

<b>Corporate</b>	<b>ICB Procurement Policy</b>
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#### **EQUALITY IMPACT ASSESSMENT**

<b>Date</b>	<b>Issues</b>
Step 1 – April 2025	None

#### **POLICY VALIDITY STATEMENT**

This policy is due for review on the latest date shown above. After this date, policy and process documents may become invalid.

#### **ACCESSIBLE INFORMATION STANDARDS**

If you require this document in an alternative format, such as easy read, large text, braille or an alternative language please contact [necsu.comms@nhs.net](mailto:necsu.comms@nhs.net)

## Version Control

Version	Release Date	Author	Update comments
1	July 2022	Emma Dinning – Procurement and Market Development Manager	Not applicable
2	June 2023	Emma Dinning – Procurement and Market Development Manager	Reviewed and updated within first year of establishment
3	January 2024	Emma Dinning – Procurement and Market Development Manager	Updated to include the NHS Healthcare Services (Provider Selection Regime) 2023 Regulations – implemented on 1 January 2024
4	April 2025	Julie Parkinson – Strategic Head of Procurement	Updated to included further changes to the NHS Healthcare Services (Provider Selection Regime) 2023, the Procurement Act 2023 (implemented on 24 February 2025) and change of classification for the ICB from Central Government Body to Sub Central (other) aligning to the correct thresholds and actions required by the Government in publication of Procurement Policy Notes (PPNs)

## Approval

Role	Name	Date
Chief Procurement and Contracting Officer	David Gallagher	April 2025

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## 1. Policy Statement

This Policy is intended for the use of NHS North East and North Cumbria Integrated Care Board to inform the commissioning of Healthcare services and non-pay goods and services.

For the purposes of this policy NHS North East and North Cumbria Integrated Care Board 'ICB' procurement activity will be compliant with the prevailing regulatory framework relating to procurement and competition and will be used to support delivery of ICB priorities.

This Policy is in line with the current legislation applicable to NHS North East and North Cumbria Integrated Care Board.

The NHS Healthcare Services (Provider Selection Regime) 2023 (PSR) came into force on 1 January 2024, it takes the arrangements between NHS commissioners and providers out from the scope of the Public Contract Regulations 2015 (as amended) (PCR) for services classed as Healthcare Services; revokes Section 75 of the Health and Social Care Act 2012 and removes underlying regulations (the National Health Service (Procurement, Patient Choice, and Competition Regulations 2013) (No 2).

As of 24 February 2025, the Procurement Act 2023 and Procurement Regulations 2024 were implemented for non-healthcare goods and services. It should be noted; the Public Contracts Regulations 2015 (PCR2015) also remain in place to allow for contract modifications and call offs from frameworks for those non-healthcare contracts originally awarded under PCR2015).

This policy should be read in conjunction with other key ICB documents, NHS national policy and UK Regulations, including but not exclusively:

- ICB Standards of Business Conduct and Declarations of Interest Policy
- ICB Counter Fraud, Bribery and Corruption Policy
- ICB Constitution
- ICB Safeguarding Children Policy
- ICB Safeguarding Adults Policy
- ICB Scheme of Reservation and Delegation, Standing Orders, Standing Financial Instructions and Financial Limits. These documents are available in the Governance Handbook on NHS NENC ICB's website
- NHS Standard Contracts
- Healthcare Services (Provider Selection Regime) Regulations 2023
- Procurement Act 2023 (Procurement Regulations 2024)
- National Procurement Policy Statement (2025)

## 2. Introduction

The ICB aspires to the highest standards of corporate behaviour and clinical competence, to ensure that safe, fair and equitable procedures are applied to all organisational transactions, including relationships with patients, their carers, public, staff, stakeholders and the use of public resources. To provide clear and consistent guidance, the ICB will develop documents to fulfil all statutory, organisational and best practice requirements and support the principles of equal opportunity for all.

The ICB has a responsibility to secure services that meet the health needs of the local population and that deliver the best combination of quality to patients and value for taxpayers. When undertaking procurement activities to secure services, the ICB is required to comply with legislation, internal governance rules and professional and ethical standards

to ensure delivery of identified outcomes through efficient and effective procurement processes.

The ICB aims to drive wider benefits through procurement, including efficiencies and improved system-wide outcomes by working in collaboration with other organisations such as other Integrated Care Boards (ICBs) and Local Authorities and partnerships that may be formed through Integrated Care Systems (ICS) and Integrated Care Partnerships (ICPs).

Procurement is an integral part of the Commissioning Cycle (see Appendix A) used to ensure delivery of *Better Health and Wellbeing for All* – a strategy for the North East and North Cumbria.

### **3. Status**

This policy is a corporate policy.

### **4. Purpose and Scope**

This policy covers the procurement of healthcare services and non-pay goods and services.

The purpose of this policy is to provide clear and effective guidance to all ICB officers when undertaking procurement activities and to ensure that when commissioning healthcare services.

The ICB:

- acts with a view to meeting the needs of its local population and to improve the quality and efficiency of healthcare services
- complies with the applicable regulatory framework, including all relevant legislation and guidance
- acts in a way which treats providers fairly and equally
- acts with transparency and proportionality
- seeks to achieve value for money
- does not act anti-competitively, unless this is in the interests of patients/ service users and where this is permitted within legislation and guidance
- acts with a view to improving the economic, social and environmental well-being of the local area
- acts to ensure that modern slavery and human trafficking is not taking place in any part of the ICB's business and supply chains.

The policy has been developed in line with key applicable legislation which includes:

- Healthcare Services (Provider Selection Regime) Regulation 2023 (PSR), applicable to ICBs as defined Relevant Authorities in England for commissioning of Healthcare Services.
- Procurement Act 2023 (Procurement Regulations 2024), applicable to ICB's as defined Contracting Authorities for the award of contracts by public bodies in England for Goods and Services (non-healthcare).

The ICB must also continue to comply with other legal obligations including but not limited to:

- National Health Service Act 2006
- Local government and Public Involvement in Health Act 2007
- Equality Act 2010
- Modern Slavery Act 2015
- Subsidy Control Act
- Transfer of Undertakings (Protection of Employment) Regulations 2006

The objective of this policy is to ensure all contract awards meet the overarching obligations of procurement law, namely, transparency, proportionality, non-discriminatory and equality of treatment. This policy aims to ensure that procurements, processes and decisions are evidence based; deliver key business objectives; services are innovative, affordable and viable; clinically safe and effective; set stretched targets to improve health outcomes and the quality of patient experience.

## 5. Definitions / Explanation of Terms

Commissioning	The process of putting in place health services that effectively meet the needs of the population and includes assessing the needs of the population, prioritising health outcomes, specifying requirements and monitoring quality of services.
Conflict of Interest	A situation where individuals have a direct or indirect financial, economic, or other personal interest which might be perceived to compromise their impartiality and independence in the procurement process.
Contract	A binding agreement between two or more parties.
Contracting Authorities	Definition of public sector organisations under the PA23 and PCR2015.
CPV Codes	Common Procurement Vocabulary codes are a standardized classification system used in public procurement to categorise and describe goods, works and services.
Framework Agreement	An 'umbrella' agreement between one or more buyers and a single supplier or multiple suppliers.
Healthcare Services	All forms of healthcare provided for individuals, whether relating to physical or mental health. A relevant healthcare service must be fall within one or more of the CPV codes specified within Schedule 1 of the PSR Regulations.
Light Touch Services	Defined within the Procurement Act 2023 (PA23) and aligned to specific CPV codes (detailed in the Procurement Regulations 2024 – Table 1 of Scheduled 1) allowing for some exemptions under the PA23. Often in relation to social, legal, and 'other' healthcare goods / services which do not fall under PSR.
Non-Healthcare Goods and Services	All other goods and services that are not in scope of PSR as defined by the CPV codes.
Procurement	The process of identifying and specifying the need, acquiring and managing the supply of goods or services from a third party, purchasing, contracting, contract and supplier management and supply chain management.

Provider	As defined by the NHS Standard Contract used for the provision of healthcare services, the party identified to deliver such services – used under PSR.
Quotation	A formal offer from a supplier typically in response to a request for quotation (RFQ) - for low value goods and services.
Regulations	<p>Rule(s) or directive made and maintained by the Government to which ICBs must adhere to for the procurement and commissioning of goods and services as follows:</p> <ul style="list-style-type: none"> <li>• As a Relevant Authority to the NHS Healthcare Services (Provider Selection Regime) Regulations 2023 – for procurement / commissioning of healthcare specific services.</li> <li>• As a Contracting Authority to the Procurement Regulations 2024 aligned to the Procurement Act 2023 – for procurement / commissioning of non-healthcare goods and services.</li> <li>• As a Contracting Authority to the Public Contracts Regulations 2015 for contract modifications and framework call offs for those contracts previously awarded under PCR2105.</li> </ul>
Relevant Authorities	Definition of public sector organisations under the PSR.
Supplier	As defined by the NHS Provision of Services Contract, or Framework, Call Off Agreement, used for the provision of non-healthcare services, the party identified to deliver such services – used under PA23.
Tender	A document created for a competitive procurement process. It is a request written by buyers detailing the goods or services that are required and the criteria on which they will award the contract to providers / suppliers.
Thresholds	<ul style="list-style-type: none"> <li>• Under the PA23, thresholds are defined by financial limits for public contracts and are reviewed every two years to reflect currency fluctuations and to ensure compliance with the World Trade Organisation Agreement on Government Procurement (GPA) for non-healthcare services. These thresholds determine whole contract values and requirements within the PA23 regulations (i.e., over threshold – competitive tendering process). Current threshold for the ICB (categorised as 'other' contracting authority) is £214,904 for supply, services, and design contracts).</li> <li>• Under PSR there are no financial limits as above, however the term 'threshold' is used to define requirements for specific processes under PSR (i.e., transparency requirements over £500,000).</li> </ul>



## 6. National Procurement Policy Statement

The context for procurement by the ICB is set by the National Procurement Policy Statement (NPPS) issued by the Cabinet Office on 13 February 2025 and came into effect on 24 February 2025 alongside the Procurement Act 2023.

The NPPS makes clear that achieving Value for Money is the overarching priority in public procurement and that contracting authorities can deliver value for money by:

- Driving economic growth and strengthening supply chains by giving small and medium-sized (SMEs) and voluntary, community and social enterprises (VCSEs) a fair chance, creating high quality jobs and championing innovation,
- Delivering social and economic value that supports the Government's missions including by working in partnership across organisational boundaries where appropriate; and
- Ensuring the right commercial capability and standards are in place to procure and manage contracts effectively and to collaborate with other contracting authorities to deliver best value.

Where the ICB may choose to use a commissioning support organisation to carry out activities on its behalf, it will remain accountable for all decisions. As a public body, the ICB will adhere to legislation that governs the award of contracts by public bodies and will not delegate responsibility for decisions.

## 7. Duties / Accountability, Responsibilities and Planning

A procurement process and, or contract award should only proceed for approval when budget or external funding has been identified and confirmed available to spend in line with ICB financial approvals processes.

For procurements decisions to which a financial threshold applies, the relevant contact value for application of the threshold is the total lifetime contract value inclusive of any applicable Value Added Tax (VAT) regardless of whether the VAT may be reclaimable, also including any planned future phases of work which could be reasonably foreseen to be required to be delivered by a single provider.

Procurements and their subsequent contractual agreements must not be artificially segmented to avoid following the requisite procurement process.

The duties, accountability, and responsibilities of the ICB for procurement and contracting are detailed below:

- ***Executive Directors, Place Directors, Place Finance Directors – Budget Holders***  
Have responsibility for procurement and contract approvals in accordance with the ICB's Scheme of Delegation and budgetary delegations.
- ***Procurement and Contracting Sub-Committee***  
Have responsibility to ensure compliance and evaluation of risk for all procurement and contracting processes.
- ***Procurement Working Group***  
Have responsibility to review and manage processes and risks, sharing lessons learned across the ICB and providing recommendations as required.

- **Executive Committee**

Have the responsibility of final approval for the procurement / contract award in accordance with the ICB's Scheme of Delegation and budgetary delegations as presented.

## **Procurement Planning / Contract Award**

A plan will be maintained that will list current and future contracts against procurement / contract award process aligned to the relevant legislation which must be agreed prior to the start of the new financial year. The plan will be reviewed on a regular basis considering commissioning intentions and national and local priorities.

The ICB will in each procurement / contract award process:

- Will adopt procurement processes for non-healthcare and healthcare services which are proportionate to the value, complexity, level of benefit and risk, to both the service and patients, in compliance with the relevant legislation.
- Will publish the relevant transparency notices in line with the applicable Regulations for each award process.
- Will maintain an auditable documentation trail of all key decisions which provide accountability in line with the applicable Regulations.
- Will uphold robust management of conflicts of interest and perceived conflicts of interest in an auditable documentation trail of all key decisions as part of a procurement or contract award process for both ICB employees and other stakeholders as well as for those providers seeking contracts. The ICB will continue the publication of a register of procurement decisions on their website.
- Ensure the financial and quality checks for potential providers by undertaking an assessment which is proportionate to the contract and the process adopted.
- Will ensure for competitive processes and decisions of direct awards, that there is a good understanding of the market and ability to respond to service need. This may require market engagement to inform and support the scope and deliverability, ensuring a robust service specification and to encourage best value and innovation.
- Provide competition documentation to identify objective evaluation criteria and weightings that provider responses will be evaluated against, which must evidence a fair and transparent process. No provider will be given preference over another.
- Provide all information in good time for a competitive process, ensuring the relevant process and potential providers can sufficiently assess the service provision, and whether they wish to express an interest in providing that service.
- Ensure the specification and award process will not discriminate against or favour any particular provider or group of providers. Specifications will be written in generic terms and avoid the use of trade names.

- Will ensure that all potential providers and sectors are treated equally and have equal opportunity to compete where appropriate; that financial and due diligence checks apply equally and are proportionate and that pricing and payment regimes are fair.
- Will be transparent and responsible for making its commissioning intent clear to the market and adhere to the transparency requirements of each competition or award process.
- Will ensure appropriate engagement as a statutory duty to involve local people for the provision of healthcare services has been considered where relevant, particularly any new service development / service redesign and decommissioning, utilising the Equality Impact Assessment (EIA tool).
- Will ensure sustainable procurement / social value supports the local health economy. The ICB will consider the wider impact of procurement and its decisions in awarding a contract on communities, particularly the opportunity for additional economic, social and environmental 'community benefits' that contribute to delivery of measurable population health benefits and a reduction in health inequalities. Social value is a key criterion within the PSR regulations for the procurement of healthcare services with a mandatory minimum 10% weighted requirement as well as within the PA23 regulations for non-healthcare services. Both regulations also require evidence towards NHS Net Zero targets and proportionate to the contract, how carbon reduction will be achieved.
- Will promote diversity of provision and acceptable choices for local service users in accordance with the Equality Act 2010.
- Will comply with internal governance and the appropriate legal requirements.

## 8. NHS Healthcare Services (Provider Selection Regime) Regulations 2023

Healthcare Services (Provider Selection Regime) Regulations 2023 came into force on 1st January 2024, applies to the procurement of healthcare services for relevant authorities including Integrated Care Boards and extends to England and Wales only.

This regime is applicable to all contract values, there are no financial thresholds in PSR and therefore if a service is in scope, there are no exceptions and as such there is no single tender wavier process for services that fall under PSR.

In Scope Services:

In scope services are define by CPV codes, these relate to a health service such as hospital, community, mental health, primary care, palliative care, ambulance, patient transport services (where CQC registration is required), preventative public health services (delivered to an individual that are designed to secure improvement in the physical and mental health illness).

**Table 1 Examples of Healthcare Services**

Healthcare Services	
GP services / eye care services / community pharmacy / out of hours provision/ general dental / intermediate minor oral surgery / community dental services / orthodontics / specialist dental / mental health services	Urgent care services / falls service / termination of pregnancy /speech and language therapy / end of life care / MSK / podiatry services

Out of Scope:

As defined by CPV codes such as social care services and non-health care services or health-adjacent services such as capital works and business consultancy. Goods including medicines and medical equipment.

### **Mixed Procurements**

Mixed procurements which are contracts comprising of a mixture of in-scope healthcare services and out of scope services or goods, are allowable under the PSR when both of the following statements are true:

- The main subject matter of the procurement is relevant healthcare services which means that the healthcare service element is more than 50% of the contract value,
- The ICB is of the view that the other goods or services could not be reasonably supplied under a separate contract.

The ICB will follow the compliant award route to secure the delivery of healthcare services via PSR and will monitor its compliance and be accountable for it by publishing the mandatory annual report (compliance to regulations 25 and 26).

When arranging relevant healthcare services, the ICB must consider where applicable, how each of the 5 key criteria has been considered when applying some of the PSR processes (Direct Award Process C, Most Suitable Provider and Competitive Process) and their relevant importance must be recorded.

**Table 2 Key Criteria**

<b>Key Criteria</b>	
<b>Quality and Innovation</b>	Must consider the quality of the services to be provided (by a provider) including safe, effective, experience, well-led, sustainability resourced and equitable
<b>Value</b>	Must consider and ensure good value in terms of cost, overall benefits and financial implications of an arrangement over the contract term
<b>Integration and Collaboration</b>	Consider the extent which the services can be provided in an integrated and collaborative way including with other health services, health-related services or social care services and their providers that improves care consistent with local and national plans
<b>Improving Access, Reducing Health Inequalities and facilitating choice</b>	Consider the extent a provider furthers the rights and pledges set out in the NHS Constitution in relation to patient and public rights
<b>Social Value</b>	Ensure that providers provide services that are aimed at maximising social value by contributing to improvements in Social, Economic and Environmental conditions.

## **8.1 PSR Provider Landscape**

In order to inform and evidence decision making on which appropriate provider selection process to apply to the procurement of healthcare services, the ICB should develop and maintain sufficiently detailed knowledge of relevant providers to deliver services to the

population. Without this knowledge the ICB may not have enough evidence to confirm the decision to undertake a particular provider selection process. A service area should ensure market landscape information is collated as part of the ongoing commissioning cycle process and not just an activity undertaken prior to contract award.

## 8.2 PSR Selection Processes

The PSR includes five processes for awarding contracts and each process must be tested and rationale evidenced against the chosen process which must be applied in the following order from Direct Award Process A.

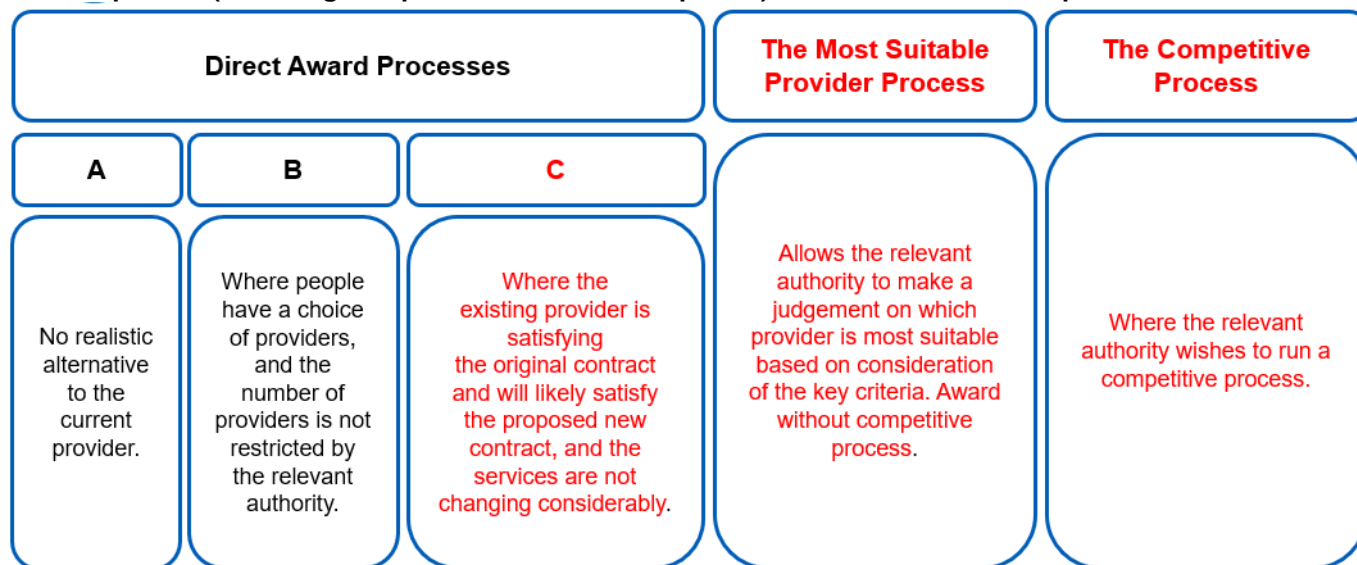
Procurement have developed a decision tool to support and evidence the rationale required of the following processes:

- Direct Award Process A
- Direct Award Process B
- Direct Award Process C
- The Most Suitable Provider Process
- The Competitive Process

Each process is detailed below, useful selection process flow charts are located at Appendix B.

**Fig 1. Provider Selection Processes Overview**

**Note: Direct Award Process C, Most Suitable Provider and Competitive Process have been highlighted below as the regulations require evidence of the 5 Key Criteria and Regulation 20 compliance (including compliance to a standstill period) within each of these 3 processes**



## 8.3 PSR Direct Award Process A:

Must be used when there is an existing provider for the healthcare services and when there is no realistic alternative to that existing provider due to the nature of the healthcare service.

Services arranged using DAP-A may include, but are not limited to:

- Type 1 and 2 urgent and emergency services and associated emergency inpatient services,
- 999 emergency ambulance services,
- NHS urgent mental health crisis services,

- Services established as a commissioner requested services (CRS),
- Services provided by NHS trusts designated as 'essential services' in their NHS Standard Contract,
- A service that is interdependent with, and cannot realistically be provided separately from, another service which only that provider can realistically provide (e.g. because of a need for cross-speciality or cross-service working).

This process cannot be used to conclude a framework.

#### **8.4 PSR Direct Award Process B:**

Must be used when the ICB offers a contract to all eligible providers, and the number of providers is not restricted. Where the ICB are required to offer a choice to patients under Regulation 39 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) (Amendment) (No.2) Regulations 2023, they cannot restrict the number of providers therefore direct award process B must be followed.

Services arranged using DAP-B may include, but are not limited to:

- Elective services led by a consultant or mental health care professional where patients have a legal right to choice,
- Other elective services where patients do not have a legal right to choice, but for which ICBs voluntarily offer patients a choice of providers and where the number of providers is not restricted by the ICB (e.g. mandatory eye health services, audiology, podiatry services, NHS continuing healthcare services, public health services such as over-forty health checks).

This process cannot be used to conclude a framework agreement.

For elective referrals under patient choice please refer to ICB Standard Operating Procedure.

#### **8.5 PSR Direct Award Process C:**

May be used where the ICB is not required to follow DAP-A or DAP-B and when there is an existing provider for the healthcare services and their contract is coming to an end and they are satisfying the original contract and will likely satisfy the proposed contract, where the contract is not changing considerably. There are specific thresholds which may prevent proceeding to award under this process:

- *lifetime value of a new contract must not be £500,000 or over the total value of the original contract and / or not over 25% from the total value of the original contract.*

Advice should be sought from the ICBs procurement team for further guidance and to support this process.

This process cannot be used to conclude a framework agreement.

The ICB must consider all key criteria and evidence including compliance to Regulation 20 and must be able to justify and record its evidence of decision.

#### **8.6 PSR Most Suitable Provider Process:**

May be used when the ICB cannot use direct award process A, B or C and wants to award a new service contract and/or award to a new provider. The ICB should have a good

understanding of the provider landscape when evidencing its decision to apply the most suitable provider process, taking into account likely providers and all relevant information available to the relevant authority at the time, that it is likely to be able to identify the most suitable provider. The ICB must consider all key criteria, knowledge and experience and evidence compliance to Regulation 20 when using this provider selection process and must be able to justify and record its evidence of decision.

This process cannot be used to conclude a framework or to award a contract based on a framework agreement.

Advice should be sought from the ICBs procurement team for further guidance and to support this process.

#### **8.7 PSR Competitive Process:**

May be used when the ICB cannot use direct award process A or B and cannot or does not wish to follow direct award process C or the most suitable provider process.

The competitive process must be used when concluding a framework agreement and may be used when awarding a contract based on a framework agreement in accordance with the framework agreement terms and conditions.

The ICB must consider the basic selection criteria, mandatory exclusions (Regulation 20), and the 5 key criteria when using this provider selection process and must be able to justify and record its decision.

Advice should be sought from the ICBs procurement team for further guidance and to support this process.

#### **8.8 PSR Framework Agreements:**

The ICB may establish framework agreements under PSR 2023 to arrange healthcare services. A framework agreement can be put in place between the ICB and one or more providers for a maximum of 4 years.

The competitive process must be used when establishing and concluding a framework and the ICB will need to set out the framework's terms and conditions and how this will operate. Call off arrangements can be as a competitive process under the framework or as a direct award (or both) but must be clear within the terms and conditions.

#### **8.9 PSR Contract Modifications During their Term:**

The ICB can make contract modifications during the term of the contract under PSR. Contract modifications are permitted under the following circumstances if:

- The modification is clearly and unambiguously provided for in the original contract. A transparency notice is not required.
- The modification is solely a change in the identity of the provider. A transparency notice is not required.
- The modification is made in response to external factors beyond the control of the ICB and the provider, such as changes in patient or service user volume or changes in indexing; but do not render the contract materially different in character. A transparency notice is not required.
- The modification is attributable to the ICB, does not render the contract materially different in character, and the change in the lifetime value of the contract, compared

to its value when it was entered into, is under £500,000 or represents less than 25% of the original contract value. A transparency notice is not required.

- The modification is attributable to the ICB, does not render the contract materially different in character, and the change in the lifetime value of the contract, compared to its value when it was entered into, is over £500,000 and represents less than 25% of the original value. A transparency notice must be published in these circumstances.

Modifications are not permitted if the modification is attributable to a decision made by the ICB and the changes render the contract materially different in character, or the changes are over £500,000 and over 25% of the original contract value.

Advice should be sought from the ICBs procurement team for further guidance and to support this process.

#### **8.10 PSR Urgent Contract Modifications and Awards:**

Urgent Modifications or Urgent awards are permitted where in limited circumstances there is a need to award new contracts where an urgent need occurs due to crisis or where a risk to quality / safety concerns / risk to patients. Urgent contract modifications or urgent contract awards must not be awarded for more than 12 months, unless there is specific robust rationale and the appropriate approval within the ICB's governance to allow for more than 12 months. Decision and rationale must be recorded and transparency notice published to include the rationale for the decision. The ICB must carry out a full provider selection process once the emergency has passed.

Advice should be sought from the ICBs procurement team for further guidance and to support this process.

#### **8.11 PSR Primary Care Services:**

Primary medical care services include:

- Primary ophthalmic service
- Pharmaceutical services and local pharmaceutical services
- Primary dental services and prescribed dental services

In discharging its responsibilities as set out in the Delegated Agreement in relation to Schedule 2A (Primary Medical Services) Schedule 2B (Primary Dental services), Schedule 2C (Primary Ophthalmic services) and Schedule 2D (Pharmaceutical services), the ICB must comply at all times with Law and any relevant Guidance (including any applicable procurement law and/or guidance on the selection of, and award of contracts to, providers of healthcare services).

The ICB must ensure approval is obtained from NHS England Local/Regional NHS England Team Director / Director of Finance, or NHS England Chief Executive / Chief Financial Officer for any novel, contentious or repercussive contractual agreement.

The ICB must seek approval from NHS England Local/Regional NHS England Team Director / Director of Finance before entering into any Primary Care Contract or arrangement which has or is capable of having a term which exceeds five (5) years.

There is specific guidance for Primary Care Services within PSR, however as this guidance is subject to change, advice should be sought from the ICB procurement team.



## 8.12 Managing Issues and Disputes under PSR

For decisions made under **Direct Award Process C, the Most Suitable Provider Process** and the **Competitive Process** there is a **standstill period** lasting a minimum of 8 working days (unless extended). The standstill period must close before a contract can be awarded and cannot be awarded until after the 9<sup>th</sup> working day.

If a representation is received, then the ICB:

- Must ensure that the provider has been afforded the opportunity to explain or clarify their representation,
- Is expected to provide an indicative timeframe for when the representation might be considered by,
- Must provide any information requested by the provider that the ICB is required to keep (redacted if appropriate),
- Must consider the representation(s) made, and review evidence and information used to make the original decision by an internal panel review process,
- Must consider whether the representation has merit (i.e. in identifying that a process has not been correctly followed),
- Must decide whether to return to an earlier step in the process, abandon or proceed to award the contract as originally intended,
- Must communicate the decision promptly to all interested parties and wait at least five working days before closing the standstill period.

Representations received by the ICB will be considered by an internal panel of members who have not all been involved in the contract award decision.

If the provider remains unsatisfied with the response of the ICB to its representation and remains of the view that the PSR has not been applied correctly, the provider may submit a representation to the Independent Procurement and Patient Choice Review Panel. The panel will review the representation(s) made by a provider and will share their advice with the ICB about whether the PSR has been applied correctly. All recommendations will be published in a formal report on the NHS England's website.

## 9. Procurement of Non-Healthcare Services – Procurement Act 2023 (PA23)

Where services or goods are required by the ICB that are outside the scope of the PSR, they fall within the scope of the Procurement Act 2023 which was implemented on 24 February 2025 along with the Procurement Regulations 2024.

Guidance has been published to support the regulations for non-healthcare services, and these focus on 4 key areas of: Plan, Define, Procure and Manage.

It should be noted that all financial thresholds in relation to the procurement of non-healthcare services, include the full lifetime value of the contract (including options to extend) and VAT if applicable, regardless of whether the VAT may be reclaimable by the ICB.

The Public Sector Procurement thresholds are updated every two years and as of 1 January 2024, the threshold for 'Other' Sub Central Bodies to issue a tender is **£214,904**. It should be noted that the ICB no longer falls under the classification for 'Central Government Bodies' for purpose of the PA23 and the Procurement Policy Notes (PPNs) from the Cabinet Office.

A Central Digital Platform has been developed for suppliers to register their interest in public procurements and for contracting authorities such as the ICB to publish their tenders.

The PA23 includes definitions of Excluded and Excludable suppliers, and a Debarment List is now in force which the ICB will need to make reference during its procurements.

**Table 3 Examples of Non – Healthcare Goods and Services**

Non - Healthcare Goods and Services	
Marketing and Communications / Lease Vehicles / Transport Services / IT Services Software and Development / Professional Services / Consultancy /	Energy /Fuel / Food / Property Solutions and Estates / Print / Furniture / Specialist Contractors / Patient Transport Services (where CQC not required) / Telecommunications / Community Equipment

## 9.1 Procurement Act 2023 – Covered Procedures (Over-Threshold)

- Open Procedure – a single stage procurement, any supplier can submit a tender. The ICB is required to have regard to barriers for small and medium sized enterprises and whether the procurement can be reasonably split into Lots, if it cannot be split an explanation must be given.
- Competitive Flexible Procedure – gives the ICB more flexibility to design a process around specific requirements and is more likely to be used for complex procurements. This allows the ICB to set Conditions of Participation to reduce the number of bidders and have multiple rounds of tenders alongside dialogue with bidders.

The PA23 expects that most procurements will involve pre-market engagement prior to publishing an invitation to tender and if the ICB does not do this it is required to explain why it hasn't. The award criteria in the invitation to tender should be designed to identify the most advantageous tender (MAT) with criteria weighted accordingly.

The assessment methodology must be published with the invitation to tender to ensure that suppliers have a clear understanding of the award criteria and how they will be assessed against them.

Following assessment, the ICB must publish assessment summaries to bidders informing them of the outcome of the procurement and how their tender scored on the Central Digital Platform.

## 9.2 Direct Awards for Covered Procurements

The ICB may only make a direct award of a contract if the grounds under the regulations are applicable. The grounds for a direct award are as follows:

- Prototypes and development
- Intellectual property rights or other exclusive rights and no reasonable alternative
- Additional or repeat goods and services
- Commodities
- Advantageous terms on insolvency
- Extreme and unavoidable urgency that could not have been foreseen
- User choice services
- Defence and security.

The PA23 introduced an additional ground for direct award to protect life, this can only be used if a Minister of the Crown considers it necessary and instructs accordingly.

A direct award may also be made if a competitive procurement has been undertaken, and no suitable tenders have been received.

The ICB is required to publish increased transparency notices in respect of direct awards including prior to agreeing the contract and observing a mandatory standstill period.

If the direct award of a contract is proposed the grounds on which the decision is being taken must be appropriately documented.

### 9.3 Contract Modifications

Under the PA23 there are ten grounds for permitted contract modifications:

- Provided for in the contract
- Unforeseeable circumstances
- Additional goods, services or works
- Transfer on corporate restructuring
- Non-substantial modifications
- Below-threshold modifications
- Urgency and the protection of life
- Materialisation of a known risk
- Defence authority contracts – developments in technology
- Defence authority contracts – ensure continuous supply.

### 9.4 Procurement Act 2023 – Non-Healthcare Light Touch Services

The PA23 has specific exemptions in place relating to certain goods and services that fall under Light Touch Services and can be determined by their CPV code categorisation.

**Table 4 Examples of Non – Healthcare Light Touch Services**

Non – Healthcare Light Touch Services	
Advertising / Training Services / Administration and Clerical Services / Legal Advisory and Information Services / Social Care Services and other Health Services / Supply of Nursing Personnel	Counselling Services / Daycare Services / Home Help Services / Education and Training Services / Medical Education Services

Seek further advice from the ICBs procurement team to support in the categorisation of non-healthcare goods and services to determine the procedures required under PA23.

The current threshold for non-healthcare Light Touch Services is £663,540 as of 1 January 2024 (subject to change every two years).

### 9.5 Below Threshold Procurements for Non-Healthcare Goods and Services

Below threshold procurements are those with a contract value between £214,904. Regulated below threshold procurements refer to those procurements with a contract value of between £30,000 and £214,904.

The ICB can choose to publish a Below Threshold Tender Notice and an Invitation to Tender via the Central Digital Platform. Pre-market engagement is optional, as is the standstill period following the publication of a Contract Award Notice. However, the ICB **must** publish a Contracts Detail Notice on the Central Digital Platform for all regulated below threshold procurements with a contract value over £30,000.

The ICB should seek quotations from appropriate suppliers as aligned to the contract values below:

**Table 5 Below Threshold Requirements**

<b>Total Contract Value</b>	<b>Requirement</b>
Less than £10,000	Seek two competitive quotations where appropriate
More than £10,000 but less than £30,000	Minimum of two competitive quotations
More than £30,000 but less than £214,904	Minimum of three competitive quotations and must publish a Contracts Detail Notice on the Central Digital Platform

To obtain quotations, the ICB must publish an appropriate specification and evaluation criteria, this will be a combination of price and qualitative assessment.

If it is determined that there are grounds for the ICB to award a below threshold contract outside of the policy (i.e. direct award) this must be documented and approved via the ICB's tender waiver process.

## **9.6 Framework Agreements and Dynamic Markets**

Framework agreements and the use of dynamic markets are within the PA23 and can provide a useful and time-efficient route to procurement, either as establishing one within the ICB or seeking to utilise an accredited NHS framework. Depending on the individual terms of the framework, contracts may via a direct award or mini-competition process and are referred to as a Call Off contract.

## **9.7 Convertible Contracts**

A convertible contract is a contract that:

- Prior to modification, is below threshold (less than £214,904)
- Was established in accordance with the rules surrounding below threshold contracts
- Will be above threshold (more than £214,904) once a modification has been actioned.

Once a modification has been actioned, the modified contract will be a public contract and the full scope of the PA23 will apply.

## **9.8 Contract Termination**

The PA23 includes a requirement that a Contract Termination Notice must be published if a contract is terminated for whatever reason, including reaching its expiry date.

## **9.9 Managing Issues or Disputes under PA23:**

Aggrieved suppliers may choose to raise an issue or dispute at any stage of the procurement process where they believe that the process being followed breaches regulations or guidance in some way. In these instances, the ICB will aim to resolve the issue to avoid it progressing further, potentially to a formal legal challenge, wherever possible, whilst acting in accordance with the legislation and guidance governing procurement practice.

Where a supplier wishes to raise an issue, they will be required to submit any correspondence through the electronic tendering portal being used to manage the procurement process to maintain a robust audit trail of communication and to ensure consistency in the messages delivered.

On receipt of correspondence from a supplier raising an issue or dispute, a holding response will be issued in acknowledgement of receipt of the correspondence and to provide an indication of timescale for full response. Following investigation, an approach to managing the issue will be agreed by the ICB Chief Executive or an officer acting under the delegated authority of the Chief Executive based on the nature of the issue raised. Specific legal advice may be sought at this point, if necessary, to provide guidance on available options prior to responding to the supplier.

If the actions taken fail to resolve the issue raised by the supplier, they may decide to progress to a formal legal challenge, through the courts if the perceived breach relates to the PA23. The ICB will seek legal advice should the challenge progress to this stage.

In compliance with the PA23a supplier can raise a challenge out with the 8-day standstill period and such proceedings must be started within 30 days of the date when the supplier first knew, or ought to have known, the grounds for starting the proceedings. In these circumstances the ICB would be required to refrain from entering a contract until the proceedings have concluded by the Court.

In addition to the above legal challenge process, the PA23 will also be monitored on compliance and have the scrutiny of potential complaints from suppliers via the government's new Procurement Review Unit.

#### **9.14 Tender or Quotation Waiver for PA23 applicable contracts:**

The ICB Financial Delegations outline that formal tendering can be waived in exceptional circumstances for PA23 applicable services.

Where it is decided that competitive tendering is not applicable and should be waived, the fact of the waiver and the reasons should be documented and recorded in an appropriate ICB record, detailing the rationale for the decision ensuring appropriate approvals in accordance with ICB Financial Delegations. Procurement advice in respect of compliance with the PA23 and identification of any risks for the ICB should be sought and documented as part of the waiver form.

The Chief Executive and/or Director of Finance with appropriate financial delegation for the ICB will decide if formal tendering procedures would not be practicable if exceptional circumstances are to be considered. This may be considered if the estimated expenditure or income would not warrant formal tendering procedures, and the circumstances are detailed in an appropriate ICB record acknowledging potential risk of challenge.

The waiving of competitive tendering procedures should not be used to avoid competition or for administrative convenience or to award further work to a consultant originally appointed through a competitive procedure.

### **10 Record Keeping, Mandatory Requirements and Transparency**

The ICB will comply with internal governance and legal requirements for all of the processes covered in this policy and recognise the contribution of all functions in delivering best procurement outcomes and support competency and development in the commissioning and procurement process.

The ICB must make and keep records detailing their decision-making process and rationale for each decision (under PSR 2023 and PA23) including any reasons for abandonment.

In order that procurements are planned, communicated, and managed appropriately the procurement service will:

- Agree an annual procurement plan for each financial year with draft planning to start in October and approval by January prior to the new financial year to enable future planning and any market engagement required;
- Be informed on the commencement of developing a service specification/commencing patient, public engagement or consultation;
- Work with the appropriate service leads to determine the best route to procure the service, once the service specification has been developed;
- Set a timetable and lead the process to ensure all milestones are met, legal and otherwise;
- Ascertain the type of contract that can be offered, e.g. single contract, prime provider, innovative partnership etc.;
- Support the establishment of evaluation panels and facilitate the evaluation of proposals submitted by providers against pre-determined criteria;
- Ensure the process is audited providing an open and transparent framework that can stand scrutiny in the event of a legal challenge on the decisions made.

Before any competition or award procedure commences and when a recommended provider is established, it is essential that the ICB approves the relevant strategy or award decision document(s), to be reviewed and approved in accordance with delegated financial limits.

The ICB will be responsible for ensuring compliance to the PA23 mandatory requirements which go beyond transparency of procurement and contract notices. The following details the mandatory requirements outlined within the PA23:

**Table 6 Mandatory Requirements of the PA23**

MANDATORY REQUIREMENTS (under PA23)	RESPONSIBLE DIRECTORATE WITHIN ICB
<b>Contract Performance Notice</b>	
<p>A contract performance notice is mandatory and requires the Contracting Authority to publish information on supplier performance from KPIs that have been set out within the contract awarded. The contract performance notice must be published on the Central Digital Platform for contracts (total value) of over £5m and fulfils two functions:</p> <ol style="list-style-type: none"> <li>1. recording the performance of suppliers against key performance indicators (KPIs) where section 52(1) of the Act applies; and</li> <li>2. recording information relating to particular breaches or failure to perform a public contract except where the breach results in a contract being terminated in full (in which case a contract termination notice must be published). Recording of poor performance is expected for all value contracts.</li> </ol> <p>Key points to note:</p>	<p>All service areas procuring non-healthcare goods and services</p>

<ul style="list-style-type: none"> <li>• must publish a minimum of 3 KPIs for contracts with a total contract value of £5m or over and should be published at least once every 12 months,</li> <li>• must report certain serious incidences of supplier poor performance or breach of contract for all public service contracts and must publish within 30 days of poor performance / breach event. Note: supplier must be given an opportunity to improve performance (performance management improvement plan),</li> <li>• there are standard ratings on the Central Digital Platform that should be aligned to contractual KPIs,</li> </ul>	
<b>Contract Payment Notice</b>	
<p>A contract payment notice is mandatory and requires the Contracting Authority to publish details of individual payments of £30k or more made under contract on the Central Digital Platform.</p> <p>Key points to note:</p> <ul style="list-style-type: none"> <li>• must be published on a quarterly basis within 30 days of the end of each quarter,</li> <li>• must be responsible for ensuring data is accurate and published in a timely manner,</li> </ul>	Finance
<b>Payments Compliance Notice</b>	
<p>A payments compliance notice is mandatory and requires the Contracting Authority to publish details of payment performance against 30-day payment terms on the Central Digital Platform.</p> <p>Key points to note:</p> <ul style="list-style-type: none"> <li>• data must be published every 6 months within 30 days of the reporting period ending,</li> <li>• additional data required including average number of days taken to make payments, percentage of payments made within 30, 60 and upwards of 61 days; also, percentage of payments <u>not</u> made in reporting period,</li> <li>• new provision includes below threshold contracts to ensure payment terms of 30-days,</li> <li>• sub-contractors in supply chain entitled to receive late payment interest when not paid within 30-days,</li> </ul>	Finance
<b>Other Mandatory Notices / Requirements – Procurement</b>	

Contracting Authorities are required to publish the following mandatory notices for public sector procurement contracts above threshold:

- UK1 Pipeline notice – for organisational spend of £100m and above per annum (18 month look forward required)
- UK2 Preliminary Market Engagement notice – mandatory where engagement anticipated or taken place (need to explain why 'not' been published in tender notice)
- UK4 Tender notice – for competitive tender procedure
- UK5 Transparency notice – for direct awards (publish prior to award)
- UK6 Contract Award notice – for outcome of procurement (triggers commencement of standstill period)
- UK7 Contract Details notice – details of award
- UK8 Contract Payment notice
- UK9 Contract Performance
- UK10 Contract Change – publish prior to a contract modification taking place
- UK11 Contract Termination notice – when a contract ends (expires or early termination)
- UK12 Procurement Termination notice – for when a tender notice has been published but process has been terminated without an award
- UK13-16 Dynamic Market notice – to publish, update, establish, change or terminate a dynamic market
- UK17 Payments Compliance

Notes:

- UK3 Planned Procurement notice is an optional notice. Recommended as best practice to use but not mandatory within the Regulations. Used to advise the market of upcoming procurement (can reduce timescales but cannot be used as a call for competition as was the case within the Public Contracts Regulations 2015)
- It is a mandatory requirement to utilise the Governments Central Digital Platform (CDP) which requires the publication of all evaluation / feedback assessments from a procurement and for transparency purposes will be available to all bidders.
- There will be a Procurement Review Unit established within the Cabinet Office who will exercise procurement oversight and will ensure:
  - Monitoring of compliance to legislation (will scan the market and Contracting Authority activity to identify breaches and will publish investigations and findings),
  - Management of the debarment service which will identify, investigate and manage the exclusion of suppliers on the debarment list,
  - Investigate supplier complaints and will review and report on poor procurement practice and late payments.



## **11 Conflicts of Interest**

All conflicts of interest that arise in relation to procurement will be declared and managed appropriately and in accordance with the requirements of:

- NHS England: Managing Conflicts of Interest: Statutory Guidance (June) 2017 and any subsequent guidance
- ICB Constitution 2023
- NHS England: Standards of Business Conduct Policy 2017
- Procurement Act 2023
- NHS Healthcare Services (Provider Selection Regime) 2023
- The Bribery Act 2010
- North East and North Cumbria Integrated Care Board's Standards of Business Conduct and Declarations of Interest Policy
- ICBP009 Counter Fraud, Bribery and Corruption Policy

All internal parties and other key stakeholders involved in the procurement of a potential service, including decision making will declare any conflict of interest at the commencement of the procurement, which will be monitored throughout the process.

All potential providers will be required to declare potential conflicts of interest through completion and submission of a Declaration of Interest Form as part of the procurement process.

## **12 Contracting**

Standard NHS contracts or national template contracts will be used. Where no NHS contract is available a locally developed contract will be used until such times as a national template is available, however local arrangements should not be used as an alternative to the Standard NHS contracts or national templates.

The ICB shall ensure they use standard contracts for primary care services including:

- PMS (Personal Medical Services) Contract;
- APMS (Alternative Provider Medical Services) Contract;
- GMS (General Medical Services) Contract;
- Pharmacy – LPS (Local Pharmaceutical Service) Contract;
- Dentistry – GDS (General Dental Service) Contract, PDS (Primary Dental Services) Contract

## **13 Fraud and Corruption**

In accordance with the ICB's policy ICBP009 – Counter Fraud Bribery and Corruption Policy, all suspected cases of fraud, bribery and corruption should be reported immediately to the ICB's Counter Fraud Specialist (CFS) or to the Chief Finance Officer.

Reports to the CFS can be made via telephone on 0191 441 5936 or by email at [counterfraud@audit-one.co.uk](mailto:counterfraud@audit-one.co.uk) or [ntawnt.counterfraud@nhs.net](mailto:ntawnt.counterfraud@nhs.net). Alternatively, concerns can be reported to the NHS Counter Fraud Authority on 0800 028 40 60 or online at [www.cfa.nhs.uk](http://www.cfa.nhs.uk). Referrals can be made anonymously.

Procurement fraud guidance can be found at [NHS fraud guidance | Fraud Prevention | NHS Counter Fraud Authority](#).

## **14 Implementation**

This policy will be available to all staff for use in ensuring that procurement activity complies with the relevant legislation and guidance.

Managers are responsible for ensuring that ICB staff have read and understood this document and are competent to carry out their duties in accordance with this policy.

All ICB staff and others working with NHS North East and North Cumbria ICB will need to be aware of this policy and its implications. It is not intended that staff generally will develop procurement expertise, but to recognise when and how to seek further support.

## **15 Review**

The ICB Executive Committee will ensure that this policy document is reviewed in accordance with the timescale specified at the time of approval. No policy or procedure will remain operational for a period exceeding three years without a review taking place.

Staff who become aware of any change which may affect a policy should advise their line manager as soon as possible. The ICB Executive Committee will then consider the need to review the policy or procedure outside of the agreed timescale for revision.

For ease of reference for reviewers or approval bodies, changes should be noted in the document history' table on the front page of this document.

NB: If the review consists of a change to an appendix or procedure document, approval may be given by the sponsor director and a revised document may be issued. Review to the main body of the policy must always follow the original approval process.

The ICB Executive Committee will ensure that archived copies of superseded policy documents are retained in accordance with Records Management: NHS Code of Practice 2018.

## Appendix A - Commissioning Cycle

Fig 2 Commissioning Cycle



Courtesy of the Information Centre for Health and Social Care<sup>1</sup>

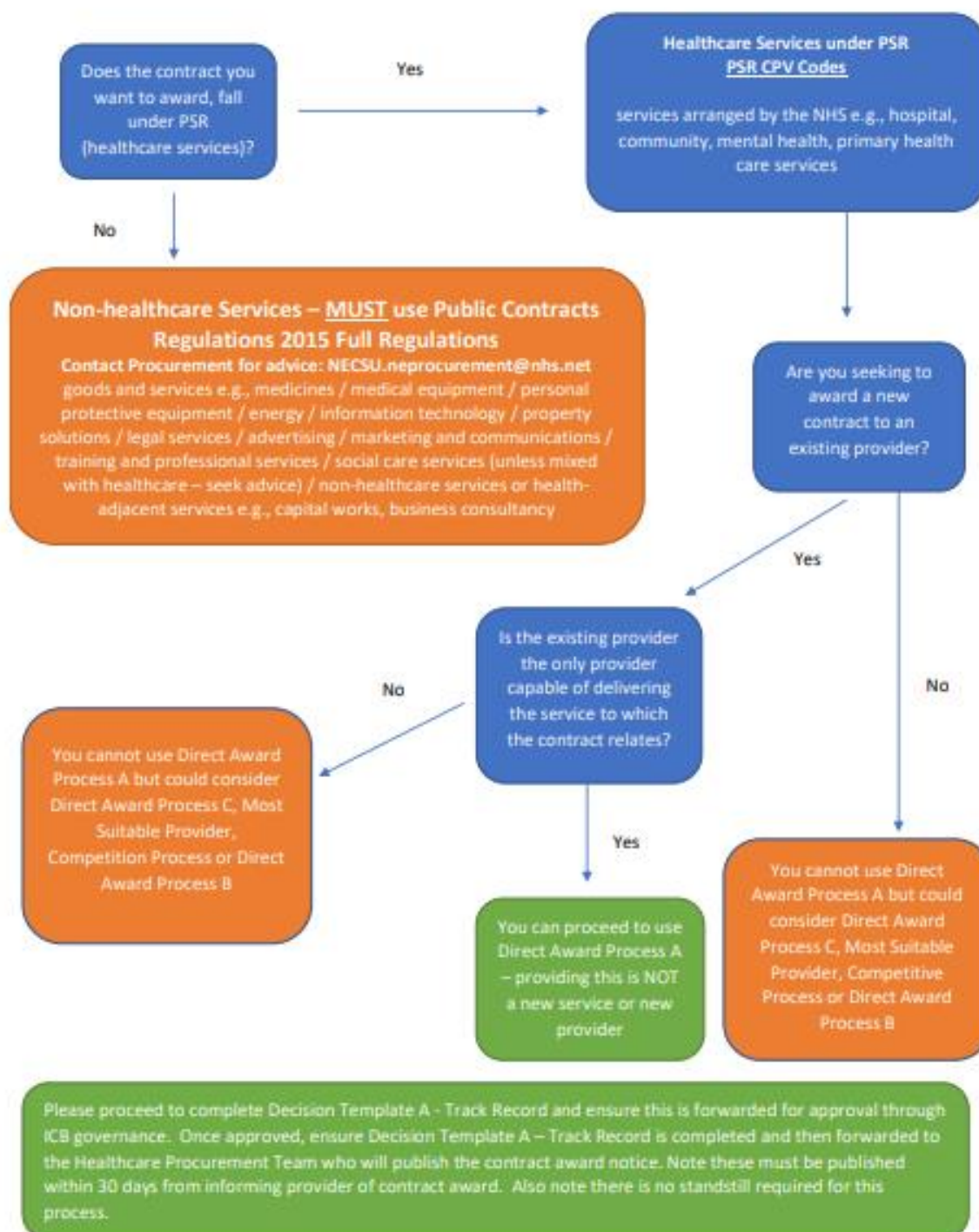
<sup>1</sup> <https://www.england.nhs.uk/participation/resources/commissioning-engagement-cycle/>

## Appendix B – Provider Selection Regime Process flowcharts

Appendix B (DAP-A)

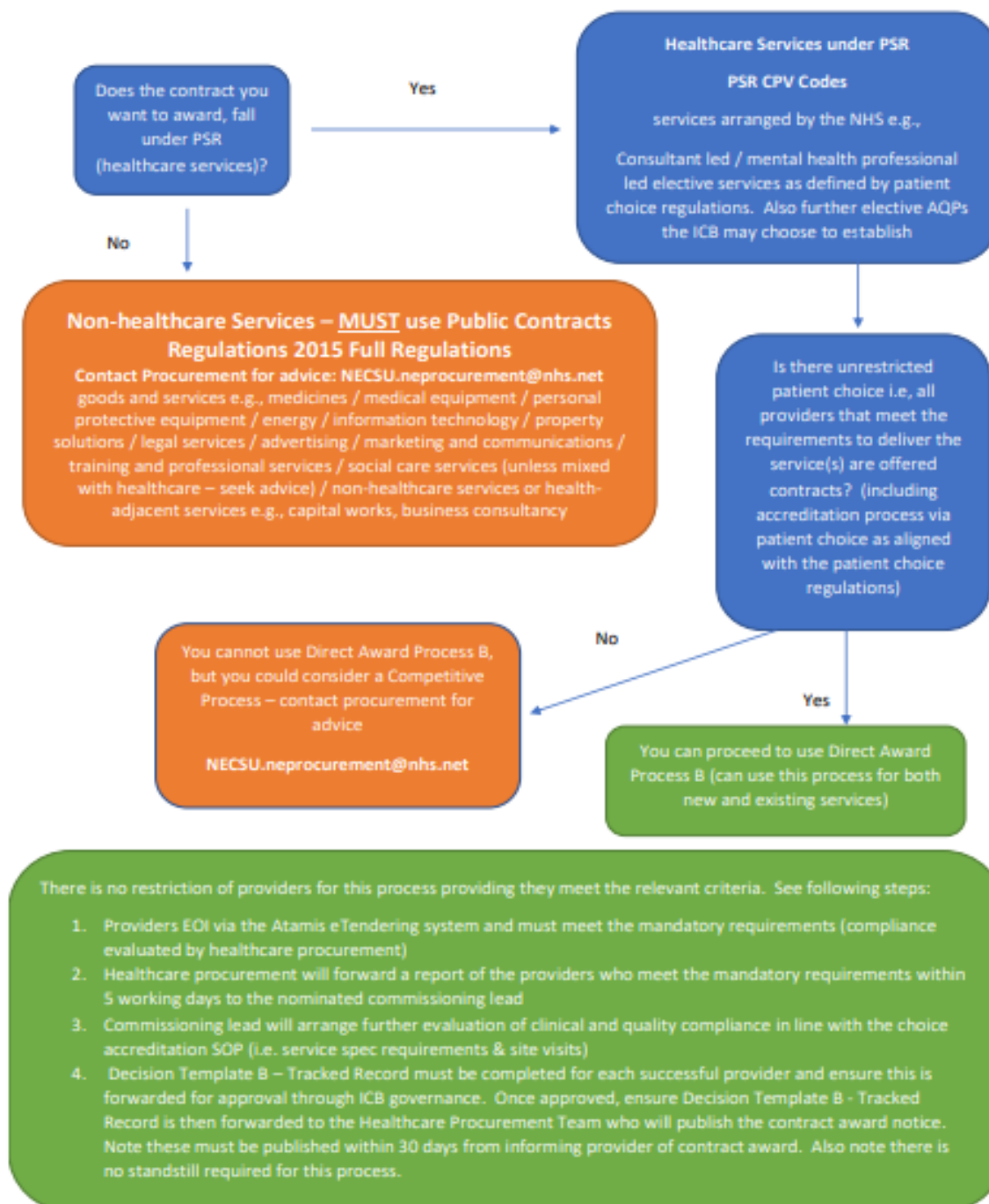
### Provider Selection Regime – Award Decision A Process

North East and North Cumbria Integrated Care Board



## Provider Selection Regime – Award Decision B Process

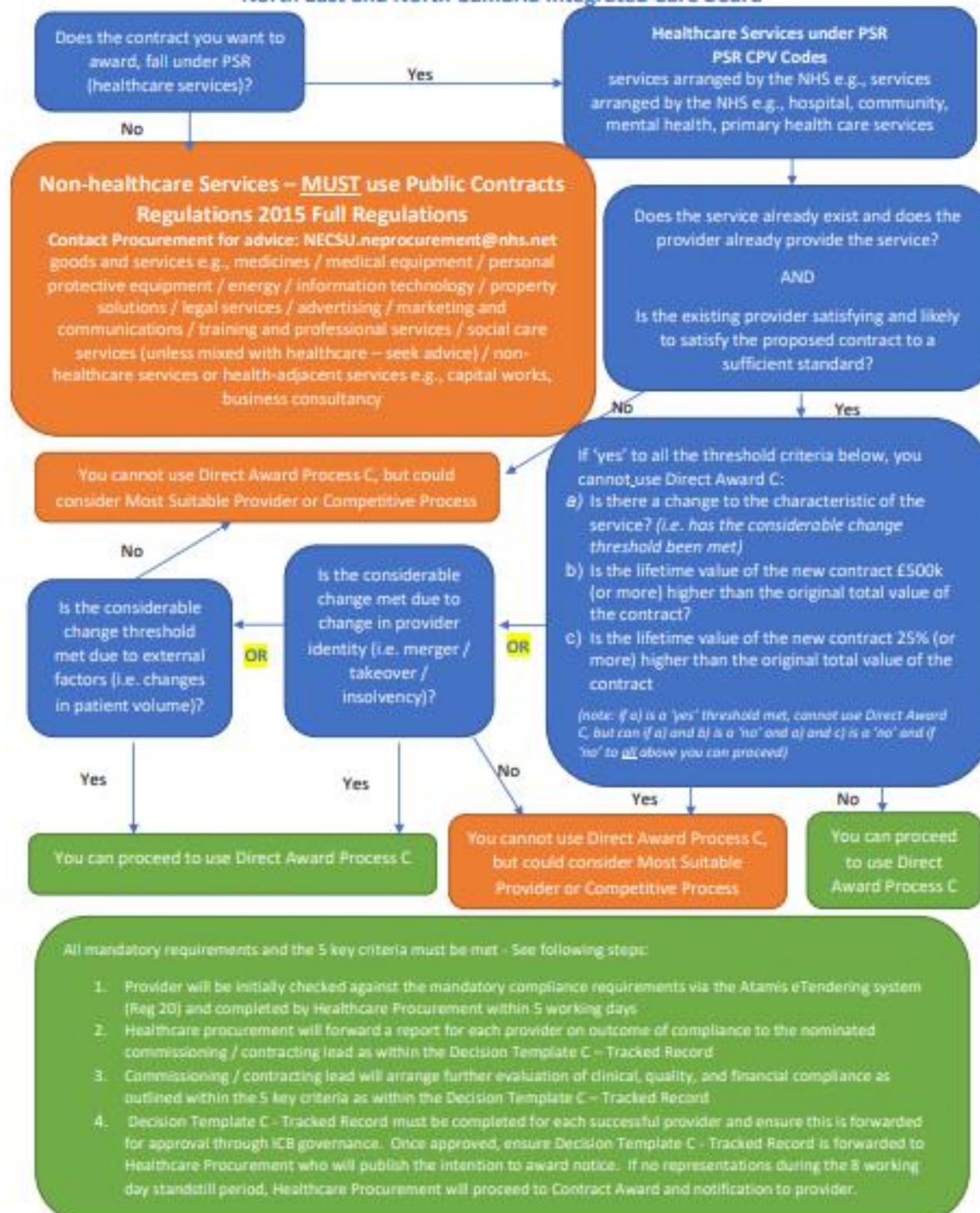
### North East and North Cumbria Integrated Care Board





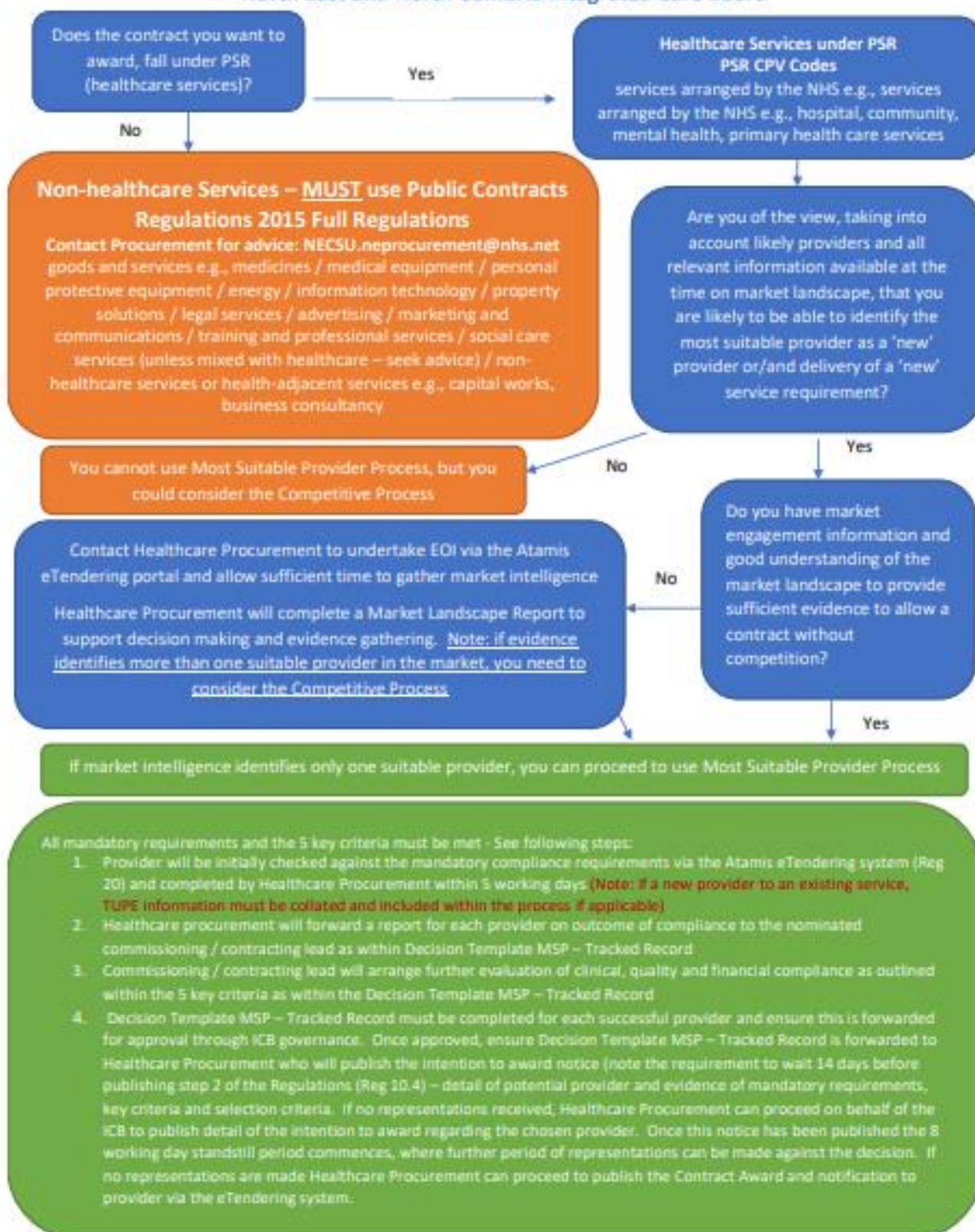
## Provider Selection Regime – Award Decision C Process

### North East and North Cumbria Integrated Care Board



## Provider Selection Regime – Most Suitable Provider Process

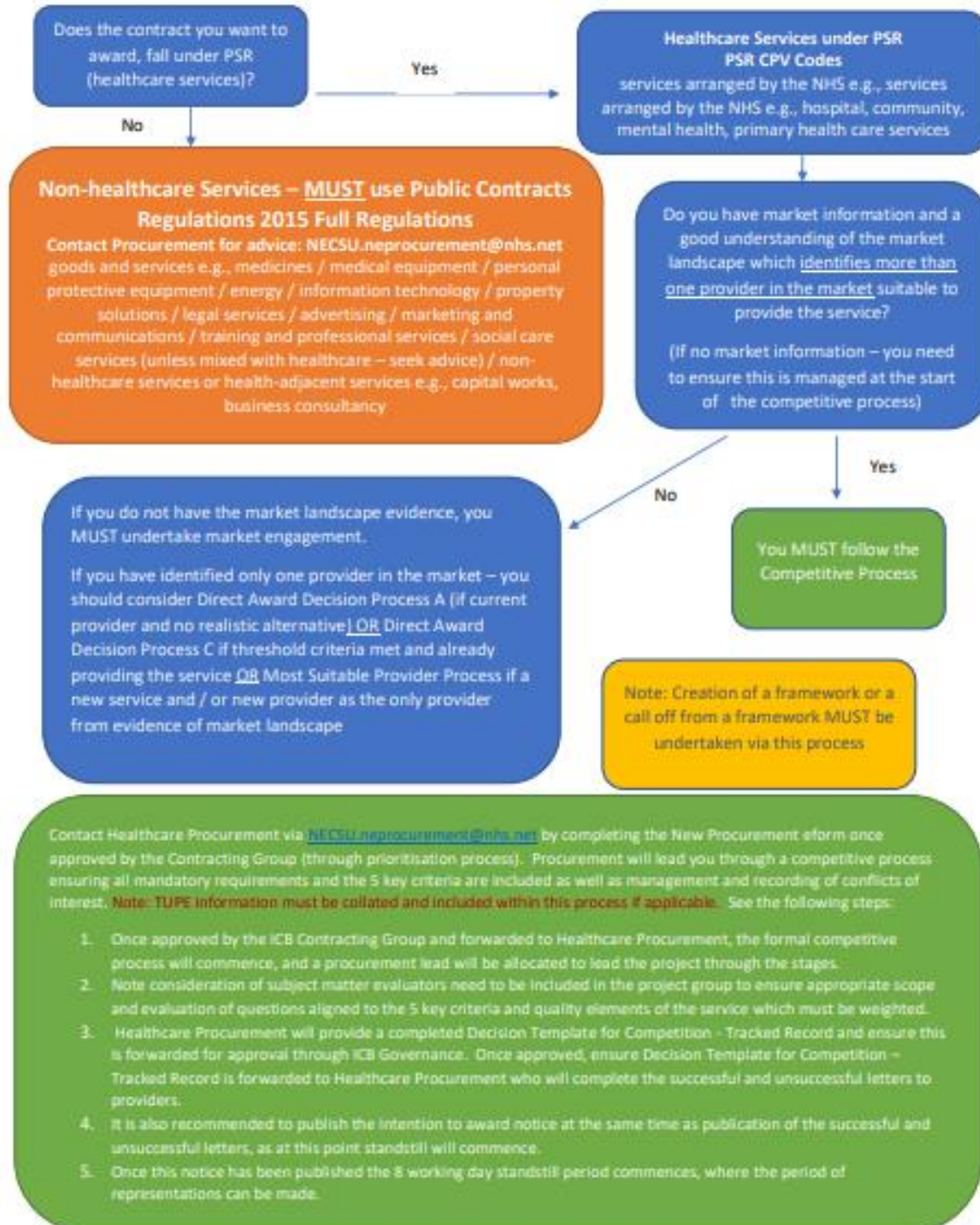
### North East and North Cumbria Integrated Care Board





## Provider Selection Regime – Competitive Process

### North East and North Cumbria Integrated Care Board





## Appendix C – Conflict of Interest Declaration and Confidentiality Agreement Form

### Conflict of Interest Declaration and Confidentiality Agreement

**[Name of service]**

Ref: **NENCXXX**

**Procurement Project Lead: XXX**

**For and on behalf of: [Customer]**

In line with public procurement regulations, commissioners are prohibited from awarding a contract for NHS healthcare services where conflicts, or potential conflicts, between the interests involved in commissioning such services and the interests in providing them affect, or appear to affect, the integrity of the award of that contract.

Commissioners are required to maintain a record of how any conflicts that have arisen have been managed.

Broadly, a conflict of interest is a situation where an individual's ability to exercise judgment or act in one role is, or could be, impaired or influenced by that individual's involvement in another role.

A conflict will arise where an individual's ability to exercise judgment or act in their role in the commissioning of services is impaired or influenced by their interests in the provision of those services.

Requirements related to conflicts of interest include:

- (1) Contracting Authorities / Relevant Authorities shall take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures so as to avoid any distortion of competition and to ensure equal treatment of all economic operators.
- (2) The concept of conflicts of interest shall at least cover any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure.
- (3) Relevant staff members means staff members of the ICB, or of a procurement service provider acting on behalf of the ICB, who are involved in the conduct of the procurement procedure or may influence the outcome of that procedure.

#### **Instructions:**

This form is to be completed by individuals who will provide input and/or advice in respect of the procurement of the above service. Guidance in respect of individuals is provided in Appendix A.

Forms are to be completed and returned via email to the Procurement Project Lead named at the top of this form.

In order to verify the signature, completed forms must be sent from **the email account of the signatory** and **not** from an email account that is shared or accessible to others.

An original signed hard copy need only be returned in circumstances whereby returning via email is not possible. In such circumstances, please inform the procurement project lead and post the original signed hard copy to the following address:

North East and North Cumbria Integrated Care Board Procurement Team, Stella House,  
Goldcrest Way, Newburn Riverside, Newcastle upon Tyne, NE15 8NY

Please put **For the Attention of** the Procurement Project Lead named above.

### Part 1: Conflict of Interest Declaration

- Please read statements 1 – 5 thoroughly. If you acknowledge and agree with each of the statements and have no conflict of interest, please complete Box A and move on to Part 2 – Confidentiality Agreement.
- If you identify a potential conflict, please complete Box B and move onto Part 2 – Confidentiality Agreement.

### Statements

1. Neither I nor any member of my family, close friends or any other acquaintances, have any financial interest, non-financial professional interests, non-financial personal interest or indirect interests of any nature in any individual, organisation or group who may express an interest or put forward a bid for this procurement;
2. I have no conflict of interest (whether financial or otherwise) in providing input and/or advice in connection with this procurement;
3. I will advise the ICB as soon as it is known of any conflict of interest which may arise at any point during my involvement in this procurement;
4. To the best of my knowledge, no-one with whom I have a direct association has expressed an interest or intends to submit a bid for this procurement; and
5. I waive the right to submit a bid for any tender opportunity with which I have had direct involvement.

#### Box A:

I confirm and agree to the statements 1 – 5 which form the conflict of interest declaration.

Name	Position & Organisation	Date	Signature

**Box B:**

Please indicate any potential conflict of interest in this box.

Please be advised that any identified conflict of interest with regards to the service may exclude you from taking any further part in the procurement process.

Name	Position & Organisation	Date	Signature

## Part 2: Confidentiality Agreement:

Please read statements 6 – 13 and complete Box C to acknowledge and agree that:

### Statements

6. The documents made available to me, in electronic/hard copy format for the purpose of evaluating tenders are classified commercial in confidence and I confirm that none of these documents nor their contents will or have been released, disclosed or divulged by me, or on my behalf, to any third party without the relevant authorisation;
7. I understand that the release or disclosure of such material to a third party without such authorisation will be regarded very seriously and may result in disciplinary or formal action;
8. I will treat any verbal and written information issued to me in relation to the procurement as strictly confidential;
9. I will not share any information or documentation received with any third party without the express agreement of the ICB;
10. I will not leave hard copies of documents in any public place risking unauthorised access to them;
11. I will safeguard electronic access to documents at all times;
12. I will advise the ICB of any potential or actual breach of this agreement whether intentional or not; and
13. I will ensure the safeguarding of all documents and information at all times both pre and post award.

### Box C:

I confirm and agree to the statements 6 – 13 which form the confidentiality agreement.

Name	Position & Organisation	Date	Signature

## **Appendix A – Guidance**

### **Individuals who may be party to providing guidance/advice in respect of the procurement process:**

- Employee;
- ICB member;
- Governing body member;
- Committee or sub-committee member;
- Finance; or
- Other interests.

### **Potential types of conflict:**

- Roles and responsibilities held within member practices;
- Directorships, including non-executive directorships, held in private companies or PLCs;
- Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the contracting authority(ies);
- Shareholdings (more than 5%) of companies in the field of health and social care;
- A position of authority in an organisation (e.g. another NHS organisation, charity or voluntary organisation) in the field of health and social care;
- Any connection with a voluntary or other organisation contracting for NHS services;
- A member of a lobbying or pressure group with an interest in health and social care;
- A close association with another individual who has a financial interest, a non-financial interest or a non-financial interest, including close family members and relatives, close friends and associates and business partners;
- Patents and other intellectual property rights;
- Research funding/grants that may be received by the individual or any organisation in which they have an interest or role; or
- Any other role or relationship which the public could perceive would impair or otherwise influence the individual's judgment or actions in their role within the contracting authority(ies).

### **What level of detail is to be provided in outlining a conflict of interest?**

- Relevant individuals completing this declaration form must provide sufficient detail of each interest so that a member of the public would be able to clearly understand the sort of financial or other interest the person concerned has and the circumstances in which a conflict of interest with the business or running of the ICB might arise.
- If in doubt as to whether a conflict of interest could arise, a declaration of the interest(s) should be made.

## Appendix D - Provider Selection Regime – Mandatory Transparency Notices

**Table 7 – Transparency Notices**

	<b>Direct Award A</b>	<b>Direct Award B</b>	<b>Direct Award C</b>	<b>Most Suitable Provider</b>	<b>Competition</b>
<b>Clear Intentions</b> Publish the intended approach in advanced				<b>Yes</b>	
<b>Clear Intentions</b> Publish a notice for competition					<b>Yes</b>
<b>Communicating Decisions</b> Publish an intention to award notice			<b>Yes</b>	<b>Yes</b>	<b>Yes</b>
<b>Confirming Decisions</b> Publish Confirmation of Award	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>
<b>Contract Modifications</b> Publish a notice for contract modifications	<b>Yes, if over £500k and attributable decision of Relevant Authority</b>	<b>Yes, if over £500k and attributable decision of Relevant Authority</b>	<b>Yes, if over £500k and attributable decision of Relevant Authority</b>	<b>Yes</b>	<b>Yes</b>
<b>Urgent Awards / Modifications</b>					
<b>All urgent Awards and Urgent Modifications require a notification to be published.</b>					

## Appendix E – Equality Impact Assessment

### Equality Impact Assessment

#### Initial Screening Assessment (STEP 1)

As a public body organisation, we need to ensure that all our current and proposed strategies, policies, services and functions, have given proper consideration to equality, diversity and inclusion, do not aid barriers to access or generate discrimination against any protected groups under the Equality Act 2010 (Age, Disability, Gender Reassignment, Pregnancy and Maternity, Race, Religion/Belief, Sex, Sexual Orientation, Marriage and Civil Partnership).

This screening determines relevance for all new and revised strategies, policies, projects, service reviews and functions.

Completed at the earliest opportunity it will help to determine:

- The relevance of proposals and decisions to equality, diversity, cohesion and integration.
- Whether or not equality and diversity is being/has already been considered for due regard to the Equality Act 2010 and the Public Sector Equality Duty (PSED).
- Whether or not it is necessary to carry out a full Equality Impact Assessment.

#### Name(s) and role(s) of person completing this assessment:

**Name:** Julie Parkinson

**Job Title:** Strategic Head of Procurement

**Organisation:** NENC ICB

#### Title of the service/project or policy: NENC ICB Procurement Policy

#### Is this a;

**Strategy / Policy** ☒

**Service Review** ☐

**Project** ☐

**Other**

#### What are the aim(s) and objectives of the service, project or policy:

To provide a policy framework and standard operating procedure to ensure compliance with relevant legislation and statutory guidance that will enable the ICB to procure healthcare services and non-healthcare goods and services in pursuit of delivering its strategy for "Better Health and Wellbeing for All" and its statutory obligations.

#### Who will the project/service /policy / decision impact?

(Consider the actual and potential impact)

- **Staff** ☒
- **Service User / Patients** ☒
- **Other Public Sector Organisations** ☒
- **Voluntary / Community groups / Trade Unions** ☒
- **Others, please specify**

Questions	Yes	No
Could there be an existing or potential negative impact on any of the protected characteristic groups?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Has there been or likely to be any staff/patient/public concerns?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Could this piece of work affect how our services, commissioning or procurement activities are organised, provided, located and by whom?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Could this piece of work affect the workforce or employment practices?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the piece of work involve or have a negative impact on: <ul style="list-style-type: none"> <li>Eliminating unlawful discrimination, victimisation and harassment</li> <li>Advancing quality of opportunity</li> <li>Fostering good relations between protected and non-protected groups in either the workforce or community</li> </ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**If you have answered no to the above and conclude that there will not be a detrimental impact on any equality group caused by the proposed policy/project/service change, please state how you have reached that conclusion below:**

**If you have answered yes to any of the above, please now complete the 'STEP 2 Equality Impact Assessment' document**

Accessible Information Standard	Yes	No
Please acknowledge you have considered the requirements of the Accessible Information Standard when communicating with staff and patients.  <a href="https://www.england.nhs.uk/wp-content/uploads/2017/10/accessible-info-standard-overview-2017-18.pdf">https://www.england.nhs.uk/wp-content/uploads/2017/10/accessible-info-standard-overview-2017-18.pdf</a>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Please provide the following caveat at the start of any written documentation:  <b>“If you require this document in an alternative format such as easy read, large text, braille or an alternative language please contact (ENTER CONTACT DETAILS HERE)”</b>		
<b>If any of the above have not been implemented, please state the reason:</b>		

## **Governance, ownership and approval**

Please state here who has approved the actions and outcomes of the screening		
Name	Job title	Date
David Gallagher	Chief Contract & Procurement Officer	April 2025



## **Publishing**

This screening document will act as evidence that due regard to the Equality Act 2010 and the Public Sector Equality Duty (PSED) has been given.

If you are not completing 'STEP 2 - Equality Impact Assessment' this screening document will need to be approved and published alongside your documentation.

**Please send a copy of this screening documentation to: [NECSU.Equality@nhs.net](mailto:NECSU.Equality@nhs.net) for audit purposes.**

## Equality Impact Assessment

### Policy – Strategy – Guidance (STEP 2)

This EIA should be undertaken at the start of development of a new project, proposed service review, policy, or process guidance to assess likely impacts and provide further insight to reduce potential barriers/discrimination. The scope/document content should be adjusted as required due to findings of this assessment.

This assessment should then be updated throughout the course of development and continuously updated as the piece of work progresses.

Once the project, service review, or policy has been approved and implemented, it should be monitored regularly to ensure the intended outcomes are achieved.

This EIA will help you deliver excellent services that are accessible and meet the needs of staff, patients, and service users.

**This document is to be completed following the STEP 1 – Initial Screening Assessment**

### STEP 2 EVIDENCE GATHERING

**Name(s) and role(s) of person completing this assessment:**

**Name:**

**Job Title:**

**Organisation:**

**Title of the service/project or policy:**

**Existing** ☐ **New / Proposed** ☐ **Changed** ☐

**What are the intended outcomes of this policy/ service / process? (Include outline of objectives and aims;**

**Who will the project/service /policy / decision impact?**

(Consider the actual and potential impact)

- **Consultants** ☐
- **Nurses** ☐
- **Doctors** ☐
- **Staff** ☐
- **Service User / Patients** ☐
- **Others, please specify**

Current Evidence / Information held	Outline what current data / information is held about the users of the service / patients / staff / policy / guidance? Why are the changes being made?
(Census Data, Local Health Profile data, Demographic reports, workforce reports, staff metrics, patient/service users/data, national reports, guidance, legislation changes, surveys, complaints, consultations/patient/staff feedback, other)	

### **STEP 3: FULL EQUALITY IMPACT ASSESSMENT**

**PLEASE NOTE THE INFORMATION OUTLINED IN THE TEXT BOXES LISTS PROMPTS FOR GUIDANCE PURPOSES. PLEASE INPUT INFORMATION OR DELETE AS APPROPRIATE.**

**The Equality Act 2010 covers nine ‘protected characteristics’ on the grounds upon which discrimination and barriers to access is unlawful.**

Outline what impact (or potential impact) the new policy/strategy/guidance will have on the following protected groups:

#### **Age**

*A person belonging to a particular age*

#### **Guidance Notes**

- Provide/link the data/metrics/demographics held relating to this particular protected group (as appropriate).
- Could the policy discriminate, directly or indirectly against people of a particular age? <https://www.equalityhumanrights.com/en/advice-and-guidance/age-discrimination>
- Has the content within the document been checked for any potential offensive/discriminatory language of this particular group?
- Are there any discriminatory practices/processes outlined within the document?
- If training is required for this policy/strategy/guidance/process – outline what considerations have been made for an older workforce i.e. accessibility considerations, venues, travel etc.
- Outline if appropriate methods of communication have been carefully considered to ensure they reach all age groups. Is documentation available in alternative formats as required?
- If there is an adverse impact, can it be justified on the grounds of promoting equality of opportunity for another legitimate reason? If so, outline the reason(s).
- What mitigations can be put in place to reduce actual or potential impacts? **If you are unsure, consultation/engagement**

#### **Disability**

*A person who has a physical or mental impairment, which has a substantial and long-term*

*adverse effect on that person's ability to carry out normal day-to-day activities*

### **Guidance Notes**

- Provide/link the data/metrics/demographics held relating to this particular protected group (as appropriate).
- Could the policy discriminate, directly or indirectly against people with a disability?  
<https://www.equalityhumanrights.com/en/advice-and-guidance/disability-discrimination>
- What steps are being taken to make reasonable adjustments to ensure processes/practices set out are 'accessible to all'?
- Has the content within the document been checked for any potential offensive/discriminatory language of this particular group?
- Are there any discriminatory practices/processes outlined within the document that may impact this group?
- If training is required for this policy/strategy/guidance/process – outline what considerations have been made for people with a disability and/or sensory need i.e. accessibility considerations, venues, travel, parking etc.
- Outline if appropriate methods of communication have also been carefully considered for people with a disability or sensory need. Is documentation available in alternative formats as required? Such as easy read, large font, audio and BSL interpretation as required.
- Are websites accessible for all and/or have information available stating how people can access information in alternative formats if required?
- Has the Accessible Information Standard been considered?  
<https://www.england.nhs.uk/ourwork/accessibleinfo/>
- If there is an adverse impact, can it be justified on the grounds of promoting equality of opportunity for another legitimate reason? If so, outline the reason(s).
- What mitigations can be put in place to reduce actual or potential impacts? If you are unsure, *consultation/engagement with stakeholders from this particular protected group is recommended (STEP 4).*

### **Gender reassignment (including transgender) and Gender Identity**

*Medical term for what transgender people often call gender-confirmation surgery; surgery to bring the primary and secondary sex characteristics of a transgender person's body into alignment with his or her internal self-perception.*

### **Guidance Notes**

- Provide/link the data/metrics/demographics held relating to this particular protected group (as appropriate).
- Could the policy discriminate, directly or indirectly against people who have this characteristic?  
<https://www.equalityhumanrights.com/en/advice-and-guidance/gender-reassignment-discrimination>
- Has the content within the document been checked for any potential offensive/discriminatory language of this particular group?
- Please see useful terminology website for info:  
<https://www.transgendertrend.com/transgender-terminology/>
- Are there any discriminatory practices/processes outlined within the document that may impact this protected group?
- If there is an adverse impact, can it be justified on the grounds of promoting equality of opportunity for another legitimate reason? If so, outline the reason(s).

- What mitigations can be put in place to reduce actual or potential impacts? **If you are unsure, consultation/engagement with stakeholders from this particular protected group is recommended (STEP 4).**

## Marriage and civil partnership

*Marriage is defined as a union of a man and a woman or two people of the same sex as partners in a relationship. Civil partners must be treated the same as married couples on a wide range of legal matters*

### Guidance Notes

- Provide/link the data/metrics/demographics held relating to this particular protected group (as appropriate).
- Could the policy discriminate, directly or indirectly against people who have this characteristic?  
<https://www.equalityhumanrights.com/en/advice-and-guidance/marriage-and-civil-partnership-discrimination>
- Has the content within the document been checked for any potential offensive/discriminatory language of this particular group?
- Are there any discriminatory practices/processes outlined within the document that may impact this protected group?
- Do all procedures treat both single and married and civil partnerships equally?
- Is there equal access to recruitment, personal development, promotion and retention for staff?
- If there is an adverse impact, can it be justified on the grounds of promoting equality of opportunity for another legitimate reason? If so, outline the reason(s).
- What mitigations can be put in place to reduce actual or potential impacts? **If you are unsure, consultation/engagement with stakeholders from this particular protected group is recommended (STEP 4).**

## Pregnancy and maternity

*Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth and is linked to maternity leave in the employment context.*

### Guidance Notes

- Provide/link the data/metrics/demographics held relating to this particular protected group (as appropriate).
- Could the policy discriminate, directly or indirectly against people who have this characteristic?
- Has the content within the document been checked for any potential offensive/discriminatory language of this particular group?
- Are there any discriminatory practices/processes outlined within the document that may impact this group?
- Any scheduling of training for the policy should take into consideration part time working arrangements for staff as well as any caring responsibilities. Training should be scheduled at appropriate times with wash-up sessions available for staff on maternity that may not be able to attend scheduled training.
- Will the processes outlined impact on anyone who is pregnant, on maternity leave or have caring responsibilities? For example, impact on flexible working arrangements etc.

- Is there equal access to recruitment, personal development, promotion and retention for staff?
- Are processes in place to update people that may currently be on maternity leave on their return?
- If there is an adverse impact, can it be justified on the grounds of promoting equality of opportunity for another legitimate reason? If so, outline the reason(s).
- What mitigations can be put in place to reduce actual or potential impacts? **If you are unsure, consultation/engagement with stakeholders from this particular protected group is recommended (STEP 4).**

## Race

*It refers to a group of people defined by their race, colour, and nationality, ethnic or national origins, including travelling communities.*

### Guidance Notes

- Provide/link the data/metrics/demographics held relating to this particular protected group (as appropriate).
- Could the policy discriminate, directly or indirectly against people who have a particular race?  
<https://www.equalityhumanrights.com/en/advice-and-guidance/race-discrimination>
- Has the content within the document been checked for any potential offensive/discriminatory language of people from a particular race?
- Are there any discriminatory practices/processes outlined within the document that may impact a particular race?
- If there is an adverse impact, can it be justified on the grounds of promoting equality of opportunity for another legitimate reason? If so, outline the reason(s).
- What mitigations can be put in place to reduce actual or potential impacts? If you are unsure, consultation/engagement with stakeholders from this particular protected group is recommended (STEP 4).

## Religion or Belief

*Religion is defined as a particular system of faith and worship but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.*

### Guidance Notes

- Provide/link the data/metrics/demographics held relating to this particular protected group (as appropriate).
- Could the policy discriminate, directly or indirectly against people who have this characteristic?  
<https://www.equalityhumanrights.com/en/advice-and-guidance/religion-or-belief-discrimination>
- Has the content within the document been checked for any potential offensive/discriminatory language of this particular group?
- Are there any discriminatory practices/processes outlined within the document that may impact a particular religion or belief?
- If there is an adverse impact, can it be justified on the grounds of promoting equality of opportunity for another legitimate reason? If so, outline the reason(s).
- What mitigations can be put in place to reduce actual or potential impacts? If you are unsure, consultation/engagement with stakeholders from this particular protected

group is recommended (STEP 4).

## **Sex/Gender**

*A man or a woman.*

### **Guidance Notes**

- Provide/link the data/metrics/demographics held relating to this particular protected group (as appropriate).
- Could the policy discriminate, directly or indirectly against either men or women?
- <https://www.equalityhumanrights.com/en/advice-and-guidance/sex-discrimination>
- Has the content within the document been checked for any potential offensive/discriminatory language against men and/or women?
- Are there any discriminatory practices/processes outlined within the document that may impact men or women?
- Does someone of a particular sex fair less or receive less favourable treatment as a result of this policy/strategy/ guidance?
- Are men or women treated differently as a result of the information set out within the document?
- If there is an adverse impact, can it be justified on the grounds of promoting equality of opportunity for another legitimate reason? If so, outline the reason(s).
- What mitigations can be put in place to reduce actual or potential impacts? If you are unsure, consultation/engagement with stakeholders from this particular protected group is recommended (STEP 4).

## **Sexual orientation**

*Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes*

### **Guidance Notes**

- Provide/link the data/metrics/demographics held relating to this particular protected group (as appropriate).
- Could the policy discriminate, directly or indirectly against people who have this characteristic?  
<https://www.equalityhumanrights.com/en/advice-and-guidance/sexual-orientation-discrimination>
- Has the content within the document been checked for any potential offensive/discriminatory language of people with a particular sexual orientation?
- Are there any discriminatory practices/processes outlined within the document that may impact this group?
- NHS Employers guide: <https://www.nhsemployers.org/your-workforce/plan/diversity-and-inclusion/policy-and-guidance/sexual-orientation>
- Sexual orientation monitoring guidance (to be used as appropriate):  
<https://www.england.nhs.uk/about/equality/equality-hub/sexual-orientation-monitoring-information-standard/>
- If there is an adverse impact, can it be justified on the grounds of promoting equality of opportunity for another legitimate reason? If so, outline the reason(s).
- What mitigations can be put in place to reduce actual or potential impacts? If you are unsure, consultation/engagement with stakeholders from this particular protected group is recommended (STEP 4).

## **Carers**



*A family member or paid helper who regularly looks after a child or a sick, elderly, or disabled person*

#### **Guidance Notes**

- Provide/link the data/metrics/demographics held relating to this particular protected group (as appropriate).
- Could the policy discriminate, directly or indirectly against people who have this characteristic?
- Has the content within the document been checked for any potential offensive/discriminatory language of this particular group?
- Are there any discriminatory practices/processes outlined within the document that may impact this group?
- Any scheduling of training for the policy should take into consideration part time working arrangements for staff as well as any caring responsibilities. Training should be scheduled at appropriate times with wash-up sessions available for staff that may not be able to attend scheduled training.
- If there is an adverse impact, can it be justified on the grounds of promoting equality of opportunity for another legitimate reason? If so, outline the reason(s).
- What mitigations can be put in place to reduce actual or potential impacts? If you are unsure, consultation/engagement with stakeholders from this particular protected group is recommended (STEP 4).

#### **Other identified groups relating to Health Inequalities**

*such as deprived socio-economic groups, rural areas, armed forces, people with substance/alcohol abuse and sex workers.*

*(Health inequalities have been defined as “Differences in health status or in the distribution of health determinants between different population groups.”*

*Health inequalities can therefore occur across a range of social and demographic indicators, including socio-economic status, occupation, geographical locations.)*

#### **Guidance Notes**

- Provide/link the data/metrics/demographics held relating to this particular protected group (as appropriate).
- Could the policy discriminate, directly or indirectly against people who have this characteristic?
- Has the content within the document been checked for any potential offensive/discriminatory language of this particular group?
- Are there any discriminatory practices/processes outlined within the document that may impact this group?
- If there is an adverse impact, can it be justified on the grounds of promoting equality of opportunity for another legitimate reason? If so, outline the reason(s).
- What mitigations can be put in place to reduce actual or potential impacts? If you are unsure, consultation/engagement with stakeholders from this particular protected group is recommended (STEP 4).

## **STEP 4: ENGAGEMENT AND INVOLVEMENT**

Have you engaged stakeholders in testing the policy/guidance or process proposals including the impact on protected characteristics?

#### **Guidance Notes**



- List the stakeholders engaged
- What was their feedback?
- List changes/improvements made as a result of their feedback
- List the mitigations provided following engagement for potential or actual impacts identified in the impact assessment.

If no engagement has taken place, please state why:

## **STEP 5: METHODS OF COMMUNICATION**

What methods of communication do you plan to use to inform service users/staff about the policy/strategy/guidance?

- |  |  |
|--|--|
| <input type="checkbox"/> Verbal – meetings | <input type="checkbox"/> Verbal - Telephone                                      |
| <input type="checkbox"/> Written – Letter  | <input type="checkbox"/> Written – Leaflets/guidance booklets                    |
| <input type="checkbox"/> Written - Email   | <input type="checkbox"/> Internet/website <input type="checkbox"/> Intranet page |
| <input type="checkbox"/> Other             |  |

If other please state:

## **Step 6 – Accessible Information Standard Check**

From 1st August 2016 onwards, all organisations that provide NHS care and / or publicly funded adult social care are legally required to follow the Accessible Information Standard. The Standard sets out a specific, consistent approach to identifying, recording, flagging, sharing, and meeting the information and communication support needs of patients, service users, carers and parents with a disability, impairment, or sensory loss.

<https://www.england.nhs.uk/wp-content/uploads/2017/10/accessible-info-standard-overview-2017-18.pdf>

**Tick to confirm you have you considered an agreed process for:**

- ☐ Asking people if they have any information or communication needs and find out how to meet their needs.
- ☐ Have processes in place that ensure people receive information which they can access and understand and receive communication support they need it.

**Please provide the following caveat at the start of any written documentation'**

**"If you require this document in an alternative format, such as easy read, large text, braille or an alternative language please contact xxxxxxx"**

If any of the above have not been implemented, please state the reason:

## **STEP 7: POTENTIAL IMPACTS IDENTIFIED; ACTION PLAN**

Ref no.	Potential/actual Impact identified	Protected Group Impacted	Action(s) required	Expected Outcome	Action Owner	Timescale/ Completion date

## GOVERNANCE, OWNERSHIP AND APPROVAL

Please state here who has approved the actions and outcomes of the screening		
<b>Name</b>	<b>Job title</b>	<b>Date</b>

<b>Presented to (Appropriate Committee)</b>	<b>Publication Date</b>

1. Please send the completed Equality Impact Assessment with your document to: [necsu.equality@nhs.net](mailto:necsu.equality@nhs.net)
2. Make arrangements to have the Equality Impact Assessment added to all relevant documentation for approval at the appropriate Committee.
3. Publish this Equality Impact Assessment alongside your document.
4. File for audit purposes as appropriate

For further advice or guidance on this form, please contact the NECS Equality Team:  
[necsu.equality@nhs.net](mailto:necsu.equality@nhs.net)