

CORPORATE OFFICE

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6 April 2022

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RE Official Information Act request CDHB 10841

I refer to your email dated 22 March 2022 requesting the following information under the Official Information Act from Canterbury DHB. Specifically:

- 1. Under the contract with St George's Maternity - is the hospital funded for a set number of births and transfers during the term of the contract? Or does it only receive funding for each actual birth/transfer?**

The Canterbury DHB Primary Maternity Services Agreement with St George's Hospital has the following service lines and contracted volumes – with payment made per service delivered:

Service	Contracted Volume
Labour & Delivery at Primary Maternity Facility	No specified volume
Labour only at Primary Maternity Facility	No specified volume
Postnatal Stay (mother) at Primary Maternity Facility	Up to 870 Stays per annum
Labour, Delivery and Postnatal Stay at Primary Maternity Facility	385 Stays per annum – indicative

- 2. How much funding has the CDHB budgeted for the contract with St Georges Maternity in the current financial year? Can you break this down by costs for the building and staff?**

The Canterbury DHB 2021/22 budget for the Primary Maternity Services Agreement with St George's Hospital is estimated at \$2,050,574. This budget covers the rolled-up costs for delivery of the services.

- 3. Can you please let me know when the current contract with St George's ends?**

The current Primary Maternity Services Agreement expires on 30 June 2023.

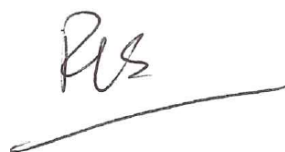
4. Under what circumstances can St George's break the contract with the DHB?

There are a number of clauses in the Agreement that set out the criteria, requirements and effects for ending the Agreement by either party. Please refer to **Appendix 1** (attached) for Clauses B24 – B34 of the Primary Maternity Services Agreement with St Georges Hospital.

I trust that this satisfies your interest in this matter.

Please note that this response, or an edited version of this response, may be published on the Canterbury DHB website after your receipt of this response.

Yours sincerely

A handwritten signature in black ink, appearing to read 'RLS', with a long horizontal line extending to the right underneath it.

Ralph La Salle
Senior Manager, OIAs
Canterbury DHB & West Coast DHB.

Out of Scope

DEALING WITH PROBLEMS**B24 Notification of Problems**

B24.1 You must advise us promptly in writing:

a) Of any:

- i. changes,
- ii. problems,
- iii. significant risks,
- iv. significant issues,

which materially reduce or affect your ability to provide the Services, or are most likely to do so, including those relating to:

- v. any premises used by you,
 - vi. any equipment you are using,
 - vii. your key personnel; or
- b) if you materially fail to comply with any of your obligations in the Agreement; or
- c) of any serious complaints or disputes which directly or indirectly relate to the provision of the Services; or
- d) of any issues concerning the Services that might have high media or public interest.

B24.2 We must discuss with each other possible ways of remedying the matters notified. Our discussion or attempted discussions will not however limit any of our rights under the Agreement.

B24.3 You must have in place realistic and reasonable risk management processes and contingency plans to enable you to continue to provide the Services on the occurrence of any of the matters in this clause B24.

B25 Uncontrollable Events

B25.1

- a) For the purposes of this Clause B25 an "uncontrollable event" is an event which is beyond the reasonable control of us ("the person claiming"), or an event as set out in Clause B29.4.
- b) An uncontrollable event does not include:
 - i. any risks or event which the person claiming could have prevented or overcome by taking reasonable care including having in place a realistic and reasonable risk management process; or
 - ii. a lack of funds for any reason.

B25.2 The person claiming will not be in default under the terms of the Agreement if the default is caused by an uncontrollable event.

B25.3 The person claiming must:

- a) promptly give written notice to the other specifying:
 - i. the cause and extent of that person's inability to perform any of the person's obligations; and
 - ii. the likely duration of the non-performance;
- b) in the meantime take all reasonable steps to remedy or reduce the uncontrollable event.

B25.4 Neither of us is obliged to settle any strike, lock out or other industrial disturbance.

B25.5 Performance of any obligation affected by an uncontrollable event must be resumed as soon as reasonably possible after the uncontrollable event ends or its impact is reduced.

B25.6 If you are unable to provide the Services as the result of an uncontrollable event we may make alternative arrangements suitable to us for the supply of the Services during the period that you are unable to supply them after we consult with you.

B25.7 If either of us is unable to perform an obligation under the Agreement for 90 days because of an uncontrollable event, both of us must first Consult and decide to what extent if any the Agreement can be varied and to continue.

B25.8 If we cannot agree that the Agreement may continue, then either of us may cancel the Agreement after giving at least 14 days prior written notice.

B25.9 Clause B34.1 will apply to cancellation of the Agreement under this clause.

B26 We May Remedy Your Failure To Meet Your Obligations

B26.1 If you fail to carry out any of your obligations in the Agreement we may do so on your behalf at your expense and risk.

B26.2 We may do this without giving you notice where the circumstances reasonably require such action. Otherwise, we will give you 7 days notice in writing of our intention to act.

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B26.3 All costs we incur in doing so, must be paid by you to us on demand or we may deduct them from moneys which we owe you.

B27 Public Statements, Issues and Advertising

B27.1

- a) Neither of us may directly or indirectly criticise the other publicly, without first fully discussing the matters of concern with the other.
- b) The discussion must be carried out in good faith and in a co-operative and constructive manner.
- c) Nothing in this clause prevents you from discussing any matters of concern with your people being your staff, subcontractors, agents or advisors.
- d) Nothing in this clause prevents you from discussing any matters of concern with our people being our staff, subcontractors, agents, advisers or persons to whom we are responsible.
- e) If we are unable to resolve any differences then those differences may be referred by either of us to the Dispute Resolution process set out in clause B28.

B27.2 You may use our name or logo only with our prior written consent.

B27.3 The provisions of this clause B27 will remain in force after the Agreement ends.

B28 Dispute Resolution

B28.1 If either of us has any dispute with the other in connection with the Agreement, then:

- a) Both of us will use our best endeavours to settle the dispute or difference by agreement between us. Both of us must always act in good faith and co-operate with each other to resolve any disputes, and
- b) If the dispute or difference is not settled by agreement between us within 30 days, then, unless both of us agree otherwise:
 - i. full written particulars of the dispute must be promptly given to the other.
 - ii. The matter will be referred to mediation in accordance with the Health Sector Mediation and Arbitration Rules 1993 as amended or substituted from time to time. A copy of the Rules are available from the Ministry of Health.
- c) neither of us will initiate any litigation during the dispute resolution process outlined in paragraph b) above, unless proceedings are necessary for preserving the party's rights.
- d) both of us will continue to comply with all our obligations in the Agreement until the dispute is resolved but payments may be withheld to the extent that they are disputed.

B28.2 Clause B28.1 will not, however, apply to any dispute:

- a) concerning any renegotiation of any part of the Agreement,
- b) as to whether or not any person is an Eligible Person,
- c) directly or indirectly arising from any matter which has been referred to a Complaints Body unless the Complaints Body directs the matter to be resolved in accordance with clause B28.1.

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B29 Variations to the Agreement

- B29.1 The Agreement may be varied by written agreement signed by both of us.
- B29.2 Where the Agreement is for a term exceeding 1 year, we both agree that the Agreement shall be reviewed annually.
- B29.3 Variation on requirement by Crown
- a) we may require you to vary the Agreement by written notice to you to comply with any requirement imposed on us by the Crown.
 - b) We will give you as much notice of the requirement and details of the proposed change as possible, to the extent that we are able to do so.
 - c) Both of us must Consult and decide to what extent if any the Agreement can be varied and continue on that basis.
 - d) If we cannot agree within 60 days, then either of us may cancel the Agreement after giving at least 30 days prior written notice.
 - e) You must continue to comply with your obligations under the existing Agreement until any variation of it takes effect.
- B29.4 The Agreement will be varied in the event of a disaster, local or national epidemic, emergency or war in accordance with our requirements but this clause is subject to clause B25.

B30 Our Liability

- B30.1 Except to the extent that we agree otherwise, we will not be liable to you for any claims, damages, penalties or losses (including costs) which you incur.

ENDING THE AGREEMENT

B31 Notice of Your Future Intentions

- B31.1 Before the end of the Agreement you must give a minimum of 3 months notice if:
- a) you do not wish to enter into a new agreement with us when the Agreement ends; or
 - b) you wish to enter into a new agreement with us when the Agreement ends but on materially different terms.

This clause does not mean we must enter into a contract with you when the Agreement ends.

- B31.2 You must discuss with us your intentions before giving any notice under clause B31.1.
- B31.3 We must give you a minimum of 3 months notice if we do not intend to renew the Agreement, except where Management of Change Protocols may apply.

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B32 Your Default and our Right to End the Agreement

- B32.1 We may end the Agreement immediately by written notice to you on the occurrence of any of the following events:
- a) We have good reason to believe you are unable or will soon become unable to carry out all your material obligations under the Agreement.
 - i. We must, however, consult with you before ending the Agreement for this reason.
 - ii. If we believe the health or safety of any person or Population Served is at risk we may suspend your provision of the Services while we consult.
 - b) You have failed to carry out any of your obligations in the Agreement; and
 - i. the failure is material; and
 - ii. it cannot be remedied
 - c) if:
 - i. you are or adjudged bankrupt; or
 - ii. you are more than one person, if any of you are adjudged bankrupt; or
 - iii. you are a company and you are placed in receivership or liquidation.
 - d) You have failed to carry out any of your obligations in the Agreement and the failure can be remedied by you but you fail to do so within 30 days of your receiving written notice of the default from us.
 - i. After 30 days from your receiving the notice, so long as the obligation still has not been met, we may instead of ending the Agreement;
 - ii. At any time vary or withdraw from coverage by this Agreement any of the Services in respect of which you have not met your obligation, either straight away or at any later date, and
 - iii. Cease payment for any of the services from the date of withdrawal.
 - iv. You have the same right and must follow the same procedure if we have not met any obligation and you wish to vary or withdraw any of the Services.
 - v. Any dispute regarding the withdrawal or variation of any of the Services under this paragraph d) must be resolved under clause B28.

B32.2 Nothing in clause B32.1 affects any other rights we may have against you in law of equity.

B33 Our Default and your Right to End the Agreement

- B33.1 If we default on any payments which we are not entitled by the Agreement to withhold and we fail to remedy the default within 20 days of your giving us written notice of the default you may do any one or more of the following:
- a) cancel the agreement,
 - b) seek specific performance of the Agreement,
 - c) seek damages from us,
 - d) seek penalty interest.

B34 Effect of Ending the Agreement

B34.1 Any cancellation of the Agreement will not affect:

- a) the rights or obligations of either of us which have arisen before the Agreement ends;
or
- b) the operation of any clauses in the Agreement which are expressed or implied to have effect after it ends.

Out of Scope

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