

Procurement Regulations

NHS Health Care Services (Provider Selection Regime) Regulations 2023 (PSR)

1 January 2024 brought the implementation of the NHS Health Care Services (Provider Selection Regime) Regulations 2023 (PSR). These Regulations apply where a relevant authority procures relevant health care services for the purpose of the health service in England, whether alone or as part of a mixed procurement. [The Health Care Services \(Provider Selection Regime\) Regulations 2023 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

For Healthcare Services, the PSR has replaced the:

- Public Contract Regulations 2015 (*note: still applicable for non-healthcare procurement of goods and services*)
- National Health Service (Procurement, Patient Choice and Competition) Regulations 2013

Organisations (termed 'relevant authorities') are required to follow the PSR when procuring healthcare services these are:

- NHS England
- Integrated Care Boards
- NHS trusts and foundation trusts
- Local authorities or combined authorities

Healthcare Service Contracts under PSR are listed in Schedule 1 of the PSR Regulations 2023. Thresholds do not apply to this legislation and all contracted spend must adhere to the legislation and the transparency requirements on Find a Tender Service as applicable.

Schedule 1 can be found at:

[The Health Care Services \(Provider Selection Regime\) Regulations 2023 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

The Public Contract Regulations 2015 do still apply for the procurement of non-healthcare goods and services and below provides a brief overview of what is in scope and out of scope under PSR:

The PSR applies when relevant authorities are arranging **healthcare services** in England.

In scope are:

- services arranged by the NHS e.g., hospital, community, mental health, primary health care services
- public health services arranged by local authorities e.g., substance use, sexual and reproductive health, and health visits arranged by local authorities

Out of scope are:

- goods e.g., medicines, medical equipment, personal protective equipment
- social care services
- non-healthcare services or health-adjacent services e.g., capital works, business consultancy

The PSR also allows mixed procurements in some circumstances.



The Public Contracts Regulations 2015

When procuring goods or services that do not fall under PSR and are over the set financial thresholds* a Contracting Authority must consider their obligations under the Public Procurement (Agreement on Government Procurement) (Thresholds) (Amendment) Regulations 2023.

The Cabinet Office announced revised threshold limits for public procurements on 01 January 2024. The revised limits apply to all contract opportunities arising from 01 January 2024 until 31 December 2025.

The estimated value of procurements are inclusive of VAT. This means that contracting authorities need to consider if the requirement is subject to VAT, and if so, at what level, before knowing what the threshold is.

Procurement of goods and services under the Public Contracts Regulations 2015 (PCR) will require the regulations to be applied in full, however some services may still be applicable under the Light Touch Regime.

A services contract under PCR may fall within the scope of the Light Touch regime if it is for the certain types of health, social and other services listed at Schedule 3 of the PCR 2015. If a service is not listed at Schedule 3 of the PCR 2015 (and not covered under PSR) it will be subject to the full regime rather than the Light Touch regime.

In scope are:

PCR2015 – Full Regulations

- Goods e.g. medicines, medical equipment, personal protective equipment
- Services such as non-healthcare e.g. capital works, business consultancy
- Services such as patient transport which do not require CQC registration
- CHIS and Health Needs Assessments (if no clinical services)

PCR2015 – Light Touch Regime

- Services such as social care, personal care packages, home care support
- Supported accommodation, respite care
- All children's and adults services care provision – usually provided by a local authority
- Administrative social, educational and healthcare services and training

It should be noted that most health care services will now fall under PSR, however due diligence will be required to confirm which of the Regulations and 3 procedures (PCR / PSR or PCR-LTR) they will fall under.

Schedule 3 of PCR can be found at:

http://www.legislation.gov.uk/ukxi/2015/102/pdfs/ukxi_20150102_en.pdf

Public Contracts Regulations 2015 – Thresholds*:

Contracting Authority	Supply / Service	Threshold for Advertising / Transparency (inclusive of VAT)	Transparency Requirements
<ul style="list-style-type: none"> NHS Foundation Trusts NHS England ICB's 	<ul style="list-style-type: none"> Services Contracts Supply of goods contracts 	<ul style="list-style-type: none"> £139,688 	Publish Find A Tender Notice and Contract Award Notice
<ul style="list-style-type: none"> Other (i.e. Local Authorities) 	<ul style="list-style-type: none"> Services Contracts Supply of goods contracts 	<ul style="list-style-type: none"> £214,904 	Publish Find A Tender Notice and Contract Award Notice
<ul style="list-style-type: none"> All 	<ul style="list-style-type: none"> Works Contracts 	<ul style="list-style-type: none"> £5,372,609 	Publish Find A Tender Notice and Contract Award Notice
<ul style="list-style-type: none"> All 	<ul style="list-style-type: none"> Light Touch Regime Contracts (LTR) 	<ul style="list-style-type: none"> £663,540 	Publish Find A Tender Notice and Contract Award Notice

*(Note: there are **no thresholds** within the PSR regulations for healthcare services)*

In addition, all contracts in excess of £12,000 must have an advert and contract award notice published on Contracts Finder.

Relevant links

<https://www.contractsfinder.service.gov.uk/Search>

<https://www.find-tender.service.gov.uk/>

It should be noted that the Procurement Act 2023 will ensure a further change to procurement legislation and as of 28 October 2024, new procurement regulations under the Procurement Act 2023 will replace the Public Contracts Regulations 2015 (including the Light Touch Regime).

Further information on the Procurement Act 2023 can be found at:

<https://www.legislation.gov.uk/ukpga/2023/54/contents/enacted>