North East and North Cumbria

Corporate	ICBP033 Procurement Policy

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POLICY VALIDITY STATEMENT

Policy users should ensure that they are consulting the currently valid version of the documentation. The policy will remain valid, including during its period of review. However, the policy must be reviewed at least once in every 3-year period.

ACCESSIBLE INFORMATION STANDARDS

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1. Policy Statement

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

This Policy is in line with the current legislation which continues to be in place. The Health and Care Act 2022 includes the introduction of the new NHS Provider Selection Regime and the new Procurement Bill which will:

- Take arrangements between NHS commissioners and providers out from the scope of the Public Contracts Regulations 2015 (as amended) (Public Contracts Regulations 2015 (as amended) will be updated as part of the new Procurement Bill in 2024);
- Revoke Section 75 of the Health and Social Care Act 2012
- Remove underlying regulations (the National Health Service (Procurement, Patient Choice, and Competition Regulations 2013) (No 2) (PPCC)

1.2 However, the NHS Provider Selection Regime will not come into force until late 2023 and the legislation for Public Procurement as implemented by the Procurement Bill will not come into force until late 2024. The new Public Contracts Regulations may be aligned to the Provider Selection Regime in terms of managing a competitive process. It should be noted that the Public Contracts Regulations 2015 (as amended) will still be applicable for competition during the gap in timescales until the new Procurement Regulations are in place.

This policy should be read in conjunction with other key ICB documents, 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 the ICB's website.
- NHS Standard Contracts.

2. Introduction

2.1 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.

2.2 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.

2.3 The ICB is free to make procurement decisions subject to the terms of their delegation made by NHS England, statutory guidance, applicable law and the ICB's Constitution and good practice. Exceptions to this include:

- Any matter under the Delegated Functions which is novel, contentious or repercussive; and
- Any contract of ten years or more under Delegated Functions

If any of the above apply, it will be a requirement to seek approval from the NHS England Commercial Executive Group.

2.4 The ICB's role, as a commissioner, is 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 healthcare 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.

2.5 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 ICBs and Local Authorities and partnerships that may be formed through Integrated Care Systems (ICS) and Integrated Care Partnerships (ICPs).

2.6 Procurement is an integral part of the Commissioning Cycle (see Appendix A).

3. Status

3.1 This policy is a corporate policy.

4. Purpose and Scope

4.1 This policy covers the procurement of clinical healthcare services and the procurement of non-clinical / non-healthcare goods and services.

Table 1 – Examples of Non-Clinical Services

Examples of Non-Clinical / Non-Healthcare Goods and Services	
Advertising / Marketing and Communications / Lease Vehicles / Transport Services / Learning and Development (including training) / Professional Services / Consultancy / Interim Managers, Administrative and Clerical Staff and Others / Internal Audit / Medical Equipment	Energy / Information and Communication Technology / Property Solutions and Estates / Print / External Audit / Counter Fraud / Investigations and Reviews / Legal Services / Specialist Contractors / Patient Transport Services / Community Equipment

Table 2 – Examples of Clinical Services

Clinical / Healthcare Services	
GP Services / Eye Health / Community Pharmacy / Out of Hours / General Dental / Intermediate Minor Oral Surgery / Community Dental Services / Orthodontics / Specialist Dental / Highly Specialised Services / Home Oxygen / NHS 111 / Community Services / Primary Care Mental Health	Urgent Care Services / Falls Services / Termination of Pregnancy / Outreach Recovery Services / Care Home Support / Speech and Language Therapy / End of Life Care / Podiatry Services / Crisis Support Services / MSK / Tier 1 and 2 Weight Management / Respite and Complex Care for LD

4.2 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 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 (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.

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

- UK Procurement Directives, implemented in UK law by The Public Contracts Regulations 2015 (as amended)[1] (the "PCRs"), which apply to the award of contracts by public bodies. As a public body the ICB is required to adhere to legislation that governs the award of contracts by public bodies, including the PCRs.
- Following an update to UK procurement thresholds on 1 January 2022, the PCRs were updated on 23 December 2022 to ensure the UK complies with its obligations under the GPA and the PCRs continue to apply in their entirety.

5. Definitions

5.1 *Commissioning* is 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.

5.2 *Procurement* is the process of securing or purchasing of goods and services.

[1] http://www.legislation.gov.uk/uksi/2015/102/contents/made

6. Principles

6.1 The objective of this policy is to provide a framework to ensure all procurements meet the overarching obligations of procurement law, namely, transparency, proportionality, non-discriminatory and equality of treatment. In addition, the framework is designed to ensure that procurements 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.

6.2 The policy and all procurements are underpinned by several core principles that the ICB will observe. This will clearly demonstrate to all stakeholders including providers of services that the ICB is adopting a principled approach to the procurement of goods and services.

6.3 The ICB:

- will, consistently with its obligations under, inter alia, the PCRs, the PPCC Regulations and applicable Community law, ascertain whether it is necessary, desirable or appropriate to invite competition when purchasing in order to ensure it will incur only budgeted, approved and necessary spending

- will seek value for money for all services by reference to the optimum combination of whole life cost and quality

- will, in relation to each purchasing decision

    - consider the extent to which the PCRs, PPCC Regulations require any form of competition and consider the most appropriate process and procedure for awarding the relevant contract or contracts; and

    - in that regard give consideration to whether the use of a framework agreement, including the use of approved lists, is the most appropriate means of appointing providers;

    - ensure that it complies with applicable NHS guidance when procuring jointly with Local Authorities

- shall, wherever possible and where it is consistent with legal requirements, ensure that contractual provisions, procurement procedures and selection and award criteria are designed to ensure that contractors and providers are:

    - good employers who comply with all relevant employment legislation, including the Public Interest Disclosure Act 1998[2];

    - maintain acceptable standards of health and safety and comply fully with all legal obligations

    - meet all tax and National Insurance obligations

[2] https://www.legislation.gov.uk/ukpga/1998/23/contents

- meet all equal opportunities legislation
- are reputable in their standards of business conduct
- respect the environment and take appropriate steps to ensure that they minimise their environmental impact to support the NHS Net Zero and Social Value goals.

- will, in each procurement and consistently with the relevant law, exclude companies which have been convicted of offences, or whose director(s) or any other person or company who has powers of representation, decision or control of the company has or have been convicted of offences in the conduct of their business or committed an act of grave professional misconduct in the conduct of their business, such as breaches of employment, equal opportunities or environmental legislation. However, any corrective/remedial action taken by the company in response to such an offence will be considered in determining its suitability as a bidder.

- will, in each procurement and consistently with relevant UK and international law, ensure that contractual provisions, procurement procedures and selection and award criteria prohibit or restrict contractors' use of offshore jurisdictions and/or improper tax avoidance schemes or arrangements and/or exclude companies which use such jurisdictions and/or such schemes or arrangements.

- will, as in line with Government Legislation, explicitly evaluate a minimum of 10% social value for over threshold procurements; proportionate to the contract and utilising the Social Value Model so that social benefits and Net Zero targets can be achieved in the delivery of the contract(s).

- will, ensure compliance with government legislation (PPN 05/21) to publish the ICBs procurement pipeline and contract renewals.

6.4 The ICB procurement policy identifies its principles when procuring goods and services as;

i) Transparency

The ICB will make its commissioning intent clear to the market, including appropriate advertising of tenders, transparency of contract terms, timescales, short-listing and award criteria and in making decisions not to tender.

The ICB will account publicly for expenditure and actions through:

- publication of commissioning strategies and intentions, outcome of service reviews and the mechanism by which it will secure services on its website
- advertising relevant procurements with a value in excess of £12,000 on Contracts Finder and on the Government Find a Tender Service (FTS). (Note: With effect from 1 January 2021 FTS replaces the Official Journal of the European Union (OJEU) advertising requirement for the UK)
  N.B. Regulatory thresholds are subject to change every 2 years; current threshold for healthcare services that fall within the scope of the "Light Touch Regime" (LTR), so called as it is a more relaxed set of rules enabling some flexibilities in the procurement process for services listed at Schedule 3 of the PCRs, as of 01 January 2022 = £663,540, and for services not listed at

Schedule 3 of the PCRs (non-healthcare goods and services) = £138,760, inclusive of VAT
- full publication of evaluation and scoring criteria in procurement documentation
- publication of contract award details on Contracts Finder and on FTS
- maintenance of an auditable documentation trail of all key decisions which provides clear accountability including Regulation 84 report in line with legislative requirements
- robust management of potential conflicts of interest
- publication of a register of procurement decisions on the ICBs website
- provision of feedback to all bidders; and
- market management tools such as Prior Information Notices (PIN) will be used to ensure current and potential providers are aware of future opportunities and engagement.

ii) Proportionality

- The ICB 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 PCRs.

- The ICB will equally carry out the financial and quality assurance checks for potential providers by undertaking an assessment of which is proportionate to the service that is to be procured.

Procurements that fall under the UK financial Procurement Thresholds can be limited by location (subject to criteria in the Policy Procurement Note 11/20 (PPN)), and or SMEs and VCSEs, however the focus for this is to ensure value for money which can only be achieved by a competitive process.

iii) Non-Discrimination

- All forms of procurement will be transparent and non-discriminatory. The specification and bidding 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.

- All tender documentation will identify objective evaluation criteria and weightings and include detailed scoring criteria that bids will be evaluated against. No provider will be given preference over another.

- The ICB will provide all information in good time ensuring all potential providers have the ability to assess the service provision and whether they wish to express an interest in providing that service.

- The ICB will not favour or advantage a provider from any sector (Public, Private, Third etc.) or nationality/geographical background. This will ensure that the successful provider is selected in relation to their compliance with the evaluation criteria and not with regard to the type of organisation.

- The ICB will provide all potential providers with the same information about the bidding process at the same time.

iv) Equality of Treatment

The ICB 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.

v) Contracts

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.

vi) 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[3]
- NHS North East and North Cumbria Integrated Care Board's Constitution 2022
- NHS England: Standards of Business Conduct Policy 2017[4]
- Public Contracts Regulations 2015 (as amended)
- Public Procurement (Amendment etc.) (EU Exit) Regulations 2019
- Public Procurement (Amendment etc.) (EU Exit) Regulations 2020
- the Bribery Act 2010[5] and
- the PPCC Regulations
- NHS North East and North Cumbria Integrated Care Board's Standards of Business Conduct and Declarations of Interest Policy

All potential providers will be required to declare potential conflicts of interest through completion and submission of a Declaration of Interest Form (detailed at Appendix B).

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.

vii) Diversity

The ICB will promote diversity of provision and acceptable choices for local service users in accordance with the Equality Act 2010[6].

[3] NHS England PowerPoint template

[4] https://www.england.nhs.uk/publication/standards-of-business-conduct-policy/

[5] https://www.legislation.gov.uk/ukpga/2010/23/contents

[6] https://www.legislation.gov.uk/ukpga/2010/15/contents

viii) Procurement Competencies

Recognise the contribution of all functions in the ICB in delivering best procurement outcomes and support competency and development in the commissioning and procurement process.

ix) Use of Resources

The ICB will comply with internal governance and legal requirements for procurement procedures.

x) Sustainability

The ICB will consider the economic, environmental and social issues relating to services they intend to procure in accordance with the Act. To comply with the requirements of the Act, the ICB will consider:

a) how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area,
b) how the NHS carbon net zero target can be achieved and
c) how, in conducting the process of procurement, it may act with a view to securing such improvements.

6.5 The ICB Financial Delegations outline that formal tendering can be waived (i.e., use of Negotiated Procedure without Prior Publication) in exceptional circumstances. The waiver process should be reviewed to ensure compliance and appropriate criteria has been considered.

The following table provides the reasons where appropriate consideration of waivers can be applied

Table 3 – Waiver Rationale

Reason 1 - Exceptional Circumstances (not within the Regulations)	**Reason 2 - Consortia Agreements** Waiver required if not compliant to Reg 72 or Reg 32	**Reason 3 - Regulation 32 (a)** (No suitable tenders received following competition) Direct Award	**Reason 4 - Regulation 32 (b)** (Can only be provided by economic operator) Direct Award	**Reason 5 – Regulation 32 (c)** (Extreme urgency / unforeseen circumstances) Direct Award	**Reason 6 - Regulation 72** Contract extension / modification (if not compliant to Reg 72)

a) Exceptional Circumstances

In very exceptional circumstances where the Chief Executive or Executive Director of Finance decides that formal tendering procedures would not be practicable; or the estimated expenditure or income would not warrant formal tendering procedures and the circumstances are detailed in an appropriate ICB record.

b) Consortia Agreement

Where a consortium arrangement is in place and a lead organisation has been appointed to carry out tendering activity on behalf of the consortium members.

c) No suitable tenders received following competition - Regulation 32 (a) - Direct Award

Where no tenders, no suitable tenders, no requests to participate or no suitable requests to participate have been submitted in response to an open procedure or a restricted procedure, provided that the initial conditions of the contract are not substantially altered.

d) Can only be provided by a particular economic operator - Regulation 32 (b) – Direct Award

Where the works, supplies or services can be supplied only by a particular economic operator for any of the following:

a. the aim of the procurement is the creation or acquisition of a unique work of art of artistic performance
b. competition is absent for technical reasons
c. the protection of exclusive rights, including intellectual property rights

e) Extreme Urgency / Unforeseen Circumstances - Regulation 32 (c) – Direct Award

Insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the ICB, the time limits for the open or restricted procedures or competitive procedures with negotiation cannot be complied with. **Failure to plan the work properly is not a justification for waiving the requirement.**

f) Contract Extension - Regulation 72 - Waiver required if not compliant to Regulation 72:

Reg 72 (a) – Contract modifications permitted within original contract
Reg 72 (b) – additional services have become necessary / prevent duplication of costs (providing contract does not increase by 50% original contract value)
Reg 72 (c) – all criteria must be met for extreme urgency and unforeseen This would include where there is clear benefit to be gained from maintaining continuity with an earlier project, but an extension may not be complaint with Regulation 72.

6.6 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.

6.7 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.

6.8 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 PCRs and identification of any risks for the ICB should be sought and documented as part of the waiver form. The table below shows relevant thresholds and ICB compliance.

Table 4 – Procurement Thresholds and Requirements

Service / Contract Value (total value over life of contract)	***Procurement Position***
Up to £25k	Best practice is to ensure 3 quotes. Goods and non-healthcare services go with lowest cost but for some services you could use a scoring matrix to ensure quality outcomes can be met. (Note: it is possible to award with less than 3 quotes but try to avoid, to ensure delivery of value for money) *Note: anything above £12k for the whole life of the contract should also be advertised on Contracts Finder*
Between £25k and relevant UK procurement threshold	Need at least 3 competitive quotes (and should be advertised on Contracts Finder) Note: relevant UK procurement thresholds as of 1 January 2022 are: **Standard Goods and Services** (effectively non-healthcare services) = £138,760 inclusive of VAT **Light Touch Regime** (Health and Social Care Services) = £663,540 (but must consider if VAT applicable)
Above relevant UK procurement threshold	Appropriate tender / procurement process and should be advertised on Contracts Finder and Find a Tender Service

7. Quotations

7.1 In accordance with the ICBs financial governance arrangements, quotations are required where the intended expenditure or income exceeds, or is reasonably expected to exceed £25,000, but not exceed the relevant UK procurement threshold. *Note if expenditure or income exceeds the relevant UK procurement threshold, the formal tender process should be followed.*

7.2 Competitive Quotations should be obtained from at least 3 suppliers/providers based on agreed specifications or terms of reference. The process for obtaining, evaluating and approving quotations is set out within the financial procedure note FPN 016 *'Procurement of Services and Tender / Quotation Waivers' (note: anything over £12,000 total contract value should be advertised on Contracts Finder to avoid breach in Regulations)*

7.3 No quotation shall be accepted which will commit expenditure more than that which has been allocated by the ICB and which is not in accordance with the delegated financial limits.

7.4 In certain circumstances, the requirement to obtain competitive quotations may be waived. This follows the same process as a request to waive formal tendering procedures, applying the same criteria as outlined in section 6.5 above.

8. Contract Variations

8.1 The PCRs permit contract variations under Regulation 72 – modification of contracts during their term; providing the appropriate criteria to Regulation 72 (b) or (c) can be met:

8.2 Regulation 72 (b) – for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor:

(i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, or
(ii) would cause significant inconvenience or substantial duplication of costs for the ICB provided that any increase in price does not exceed 50% of the original contract.

8.3 Regulation 72 (c) – where all of the following conditions are fulfilled:

(i) the need for the modification has been brought about by circumstances which a diligent contracting authority could not have foreseen
(ii) the modification does not alter the overall nature of the contract; and any increase in price does not exceed 50% of the value of the original contracts or framework agreement.

8.4 Compliance aligned to Regulation 72 should be logged within the ICB Contract Register (as part of the contract variation log) and guidance sought from the procurement team if required.

8.5 If a contract modification does not meet the criteria above (for example if extension value is over 50% of the original whole contract value), then a waiver form would be required, clearly stating which part of Regulation 72 is in breach with appropriate rationale for why a waiver has been requested. Refer to the ICB waiver policy for further guidance.

9. National Policy Context

9.1 The ICB aims to address issues of health inequality, variations in access and to improve the health outcomes of the population of the ICB. To support this, investment will need to be delivered via robust procurement and investment planning. For healthcare procurement, the ICB will need to determine which changes will occur to service delivery of existing services and where there will be benefit to patients in terms of access, choice and patient experience by identifying new providers into the market.

9.2 The latter might be through competitive tendering, the 'Any Qualified Provider' (AQP) model or in exceptional circumstances through Single Tender Waiver (i.e. use of Negotiated Procedure without Prior Publication (Regulation (32)). To achieve this, it is essential that there are well developed, transparent processes that are accessible and effective.

9.3 Where the ICB chooses to use commissioning support it will remain accountable whether or not it appoints others to carry out activities on its behalf. The ICB will not delegate responsibility for decisions in relation to procurement. As a public body, the ICB will adhere to legislation that governs the award of contracts by public bodies.

10. Procurement Planning

10.1 A procurement plan will be maintained that will list current and future procurements and be agreed prior to the start of the new financial year. The plan will be reviewed on a regular basis considering ICB commissioning intentions and national and local priorities.

10.2 As detailed within the NHS Long Term Plan, January 2019[7] (LTP), the ICB will seek to work collaboratively with other organisations such as other ICBs and Local Authorities, and through Integrated Care Systems where possible and appropriate in support of improved efficiencies and outcomes of care.

11. Approach to Market for Healthcare Procurement

11.1 The decision-making process and range of factors that will be considered may be broadly similar in different scenarios and the process will be transparent, proportionate, and non-discriminatory.

Key considerations that will inform a commissioner's decision for healthcare procurement may include:

- Commissioning Priorities
- Quality Innovation Productivity and Prevention (QIPP)
- Service Reviews
- Healthcare Market Analysis and
- Public, Patient and Staff Engagement

12. Procurement Legislation and Process for Healthcare and Non-Healthcare Services

12.1 Applicable healthcare procurement legislation

12.1.1 Some key provisions of the PPCC Regulations are set out below; the list is not exhaustive, and staff should have a full and detailed knowledge of the PPCC Regulations prior to undertaking procurement. The PPCC Regulations provide that when the ICB procures healthcare services they must act with a view to:

[7] https://www.longtermplan.nhs.uk/wp-content/uploads/2019/08/nhs-long-term-plan-version-1.2.pdf

a) Securing the needs of the people who use the services
b) Improving the quality of the services
c) Improving efficiency in the provision of the services, including through the services being provided in an integrated way (including with other healthcare services; health-related services, or social care services)
d) the ICB may award a new contract for the provision of healthcare services for the purposes of the NHS to a single provider without advertising an intention to seek offers from providers in relation to that contract where the relevant body is satisfied that the services to which the contract relates are capable of being provided only by that provider.

12.1.2 Healthcare services are listed under Schedule 3 of the PCRs and as such are generally subject to the "Light Touch Regime", however there are some services e.g. patient transport, which may fall within the scope of the full PCRs (non-healthcare procurement). Key ICB obligations (this is not an exhaustive list) under LTR are:

- Advertising contract notice in Contracts Finder (total contract value including any options to extend for values over £12,000)
- Advertising contract notice in FTS (required if above the appropriate financial UK procurement threshold for total contract value including any options to extend, which is currently £663,540
- Publishing a contract 'award' notice in FTS (if applicable) and Contracts Finder following a procurement process and within 30 days of contract award or when applying Regulation 32 or Regulation 72

12.2 **Applicable non-healthcare procurement legislation**

12.2.1 When undertaking procurement of non-healthcare goods and services, consideration of frameworks or dynamic purchasing systems (DPS) may be considered if appropriate. The full PCRs must be applied (i.e. full application of regulations including relevant timescales). Key ICB obligations (this is not an exhaustive list) adhering to full regulations below unless utilising a call off process from a framework where publication of notices is not required. (Note: a contract award notice is required when calling off from a DPS):

- Advertising contract notice in Contracts Finder (total contract value including any options to extend for values over £12,000)
- Advertising contract notice in FTS (required if above the appropriate financial UK procurement threshold for total contract value including any options to extend, which is currently £138,760 (inclusive of VAT)
- Publishing a contract 'award' notice in FTS (if applicable) and Contracts Finder following a procurement process and within 30 days of contract award or when applying Regulation 32 or Regulation 72. (Note: a call off from a DPS should be within 30 days or the ICB can group contract award notices from DPS on a quarterly basis.)

12.3 In evaluating procurement options for healthcare services or non-healthcare goods and services, a decision will need to be made on which procurement route to adopt; key options are outlined below:

Procurement Procedures

- Negotiated Procedure without prior publication. (Direct Award or more often known as Single Tender Waiver, see note below)
- Open Procedure (Appendix C)
- Restricted Procedure (Appendix D)
- Competitive Dialogue (Appendix E)
- Competitive Procedure with Negotiation (Appendix F)
- Innovation Partnership (Appendix G)

Procurement Processes

- Framework (Appendix H)
- Dynamic Purchasing Systems (Appendix I)
- Electronic Auctions (Appendix J)
- Any Qualified Provider (Appendix K)

Note:
Negotiated Procedure without prior publication is the direct award of a contract (sometimes referred to as Single Tender Waiver). This process allows the ICB to depart from usual obligations on open competition and transparency and negotiate a contract directly with one or more providers. The process must only be adopted when considered strictly necessary under specific circumstances in line with Regulation 32. The rationale must demonstrate with supporting evidence that there is only one provider capable of delivering the services and that they can deliver value for money (this may be from a failed procurement or identifying only one provider due to technical reasons), or where evidence can be provided for extreme urgency and unforeseen circumstances. Single Tender Waivers carry an inherent risk of legal challenge and the relevant approver(s) and Audit Committee must be assured of the rationale for the decision as described in 6.4, ii) Proportionality.

Provision of robust evidence to support the decision to undertake a single tender waiver is critical for audit purposes and to overcome challenges, e.g. evidence that there are no other providers to provide the required works or service. Undertaking market engagement and analysis can provide suitable evidence of lack of competition.

Procurement Procedures

12.3.1 Open competition – all applicants who respond to a Contract Notice will be invited to submit a tender for the contract opportunity. This method is best suited to non-complex procurement activity where the size of the market is relatively small.

12.3.2 Restricted competition – this procedure should be used where the ICB is looking to restrict competition to those providers who can demonstrate they can meet minimum selection criteria. A defined number of short-listed providers are then invited to tender for the opportunity. This approach is best suited to non-complex procurement activity with larger markets.

12.3.3 Competitive dialogue – this procedure allows the ICB to enter into dialogue with a small number of short-listed providers following a pre-qualification process prior to submitting a final tender. This approach is designed for high value, complex procurements where the ICB cannot clearly define in advance the technical specifications capable of meeting their objectives.

12.3.4 Competitive procedure with negotiation – this procedure is similar to the competitive dialogue procedure; however, initial tenders are submitted which are the basis for subsequent negotiation(s) prior to a final tender being submitted. This approach is designed for high value, complex procurements where the ICB cannot clearly define the objectives that they wish to realise.

12.3.5 Innovation Partnership - this procedure is appropriate for the requirement for an innovative product, service or works that cannot be met by purchasing products, services or works already available on the market. The tender documents would define the minimum requirements to be met and the submissions would be assessed against the required criteria. The ICB would then invite those that have met the requirements to participate in the procedure. The negotiation process may take place in successive stages to reduce the number of bidders invited to submit tender response documents.

Procurement Process

12.3.6 Framework agreements are pre-tendered arrangements which are established in compliance with procurement legislation. Once established the framework can be used by the ICB to purchase services either via a direct call off or a mini competition without the need to carry out a full competition, which can save both time and money for the ICB. The ICB must comply with the terms and conditions of the framework. A framework is established for a defined period of years e.g. 4 years; however, a contract can be awarded in the last month of the framework for the number of years the ICB requires, beyond the termination of the framework.

12.3.7 Dynamic purchasing system (DPS) – this procedure reflects that of a restricted route and is a two-stage process that tests the capacity, capability, and technical competence of bidders in accordance with the PCRs. This procedure may also be known as a pseudo dynamic purchasing system (PDPS) when set up under the Light Touch regime for health care contracts within the PCRs. Once set up a DPS or PDPS allows the ICB to call off from those who are registered which enables efficiency in respect of timescales required to advertise services. A DPS allows bidders to apply at any time which can attract new entrants to the market and can encourage competition through bidding for opportunities. This approach is used for commonly used services readily available in the market.

12.3.8 Electronic auctions – this procedure is a procurement tool that uses web-based software to allow potential suppliers to compete online, in real time, to provide prices for the goods/services under auction. This can be used for healthcare services and the initial stage of the tender may be carried out using healthcare flexibilities under LTR. Those bids that qualify are then invited to participate in the eAuction. eAuctions can be based on price alone or other criteria such as quality, delivery or service levels can also be considered. This approach is mainly used when the services can be specified precisely such as non-healthcare goods and services.

12.3.9 Any Qualified Provider – specifically for healthcare services, a process by which any provider assessed as meeting rigorous quality requirements who can deliver services at a pre-set tariff, under the NHS Standard Contract is able to deliver the service. Providers have no volume guarantees and patients will decide which provider they are referred to on the basis of quality. Consideration

should be given to the characteristics of the service and the local healthcare system to determine whether patient choice under AQP is appropriate for a given service. This consideration will include whether the service lends itself to patient choice, an assessment of the current market, the degree of choice and competition in the market and potential barriers to entry.

13. Procurement Stages

13.1 Advertising

13.1.1 Adverts will be clear and will succinctly promote the procurement opportunity, encouraging suitably qualified providers to respond. The advert will be published in an appropriate means including Contracts Finder (where the total contract value including any options to extend above £12,000) and FTS when applicable in compliance with the PCRs and UK procurement thresholds.

13.1.2 The scope of any procurement opportunity must be carefully considered prior to advertisement as any subsequent changes may result in a requirement to halt the process and re-advertise.

13.1.3 Advertisements are key to alerting the market, in increasing market stimulation and ensuring adequate competition. Adverts must provide sufficient detail of the services, including what they are, how they are to be delivered, how they are to be priced and expected outcomes. The advert should also detail how the contract will be awarded, i.e. high level evaluation criteria.

13.1.4 Publishing Prior Information Notices (PIN) alerts the market and raises awareness of the future procurement intentions of the ICB. Where a PIN has been published the ICB may shorten the timescales when using the open, restricted, or competitive procedure with negotiation. PINs can also be used as a call for competition when using the restricted and competitive procedure with negotiation which removes the requirement to publish a contract notice. If the PIN is to be used as a call for competition the process must comply with the conditions detailed within the PCRs.

13.2 Market Engagement / Bidder Events

13.2.1 Prior to the start of a procurement process, market engagement may be held to stimulate interest and gain feedback from the market in relation to service specification, commercial and contractual models. Market engagement can be designed in a number of formats e.g. an event, workshops, table discussions or one to one sessions, feedback from which can help to scope the service specification and the contractual model. Market engagement can also provide the ICB with information in relation to the size, shape, and capability of the market. The ICB may also publish a Request for Information (RFI) to obtain written feedback from the market to assist with the development of the service model.

13.2.2 Bidder Events may be held prior to or following the commencement of the formal procurement process to inform the market and allow bidders to obtain a more in depth understanding of the procurement requirements and provide a further opportunity to stimulate market interest. Note: when hosting a bidder event, it is essential to ensure that all interested parties are provided with the same level of

information during the procurement process, so all information provided, points of discussion, etc. from any bidder event must be made available to all.

13.2.3 Due to the cost implications of holding face to face market engagement and bidder events, the overarching principle of proportionality will remain and other methods such as virtual events where appropriate can be considered. The impact of any public health incidents for example pandemics, will also influence the requirement for virtual events.

13.3 Memorandum of Information (MOI)

13.3.1 Larger scale procurements may require the publication of a Memorandum of Information (MOI) which is sometimes referred to as a prospectus. This would be issued at the same time as the PIN advertisement and is the communication with the market at the first stage of the formal procurement process.

13.3.2 The MOI is a document providing an overview of the services that will be competitively tendered. It contains the background information and context of the procurement. It will not contain any commercially sensitive information and will be available to any organisations who register their interest in the procurement through an electronic procurement portal. The information allows potential providers to make an initial assessment of the opportunity so that they can determine whether they wish to proceed to the next stage.

13.4 Selection Questionnaires

13.4.1 The Single Procurement Document (SPD) is a self-declaration of businesses' financial status, abilities, and suitability for a public procurement procedure. Guidance was created under the European Union (EU) 2014 Directive on Procurement and implemented by Regulation 59 of the UK's Public Contracts Regulation 2015 which first introduced the European SPD. Since the transition of the UK leaving the EU on 1 January 2021 this is now referred to as the SPD in the UK. The SPD may be submitted by bidders interested in tendering, as an element of the Selection Questionnaire (SQ), for contracts for the supply of goods, works or services to public bodies located anywhere within the UK. Where bidders have self-declared in the SPD, they must be able to provide all evidence in support of their self-declaration on request and prior to award of a contract.

13.4.2 The Selection Questionnaire (SQ) allows the ICB to assess the capacity and capability, legal status, and economic and financial viability of organisations to deliver the service requirements. Note: The SQ is an assessment of the bidding organisation and not the service delivery and financial model which are tested at a later stage within the procurement process.

13.4.3 The SQ document is published on a secure website and is available to all potential bidders on an electronic procurement portal as part of the procurement process.

13.4.4 When the procurement procedure involves a shortlisting process (Restricted Procedure) the SQ is used to enable the Contracting Authority to evaluate

providers in their suitability to be short listed for the Invitation to Tender /Invitation to Participate stage.

13.4.5 Bidders are short-listed against a set of published evaluation and scoring criteria. Short-listed organisations are taken forward to the next stage of the procurement process.

13.5 Invitation to Tender

13.5.1 The Invitation to Tender (ITT) documents are issued to short-listed organisations or in the case of the Open Procedure they are combined with assessment of capacity, capability, legal status, and economic and financial viability in a single stage process. The ITT documents consist of guidance and instructions to the bidders on the process, detailed evaluation criteria, questions and corresponding response criteria based on the financial model, approved Service Specification, and associated contractual requirements.

13.5.2 Bidders are required to submit their responses to address requirements within the ITT documents within a specified deadline. The responses are evaluated against pre-determined, and pre-documented evaluation and scoring criteria.

13.5.3 To avoid the risk of challenge it is essential that the process is clear and that the stated process is adhered to, thereby ensuring that all providers have a fair and equal opportunity to respond.

13.6 Tender Evaluation

13.6.1 Tender evaluation is the non-discriminatory, transparent, and objective process used to evaluate bid responses. It is essential that details of evaluation and scoring processes are stated at the time of advertisement of the contract opportunity and that scoring undertaken by the evaluation panel is entirely consistent with those criteria and processes.

13.6.2 The tender evaluation panel is a legal requirement of any tender process, and its function is to ensure the safety, quality, performance, financial viability, and merit of potential providers to serve patients on behalf of the ICB.

13.6.3 Multi-disciplinary teams will be established for all procurements to ensure fair and transparent scoring of each submission. The Evaluation panel will consist of representatives appropriate to the service requirements and the scope of the procurement. A panel is typically made up of the following representatives:

- Procurement Representative (Neutral Co-ordinator / Moderator)
- Commissioning Lead
- Clinical
- Finance
- Clinical Governance/Patient Safety
- Contract Management Representative
- Information Management &Technology
- Estates
- Human Resources

13.6.4 Other representatives may be evaluators i.e. Subject Matter Evaluators. Roles and responsibilities of panel members must be clearly defined in the Terms of Reference (TOR). Conflicts of interest will be considered when selecting panel members and all conflicts resolved to the satisfaction of the ICB prior to commencing evaluation of bid responses.

13.7 Contract Award and Standstill

13.7.1 Following evaluation of responses, a successful provider will be identified based on their total combined score in the process. Contracts are to be awarded by selecting the provider offering the "Most Economically Advantageous Tender (MEAT)" which considers overall value for money and quality. The criteria which determine the MEAT are those which are set out in the ITT.

13.7.2 The ICB will always make the final decision to award a contract to the successful bidder by approval of the recommended bidder in a recommended bidder report (which is anonymised) and the decision must be based on the outcome of the evaluation.

13.7.3 All bidders involved in the procurement process must be notified of the outcome. Letters will be issued to the successful and unsuccessful bidders via the eTendering system. It is essential that the content of the letters is fully compliant with the requirements of the PCRs.

13.7.4 In accordance with best practice the ICB will apply a standstill period of 10 days (if the contract value of the service is above the threshold applicable at the time of contract award the standstill period is mandatory) between notification of the bidders of the outcome of the procurement process and contract award to allow unsuccessful bidders to obtain further information and an opportunity to challenge the decision before their rights to obtain relief, other than damages, are closed off. The ICB may choose to further extend this period allowing additional time to resolve any issues that may arise, to reduce the risk of costly legal proceedings.

13.7.5 Once the 'standstill' period has ended, the contract is then formally awarded to the successful provider.

13.7.6 It is mandatory for ICBs to publish a record of each contract awarded for healthcare services on Contracts Finder and maintain and publish a register of procurement decisions as set out in the Standards of Business Conduct and Declarations of Interest policy. Contract Award Notices will also be published in FTS (if applicable).

14. Managing Issues / Disputes and Challenges

14.1 Organisations bidding to provide services 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.

14.2 Where a provider 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.

14.3 On receipt of correspondence from a provider 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. Claims will be investigated initially by the procurement officer managing the process on behalf of the ICB. 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 provider.

14.4 If the actions taken fail to resolve the issue raised by the bidder, they may decide to progress to a formal legal challenge, either via NHS England where there is a perceived breach of the PPCC Regulations or through the courts if the perceived breach relates to the PCRs. The ICB will seek legal advice should the challenge progress to this stage.

14.5 In compliance with the PCRs (Regulation 92) a bidder can raise a challenge out with the 10-day standstill period and such proceedings must be started within 30 days of the date when the bidder 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.

15. Approval of Procurement Strategy

15.1 The process will ensure from commencing the procurement that the ICB and their commissioning partners (e.g. local authority) will;

- commission services which are safe and equitable for the population of the ICB;
- commission services that meet the strategic objectives of the ICB;
- ensure MOUs are in place when jointly commissioning (i.e. across ICS providers such as local authorities);
- reduce the risk of legal challenge to the ICB by following best practice in procuring services;
- ensure robust and viable contracts are in place;
- stimulate the market to meet demand and secure required clinical, and health and well-being outcomes as appropriate.

15.2 The process will ensure that the ICB and its commissioning partners comply with PPCC Regulations when procuring healthcare services:

- commissioning services that secure the needs of the people who use the services;
- acting with a view to improving the quality of the services;
- acting with a view to improving the efficiency in the provision of services.

15.3 Before any procurement commences, it is essential that the ICB approves a Procurement Evaluation Strategy, to be reviewed and approved in accordance with

delegated financial limits. The Procurement Evaluation Strategy acts as the initial gateway to the procurement and includes information such as:

- Commissioning Priorities
- Links to priorities detailed within the LTP
- Financial Envelope and Approved Authorisation
- Funding Information
- Current State
- TUPE implications
- Anticipated benefits in line with QIPP
- Healthcare Market analysis
- Procurement Process
- Scoring Criteria and Weightings Against Agreed Questionnaire
- Service Model
- Risks and Benefits

16. Market Development

16.1 Effective engagement with providers is crucial for effective procurement of healthcare services and non-healthcare goods and services.

16.2 As such, one of the ICB roles is to identify current weaknesses in provision against the strategic aims and to assess where weaknesses in existing markets may be a contributing factor. Market analysis and engagement will be undertaken to assess the existing position and determine strategies for improvement where proportionate to the service requirement.

16.3 The ICB will seek to stimulate the market through appropriate publicity and marketing for identified services.

17. Capacity and Capability

17.1 The ICB needs to ensure that the right procurement capability and capacity is widely available, and gaps are actively identified and managed to ensure;

- Commissioning staff have appropriate skills in procurement commensurate with their role;
- The ICB has capacity and capability to undertake the procurement;
- The ICB has a systematic process to demonstrate best value, governance, and probity.

18. Procurement Governance

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

- Agree an annual procurement plan with the ICB for each financial year with draft planning to start in October and ICB approval by January prior to the new financial year to enable future planning;

- Be informed by the commissioning leads on the commencement of developing a service specification/commencing patient, public engagement or consultation;
- Work with the appropriate individuals 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.

19. Risks, Pricing and Incentives

19.1 The consequences of not following best practice procurement processes and principles are that aggrieved providers may;

- Initiate a dispute resolution procedure or challenge via NHS England;
- Bring actions in the UK courts for damages and/or for the award decision to be set aside;
- Bring reputational damage to ICB and wasted cost claims;
- Seek judicial review;

19.2 All decisions in relation to procurement will be determined by what it is trying to achieve for its patients and populations, including decisions on how prices, funding models and contract durations will reflect risk transfer and create incentives.

19.3 A commissioner will wish to review pricing mechanisms to complement the service specification and ensure they will drive the behaviours it is seeking to achieve, for example:

- Increased activity
- Improved outcomes
- Addressing Health Inequalities
- Service Delivery

19.4 In turn, adjusting the funding model and prices to reflect an appropriate balance of risk will impact upon the extent to which revenues are determined by

- Performance Risk

As providers will generally be in control of performance, an appropriate transfer of risk would link prices and payments to performance

- Demand Risk

When undertaking procurements, the ICB will consider how to manage risks of demand being higher, or lower, than anticipated. Contracts will be constructed so that the risk of greater demand lies with the provider where appropriate. However, providers are likely to require greater compensation if they are taking more risks, so contracts that transfer risk are likely to be more expensive.

20. Gainsharing

20.1 Gainsharing is a tool that allows the ICB to drive behaviours in providers which leads to cost savings. It allows both provider and commissioner to identify and share savings and can be useful in developing longer-term strategic partnerships.

20.2 Contractual terms can encourage the reinvestment of the savings into patient care/ other efficiencies.

20.3 It is paramount that clinicians are involved in this process as they are best placed to understand how the process may be streamlined to reduce cost, strengthen efficiency and improve quality.

20.4 It is anticipated that Gainsharing will have the greatest impact on high-cost, high volume specialties for providers with a sufficient level of activity.

20.5 The benefits of Gainsharing are threefold:

Provider benefits:

- Keeping some of the savings
- Incentive to innovate
- Reduction in destabilisation risk

ICB Benefits

- Facilitates new patterns of provision where appropriate
- Getting better prices
- Reduced risk of the destabilisation of existing providers
- Bringing providers on the strategic journey

Patient Benefits

- Receiving treatments in more appropriate settings
- Financial benefits are reinvested to improve services.

20.6 The ICB will ensure one provider is not favoured above another and will be open, transparent and non-discriminatory regarding which providers it works with.

20.7 The ICB will also consider opening up these opportunities to new providers in order to ensure the best possible chance for innovative solutions.

21. Duties and Responsibilities

ICB Executive Committee and Sub-Committees	The ICB Executive Committee and Sub-Committees has delegated responsibility to the ICB for setting the strategic context in which organisational process documents are developed, and for establishing a scheme of governance for the formal review and approval of such documents.
Accountable Officer (ICB Chief Executive)	The Accountable Officer has overall responsibility for the strategic direction and operational management, including ensuring that ICB process documents comply with all legal, statutory and good practice guidance requirements. The Accountable Officer will: • Update the policy as and when required to meet national and local policy. • Update the policy as and when required in order for the ICB to meet legislative requirements • Communicate the policy throughout the organisation to ensure compliance.
All Staff	All staff, including temporary and agency staff, are responsible for: • Compliance with relevant process documents. Failure to comply may result in disciplinary action being taken. • Co-operating with the development and implementation of policies and procedures and as part of their normal duties and responsibilities. • Identifying the need for a change in policy or procedure as a result of becoming aware of changes in practice, changes to statutory requirements, revised professional or clinical standards and local/national directives, and advising their line manager accordingly. • Identifying training needs in respect of policies and procedures and bringing them to the attention of their line manager. • Attending training / awareness sessions when provided.

22. Training needs and Implementation

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

22.2 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.

22.3 All ICB staff and others working with the 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.

22.4 A key requirement is that staff know enough about procurement to be able to give clear and consistent messages to providers and potential providers in relation to ICB procurement activity and intentions.

22.5 Awareness of procurement issues will be supported through organisational development and training sessions for ICB staff.

23. Documentation and Record Keeping

23.1 The ICB will comply with its statutory obligations to keep and maintain appropriate records in relation to procurement.

23.2 A robust audit trail will be maintained throughout the procurement process which records all steps and decisions taken, and the rationale for those steps/decisions in full compliance with Regulation 84 of the PCRs.

24. Other related policy documents

- ICB Standards of Business Conduct and Declarations of Interest Policy
- ICB Counter Fraud, Bribery and Corruption Policy
- ICB Safeguarding Children Policy
- ICB Safeguarding Vulnerable Adults Policy

25. Legislation and statutory requirements

- Public Contracts Regulations 2015 (as amended)
- Public Contracts (Amendment) Regulations 2022
- The National Health Service (Procurement, Patient Choice and Competition) (No.2) Regulations 2013
- Public Services (Social Value) Act 2012
- Equality Act 2010
- The Public Record, Disclosure of Information and Co-operation (Financial Services) (Amendment) (EU Exit) Regulations 2019
- Bribery Act 2010
- “Managing Conflicts of Interests: Statutory Guidance" (NHS England, 2017)
- ICB Constitution
- ICB Standing Financial Instructions
- ICB Financial Delegation

26. Monitoring, Review and Archiving

26.1 Monitoring

ICB Executive Committee will have a method for monitoring the dissemination and implementation of this policy. Monitoring information will be recorded in the policy database.

26.2 Review

26.2.1 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.**

26.2.2 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.

26.2.3 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.

26.3 Archiving

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.[8]

[8] https://www.gov.uk/government/publications/records-management-nhs-code-of-practice

Appendix A Commissioning Cycle

Courtesy of the Information Centre for Health and Social Care[9]

[9] https://www.england.nhs.uk/participation/resources/commissioning-engagement-cycle/

Appendix B Declaration of Interest Form

Conflict of Interest

[Insert service title] Service

Tender Reference: XXX

For and on behalf of: NHS [Insert Contracting Authority]

This form is required to be completed in accordance with the ICB Constitution, and s140 of the NHS Act 2006 (as amended by the Health and Social Care Act 2012) and the NHS (Procurement, Patient Choice and Competition) (No.2) Regulations 2013 and related guidance.

All Bidders including sub-contractors, members of a consortium, advisors or other associated parties (Relevant Organisation(s)) are required to identify conflicts or any potential conflicts of interest that could arise if the Relevant Organisation(s) were to take part in any Procurement process and/or provide Services under, or otherwise enter into any Contract.
In the event of any identified Conflict of Interest or as soon as a Conflict of Interest becomes known the Relevant Organisation(s) must complete the information required on this form and return as an attachment via the messaging system on the eTendering portal.

If no Conflict of Interest exists please state none and upload the signed, scanned form to the eTendering portal with your Bid submission.

Notes:
Any changes to interests declared during the Procurement process must be notified to the Contracting Authority/ies by completing and signing a new Declaration form and submitting the completed form via the messaging system on the eTendering portal.
Relevant Organisation(s) and/or any person employed or engaged by or otherwise connected with a Relevant Organisation (Relevant Person) completing this Declaration form must provide sufficient detail of each interest so that the Contracting Authority/ies and a member of the public would be able to understand clearly the financial or other interest the person concerned has and the circumstances in which a conflict of interest with the business or running of the Contracting Authority/ies (including the award of a Contract) might arise.
If in doubt as to whether a Conflict of Interest could arise, a Declaration of the interest should be made.
Interests that must be declared (whether such interests are those of the Relevant Person themselves or of a family member, close friend or other acquaintance of the Relevant Person), include the following:

- the Relevant Organisation(s) or Relevant Person has provided or is providing services or other work for the Contracting Authority/ies;
- a Relevant Organisation or Relevant Person is providing services or other work for any other Bidder in respect of this Procurement process; and
- the Relevant Organisation(s) or any Relevant Person has any other connection with the Contracting Authority/ies, whether personal or professional, which the public could perceive may impair or otherwise influence the Contracting Authority/ies or any of its members' or employees' judgements, decisions or actions

Declarations:

Name of Relevant Organisation	
Type of Interest	**Details**
Provision of services or other work for the Contracting Authority/ies	
Provision of services or other work for any other Bidder in respect of this project or Procurement process	
Any other connection with the Contracting Authority, whether personal or professional, which the public could perceive may impair or otherwise influence the Contracting Authority/ies or any of its members' or employees' judgements, decisions or actions	
Mitigation in place to manage any identified conflicts	
Name:	
Title:	
Signature:	
Date:	

[complete for all Relevant Persons]		
Name of Relevant Person:		
Type of Interest:	**Details:**	**Personal interest or that of a family member, close friend or other acquaintance?**
Provision of services or other work for the Contracting Authority/ies		
Provision of services or other work for any other Bidder in respect of this project or Procurement process		
Any other connection with the Contracting Authority/ies, whether personal or professional, which the public could perceive may impair or otherwise influence the Contracting Authority/ies or any of its members' or employees' judgements, decisions or actions		
Name:		
Title:		
Signature:		
Date:		

The Declaration of Interest form must be signed by an authorised signatory: in the case of a Partnership it should include a signature for each partner for and on behalf of the Relevant Organisation; in the case of a limited company, by an officer duly authorised, the designation of the officer being stated, in the case of Collaboration, by the Lead Bidder and where there is a parent company the details and a signature from the Guarantor.

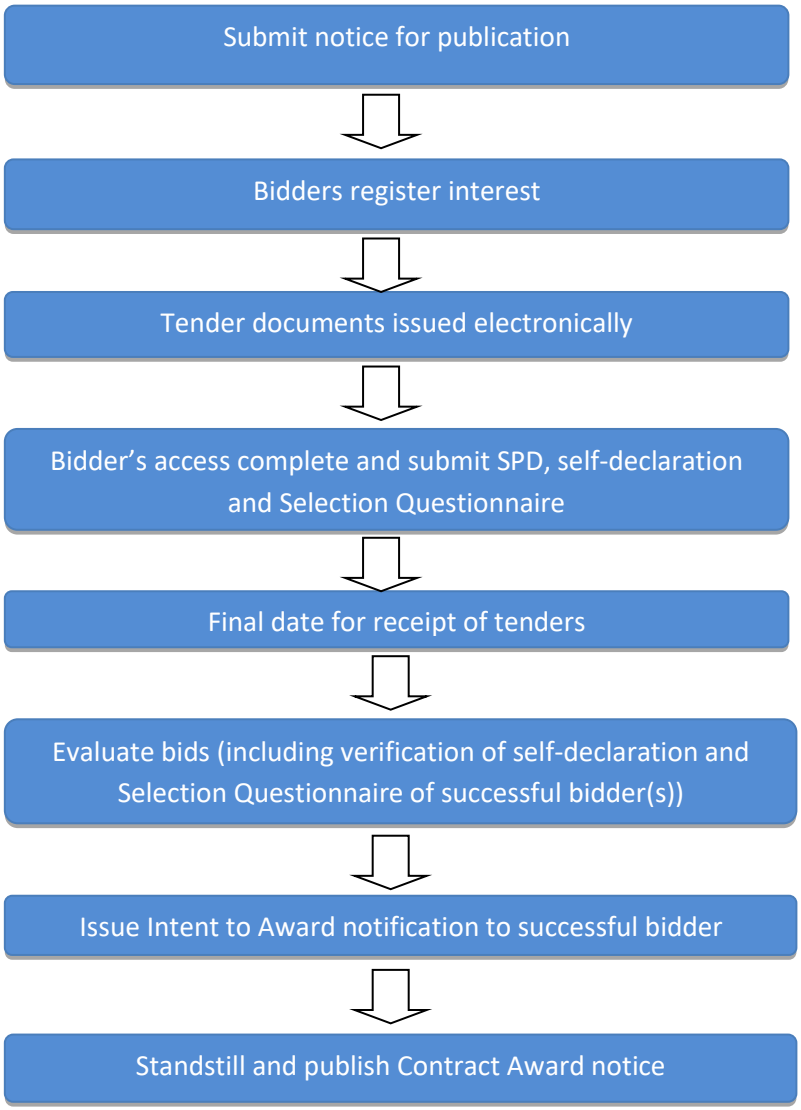
The Contracting Authority/ies will have the sole right to determine whether an irreconcilable conflict of interest exists or may exist. An irreconcilable conflict will result in the Bidder being unable to submit a Bid response for evaluation.

NB: This document must be signed and the hard copy uploaded with your submission.

Appendix C Open Procedure Flow

Open Procedure

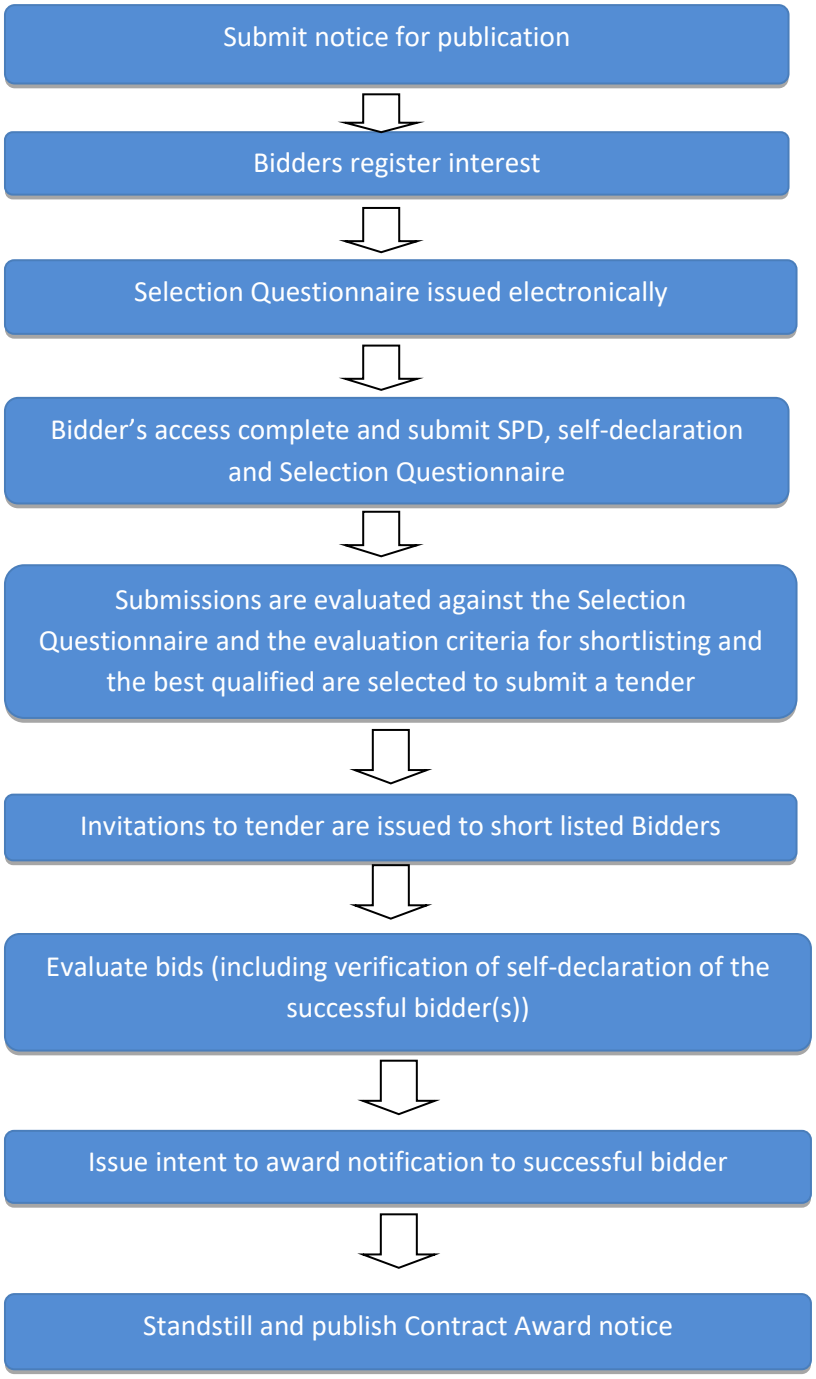
- All interested parties can submit a tender in response to the advertised service and all responses submitted will be entitled to assessment against published requirements.



Appendix D Restricted Procedure Flow

Restricted Procedure

- All interested parties can express an interest in the service but only those providers who meet the contracting authority's selection criteria will be selected.
- The authority will provide a Selection Questionnaire (SQ) outlining the minimum requirements for participation in the tender exercise and the evaluation criteria. Bidders will be scored on their responses.
- Bidders who are successful at SQ stage will then be issued an Invitation to Tender (ITT) by the contracting authority. Those who have self-certified in the SPD will be asked to validate the certification if they are the successful bidder.

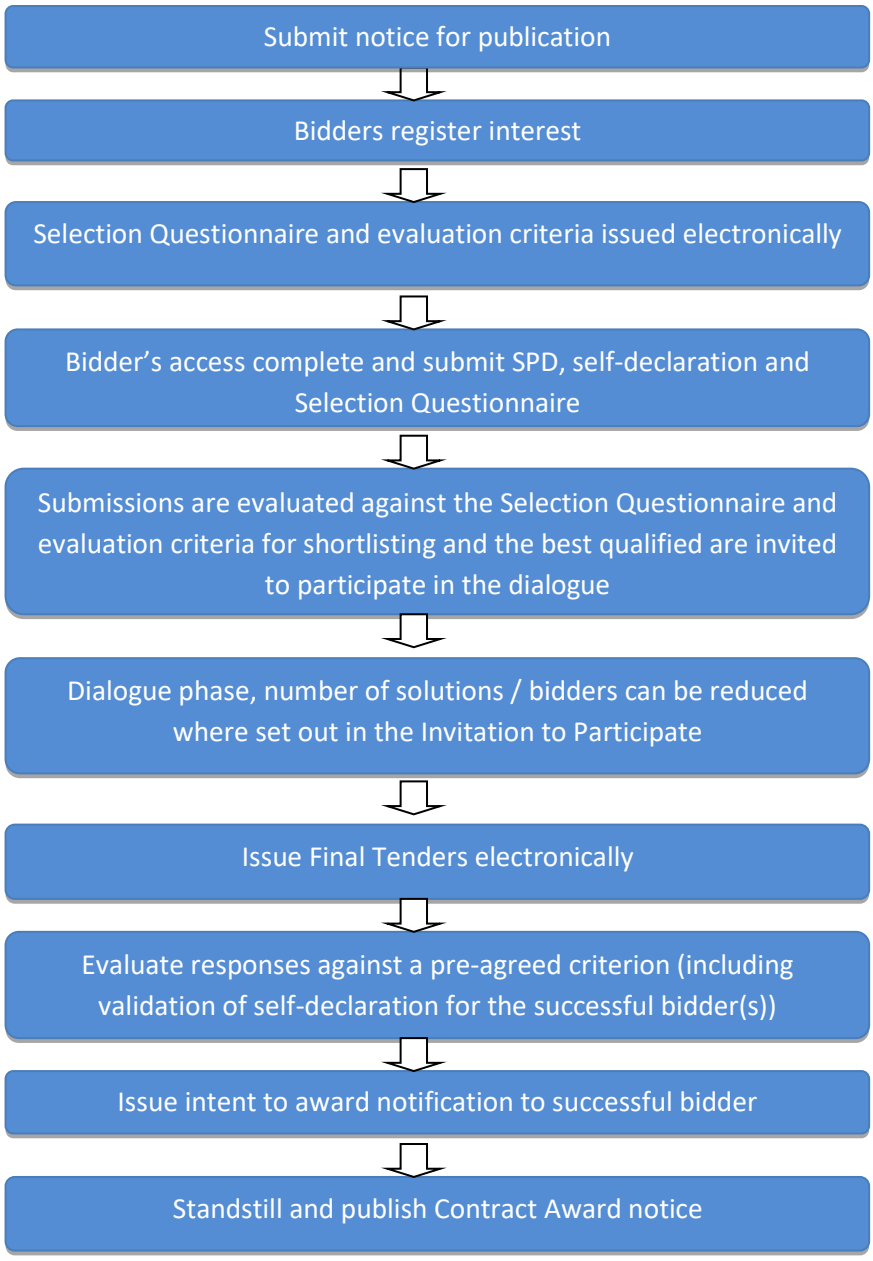


Appendix E Competitive Dialogue Procedure Flow

Competitive Dialogue

This procedure has the advantage of allowing the input of those participating in the tender process.

- All interested parties can express an interest in tendering for the contract but only those who meet the selection criteria at SQ stage will be invited to participate in dialogue. Those that have self-certified in the SPD will be asked to validate the self-certification should they be the successful bidder.
- During the dialogue, bidders can individually discuss aspects of the contract with the contracting authority. Solutions are worked up with each bidder based on the ideas and proposals put forward.
- There can be no 'cherry-picking' by the ICB of the best bits of various and individual solutions. Once the dialogue has generated potential solutions to the ICB s requirements, the remaining bidders are invited to submit a final tender based on their individual solutions.

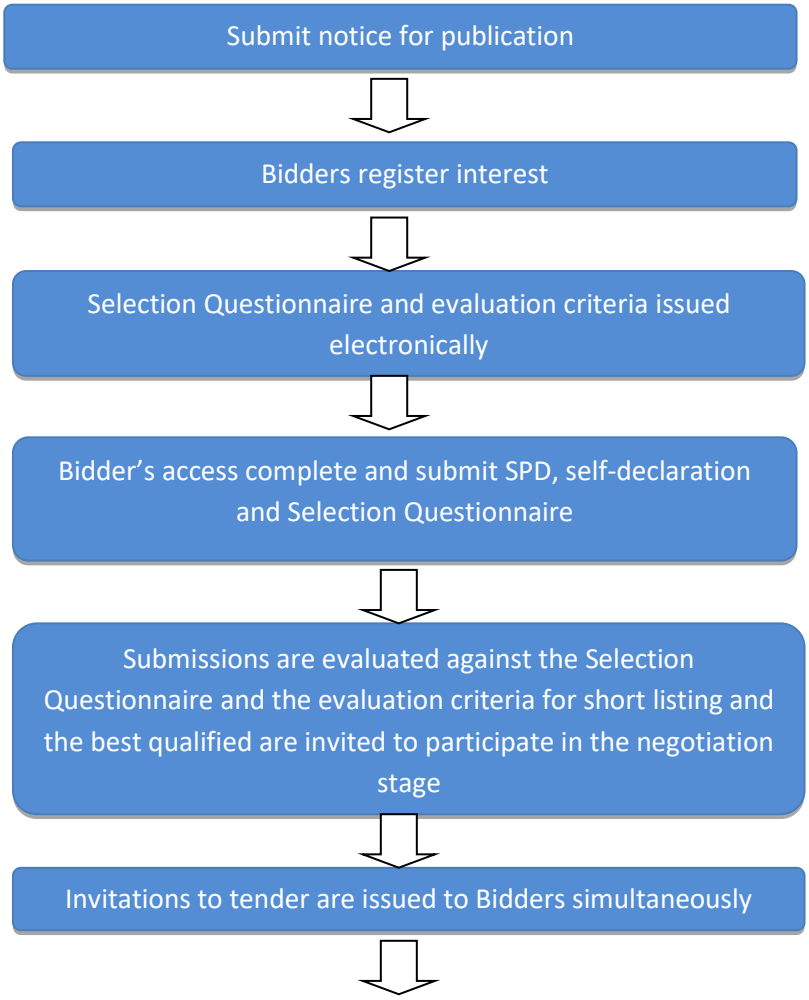


Appendix F Competitive Procedure with Negotiation Flow

Competitive Procedure with Negotiation Flow

This procedure is similar to the competitive dialogue procedure and is used for complex services when the contracting authority is not sure of the solutions that will meet the needs of the service.

- All interested parties can express an interest in tendering for the contract but only those who meet the selection criteria at SQ stage will be invited to participate in negotiation. Those that have self-certified in the SPD will be asked to validate the self-certification should they be the successful bidder.
- During the negotiation, bidders can individually discuss those aspects of the contract that have been identified for negotiation with the contracting authority. Solutions are worked up with each bidder based on the ideas and proposals put forward.
- There can be no 'cherry-picking' by the ICB of the best bits of various and individual solutions. Once the negotiation has generated potential solutions to the ICB's requirements, the remaining bidders are invited to submit a final tender based on their individual solutions.



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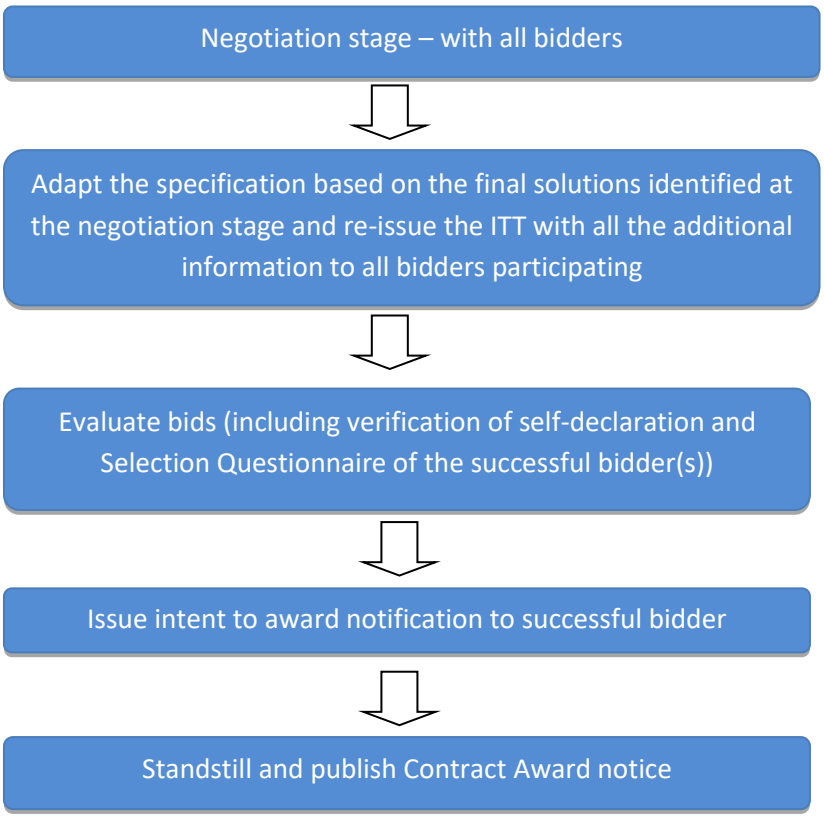
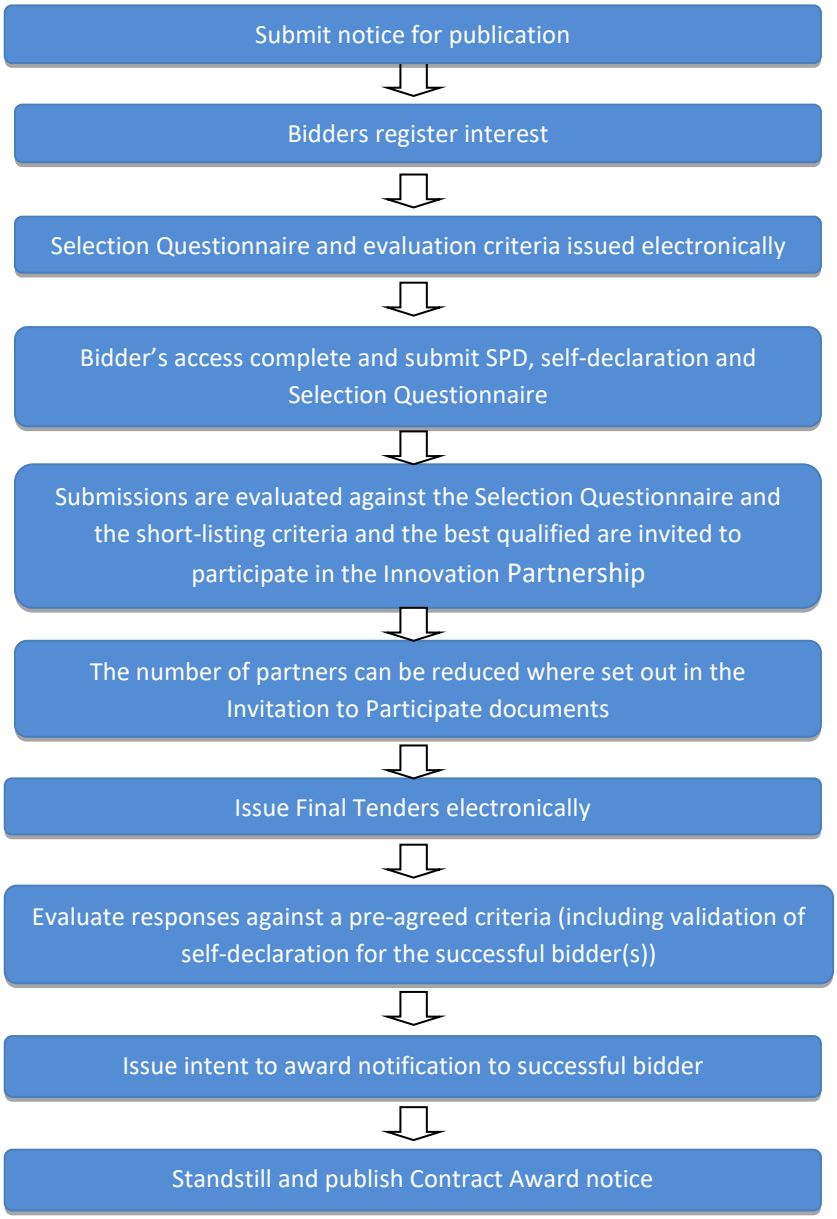


Appendix G Innovation Partnership Procedure Flow

Innovation Partnership

The Innovation Partnership procedure allows a Contracting Authority to procure an organisation to work with to research, develop and then provide a solution to service that does not already exist.

- All interested parties can express an interest in tendering for the contract but only those who meet the selection criteria at SQ stage will be invited to participate in further phases. Those that have self-certified in the SPD will be asked to validate the self-certification should they be the successful bidder.
- The Innovation Partnership must be structured in successive phases to reflect the research and development stages and to set intermediate targets.
- After each phase the partnership may be terminated, or the number of partners may be reduced based on the published award criteria.

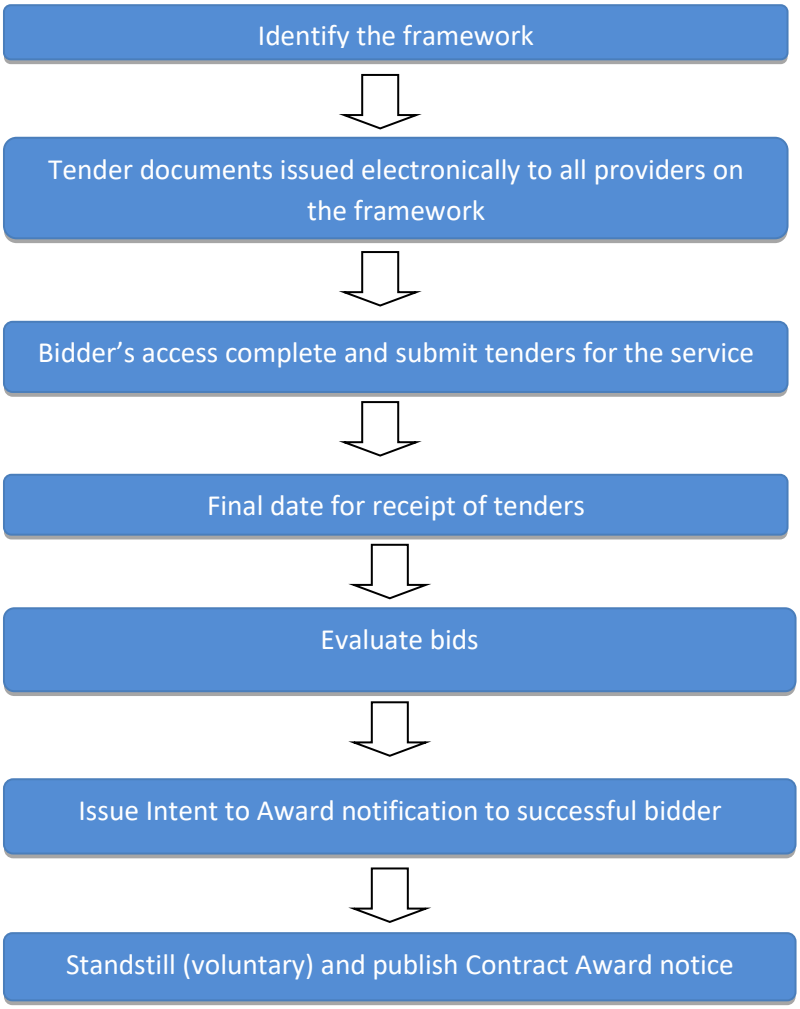


Appendix H Framework Flow

Framework

If an existing framework agreement is identified that will meet the needs and requirements of the Contracting Authority a “call off” from the framework can be made either directly or via a mini competition (in compliance with the terms and conditions of the framework) to identify a provider if the Contracting Authority has been detailed in the contract notice.

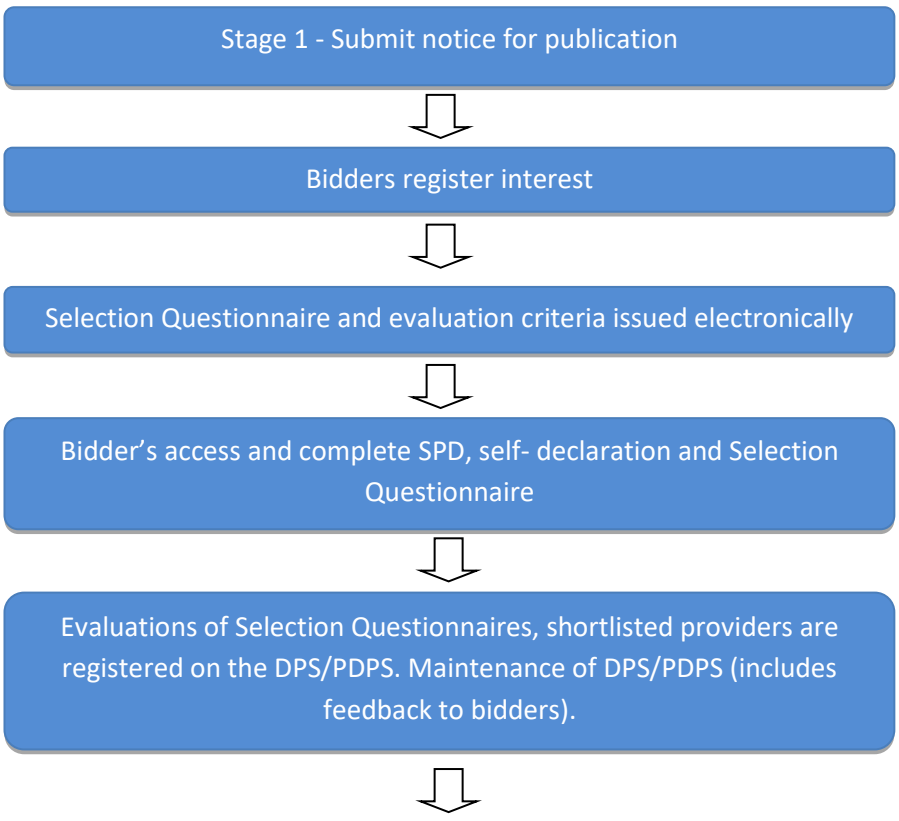
- There is no scope to apply selection criteria as this will have been applied when establishing the framework agreement.
- Mini competitions can be carried out from a framework agreement based on refining the initial criteria for selection to the framework and in compliance to the terms and conditions set out.



Appendix I Dynamic Purchasing System Procedure Flow

A DPS reflects that of a restricted route and is a two-stage process that tests the capacity, capability and technical competence of bidders in accordance with The Public Contract Regulations 2015. This procedure is sometimes also known in procurement of healthcare services as a Pseudo Dynamic Purchasing System (PDPS). A PDPS allows flexibility under the Light Touch Regime, applicable to Healthcare Services outlined in Schedule 3 of the PCRs, specifically in terms of a flexible approach to developing a suitable procurement process and flexing timescales. The DPS/PDPS procedure reflects that of a restricted route and is a two-stage process that tests the capacity, capability, and technical competence of bidders. Stage 1 is the evaluation of the eligibility of the bidders against the criteria and registration on the DPS/PDPS. Stage 2 is the utilisation of the DPS/PDPS to call off and award contracts.

- All interested parties can express an interest in the service but only those providers who meet the contracting authority's selection criteria will be selected.
- The contracting authority will provide a Selection Questionnaire (SQ) outlining the minimum requirements for participation in the DPS/PDPS.
- Bidders who are successful at SQ stage will then be registered on the DPS/PDPS and the contracting authority will call of from those registered.



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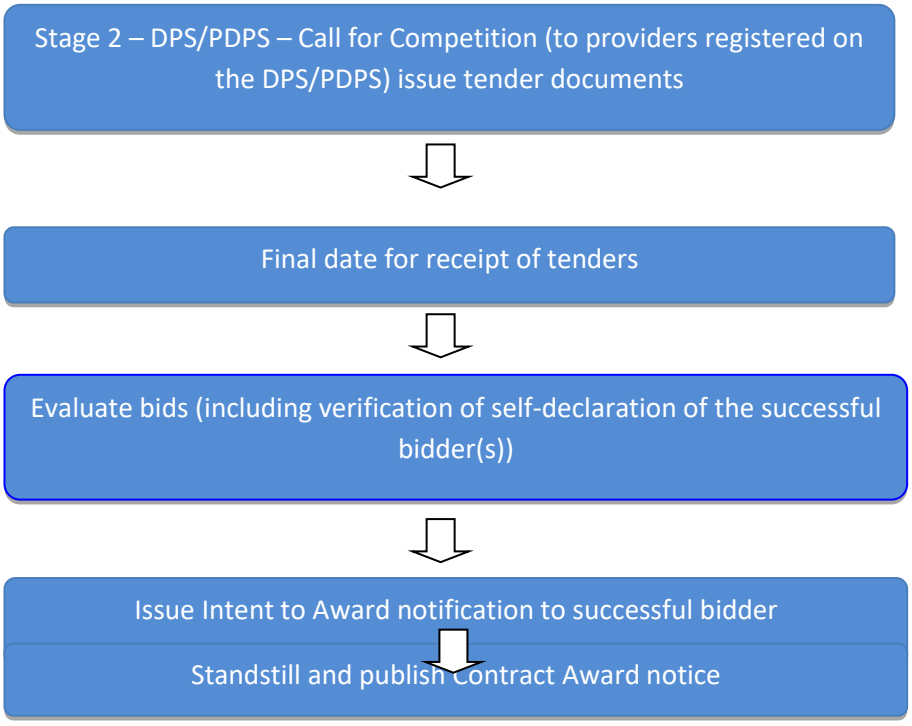
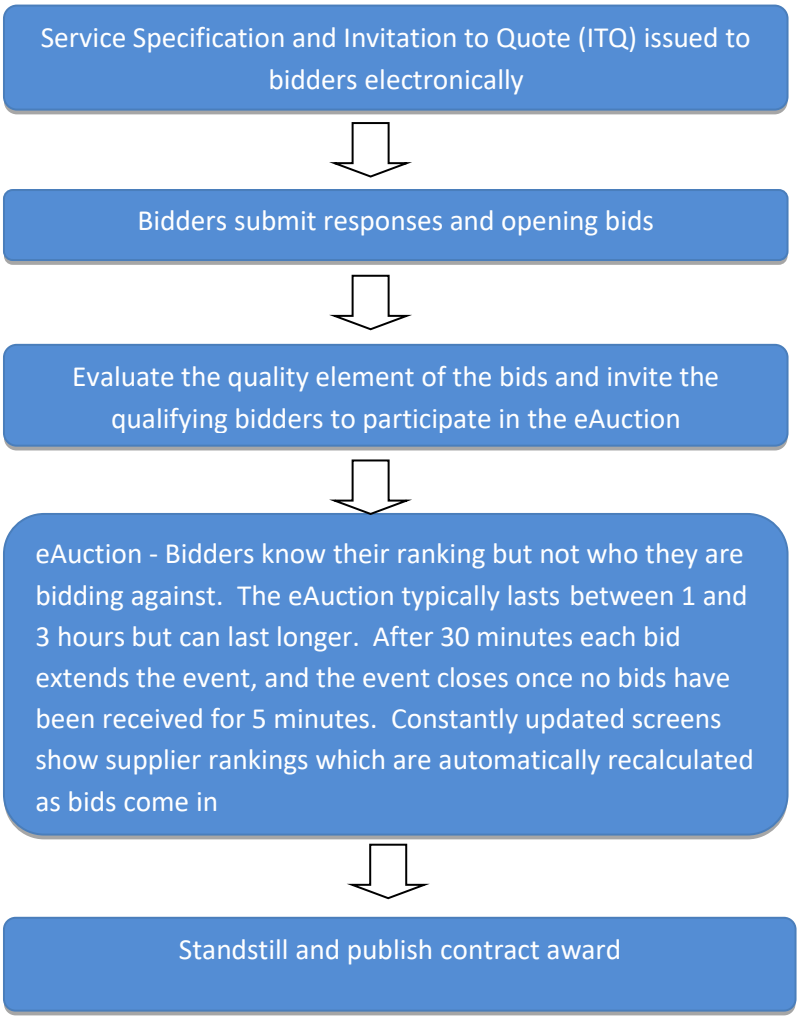


Appendix J Electronic Auction Flow

Electronic Auction

An electronic auction (eAuction) is a procurement tool that uses web-based software to allow potential providers to compete online, in real time, to provide prices for the goods/services under auction. eAuctions can be based on price alone or other criteria such as quality, delivery or service levels can also be considered. This is most often used for non-healthcare procurement of goods and services. Potential providers compete by reducing the price of the goods or services. This is referred to as a 'reverse' auction as prices are reduced rather than increased. Prices gradually reduce during the eAuction, as providers offer improved pricing to win the contract.

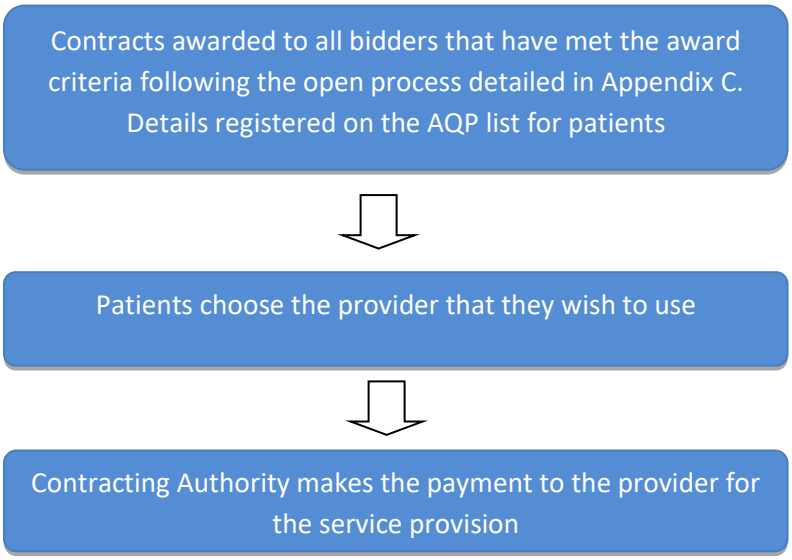


Appendix K Any Qualified Provider Flow

Any Qualified Provider

The process for AQP is the same as the process for the Open Procedure (Appendix C), however all bidders that meet the award criteria requirements for the service needs of the Contracting Authority are awarded a contract and listed as successful providers. Mostly used in procurement of healthcare services and based on patient choice.

- The service is only provided if a patient chooses to use the provider
- Payment is only made for services provided and there is no guarantee that a patient will choose to use the provider.



Appendix L Taking Account of Social Value in the Award of Central Government Contracts

Social Value Model and Criteria

Social Value must be explicitly evaluated in all central government procurements, where the requirements are related and proportionate to the subject-matter of the contract rather than just 'considered' effective from 1st January 2021. A minimum of 10% of the total evaluation criteria must be assigned to social value for procurements over UK financial threshold (note: a higher weighting more than 10% can be applied if applicable). As of 1 April 2022, all procurement (over UK financial threshold) must also contribute to the NHS Net Zero target to reach net zero by 2045. This is included within the goals of the Social Value Model.

The Social Value Model provides policy themes and outcomes which must be used as part of the social value evaluation criteria. The themes applicable to the service delivery should be selected as part of the evaluation criteria.

Social value themes and policy outcome are listed below:

Themes and Outcomes		
Theme	**Policy Outcome**	**Delivery Objectives – what good looks like**
COVID - 19 Recovery	Help local communities to manage and recover from the impact of COVID -19	Activities that, in the delivery of the contract: - Create employment, re-training and other return to work opportunities for those left unemployed by COVID-19, particularly new opportunities in high growth sectors. - Support people and communities to manage and recover from the impacts of COVID-19, including those worst affected or who are shielding. - Support organisations and businesses to manage and recover from the impacts of COVID-19, including where new ways of working are needed to deliver services. - Support the physical and mental health of people affected by COVID-19, including reducing the demand on health and care services. - Improve workplace conditions that support the COVID-19 recovery effort including effective social distancing, remote working and sustainable travel solutions.
Tackling economic inequality	Create new businesses, new jobs and new skills	Activities that, in the delivery of the contract: - Create opportunities for entrepreneurship and help new, small organisations to grow, supporting economic growth and business creation. - Create employment opportunities particularly for those who face barriers to employment and/or who are located in deprived areas. - Create employment and training opportunities, particularly for people in industries with known skills shortages or in high growth sectors. - Support educational attainment relevant to the

		contract, including training schemes that address skills gaps and result in recognised qualifications. - Influence staff, suppliers, customers, and communities through the delivery of the contract to support employment and skills opportunities in high growth sectors.
	Increase supply chain resilience and capacity	Activities that: - Create a diverse supply chain to deliver the contract including new businesses and entrepreneurs, start-ups, SMEs, VCSEs and mutuals. - Support innovation and disruptive technologies throughout the supply chain to deliver lower cost and/or higher quality goods and services. - Support the development of scalable and future-proofed new methods to modernise delivery and increase productivity. - Demonstrate collaboration throughout the supply chain, and a fair and responsible approach to working with supply chain partners in delivery of the contract. - Demonstrate action to identify and manage cyber security risks in the delivery of the contract including in the supply chain. - Influence staff, suppliers, customers, and communities through the delivery of the contract to support resilience and capacity in the supply chain.
Fighting Climate Change	Effective stewardship of the environment	Activities that: - Deliver additional environmental benefits in the performance of the contract including working towards net zero greenhouse gas emissions. - Influence staff, suppliers, customers, and communities through the delivery of the contract to support environmental protection and improvement
Equal opportunity	Reduce the disability employment gap	Activities that: - Demonstrate action to increase the representation of disabled people in the contract workforce. - Support disabled people in developing new skills relevant to the contract, including through training schemes that result in recognised qualifications. - Influence staff, suppliers, customers, and communities through the delivery of the contract to support disabled people.
	Tackle workforce inequality	Activities that: - Demonstrate action to identify and tackle inequality in employment, skills and pay in the contract workforce. - Support in-work progression to help people, including those from disadvantaged or minority groups, to move into higher paid work by developing new skills relevant to the contract. - Demonstrate action to identify and manage the risks of modern slavery in the delivery of the contract,

		including in the supply chain
Wellbeing	Improve health and wellbeing	Activities that: - Demonstrate action to support the health and wellbeing, including physical and mental health, in the contract workforce. - Influence staff, suppliers, customers, and communities through the delivery of the contract to support health and wellbeing, including physical and mental health.
	Improve community integration	Activities that: -Demonstrate collaboration with users and communities in the codesign and delivery of the contract to support strong integrated communities. - Influence staff, suppliers, customers, and communities through the delivery of the contract to support strong, integrated communities.

Appendix M – 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: Senior Category Manager / Deputy Head of Procurement
Organisation: North of England Commissioning Support Unit

Title of the service/project or policy: Healthcare Procurement Policy

Is this a;
Strategy / Policy ☒ **Service Review ☐** **Project ☐**
Other Click here to enter text.

What are the aim(s) and objectives of the service, project or policy:
This Policy sets out:

- The approach to procurement and competitive procurement procedures and processes permitted to the ICB as a public body governed by Public Contract Regulations (2015) (as amended) and relevant statutory law applicable to procurement and competition processes.
- The approach and use of procurement rules and legislation by the ICB for clinical healthcare services and non-healthcare goods and services.
- The approach to procurement, competition processes and NHS (Procurement, Patient Choice and Competition) (No2) Regulations 2013

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** Healthcare providers

Questions	Yes	No
Could there be an existing or potential negative impact on any of the protected characteristic groups?	☐	☒
Has there been or likely to be any staff/patient/public concerns?	☐	☒
Could this piece of work affect how our services, commissioning or procurement activities are organised, provided, located and by whom?	☒	☐
Could this piece of work affect the workforce or employment practices?	☐	☒
Does the piece of work involve or have a negative impact on: • Eliminating unlawful discrimination, victimisation and harassment • Advancing quality of opportunity • Fostering good relations between protected and non-protected groups in either the workforce or community	☐	☒

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:

Click here to enter text.

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. https://www.england.nhs.uk/wp-content/uploads/2017/10/accessible-info-standard-overview-2017-18.pdf	☐	☐
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 (ENTER CONTACT DETAILS HERE)"**		
If any of the above have not been implemented, please state the reason: Click here to enter text.		

Governance, ownership and approval

Please state here who has approved the actions and outcomes of the screening		
Name	**Job title**	**Date**
Julie Parkinson	Senior Category Manager / Deputy Head of Procurement	20-03-23

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 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: Julie Parkinson
Job Title: Senior Category Manager / Deputy Head of Procurement
Organisation: North of England Commissioning Support Unit

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

Existing ☐ New / Proposed ☐ Changed ☒

What are the intended outcomes of this policy/ service / process? (Include outline of objectives and aims;
This Policy sets out:

- The approach to procurement and competitive procurement procedures and processes permitted to the ICB as a public body governed by Public Contract Regulations (2015) (as amended) and relevant statutory law applicable to procurement and competition processes.
- The approach and use of procurement rules and legislation by the ICB for clinical healthcare services and non-healthcare goods and services.

- The approach to procurement, competition processes and NHS (Procurement, Patient Choice and Competition) (No2) Regulations 2013

Who will the project/service /policy / decision impact?
(Consider the actual and potential impact)

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

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)	Feedback is provided by: 1. ICB as the Contracting Authority 2. Subject matter evaluators involved in the procurement process 3. Bidders 4. Law

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 mad 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**
No impact - specific equality impact assessment to be undertaken at the design stage of each procurement

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).*

No impact - specific equality impact assessment to be undertaken at the design stage of each procurement

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).**

No impact - specific equality impact assessment to be undertaken at the design stage of each procurement

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).**

No impact - specific equality impact assessment to be undertaken at the design stage of each procurement

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).**

No impact - specific equality impact assessment to be undertaken at the design stage of each procurement

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 form 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).

No impact - specific equality impact assessment to be undertaken at the design stage of each procurement

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).

No impact - specific equality impact assessment to be undertaken at the design stage of each procurement

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).

No impact - specific equality impact assessment to be undertaken at the design stage of each procurement

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).

No impact - specific equality impact assessment to be undertaken at the design stage of each procurement

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).

No impact - specific equality impact assessment to be undertaken at the design stage of each procurement

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).
No impact - specific equality impact assessment to be undertaken at the design stage of each procurement

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.
No - specific equality impact assessment to be undertaken at the design stage of each procurement
If no engagement has taken place, please state why:
Engagement will be undertaken via feedback provided from those involved in a procurement process and training / awareness sessions provided.

STEP 5: METHODS OF COMMUNICATION

What methods of communication do you plan to use to inform service users/staff about the policy/strategy/guidance?
☒ Verbal – meetings ☐ Verbal - Telephone ☐ Written – Letter ☐ Written – Leaflets/guidance booklets ☒ Written - Email ☒ Internet/website ☐ Intranet page ☒ Other If other please state: Training and / or awareness sessions

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 NECSU.Equality@nhs.net"**
If any of the above have not been implemented, please state the reason: Click here to enter text.

STEP 7: POTENTIAL IMPACTS IDENTIFED; ACTION PLAN

Ref no.	Potential/actual Impact identified	Protected Group Impacted	Action(s) required	Expected Outcome	Action Owner	Timescale/ Completion date
1	None identified	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.

GOVERNANCE, OWNERSHIP AND APPROVAL

Please state here who has approved the actions and outcomes of the screening		
Name	**Job title**	**Date**
Julie Parkinson	Senior Category Manager / Deputy Head of Procurement	20-03-23

Presented to (Appropriate Committee)	**Publication Date**

1. Please send the completed Equality Impact Assessment with your document to: **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**