners advised MP that the contract had been designed to enable the commissioner and provider to work together to address any variances as early as possible. The CM arrangements encouraged monthly meetings as the basis to enable this. The commissioners stated that the CCGs could not accept over-performance within the contract as there was no additional funding to support this and asked MP to take action to reduce the number of planned interventions. MP were however reminded of their responsibility to maintain NICE standards of 12 weeks for patients to be seen for their first assessment within the service.

The notes of subsequent CRM meetings over the next few months confirm that there were ongoing discussions between the two parties about a mechanism for activity management within the contract, however it was decided that a further quarter of activity would be reviewed prior to any formal contractual action being taken.

During several CRM meetings during 2016-17, MP stated that demand on the service had not changed despite a recent reduction in funding from some CCGs and this meant that MP had to work 'leaner' and were constantly adapting to do this. The commissioners acknowledged this stating that they recognised that these innovations were benefitting everyone and should be highlighted in quarterly reports. MP also stated that any further reduction in capacity would result in MP being unable to meet some of the contractual KPIs around access times. Commissioners confirmed that if this were the case then the CCGs would need to decide whether to formally invoke a formal activity management plan. At no point did MP or the CCGs enact the activity management plan process, clause 29 (contract lever to initiate joint assessment of changes in activity) which was available to either party to do so at any time.

The contract was commissioned on a block basis originally. When it was re-commissioned in 2014 it was tendered as a cost and volume contract. The CCGs stated that it then moved back to a block in 2017 because the construction of the activity and tariff in the tender could not be verified as there was no agreed methodology or definition of currency. MP however, challenged this statement stating that the reason for this was because the level of activity undertaken by them consistently exceeded the contract value and a return to the previous 'block contract' arrangement was a way of making the contract affordable for the CCG. This process was reported by the CCGs to have led to further disputes regarding the levels of activity and payments which appeared to have partially occurred due to the cross-over of 'contract mechanics' as there were a number of interventions and assessments completed by MP that were not billable under the new contract as they were started prior to the switch from cost and volume to block.

The commissioners requested that the quarterly reports followed the financial year rather than the contact year and included thresholds on referrals to enable comparison to meeting requirements of the contract per CCG. This would provide an understanding as to why MP were over/under-performing and would allow CCGs to address any issues such as levels of GP referrals. The commissioners also stated that the contract had only recently moved over to a cost and volume arrangement and going forward, there would be a better understanding of activity levels and contractual mechanisms to manage any variances. MP confirmed that their current forecast of activity would in fact breach the indicative activity plan and supported these claims with further information setting out the number of projected increases in activity.

The commissioners requested that MP share their forecasting data and invoicing with the CCGs monthly to enable them to identify and address over-performance. During 2017-18 a range of activity took place between the CCGs and MP to resolve any outstanding issues regarding activity and finance. In July 2018, the CCGs compiled a detailed finance and activity report for the MP contract covering October 2017 to September 2018. This report detailed activity by each CCG for assessments and interventions completed during the 12-month period. The data indicated that the total activity for assessments and interventions had consistently exceeded the contracted levels of activity. During this time, the number of assessments above agreed contracted levels were 228. Individual interventions commenced above agreed contracted levels were 64 and group interventions commenced above agreed contracted levels were 205.

MP confirmed that in the absence of additional funding to support the increases in activity through their service then they would cease to accept referrals from 1 May 2019. The commissioners requested that MP consider the impact on the waiting list if there was an additional £106k to support the contract until it ended at the end of September 2019. MP responded that the service would need to prioritise activities and could continue to carry out assessments and protect urgent interventions. The commissioners queried how this would affect routine referrals into the service and agreed to draft a proposal for additional funding to continue providing the service and further meetings were arranged to discuss this with MP's CEO and the CCG's AO. A subsequent proposal was received from MP on 15 May 2019 which formed the basis of the £136k request they made, and this was agreed and formed part of the in-contract variation.

There was also agreement that MP would send the CCGs a fortnightly report setting out referrals above the agreed activity number that would breach the 12-week NICE guidance

standard if no additional funding were provided. MP was also reminded of their responsibility to maintain NICE standards within the service in the meantime.

During 2018-19 the NTW report was released and this, along with some negative high-profile media presence, contributed to an increase in the length of the procurement as the CCG sought to ensure a comprehensive engagement process had been undertaken.

Findings

The earliest available record of the MP contract overheating was in 2014 shortly following the contract award. It is not clear from CRM meetings or from interviews whether a process of contract mobilisation was adopted during the first six to 12 months of the contract as well as following each extension period as none of those interviewed were involved in the contract in 2014. This process is part of the NHS Standard Contract and is commonly adopted to 'iron out' any early areas of concern or disagreement. This may have mitigated against some of the subsequent difficulties and delays experienced.

The MP contract initially appeared to have been managed by the commissioners using a very 'light touch' approach. Formal schedules of reporting particularly for data collection or validation purposes did not appear to be in use. The further extension of the contract to MP was made from October 2017 and CM arrangements were strengthened. Some references were made in the CRM notes that MP were at times 'resistant' to working with the new arrangements, citing examples whereby it had taken lengthy periods of time to agree on a revised data set and KPIs. An example was provided by the commissioners whereby previously agreed data collection including the Mental Health Minimum Data Set (MHMDS) was not being adhered to by MP. However, MP strongly challenged the CCGs account of this stating their commitment to supporting all CCG requests for information. They provided a copy of a previous MHMDS return made by them to illustrate this. Other references in earlier CRM documentation alluded to minimal oversight of activity monitoring and subsequent financial impact earlier on in the contract, however, as the previous commissioner for this service no longer works in the CCGs, it has not been possible to verify these statements. There were, however, several references found in the notes of CRM meetings that 'this contract had not been managed previously.' There was also a reference to clarification being sought on the governance arrangements for taking minutes and information sharing between MP and commissioners.

MP had consistently stated that the contract was overheating and impacting adversely on contracted waits for assessments which at the time were eight weeks. Following a period of debate as well as action to improve data collection, the CCGs requested that MP revise their service thresholds for first assessment to enable them to better meet demand. The rationale for this was that the NICE guidelines for the service stated a 12-week threshold thereby creating some headroom in the contract. Subsequently MP did not report that they had breached the 12-week standard for commencing assessment, therefore the CCGs at the time would have had no legitimate reason to issue a performance notice.

The CCGs did eventually acknowledge that activity was higher than contracted levels and agreed to work with MP to address this, however, they also relied upon the absence of the application of clause 29 to evidence that activity rates had not materially changed. MP disputed this approach strongly, stating that they have consistently alerted the CCGs to

significant increases in activity. This dispute led to a further deterioration in relationships between the CCGs and MP. Due to the limited information available it was not possible for the review to determine if early warning signs were recognised or acted upon by the CCGs.

3.5 Joint working relationships between providers: Midlands Psychology (MP) and Midlands Partnership Foundation Trust (MPFT)

The difficulties in joint working between MP and MPFT were recognised by the CCGs from an early stage. There are several references in CM documentation to 'ongoing difficulties' in relationships between the two providers, however, very few specific details were available for review. MP provided details of the first of two complaints they had made to Monitor in which they stated that SSSFT was 'obstructing its service delivery in several ways and preventing children with autism from accessing its services'. MP reported that it had also raised concerns with successive commissioners about the impact of MPFT's behaviour on service users.

These difficulties were potentially leading to the fragmentation of care for clients with dual diagnosis who risked falling between the gap from one service provider to the other. Several actions were taken by the CCGs to address this risk including the revision of a joint protocol for the management of complex referrals, a joint information sharing forum, improved processes, and an audit of referrals between MP and MPFT. A joint protocol had been in place since 2016, however this had not addressed concerns expressed by both providers and some parents about the effectiveness of joint working between the two providers.

In February 2011, MP raised its first formal complaint to Monitor against South Staffordshire and Shropshire Healthcare Foundation Trust (SSSFT) alleging that there had been a 'hostile' handover of services from SSSFT to MP. Monitor reviewed the complaint and in July 2011 the Co-operation and Competition Panel (CCP) decided to suspend its review of the case as Midlands Psychology and South Staffordshire and Shropshire Healthcare NHS Foundation Trust were in discussions, led by South Staffordshire PCT, to resolve the issues raised by Midlands Psychology. The PCT had provided assurances to the panel to enhance their CM arrangements of the two providers.'

In January 2015 MP made a formal complaint about SSSFT (predecessor to MPFT) to Monitor alleging that SSSFT had breached the integrated care, choice and competition aspects of their provider license. More specifically they stated that the CAMHS was:

- Actively hindering joined-up working by the non-transfer of autistic spectrum disorder clients
- Non-compliant with and misinformed about agreed service arrangements, unprofessional attitude, and behaviour towards MP
- Refusing to prescribe for children who have autism and raising this as a commissioning issue
Refusing service by reason of autism and 'diagnostic overshadowing' (i.e., putting all the children's difficulties down to their autism)
- Questioning clinical decisions by MP clinicians and overstepping service boundaries.

Monitor investigated the complaint using their informal process and concluded that in some of the cases reviewed, difficulties in joint working between the two providers had potentially led to adverse outcomes for some children and their families. There was a view that the difficulties in joint working between the two providers had been exacerbated by ambiguity in contractual arrangements underpinning the two services, specifically the respective role of each provider. Monitor also made several recommendations for improvement to the CCGs and both providers.

During April 2016, the CCGs received a complaint from the parent of a service user which raised concerns about the ASD service by MP and the CAMHS service provided by SSSFT. It also raised concerns about Stafford and Surrounds CCG. The complainant asked that the CCGs carry out a review of the services provided by CAMHS West team and MP to assess service provision and whether it was delivering against the specification for the young people in the service at the time (34 children in total).

The previous AO for the CCGs (Cannock Chase, South East Staffordshire and Seisdon Peninsula, and Stafford and Surrounds CCGs) at the time responded to the complainant, that the CCGs could not at that point feel assured or provide the complainant with assurance regarding the quality of services. In his response he also gave a commitment to the CCGs improving services and reviewing the service specifications and performance measures so that the CCGs could be robust in assuring patients and their families and carers, that they were commissioning services that were meeting the needs of service users.

The CCGs DON reported that there had also been a complaint made by the carer of a service user in September 2016 to SSSFT (one of the predecessor organisations to MPFT). This complaint had echoed the issues raised in the 2015 Monitor complaint and as per Monitor's recommendation should have been jointly investigated with MP, however it was not. The commissioner lead at that time was involved in the conclusion of the complaint and the recommendations. One of the agreed actions following the complaint included an independent review. A copy of this complaint was not available to the reviewer. MP have stated that it was not party to this complaint nor the process with the CCG and MPFT that followed.

Except for a brief reference in a paper to the quality sub-committees of governing bodies in August 2019, there was little information available regarding these complaints or the subsequent actions arising from them. During interviews with CCGs leads, the existence of the 2015 Monitor complaint was acknowledged by them, and some officers were aware of a high-level commitment by the previous CCG's leadership to review the service and address and gaps, however, none of the original staff who had knowledge of details still worked for the CCGs. It was therefore unclear from discussions with interviewees or CCG documentation what actions were taken to address these concerns at the time, however, interviewees were able to articulate the actions undertaken by the CCG's current leadership team to review the service specifications and commission a new service.

The CCGs confirmed that there were not any further records available about the follow-up to Monitor's complaint in 2015 or the patient complaint(s) in 2016, however, some of the directors interviewed referred to the complaint(s) acting as a catalyst for the CCGs commissioning the external review into the ASD services by NTW. A considerable amount of time had passed

between the previous AO's agreement to review the autism services in 2016 and the external review taking place in 2018.

In the meantime, action to commission the NTW review started in late 2017 by the CCGs, however, there were several references in CRM notes during January and February 2018 citing the difficulties in securing a suitable external reviewer.

The external review of the ASD and CAMHS services was undertaken in July 2018. The review identified several concerns including poor joint working between the two providers and while they did note that some improvements had been made, they were struck by the similarity in issues highlighted by MP in the original complaint to Monitor in January 2015.

In 2017 the CEO of MP formally wrote to the CAMHS lead in SSSFT (predecessor organisation to MPFT) to raise her concerns regarding the ongoing difficulties in joint working between the two organisations, including the lack of progress with development of the joint protocol and the behaviour of an individual working in the CAMHS. She also reiterated her commitment to work with SSSFT to resolve the issues between the two organisations.

Findings

Over the years there were several interface and pathway issues between the MPFT CAMHS service and the MP ASD service including two high-profile complaints from MP to Monitor about SSSFT and a complaint from a patient carer.

The poor relationship between the two providers was recognised by the CCGs as evidenced in CRM notes and officer interviews. Although several actions were taken by the CCGs to improve these relationships, these appear to have had a limited impact on improving joint working between MP and MPFT. It is likely that the historical poor relationships between the two providers were initially interpreted by the commissioners as the probable explanation for these difficulties, however, the potential impact of this on the quality of care, particularly in the early stages of the contract, appears to have been less understood.

It took a considerable amount of time before the joint protocol for referral management between the two providers was finalised. The external review by NTW also identified poor joint working between MP and MPFT as a major concern and made several recommendations to the CCGs to take further action to address this issue. While the CCGs acted on the external review's recommendations and sought further assurances by undertaking their own unannounced and follow-up visits, they missed several opportunities to identify and respond to some of the early warning signs regarding the increasingly dysfunctional relationships between the two service providers and the potential impact on the care for patients.

The significant structural changes taking place during the early stages of the contract, the absence of formal records about the previous complaints from Monitor and a patient's carer, along with several changes in CCGs' personnel are likely to have contributed to the loss of organisational memory in the CCGs.

These issues offer some insight into the delay by the CCGs to act on the information from the complaints made during 2015 and 2016 and to fully assess the risks inherent in the lack of joint working across care pathways. However, these complaints had specifically referenced

poor joint working between the two providers and the investigation carried out by Monitor into the complaint from MP concluded that: “in some of the cases reviewed, difficulties in joint working between the two providers had potentially led to adverse outcomes for some children and their families”. It is surprising therefore that the CCGs did not give this issue greater attention and oversight.

These complaints should have been followed up by the previous leadership team in the CCGs at the time they were raised, however, this did not appear to have happened. The previous AO and Director of Commissioning had left the organisation by this time, and this may have limited the organisational memory within the CCG. From the limited information available to the reviewer, it was not possible to draw a firm conclusion on this.

An effective legacy and record-keeping process between the previous and new CCG organisations would have enabled the current CCG’s team to access important information documenting the actions taken by their predecessors as well as ensuring that their successors had access to important information to refer to in the future. This lack of documentation contributed to a delay before risks highlighted in previous complaints were fully recognised and acted upon by the current CCGs.

At the same time, the information that was available to the CCGs should have acted as an early warning sign which should have prompted them to carry out their own review. Poor legacy records cannot therefore be used as the sole justification for lack of timely action by the CCGs, there was also an initial lack of curiosity and follow-up.

3.6 Quality

There are few explicit references to quality in the early stages of CM with MP. A quality schedule was included within the contract however, this did not initially capture a comprehensive set of KPIs required of the provider such as monitoring of serious untoward incidents (SIs) and complaints.

In 2013, the CQCs inspection of the service concluded that MP were meeting all required standards. During 2017 the CQC carried out an inspection of MP services and did not raise any significant concerns about the service, rating MP as good across all domains. Inspection of the service in 2019 also rated the provider as good across all domains’.

The CCGs also commissioned two audits of MP which were undertaken by external agencies. The first was in 2011 to examine referral numbers and service demand (report by Rubicon, 2012). The second audit was in 2013 to audit the referral pathway against NICE criteria (unpublished) . These reports were not available to the reviewer however it was reported by MP that both reports were positive, with the latter concluding that MP’s pathway was in line with NICE guidelines.

In May 2017, the new commissioning and quality improvement team introduced several changes to improve recording and monitoring of safeguarding and SIs.

During 2018 commissioners made further improvements in data collection. The CRM notes in November 2018 indicate that MP were now recording SIs and safeguarding incidents. A quality overview report was also being developed for CRMs to provide an update on key issues

including a quarterly service report, complaints log, improvement actions and compliance against training including for safeguarding. Several actions were also taken to improve inter-agency referrals of patients with a focus on the following actions by the CCGs:

- Improvement to existing joint protocol between MP and MPFT
- Work with GP practices to monitor and improve referral patterns and processes
- Liaison with several parent forums/pressure groups
- Liaison with local MPs and local authority councillors.

During the CRM in November 2018 MP were asked to improve their complaint handling arrangements including some of the terminology used by them and their process for dealing with unresolved complaints. One of the key issues identified by the CCGs was that MPs Head of Autism was related to its CEO (mother/daughter) and this led to some concerns about the independence and impartiality of investigations into complaints within MP. Another concern was whether all complaints were correctly categorised. The carers interviewed for this review stated that in their view some complaints may not have been investigated at all. They provided information from several service users, all citing dissatisfaction with the Autism Service, spanning over a decade. These statements were reviewed to establish if there had been any follow up by the CCGs. This information was triangulated against some screen shots of text conversations (which had been sent by one of the carers to the complainants to establish whether there had been any response from the CCG). Whilst the responses stated that there had not been any follow up, due to the limited nature of the information provided, it was difficult to confirm a definitive link between the two. This information was evaluated against information provided by the CCG which stated that the first of these statements was not a complaint that the CCG had been asked to investigate, however, it had been shared during a meeting with carers of service to illustrate the concerns they were expressing about the service. The CCG stated that there was agreement with parents of service users to use this and similar information to inform 'soft intelligence' in the CCG, providing that they were sent without patient identifiable information as these would need to be submitted as formal complaints by the individuals concerned. This agreement was captured in a meeting during February 2019. The second statement dated back to 2013, before any of the current leadership team joined the CCGs, however, the letter referred to a formal complaint made at that time to the CCG and to the CQC. The CCG complaints team reviewed archived complaints and advised that this was formally closed as a complaint in a final letter dated August 2013, signed by the Accountable Officer at the time. The final letter regarding this indicated, as per the CCGs formal complaints correspondence, that the complainant had the right to take to the Ombudsman. There was no record of any further contact from the family or from the Ombudsman. The CCG reported that they had also responded to the third complainant in 2020, the complainant was not happy with the response received and this was now with the Ombudsman.

A letter from the local Healthwatch to the CCG in July 2019 was also reviewed. This provided feedback from a meeting with a group of parents of children who were either in receipt of services or awaiting assessment for services from either MP or MPFT. The letter highlighted a range of concerns including poor experience of services, difficulties with access and some referrals not being accepted by either provider. There were also concerns about lack of progress in these services despite feeding these concerns into the providers and the CCG. There were also some positive comments about aspects of the service.

The review also examined the CQC's inspection of MP services undertaken during July 2019, which found that MP services treated concerns and complaints seriously, investigated them and learned lessons from the results. They found that between 2017 and 2019, the service received 36 complaints. 18 of these complaints were reviewed by the CQC of which four of the responses were found to be defensive in tone. Two complaints had been escalated to the Ombudsman and had not been upheld. They also found that there was a newly implemented process for managing complaints and this was working well. This process had been implemented following a recommendation from the NTW review.

At the same time, MP raised concerns about some parents bypassing them and going directly to the CCGs to raise complaints, however, the arrangement in place at the time was that complainants could choose which of the two routes to follow. Of the complaints investigated by MP, these appeared to focus on system-wide issues which MP felt were not directly within their control. It was not clear from the notes what the range of issues were about, however they appear to have included concerns from GPs about low referral rates being accepted by the service. The CCGs had also received similar concerns from GPs, primarily from Burton practices, who were unhappy about the high level of referrals being rejected, however, MP had responded that this was due to poor quality of referrals made by GPs. There was agreement for the CCGs to undertake a detailed review of GP referrals to enable a better understanding of the issues and a meeting was arranged by the CCGs for MP to attend a GP protected learning time event to discuss these.

3.7 External review of service provision

In 2018 the CCGs commissioned an external review of the ASD and CAMHS services in South Staffordshire, to seek assurance about the children and young people's services and ensure compliance with NICE guidelines. A further rationale for undertaking the review was to follow up concerns highlighted in a previous complaint made by the carer of a service user about CAMHS in SSSFT (predecessor organisation to MPFT).

The terms of reference for the review sought to: "ensure that providers were delivering NICE concordant assessments, care and interventions and the CCGs was not inadvertently commissioning fragmented care or pathways making it harder for CYP and their families to get the care they need." The CCGs stated that the report was initially intended to be an internal document to enable them to carry out their commissioning functions effectively.

The CCGs approached NTW in early 2018 to carry out this review which was undertaken in July 2018. Following the review NTW highlighted several concerns to the CCGs which they considered to require immediate action. These concerns covered the following areas:

- Assessment of diagnosis of autism reports by MP was poor as MP's approach to providing standardised reports to all families and young people was 'out with' of guidance
- MP's documented evidence of risk assessment/management and crisis contingency planning for young people with autism was poor. In the clinical records reviewed there was no obvious evidence of any such assessment or plans in the young people's notes
- There was fragmented care across pathways between the two services. The evaluation team noted several examples where the two services were not effectively

working together to provide young people with autism the appropriate, co-ordinated assessment, support, intervention, and care.

The external review acknowledged that some improvements had been made including in working practices between MP and MPFT, however, the evaluation team still noted difficulties in joint working between practitioners within the two services in relation to the process and level of information required for MP to accept a referral for assessment of diagnosis of autism. They also noted a lack of individualised, person-centred information in the subsequent diagnostic reports from MP.

They concluded that between 2015 and 2017 there had been a number of cases whereby ongoing operational and pathway issues between the two services had been cited as being key issues in the provision of less than satisfactory care being provided to young people with autism and their families. Their view was that the situation between the two services had been highlighted explicitly in complaint investigations by senior managers both within the CCGs and MPFT and that the AO of the CCGs at the time had previously stated that he could not feel assured about the quality of services provided.

The review team made several recommendations for the CCGs and the providers. These were summarised as:

1. CCGs to establish and chair a strategic working group
2. The strategic working group to routinely review performance data
3. Review MP's clinical risk assessment and management policy
4. Review joint MP/MPFT crisis contingency planning protocol
5. Refresh or replace joint MP/MPFT prescribing medication policy
6. Undertake green light toolkit audit of CAMHS MPFT
7. MP to cease use of standardised confirmation of diagnosis reports
8. Review pathway for the assessment of a diagnosis of autism
9. CCGs to support MP to develop electronic clinical recording system
10. CCGs to undertake a systematic review of access systems to MP services
11. MP to review their complaints process.

The first draft of the NTW review report was received by the CCGs on 24 October 2018 and the factual inaccuracies within it were reported back by the CCGs.

The CCGs shared this draft of the report with MP and MPFT in December 2018 requesting that both providers respond with their comments by 21 December 2018. They also asked the providers to act on the report's recommendations.

In the meantime, this report was also shared in confidence with the carers who had initially raised their concerns with the CCGs. The report was shared prior to MP's factual accuracy matters being considered by the NTW reviewers and this further exacerbated the deteriorating relationships between the CCGs and MP. The CCGs stated that this was due to an administrative error in the CCGs.

The carers reported that during this process NTW had identified a safeguarding issue with one service user which required urgent action. The CCGs clarified that once they had spoken with the relevant safeguarding authority they no longer had any concerns.

The carers reported that only a partial report of the NTW findings had been shared with them. The CCGs clarified that appendices had not been included at this stage because the report had not yet been reviewed for factual accuracy checks by MP, therefore the report was still a draft document. The CCGs did not dispute that the email sent alongside the report in December was marked as final (although later identified as incorrect), this appeared to have been done in good faith in the absence of the Director of Nursing who was on sick leave at the time. However, at that point the appendices had not been reviewed and agreed by all interested parties so could not be shared. The commissioners also stated that a small number of appendices continued to be withheld from release after this period as they contained personally sensitive information.

The carers stated that MP had sent through a response to the report findings and were considering undertaking a judicial review (JR) of NTW's findings. They also stated that the CCGs had informed them that the draft report would therefore not be released into the public domain at this stage and everyone who had received a copy had been asked to destroy the report. This statement was disputed by the CCGs who had asked the carers to destroy the draft when the error cited above was identified and not as a direct response to the threat of JR.

MP stated that they had sent their responses re factual accuracy within the timeframe stated but these were not included by the Reviewers. They reported that although they had made two further attempts to submit evidence they were unsuccessful and instead were informed that their information had not been received due to 'human error.' They stated that they did not agree with the findings of the NTW review. They were concerned that the understanding of the reviewers and the in-patient context in which they operated limited their understanding of MP as a Social Enterprise working within the public sector. Although they had challenged the findings, they were unsuccessful in changing the final report. They also stated that whilst they considered some aspects of the NTW review to be 'defamatory in nature,' they had not discussed undertaking a Judicial Review.

One of the carers stated that she had been unwilling to destroy the report as she was concerned about the current issues raised in it not being dealt with in a timely manner and, after taking legal advice, she had contacted the media to share her concerns. Following contact with the media the CCGs gave the carer permission to release the report providing that MP's response was also included. This was in recognition of the report's status at that time. However, the carer did not release MP's response as requested by the CCGs because she felt this undermined the integrity of the NTW review and because she was concerned it could inadvertently lead to the identification of individuals.

She stated that she had however informed the CCGs that she had not shared the MP response with the media which published an article about the views of several carers into the NTW report. This led to some adverse publicity for the CCGs who issued a formal response to the article via NHSE/I.

The carers also reported that they were concerned that the CCGs had not shared a copy of the NTW review report with the CQC which had recently undertaken a routine visit to MP. The review learnt that the CCGs did share the report with the CQC on 4th June 2019. The CCG clarified that they had continued to await final versions of the report and during early May 2019 had telephone discussions with the CQC lead regarding whether or not the provider was on

its radar as an area of concern. It was confirmed that the CQC had no concerns at that time but, as is normal, factored the CCG feedback into their intelligence and subsequently visited the provider . Their visit reflected the provider in a more positive light.

The carers stated that they had “pushed” the CCGs to carry out the NTW review which had only taken place following pressure from them and MPFT. The CCG DON reported that MPFT’s DON had requested that the CCGs carry out the review as soon as possible as it had already been delayed for a considerable period of time and that this should be carried out independently as a carer had previously made a complaint about SSSFT’s (predecessor to MPFT) CAMHS service and as such MPFT were conflicted. The CCGs had accepted this position and had commissioned NTW to carry out the review to ensure it was independent.

The carers also reported that despite the previous CCG AO’s commitment to commission the review that this had not happened as the CCGs “did not have the financial resources” to commission it. The carers provided a copy of an audio recordings of a South Staffordshire and Shropshire Healthcare NHS Foundation Trust (SSSFT) meeting where this was discussed. The recording had been made by SSSFT. The review found that two factors appeared to have contributed towards the delay with undertaking the independent review; there were difficulties in identifying a suitable reviewer and there were “issues with identifying financial resources.” The nature of these “financial issues” or the extent to which they contributed to the delay was not clear.

The officers interviewed for this review had a limited understanding of these events as they had taken place under the previous leadership team, however, they were aware that a reviewer had been commissioned in 2016 to carry out the review but the arrangement had fallen through. They were not able to comment on the nature of any financial restrictions in place at that time, however, stated that the current CCG finances had not impacted on the length of time it took for the review to take place.

3.8 CCGs’ unannounced visit

On 17 July 2018, the CCGs carried out an unannounced visit to MP. The visit was arranged following the external review undertaken by NTW earlier in the same month and from patient feedback raising concerns. The CCGs had asked the external reviewers to escalate any concerns they had while carrying out the review so the CCGs could respond to it in a timely manner. This visit followed an escalation from the NTW reviewers on 5 July 2018.

The visit was carried out by the quality team in the CCGs and consisted of the strategic improvement lead for quality and patient safety, quality improvement manager, GP lead for mental health and the designated nurse lead for safeguarding children. A series of KLOEs were identified by the CCGs and covered:

- Environment
- General cleanliness (infection control)
- Privacy/dignity
- Staffing
- Care/treatment
- Feedback from patients.

At the time of the visit most of the staff were off-site attending training which led to a limited review of the KLOEs. There were also no patients on site during this time. The methodology used to carry out the review was therefore limited to visual observations and talking to clinicians and other members of staff available at the time.

The KLOE about the working environment, workforce, hygiene, and access did not raise any issues of concern. With regards to care/treatment plans, MP were asked to confirm whether key aspects of this were in place and there was agreement to share their templates with the CCGs. MP confirmed that there was a risk assessment policy in place, however, this was not reviewed during the visit as MP agreed to forward a copy to the CCGs subsequently. There was a referral form in use which MP agreed to share. It was confirmed that this was a generic letter which MP recognised could be improved and this was in the process of revision. The clinicians in the service confirmed there were individualised plans for children, but no notes were reviewed during the visit.

Despite the limited nature of the visit, the team reported that based on what they had seen they were assured by the clinical elements of the service. It is not clear from the report about this visit whether or how these findings were triangulated with other information about clinical services held by the CCGs such as the well-known difficulties in referrals across care pathways with MPFT. This was followed by a discussion about the NTW external review into the service. MP felt that this review had misunderstood some of the aspects of risk assessments within a CIC /social enterprise. It was noted that activity was growing and was impacting on services, but all staff remained professional, polite, and friendly. The building, while old, was maintained well and had a child-friendly feel. There was good disabled access.

There were no patients in the service at the time of the visit, so it was not possible to obtain patient feedback directly from service users, however, there was patient feedback displayed on the walls and the CEO stated they rarely received complaints about the service. The CRMs were by this stage recording information about complaints so it would have been possible for the CCGs to verify this statement.

The CCGs did highlight concerns regarding the roles and responsibilities of administrative staff working within the service. The visiting team reported that the administrative team were new in post and therefore inexperienced and while they were deemed as competent they needed support as a matter of urgency. The administrative staff were undertaking elements of clinical triage which the staff were unaware would be part of their roles when applying. There was no supervision for these staff members or formal escalation process. In addition, there had been no formal training for this element of the role. The administrative staff undertook clinical triage without standard operating procedures which some of them found distressing and there was no outlet for debriefing or emotional support. A clear training plan needed to be in place and staff should be supported to develop and grow, when new in post and for the first six to 12 months. Staff morale was low, and the administrative team sat outside of the wider team and felt excluded. There were no escalation procedures for them to follow or instructions of what to do in an emergency.

The visiting team met with the CEO of the service immediately following the visit and made several urgent recommendations including the need to actively support the administrative staff in their new roles with a range of training, supervision, and support. An action plan was outlined for further development and was reported within the CCGs as requiring immediate action by

MP. The findings were reported at CRM meeting and were monitored to ensure concerns were addressed.

MP disputed that administrative staff 'undertook' triage activities and reported that there was a clear pathway for callers who needed support and advice. They also stated that there was a well-established induction programme for all staff.

3.9 CCGs' follow-up visit

In February 2019, the CCGs undertook a further visit to follow-up the previous unannounced visit that had taken place in July 2018. The individuals who visited were the quality improvement manager, senior strategic lead, strategic lead for maternity and patient safety, and CSU contract manager. In this instance the KLOEs were shared with MP in advance of the visit and MP was requested to undertake a presentation on setting out how they covered the following areas:

- Complaints process, handling and key themes and trends
- Safeguarding – explanation of processes, training, accountability, and links to other services
- Workforce – how provider ensured an appropriate multi-disciplinary team meeting in place to meet the needs of patients throughout the year, management of sickness, staff turnover and training
- Administrative staff update on progress against concerns raised previously
- Cross-organisational working – Arrangements for working with other agencies such as CAMHS and education
- KPIs – current performance and areas for improvement/development.

Key documents and policies were made available to commissioners and reviewed as part of the visit.

The visiting team reported that there had been considerable progress resulting in improvements within the administrative team since the previous visit. The CCGs agreed to monitor progress via the contract and quality meetings with MP. There were no immediate concerns or actions raised following this visit.

MP presented their action plan concerning the issues with the administrative team identified during the unannounced visit. The visiting team reported that this showed that MP had implemented several actions to address the concerns previously raised. Some of the team toured the building and were introduced to the administrative team and their supervisor. Calls were witnessed and no issues were raised.

Between the two formal visits to the service, the CCG also held three routine meetings with MP during August 2018, November 2018 and beginning of February 2019. These were Contract Review Meetings (CRM) which included discussions about Quality. These meetings were held on site at MP's Hayes site.

Findings

The CCGs sought independent assurance about the quality of its current ASD services by commissioning NTW to undertake an external assessment of services provided by MP and MPFT. The review team identified several concerns and made a number of recommendations for improvement. They also reported being struck by the similarity in issues highlighted in July 2017 and in the original complaint to Monitor in January 2015. The CCGs followed up these findings further by undertaking an unannounced visit to the MP service to monitor their action plan and support improvements and in 2019 they followed up their earlier visit with a further visit to review progress.

Initially there appeared to be few discussions about quality/performance issues within the CRM however this improved as CM arrangements were strengthened by the new leadership team in the CCGs. Early attention was, however, given by the CCGs on improving MP's complaints process as there was a lack of clarity by MP as to what 'complaints' should be addressed to them and which to the CCGs. It is not clear from the CRM documentation as to whether the CCGs had made the distinction clear and advised stakeholders accordingly. The CCGs investigated the concerns raised by MP and GPs about the low numbers of referrals accepted by MP and took actions to address these.

The CCGs were aware that there was a relationship between MP's Head of Service and the CEO and hence were concerned that complaints were potentially not being investigated appropriately. They asked MP to improve their complaint handling arrangements including some of the terminology used by them and their process for dealing with any unresolved complaints.

In terms of the wider context of the review, there were some brief references during interviews about the complaint made by MP to Monitor about SSSFT in 2015, however, this was not documented in CRM paperwork. It would have been helpful to share this information as it may have triggered an early warning in the CM process about the potential risk in this area.

The CCGs had received a complaint from a previous patient's carer in 2016 about the quality of ASD services provided by MP and MPFT. The previous AO of the CCGs had responded to this complaint at the time and had committed to improving these services.

Over time the CCGs commenced a programme of work to commission a new improved service and during 2018-19 the quality team supported an "extensive CCGs' patient engagement exercise" to identify concerns with their current provision of mental health services for CYP and shape service specification as part of a new procurement of service. Feedback from this process was incorporated into a 'you said, we did' feedback exercise.

The CCGs faced challenges from the carers who were concerned about the effectiveness of the CCGs' role in monitoring and assuring the quality of ASD and associated services. Over time the relationships between the CCGs and the carers became increasingly challenging. The carers stated that this was because they had sought to raise legitimate concerns with the CCGs, however, they had been left frustrated by what they viewed as their poor responses.

3.10 Corporate governance

This review did not seek to examine the CCGs' corporate governance arrangements other than to understand how these may have impacted on the specific issues covered in this review.

As set out earlier in the review, the six CCGs had been working closer together to integrate their commissioning functions to enable them to identify opportunities to integrate services with each other and with Staffordshire local authority, to further improve the experience of service users and carers and ensure the most cost-effective use of resources.

As part of these arrangements, there were several structural and organisational changes which contributed to some loss in organisational memory in the CCGs and a lack of continuity in some of its commissioning programmes.

The situation was further compounded by the absence of some legacy documentation in the CCGs about important issues in the ASD services. Where documentation existed, for example minutes of CRM, this was initially of poor quality. Within this context, previous concerns and complaints made about the service such as the complaints from MP to Monitor and a complaint from the carer of a previous patient were either not available to the newly established teams or their significance was lost among the changes taking place in the CCGs.

Findings

The integration of the CCGs' commissioning arrangements was designed to improve commissioning functions across partner organisations. While some functions such as CM were strengthened over time, several risks within the quality of the existing ASD service also became evident during this period. The findings from the NTW review reinforced the need to improve the quality of these services and this, in turn, enhanced the importance of the CCGs procuring a new improved service for CYP in South Staffordshire.

There were also challenges with including some service user representatives in the commissioning functions of the CCGs including in the monitoring of quality and development of service specifications.

Several actions were taken by the CCGs to address the recommendations from the NTW review, however, despite the well-recognised tensions between MP and MPFT, less attention was initially given to recognising the impact of poor relationships between these providers on patient care. Similarly, actions to follow up historical complaints about the ASD service initially received limited attention.

The papers to the CCGs' governing bodies and quality sub-group focused on ensuring the procurement for the new service remained on track. While this was undoubtedly an important matter for both committees, challenges with managing some of the above stakeholders also warranted a higher level of scrutiny and oversight to avoid the potential risks of reputational damage to the CCGs.

The CCGs stated that they were unable to access some historical documents about previous complaints made about the service. However, as part of good governance all NHS organisations are required to preserve organisational memory through the retention and recall of records and other documentation about their key functions and activities as they provide information about what happened, what was decided, and how actions were implemented.

This issue is particularly relevant to this review as the CCGs could not expect or rely upon individuals to remember or report on past policies, discussions, actions, and decisions accurately if they were not working in the same roles or organisations at that time. The ability

to recall archived records of actions taken by their predecessors about historical complaints would have enabled officers within the current organisation to have sight of important information relevant to current concerns within the service. Despite these limitations the CCGs should still have followed up on concerns earlier. In this regard there was a lack of professional curiosity and a delay in taking action to seek out and verify information independently. This contributed to a missed opportunity by the CCGs to respond to concerns in a timely manner.

3.11 Concluding comments for phase one

From the information provided to the review it was possible to establish that there was a delay before risks arising from past complaints were fully recognised and acted upon. The CCGs had themselves identified the need to improve the recording and handling of complaints early into the ASD contract. It had also become apparent that there were challenges from some carers/representatives of service users about the CCGs' role in the monitoring of quality and complaints within the ASD service. It is therefore surprising that a comprehensive triangulation of risks was not taken earlier. As such the CCGs missed an early opportunity to mitigate reputational risks and address concerns in a timely manner.

3.12 Recommendations for phase one of the review

1. The CCGs to strengthen their governance processes with respect to corporate risk management to ensure that reports to their governing bodies include effective triangulation of all strategic risks. As part of these arrangements, the CCGs should ensure that there are department-specific risk registers which form an integral part of their corporate risk register.
2. The CCGs to review their corporate governance policies for the safe storage of corporate records/documentation and establish a robust system for access to and management of legacy records.
3. The CCGs to ensure all new contract awards have an inbuilt period for contract mobilisation to identify and address any early 'teething problems.' All contracts to have robust service specifications with clarity on activity levels, key performance indicators (KPIs), and expectations of operational relationships with other providers so that these form a foundation for sound contract management.
4. There should be clarity on the roles and responsibilities for contract management between the CCGs and the CSU including defining which parties are responsible for escalating concerns to senior management(s) and appropriate committees within the CCGs.
5. The CCGs to consider new contract models so that individual contracts are not managed in isolation but that services within the overall pathway are monitored to ensure there is appropriate integrated working and positive relationships between

providers. This could be facilitated by application of the alliance contract model.

6. The CCGs to adopt a clear strategy and process for engagement of stakeholders across its commissioning functions including procurement and quality. This should include formal processes for dealing with challenges and complaints from service users and their representatives. This process should be consistent with the CCGs' governance framework and be mindful of potential conflicts of interest.

4.0 Phase two of review

4.1 Terms of reference

- Review the governance/procurement arrangements that led to the awarding of the interim contract from 1 October 2019.

This phase of the review covers the procurement of children’s mental health and autism services for children and young people in South Staffordshire. It focuses on the events and processes leading up to the award of the contract for the interim service.

4.2 Contract background

The contract for the ASD service provided by MP was initially awarded to them in October 2010 to September 2014. The contract was re-tendered, and MP were awarded it again from 1 October 2014 for a three-year period with the option to extend for a further two years. In line with the contract terms, it was extended for a further two years to expire on 30 September 2019. The contract ended on this (the natural expiry) date.

The CCGs sought an extension to the existing contract post 1 October 2019 to enable a full procurement to take place. The CCGs entered several months of dialogue with MP, however, an agreement was not secured with them, and the CCGs’ governing bodies instead opted to seek an interim solution pending a full procurement of the service.

4.3 Procurement timeline

Dates	Actions
28 November 2018	A notice of intention to re-procure service issued by CCGs to MP.
15 April 2019	Offer made by CCGs to MP for an extension to the contract was refused by MP in a letter sent to commissioners. This was on the basis that in their view the increased offer of an additional £30k over baseline was not acceptable.
April to May 2019	CCGs holds four meetings with MP to discuss both the in-year and extension position.
24 July 2019	Reminder notice issued to MP by CCGs setting out MP’s responsibility to formulate a succession plan and ensure safe transfer of health records should a commercial agreement not be achieved.
July 2019	MDSW takes paper to CCGs’ governing bodies to escalate existing risks associated with the MP contract, highlighting a potential gap in

service. CCG's corporate risk register score raised from an initial score of 16 to 20.

July 2019	MP made an offer to CCGs on a commercial basis, which included proposed contract value of £494,215 with £200k of that sum to be paid as an up-front payment, to be paid at the start of August 2019. This offer was considered and rejected by the individual governing body and no up-front payment made to MP.
29 August 2019	Governing bodies met in common to receive a paper setting out options to secure interim provider. Governing bodies resolved to seek interim solution pending long-term service being secured through a robust, fair, and transparent procurement exercise.
30 August 2019	The CCGs informed MP that the commercial offer had not been accepted by the governing bodies.
2-9 September 2019	During this period, CCGs commenced discussions with four providers of mental health services.
5 September 2019	A letter from MP posted via social media on 5 September stating that the service had ceased with immediate effect.
10 September 2019	Detailed discussions commenced with MPFT to explore option of taking over as the interim service provider. MPFT confirm that they would be willing to host the interim service during the procurement process.
26 September 2019	A paper was presented to governing bodies seeking approval to appoint MPFT to act as the host interim service provider. The individual governing bodies approved MPFT as their interim service provider.
1 October 2019	Interim solution provided by MPFT mobilised on 1 October 2019.
1 October 2019	The CQC visit MPFT to discuss the interim arrangements.
2 October 2019	The CQC visit the CCGs to discuss interim arrangements.
October 2019	Regular communication between the CCGs and MPFT MDs continued with a standalone contract and quality review board being established to monitor the interim service solution.
Ongoing	The CCGs continue to work closely with MPFT to ensure continuity of care and a safe and effective autism service for children and young people.

The CCGs issued a notice of intention to re-procure the service to MP in November 2018. In April 2019, the CCGs made an offer to MP for an extension to the contract which was acknowledged and refused by MP in a letter sent to the commissioners. This was on the basis that in their view the increased offer of an additional £30k over baseline was not acceptable.

During the period April to May 2019, the CCGs held a further four meetings with MP to discuss both the in-year and extension position. The CCGs agreed to fund an in-year additional £136k

during the period July to September 2019 to ensure assessment levels were maintained and an additional £15k for the same period to ensure phone lines were available, Monday to Friday 9am-5pm, as recommended in the NTW report. The extension position explored the potential to extend the contract for a further six months to enable the planned procurement to conclude. A detailed paper was taken to the SWDC to present the options offered by MP. The decision to supplement the MP contract was reported to the governing bodies (GB) in August 2019.

In July 2019, the CCGs issued a reminder notice to MP setting out MP's responsibility to formulate a succession plan and ensure safe transfer of health records should a commercial agreement not be achieved.

The MDSW also took a paper to the CCGs' GB to escalate existing risks associated with the MP contract, highlighting a potential gap in service. The CCGs' corporate risk register score was subsequently raised from 16 to 20 and the CCGs requested that the score remain at 20 until further assurance on the operation of the interim service solution was received by the GB for review.

During July 2019, MP made an offer to the CCGs on a commercial basis, which included their proposed contract value of £494,215 with £200k of that sum to be paid as an up-front payment at the start of August 2019. This offer was considered and rejected by the individual GB and no up-front payment was made to MP.

In August 2019, the GBs met in common to receive a paper setting out options to secure an interim provider. An option to extend the existing service by MP for an interim period was set out along with the commercial offer from MP. A further four options for an interim service were also set out along with legal advice from Mills and Reeves LLP on each option. The GB resolved to seek an interim solution, pending the long-term service being secured through a robust, fair, and transparent procurement exercise.

On 30 August 2019, the CCGs informed MP that the commercial offer had not been accepted by the GB.

During the week commencing 2 September 2019, the CCGs commenced tentative discussions with four providers of mental health services. These providers were MPFT, Dudley and Walsall Mental Health Partnership NHS Trust, North Staffordshire Combined Healthcare NHS Trust and Derbyshire Healthcare NHS Foundation Trust. The latter were approached via Derby and Derbyshire CCG which then entered discussion with their local providers and subsequently confirmed on 9 September that due to lack of capacity, their providers were unable to offer support. It is not clear whether all providers were approached with regards to acting as the host (interim) service provider or whether some were approached to act as sub-contractors to the host provider. It is also unclear about the outcome of discussions with Dudley and Walsall Mental Health Partnership NHS Trust and North Staffordshire Combined Healthcare NHS Trust

On 5 September 2019, a letter from MP was posted via social media stating that the service had ceased with immediate effect.

Detailed discussions commenced with MPFT on 10 September 2019 to explore the option of taking over as the interim service provider. This followed a morning meeting with MP during which they indicated that they would not continue with the completion of existing assessments

that had already commenced. MPFT confirmed that they would be willing to host the interim service during the procurement process.

A paper was presented to the four GB on 26 September 2019 seeking approval to appoint MPFT to act as the host interim service provider. Other local providers had been approached with regards to a sub-contracting arrangement with MPFT and these discussions were ongoing. The individual GB approved MPFT as their interim service provider.

The interim solution provided by MPFT was mobilised on 1 October 2019. Several staff from MP (20) were transferred to MPFT on 1 October 2019. MPFT had received the open case-notes from MP and from 1 October, a new contact number for parents and families went live.

The CQC visited MPFT on 1 October 2019 to discuss the interim arrangements. On the following day, the CQC visited the CCGs to discuss interim arrangements for the service.

It was reported by the CCG that regular communication between them and MPFT MDs continued with a standalone contract and quality review board being established to monitor the interim service solution. The first of the monthly meetings was scheduled for 7 November to formally review any risks and challenges and identify any actions in running the service during its first month. At the time of undertaking this review, no specific risks had been identified by MPFT to date in relation to the interim service solution.

The CCGs stated that they continued to work closely with MPFT to ensure continuity of care and a safe and effective autism service for children and young people. Any immediate concerns raised by parents have been directed to MPFT for resolution. MP cited several concerns about the quality of the handover process which they considered to have been poor. Their concerns were wide ranging, citing the lack of effective and timely communication with them by the CCG and the incoming provider and misconceptions about them (MP) completing and sharing assessment/case notes with the incoming provider in a timely manner.

The TOR for this review has covered the period leading up to the award of the interim contract by the CCG. It has not reviewed in any detail the events following this award. Feedback about the handover process has been shared with NHSE/I.

4.4 Schedule for procurement of the new service

16 May 2019 to 13 July 2019	Engagement with stakeholders including patient groups and carers were carried out as part of the procurement process.
26 May 2019	Market engagement event held and attended by nine providers.
17 June 2019	Prior information notice released on Contracts Finder.
20 June 2019	Prior information notice released on Contracts Finder onto Official Journal of the European Union (OJEU).
June 2019	During an assurance meeting, CCGs sought NHSE advice to explore whether support for procurement could be offered however this was not available.

- 27 August 2019 CCGs took a paper through CCGs' finance and performance committee seeking an increase in the financial envelope by an additional £360k, increasing the scope of the service to 25-years-old in accordance with the SEND agenda.
- 27 September 2019 Procurement goes live on Contracts Finder and OJEU.

From May to August 2019 the CCGs carried out 10 engagement sessions with stakeholders including patient groups and carers as part of the procurement process. The CCGs sought expert autism advice from the National Autism Society (NAS). The Society reviewed the draft service specification to be used during the procurement concluding that this was a "comprehensive and ambitious proposal for a timely and integrated service for CYP with suspected autism." The NAS Clinical Director was commissioned to support the CCGs with the procurement process by participating in the tender evaluation.

A market engagement event was held during May 2019 and was attended by nine providers.

During an assurance meeting with NHSE in June 2019 the CCGs sought their advice to explore whether support for the procurement could be offered due to the risks with the process and its outcome, however, further support was not available.

During August 2019, the CCGs took a paper through the CCGs' finance and performance committee seeking an increase in the financial envelope by an additional £360k, increasing the scope of the service to 25-years-old in accordance with the SEND agenda.

The procurement for the new service went live on Contracts Finder and OJEU on 27 September 2019. The procurement was intended to be an open and transparent process aimed at awarding a contract to the provider that could evidence a high quality, safe and value for money service.

Findings

Early discussions were initiated by the CCGs about the need to re-procure the South Staffordshire CYP autism service in January 2019. The CSU procurement team advised the CCGs that time was of the essence given that the contract ended on 30 September 2019 and that the CCGs should be prepared to move quickly and consider a short extension of the current contract to allow for good stakeholder engagement at the start of the process.

The CCGs and CSU were aware that there were several active stakeholder groups, including parents and carers, which held strong views about the current services who were seeking to engage in the forthcoming procurement process. The CCGs had received challenges from some of these groups and had engaged extensively with their legal advisers for clarification and support with this process and throughout the pre-procurement process.

The CSU procurement team also provided advice and support to the CCGs in relation to the options available by providing the CCGs with two options appraisals papers to guide the direction of the interim options.

The CCGs entered discussions and negotiations with MP in good faith, however, the parties were unable to reach agreement. MP's understanding of these negotiations was that their latest offer made on 22 July 2019 was part of ongoing negotiations whereas the CCG's understanding was that they accepted that MP had made an offer to provide the interim service as stated and had taken this through the governance of the CCGs and the commercial offer was rejected. Their understanding was further reinforced by MP posting a communication on Facebook on 5 September alerting stakeholders that their service was ceasing with immediate effect, however, it may have been helpful for the CCGs to directly confirm MP's position with them. A joint and planned communications between the CCGs and MP would have reduced the level of anxiety and concern of parents, carers, and young people.

At the meeting of governing bodies on 29 August 2019, the CCGs set out several different options for seeking an interim provider. Legal advice had been secured for each of the options presented and it was acknowledged that there were risks associated with all the options including the option to extend the current contract with MP on an interim basis. The legal advice deemed the risks associated with the option to extend the MP contract to be greater than the option that was selected.

It is not clear whether the risks associated with the CCGs' initial plans to extend the MP contract were known when the decision was made by the governing bodies to extend the procurement timeline in February 2019. However, an early appreciation of these risks may have been helpful for the CCGs as it may have led to the development of a more formal approach towards negotiations with MP and enabled the CCGs to demonstrate full transparency with their processes. This may have reduced the likelihood of MP challenging the process.

It is also possible that this would not have made any difference to the likelihood of a complaint being made by MP as it could be argued that the CCGs had already spent a considerable amount of time in negotiations with MP and not been able to secure an agreement. MP had also made it public knowledge that in the event an agreement with the CCGs could not be reached it would cease providing services with immediate effect. Given that the contract with MP was due to expire very shortly there was a real risk of a gap in services thereby requiring an urgent solution to be secured by the CCGs.

Following the CCGs' governing bodies' decision to seek an alternative interim solution, the CCGs informed MP of this decision in a timely manner. They also informed MP that they would now be approaching other providers. It is not clear if the CCGs offered MP an opportunity to express an interest in offering an interim service on the same CCG terms as any other provider, however, the interim contract was awarded on the same terms and conditions of service historically operated by MP.

MP challenged the CCGs about their decision to seek an interim provider and subsequently made a formal complaint about this to the CCGs. They stated that the CCGs had made the decision to seek an interim provider during a period of negotiations between the two parties and in doing so, had breached procurement law. The CCGs denied this claiming that following negotiations, MP had made an offer to provide the interim service which the CCGs had taken through their Governing Bodies and this commercial offer had been rejected. They stated that this understanding was further reinforced by MP subsequently posting a communication on Facebook on 5 September alerting stakeholders that their service was ceasing with immediate

effect. One of the main points of contention between the two parties appeared to be the extent to which MP's Facebook post of 5th September influenced the CCGs decision to appoint an interim provider. In their first response to MP's complaint, the CCGs set out their detailed process for decision making. This appears to be consistent with the chronology of events that had taken place and is supported by documentation including Governing Body reports. In this response they state that the CCGs decision to appoint an interim provider was reinforced by MP's Facebook post in which MP stated that they would cease providing their service with immediate effect. MP strongly refuted this stating that this was not the case as their statement had been posted on 5th September, several days after the CCG had made their decision to seek an interim provider. They further stated that in taking this course of action the CCG had breached procurement law. In the CCGs subsequent response to these allegations, the CCGs denied that the actions taken by them had violated EU public procurement law, stating that the risks posed by MP's Facebook statement had led to the CCGs having to take immediate action to secure an interim provider. In this response the CCGs placed a greater emphasis on the impact of MP's Facebook statement on the (CCGs) actions to secure an alternative interim provider. This dispute appears to have further exacerbated the breakdown in relationships between the two parties. At the time of writing this report the issues raised in MP's complaint had not been resolved.

A formal clarification of MP's future position by the CCGs earlier in the process may have enabled closure for both parties.

The governing bodies' selection of option E was undertaken following due process however option E as presented to the governing bodies implies that multiple awards could be made as each CCG could secure their own interim service. It implies that it was at least possible that each CCG could identify a different provider if they felt this offered them a high quality, locally responsive service. In the eventuality, all four CCGs approved MPFT as their interim provider, in effect creating four separate 'direct awards' to the same provider. Discussions did, however, take place between the CCGs and other local providers about sub-contracting arrangements with MPFT. At least, some of these discussions were ongoing at the time the governing bodies made the decision to award the interim contract to MPFT on 26 September 2019.

Following the governing bodies' decision on 29 August 2019 to go with option E, MP posted a critical statement about the CCGs on Facebook. This occurred on 5 September and the fact that it had taken place ahead of the 26 September meeting of the governing bodies to select an interim provider, the CCGs might have taken more care in setting out a process for the interim award to MPFT.

Having found themselves in the position whereby they were required to select an interim provider at short notice, the CCGs adopted a rapid process to undertake this. The CCGs had approached several local providers of mental health services, however, there were few details available in either the governing bodies' paper of 26 September or during interviews about the approach used by the CCGs to engage with these providers. It is not clear whether all providers were approached with regards to acting as the host (interim) service provider or whether some were approached to act only as sub-contractors to the host provider. It was reported during interview that the CCGs' preferred option for the east and south-east of the health economy was for patients to be able to access Derbyshire Healthcare NHS Foundation Trust, however, they were informed that due to capacity constraints the Trust was unable to

offer any support. It is unclear about the outcome of discussions with Dudley and Walsall Mental Health Partnership Trust and North Staffordshire Combined Healthcare NHS Trust.

As the CCGs knew in advance that the contract was ending on 30 September, they could have acted earlier than they did to try to negotiate an extension with MP, leaving enough time to conduct a more formal procurement process to appoint an interim contractor should negotiations with MP not be successful. Given the circumstances it is difficult, under the procurement regulations, to claim that there were unforeseen and urgent circumstances which potentially justified an award without a formal procurement process.

The paper to the governing bodies on 26 September 2019 to select MPFT as the interim provider for each CCG was brief and focused on the recommendation for contract award. There was little information provided about the process used by the CCGs to arrive at this recommendation. The minutes of this meeting did not document whether there had been any detailed discussions about the process used by the CCGs to select an interim provider or whether any other concerns were raised by committee members, however, one interviewee reported that discussion did take place at the meeting. It was reported that the governing bodies' committee in common meetings are exceptionally large meetings with 50-plus members and much of the discussions happen in smaller CCG-based groups. These are then summarised in the governing body minutes.

It would have been helpful if the paper to the governing body on 26 September had set out further details concerning the justification for the CCGs not formally inviting competition for this interim arrangement. While approval for the decision was sought as required under procurement regulations, it would have been helpful for the paper to set out the process used to select the interim provider and to confirm that the interim contract had secured value for money and quality of services.

At the time of conducting this review the CCGs were in the process of adopting a joint procurement strategy. This was an updated version of South East Staffordshire and Seisdon Peninsula's CCG's strategy which had not yet been ratified by all the CCGs' governing bodies. From the information available to the review, it is not clear whether existing policies in the other Staffordshire CCGs were markedly different to the proposed new strategy, however, a fully endorsed strategy across all CCGs would have provided the governing bodies with a consistent view of the process being undertaken. This may have been helpful in guiding the interim procurement of the ASD service.

A strategic forum for developing a procurement pipeline and overseeing all procurements across the CCGs would also have been helpful in developing and sharing expertise as well as identifying potential risks earlier in the process. This forum would also serve to provide assurance on progress to the governing bodies.

While the CSU provided support to the CCGs on the interim and new procurement, the CSU's view was that the focus of their conversations with the CCGs were on supporting the technical aspects of the tender for the future procurement which at the time of the review was still ongoing. The CCGs liaised extensively with their legal advisers for support with the procurements including the decision-making process for the interim arrangements. A greater level of joint working with the CSU throughout the whole procurement journey may have

provided the CCGs with some additional insight into the challenges and pitfalls with this procurement, some of which were apparent from the onset.

4.5 Communications and engagement

This review did not set out to assess the effectiveness of the CCGs' overall communication and engagement arrangements other than to understand their respective roles in the procurement process.

The CCGs reported that they were committed to engaging widely with service users to develop the new ASD service model. The mechanism for this was via the CSU conducting a range of meetings and focus groups. In addition, an online survey was produced and circulated to service users and families. The themes and trends from the engagement were used to shape the service specification for the future procurement. As part of this process, the CCGs had also utilised the Autism Partnership Group on 13 September 2019 to listen and respond to immediate concerns raised by autism group leaders. The local councillor and MP were also present. While there had also been engagement activities prior to this, the meeting had been convened to discuss the Facebook post by MP on 5 September 2019. A series of further meetings took place to support the development of the new specification. The two meetings were held on 13 and 27 September which focused on the interim service discussions with parents and carers.

The carers who had previously raised concerns about the CCGs' role in phase one of the review asked for an opportunity to feed into the second phase of the review as they also had concerns about the CCGs' procurement process.

They stated that although the CCGs had previously agreed to build service user feedback into the procurement process, in practice this had been limited. They reported that the CCGs had committed to incorporating a wide range of methods to capture views to ensure no-one would be excluded and that they had been happy with this approach. They were also concerned that the survey had not been carried out appropriately as it was only released via the CCG's website and for a very short period of time, thereby limiting the amount of time available for meaningful engagement. The review assessed the CCGs' engagement activities with regards to the procurement of the new ASD service and as part of this process found that during 15th May-31st July 2019 the CCGs had carried out an autism survey to shape the new service. This was part of a wider process which used a combination of methods and materials and the survey had included ten face-to-face sessions with parents, service users and carers. A total of 137 responses had been gathered.

The carers appeared to be frustrated by the CCGs' approach as they felt that they had spent a considerable amount of time engaging with the CCGs, however their ideas had not been incorporated in the process that followed.

The CCGs were aware that there had been negative comments in relation to the service provided by MP. To ensure balance, the CCGs resolved to seek as wide a view as possible on the shape of the future service. The CCGs wished to ensure an open and impartial engagement process. They embarked on a population-based process rather than a patient champion approach to not undermine the procurement process in any way.

The carers also expressed concerns about the attendance of MP staff at several engagement events and the use of MP premises for holding some of these events and whether this constituted a conflict of interest. MP however, stated that some of their premises, including the Coach House were utilised for an engagement event because the parents of MP services housed there wished to take part in the CCG's consultation. They reported that MP staff were not present at the CCG events. MP's view was that the CCGs 'privileged the views of certain groups prior to and throughout the procurement process' and that this was evidenced by the fact that only members of these groups were invited to sit on the Autism Partnership Group. They stated that that this group had no mandate to speak for service users and that 'this point had been made by MP service users during the consultation process'.

The engagement process was part of a pre procurement exercise and was distinct from the formal tendering process which followed at a later point in time. The CCGs were transparent about including existing support groups for service users in this process as well as including service users directly as part of its aim to engage with a wide range of stakeholders. The CCG utilised a range of venues to ensure good geographical spread and attendance including some of those housing the current ASD services.

A meeting was held by the CCGs with the carers to share a high-level timeline for the procurement and the group were invited to future meetings. The carers stated that following this meeting they did not receive any further invitations; however, they did receive an email from the CCGs' AO apologising for the delay in responding to the group.

The carers stated that from this point onward there was a noticeable improvement in the way the CCGs engaged with them. One of the carers had been updated by the CCGs that a letter had been received from MP stating that they had exceeded their contracted levels of activity and would therefore cease providing the service with immediate effect. The CCGs had supported MP with an additional sum of money to continue to see patients and funded the opening of a phone line into the service. The carer had questioned why the CCGs had awarded this additional sum of money and the CCGs had explained that MP had proposed three options to the CCGs for consideration. This carer stated that the CCGs had to-date only identified some of this funding and thought that they would be seeking to identify the remainder from other existing services. The CCGs clarified that it would not be from existing services, this was a cost pressure to the CCGs which had been funded. One of the carers recounted an earlier conversation during a meeting with the CCG whereby an officer had initially stated that this funding had been taken from another service development. Upon questioning about a potentially adverse impact of this decision on that service the officer had explained that this service was covered as the funding was to expand the current service which would be delayed for a few months.

The reviewer followed up this line of enquiry with the officer concerned, who recognised the potential concern that this statement might have caused and explained the constant challenges facing CCGs in making prioritisation decisions within financial constraints which sometimes resulted in changes being made. The officer clarified that the intention 'was to transparently set out commissioner's position to balance the increasing needs of the local population and a duty to improve service quality within available finance, across a significant portfolio.'

The carers stated that as the CCGs had not previously taken action to address concerns about poor quality in the current service, they had challenged the CCGs about why additional funds were being awarded to MP ahead of the interim solution being confirmed. The CCGs clarified that this sum of money formed part of the offer made by MP to the governing bodies and was part of the reason why the governing bodies rejected the commercial offer for the contract extension beyond September 2019.

4.6 Stakeholder management

The CCGs incorporated stakeholder management within their engagement processes for the procurement which have been covered in the section above. There was also a stakeholder briefing which appears to have been aimed at service users and their representatives. It is not clear from the review whether the CCGs had undertaken a formal stakeholder mapping exercise or risk assessment to identify potential risks with stakeholder management.

Findings

The review found that over time, the relationships between the CCGs and the carers became increasingly strained. These carers' views were that the CCGs had not acted proportionately to the concerns raised by them.

The review found that the carers had sought to raise concerns about the ASD and CAMHS services with commissioners and providers and had felt frustrated by what they viewed as poor responses from the CCGs.

The carers reported that they were concerned about the ongoing delay with the procurement as the CCGs had initially planned for the new service to start on 1 April 2020, but this had now been delayed to 1 June 2020. A meeting had taken place with the CCGs' AO who explained the reasons for the delayed procurement in that they had been waiting for the final NTW report, however the carers remained dissatisfied with this explanation. They also wanted to ensure they were directly involved in the commissioning of the new autism service and wanted a formal role in the CCGs to ensure ongoing involvement with this work. They were also unhappy with the outcome of the interim procurement and continued to voice their concerns about this to the CCGs.

The review found that the CCGs had endeavoured to engage with the carers through a variety of means, however, this had limited impact. There is evidence of correspondence from the CCGs' AO to the carers acknowledging their concerns and clarifying the rationale for the CCGs' responses. The CCGs also made an offer to engage with the carers within their governance framework including a role in writing the new service specification and membership of the CCGs Partnership Group, however, the carers reported that there were delays and difficulties in mobilising their involvement in these meetings.

The review noted that between April 2018-March 2020 there were a total of twenty-two meetings between the carers and officers of the CCG.

This illustrates the significant commitment made by the carers and CCGs to work together.

It is not clear to what extent the CCGs shared their formal processes for engagement in the procurement with the carers and wider stakeholders. However, this should have included how the CCGs planned to engage with service users and their representatives (including

representative groups) throughout the procurement process and would have included the involvement of such stakeholders in specification development and in the tender evaluation process. This process would also have clarified the need for the CCGs to be consistent with their governance framework and be mindful of potential conflicts of interest.

In terms of stakeholder management, it is not clear whether the CCGs had undertaken any formal stakeholder mapping at the beginning of the procurement process or whether they had a plan to proactively manage any identified risks. However, apart from the well-recognised challenges with MP, the CCGs were also aware that there were several active stakeholder groups, including parents and carers, which held strong views about the current services who were seeking to engage in the forthcoming procurement process. The CCGs had previously attracted adverse media coverage following the release of the NTW report and they were also aware of several historical complaints about the ASD service. It is therefore surprising that the potential for further reputational damage to the CCGs was not fully realised.

4.7 Concluding comments for phase two

While the level of risks with procurement of the new service were a prominent feature of governing bodies' reports, there was limited reporting on the potential risks associated with stakeholder management in this process.

From the limited information available to the review, it has not been possible to assess the effectiveness of the commissioning directorate's risk register in identifying all strategic risks. However, stronger triangulation of all residual risks at the governing bodies' meetings may have enabled the committees in common to take a wider view of the ASD service and in doing so, seek a greater level of assurance about mitigations in place to reduce the potential for reputational damage to the CCGs.

4.8 Recommendations for phase two of the review

1. The CCGs to establish a strategic forum to develop a strategy and pipeline for future procurements and ensure arrangements for oversight of these. The group would include membership from CSU and provide assurance to the governing bodies as and when required.
2. The CCGs to adopt a clear strategy and process for engagement of stakeholders across their commissioning functions including procurement and quality. This should include formal processes for dealing with challenges and complaints from service users and their representatives, should be consistent with the CCGs' governance framework and be mindful of potential conflicts of interest.
3. The CCGs to ensure that they are aware of the procurement regulations relating to the award of interim contracts. Where contracts are coming towards their expiry date, sufficient time needs to be allowed to complete negotiations with the current provider should the extension of the current contract be the preferred option, and sufficient

time allowed to conduct a compliant procurement process for an interim contract should such negotiations not produce an agreement.

4.9 Learning and follow-up actions taken by CCGs

At the time of conducting this review, the CCGs had set aside dedicated time to review lessons learned internally and a timeline had been developed to review decision-making, contract management, procurement, communications, quality, and safety, including complaints received and analysis of concerns raised through the CSU and the Patient Advice and Liaison Service (PALS).

A further learning session was to be arranged with partner organisations to review the transition and wider system lessons/feedback to the CCGs in preparation for all eventualities arising from the re-procurement process.

Since the 2014 contract award to MP, the CCGs have made several improvements to their CM arrangements. These improvements were made incrementally over a five-year timeframe and focused on the following domains:

- Contract management
- Service specifications
- New integrated specifications designed with extensive engagement for use with new procurements.

5.0 Summary of all recommendations

1. The CCGs to strengthen their governance processes with respect to corporate risk management to ensure that reports to their governing bodies include effective triangulation of all strategic risks. As part of these arrangements, the CCGs to ensure that there are department-specific risk registers which form an integral part of the CCG's corporate risk register.
2. The CCGs to review their corporate governance policies for the safe storage of corporate records/documentation and establish a robust system for access to and management of legacy records.
3. The CCGs to ensure all new contract awards have an in-built period for contract mobilisation to identify and address any early 'teething problems.' All contracts to have robust service specifications with clarity on activity levels, key performance indicators (KPIs), and expectations of operational relationships with other providers so that these form a foundation for sound contract management.
4. Ensure there is clarity on the roles and responsibilities for contract management between the CCGs and the CSU including defining which parties are responsible for escalating concerns to senior management(s) and appropriate committees within the CCGs.
5. The CCGs to consider new contract models so that individual contracts are not managed in isolation but that services within the overall pathway are monitored to ensure there is appropriate integrated working and positive relationships between providers. This could be facilitated by application of the alliance contract model.
6. The CCGs to establish a strategic forum to develop a strategy and pipeline for future procurements and ensure arrangements for oversight of these. The group would include membership from CSU and provide assurance to the governing bodies as and when required.
7. The CCGs to adopt a clear strategy and process for engagement of stakeholders across their commissioning functions including procurement and quality. This should include formal processes for dealing with challenges and complaints from service users and their representatives and should be consistent with the CCGs' governance framework and be mindful of potential conflicts of interest.
8. The CCGs to ensure that they are aware of the procurement regulations relating to the award of interim contracts. Where contracts are coming towards their expiry date sufficient time needs to be allowed to complete negotiations with the current provider should the extension of the current contract be the preferred option, and sufficient time allowed to conduct a compliant procurement process for an interim contract should such negotiations not produce an agreement.

6.0 Glossary

The key abbreviations used in this report are:

AO	Accountable Officer
ASD	Autism Spectrum Disorder
CAMHS	Child and Adolescent Mental Health Service
CCG	Clinical Commissioning Group
CEO	Chief Executive Officer
CIC	Community Interest Company
CM	Contract Management
CQC	Care Quality Commission
CRM	Contract Review Meeting
CSU	Commissioning Support Unit
CYP	Children and Young People
Dep DOF	Deputy Director of Finance
Dep DON	Deputy Director of Nursing, Quality and Safety
DON	Executive Director of Nursing and Quality
GB	Governing Body
GP	General Practitioner or General Practice
JR	Judicial Review
KLOE	Key Lines of Enquiry
KPIs	Key Performance Indicators
LC	Lead commissioner for Children and Young People
MHMDS	Mental Health Minimum Data Set
MDSW	Manging Director for South West Locality
MLCSU	Midlands and Lancashire Commissioning Support Unit
MOC	Management of Change
MPFT	Midlands Partnership NHS Foundation Trust
MP	Midlands Psychology Community Interest Company
NAS	National Autism Society
NHSE/I	NHS England and NHS Improvement
NICE	National Institute for Health and Care Excellence
NTW	Northumberland, Tyne and Wear Foundation Trust
OJEU	Official Journal of the European Union
QIM	Quality Improvement Manager
PALS	Patient Advice and Liaison Service
PCT	Primary Care Trust
SI	Serious Untoward Incident
SSSFT	South Staffordshire and Shropshire Healthcare NHS Foundation Trust
SSOTP	Staffordshire and Stoke-on-Trent Partnership NHS Trust
STP	Sustainability and Transformation Partnership