

# Procurement and Provider Selection Policy

November 2025 – November 2028

## Policy purpose and key messages

To ensure ICB's compliance with procurement and provider selection legislation and that there is a process in place to manage decision-making, provider selection and the procurement process.

| CONTROL RECORD  |   |
|---|---|
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| <b>Audience</b>   | All employees of the Derby and Derbyshire ICB, Lincolnshire ICB and Nottingham and Nottinghamshire ICB (including those working within the organisation in a temporary capacity including Commissioning Support Unit Staff) |
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| <b>This is a controlled document and whilst this policy may be printed, the electronic version available on the ICBs' document management system is the only true copy. As a controlled document, this document should not be saved onto local or network drives.</b> |   |

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## 1. Introduction

- 1.1 This policy is applicable to NHS Derby and Derbyshire Integrated Care Board, NHS Lincolnshire Integrated Care Board and NHS Nottingham and Nottinghamshire Integrated Care Board collectively referred to in this policy as 'the ICBs.'
- 1.2 The ICBs have a responsibility to ensure that there is a consistent, transparent and effective approach to the procurement, commissioning and contract management of goods, services and works.
- 1.3 All procurement activity must comply with relevant legislation and statutory guidance. The application of this policy is relevant to both commissioned services for the ICB's population and the procurement of goods and services for the operation of the ICBs.
- 1.4 All ICB officers involved in decision making, procurement and provider selection activity must operate in accordance with the Seven Principles of Public Life (also known as the Nolan Principles). These seven principles are: Selflessness; Integrity; Objectivity; Accountability; Openness; Honesty; Leadership.
- 1.5 As a commissioner of healthcare services, the ICBs have a clear responsibility to ensure procurement and commissioning decisions meet the needs of its population. Services have to be affordable, sustainable and within the limits of the available resources.
- 1.6 The ICBs are required to comply with (Provider Selection Regime) Regulations 2023 (PSR) and related statutory guidance for the selection of providers to deliver services for its population
- 1.7 The procurement of goods, non-healthcare services and works are subject to the Procurement Act 2023.
- 1.8 There are limits on the resources available, and the ICBs must be able to demonstrate they are achieving value for money. Service development proposals will include an evidence-based approach to identifying and delivering commissioning priorities including the process for selecting the service provider.
- 1.9 When undertaking procurement activities, the ICBs are required to comply with legal requirements, ICBs established governance structure and professional and ethical standards in order to achieve efficient and productive procurement and commissioning processes.
- 1.10 This Procurement and Provider Selection Policy outlines key principles and considerations that will inform decision-making; it is not intended to be comprehensively prescriptive and recognises the necessity for situational discretion when appropriate.
- 1.11 Recognising the often-complex regulatory regime that impacts on procurement and contract award decisions, appropriately qualified and experienced advice

and guidance should be sought to inform decision-making regarding the selection of providers and the awarding of contracts and associated processes.

1.12 This Policy is designed to ensure:

- Compliance with laws, regulations and guidance.
- Probity in spending public funds.
- Professional and ethical conduct.
- Best value for money.
- Efficiency, effectiveness and environmental and socio-economic sustainability.

1.13 This Policy describes:

- Scope, application, key principles, policy ownership and responsibilities.
- Procurement rules and requirements.
- Thresholds, approvals and procurement routes.

1.14 This Policy aims to:

- Make real and positive contributions to the strategic direction of the ICBs.
- Support the delivery of the NHS Long Term Plan.
- Support the efficiency agenda.
- Support the ICBs in its role as a strategic commissioner.

## 2. Purpose

2.1 The purpose of this policy is to provide clear and effective guidance to all the ICBs officers when undertaking procurement activities. Therefore, this policy:

- Sets out the laws, rules, regulations and policies applicable to provider selection and procurement.
- Incorporates key procurement principles, standards and best practices.
- Delivers a mechanism to drive procurement compliance and efficiency throughout the ICBs.
- Provides procurement procedures, templates and tools to support the ICBs officers involved in healthcare provider selection and procurement of goods and non-healthcare services.

2.2 The policy within this arena is particularly complex as it sits within a wider framework of healthcare policy and legislation. The ICBs approach to procurement and commissioning is to operate in accordance with legislation and NHS national policy to strengthen commissioning outcomes through:

- Understanding market capacity to meet the ICBs need and the demand for clinical services in the local health economy.
- Using competitive tension to facilitate improvements in choice, quality, efficiency, access and responsiveness; and
- Being open to new and innovation approaches to procurement and commissioning of services and new contracting models

2.3 NHS and the wider public sector procurement is subject to national rules, principles, regulations and guidance. In procuring services and goods, the ICBs will comply with the legislation that governs the award of contracts by public bodies.

This includes adherence to:

- [Procurement Act 2023](#)
- [The Health Care Services \(Provider Selection Regime\) Regulations 2023](#)
- [Concessions Contracts Regulations 2016](#) (CCR 2016).
- [The NHS Act 2006](#) (as amended).
- [The Public Services \(Social Value\) Act 2012](#);
- [The Equality Act 2010](#);
- [Modern Slavery Act 2015](#);
- [HM Treasury 'Managing Public Money'](#).

### 3. Scope

3.1 This policy applies to all staff who procure goods, services or works on behalf of the ICBs, including staff on temporary or honorary contracts, appointed representatives acting on behalf of the ICBs and any external organisations.

3.2 Expenditure relating to any delegated functions hosted by the ICBs.

3.3 All expenditure by the ICBs for its own operational and management needs are subject to this policy, including:

- Revenue expenditure and capital expenditure.
- Corporate/Indirect spend.
- Commissioned Healthcare Service spend.
- NHS England National/Regional allocated funding

3.4 Arrangements under which the ICBs collaborates with other public bodies (for example under non-legally binding memoranda of understanding (MOU) will not ordinarily constitute public contracts for the purposes of procurement law but

will be subject to the internal approval processes for non-competed expenditure set out in the Scheme of Reservation and Delegation and this policy.

## 4. Definitions

4.1 Definitions of key terms referenced in this policy are described in Appendix B.

## 5. Roles and Responsibilities

5.1 Key responsibilities for specific roles and staff groups are described in the table below:

| Roles  | Responsibilities   |
|--|--|
| <b>Integrated Care Board</b>                   | The Integrated Care Board and all Committees of the Board, are responsible for setting the approach for facilitating open, transparent and fair, proportionate provider selection and procurement processes and ensuring procurement decisions and procurement processes are in accordance with this policy. |
| <b>Chief Executive</b>                         | The Chief Executive has overall accountability for the ICBs provider selection and procurement processes.  |
| <b>Director of Finance</b>                     | The Director of Finance has overall responsibility for the ICBs provider selection, procurement decisions and procurement processes.   |
| <b>Joint Strategic Commissioning Committee</b> | The Strategic Commissioning Committee is responsible for ensuring healthcare services procurement decisions are supported by service development proposals in accordance with PSR criteria and compliance with PSR transparency requirements.  |
| <b>Audit Committee</b>                         | The Audit Committee is responsible for ensuring compliance with competition waiver processes for goods and non-healthcare services. The Audit Committee is responsible for compliance with PSR reporting requirements and oversight of PSR Provider Representations.   |
| <b>Joint Commissioning Executive Committee</b> | The Joint Commissioning Executive Committee will be responsible for approval of service change proposals and ensuring compliance with relevant legislation and guidance for all commissioning and non-pay procurement matters.   |

| <b>Roles</b>                      | <b>Responsibilities</b>  |
|-----------------------------------|--|
| <b>Commissioning Review Group</b> | The Commissioning Review Group is responsible for reviewing investment and disinvestment service development proposals, including provider selection options, prior to submission for formal approval by the Joint Commissioning Executive Committee   |
| <b>ICB Procurement Lead</b>       | <p>This policy is owned by the ICB Procurement Lead, who is responsible for:</p> <ul style="list-style-type: none"> <li>Ensuring that the principles of good procurement practice are embedded within the ICBs.</li> <li>Ensuring compliance with Procurement Act 2023 and PSR2023</li> <li>Monitoring legislation and incorporating any significant policy or procedural developments, or as required by statutory or mandatory requirements.</li> <li>Reviewing and updating the policy as a minimum on an annual basis following an approved change control process;</li> </ul> |
| <b>ICB Staff</b>                  | All the ICBs officers are responsible for complying with this procurement policy and associated procedures. In instances where staff are unsure about a course of action, then they should seek advice and guidance from the ICB Procurement Lead  |

## 6. Investment and Disinvestment Process

- 6.1 All requests for investments must be supported by a service development proposal. The authorisation of the investment recommendation is subject to the approval route in accordance with the ICBs Scheme of Reservation and Delegation.
- 6.2 All requests for disinvestments must be supported by a disinvestment proposal authorisation of the proposal is subject to the approval route in accordance with the ICBs Scheme of Reservation and Delegation

## 7. Procurement Approach

- 7.1 For the ICBs own operation and management needs and to assure the delivery of goods and services, the ICBs shall adopt a procurement approach in compliance with its obligations under procurement legislation and the other applicable legislation referred to above.

7.2 For commissioned healthcare services, the ICBs shall adopt a procurement approach in compliance with its obligations under provider selection legislation and the other applicable legislation referred to above.

7.3 The ICBs main objective of a provider selection process for health services is to provide patients with services that are high quality, responsive and appropriate to their need, whilst ensuring that the ICBs comply with its legal obligations. The ICBs will strive to ensure that its service providers and suppliers can anticipate and respond to changes in the ICB's need and will value the need to provide quality and value for patients. When procuring health care services, the ICBs are required to act with a view to:

- Improving the quality of the services.
- Improving efficiency in the provision of the services.
- Meeting the needs of the local population.
- Keeping within approved budgets/cost limitations.
- Meeting probity and propriety requirements.
- Demonstrating value added to the local community.

7.4 When conducting a procurement process for its own operational and management needs, the ICBs will, whilst ensuring that it complies with its legal obligations, seek to:

- Select the method of procurement, which is most proportionate, most effective and ensures best value for the goods/service(s) in question.
- Participate in collaborative opportunities with system partners.
- Use approved framework contracting routes to improve procurement efficiency.
- Award contracts based on the most economically advantageous tender criteria.
- Work with providers fairly and transparently at all times.
- Continuously explore ways of encouraging new providers into the market.

7.5 The ICBs will follow the principled-based approach set out in Provider Selection Regulations with a view to improving the quality and efficiency in the provision of NHS healthcare services and with a view to:

- Where appropriate, providing services in an integrated way.
- Where appropriate enabling providers to compete to provide the services.
- Encouraging innovation and development.

## 8. Procurement and Decision Process – Goods and Non-Healthcare services

8.1 The procurement route for goods, non-healthcare services and works shall be determined by the contract value. The contract value of each contracting opportunity must be a genuine pre-estimate of the total contract value (i.e., Three-year contract of £50,000 per year = total contract value of £150,000). Contract values must not be deliberately split/disaggregated to avoid the need to consider competition.

8.2 In order to comply with the procurement regulations, and to ensure equity to all sectors, the ICBs will ensure full compliance with the following procurement thresholds:

| <b>Contract Value (over the full term of the contract) or one-off purchase value.</b>   | <b>Goods/Non-Healthcare Services/Works</b>   |
|---|--|
| <50,000   | Executive Director responsibility - No formal process is required although best value for money should be sought at all times and purchases should be from a reputable source.<br>Advice to be sought from the ICB Procurement Lead as required. |
| £50,001 and above, but below the Procurement Act 2023 Threshold (see below)   | Formal competition process quote/tender appropriate to the goods/service procurement. Use of existing contract or framework must be considered, and advice sought from the ICB Procurement Lead as required.                                     |
| Equal to or above the Procurement Act 2023 Threshold applicable at the time.<br><i>(As of 1<sup>st</sup> January 2026, Supplies/Services Value = £207,720 (inc. VAT) Works = £5,193,000 (inc. VAT))</i> | Compliance with the Procurement Act 2023.<br>Use of existing contract or framework must be considered, and advice sought from the ICB Procurement Lead as required.<br><br>Advice to be sought from the ICB Procurement Lead                     |

- 8.3 Wherever possible the ICBs should procure supplies and services through NHS and Public Sector Contracts and Framework Agreements. Such contracts provide the ICBs with a compliant procurement route through direct award or through mini competition provided under the framework conditions.
- 8.4 The ICBs must adhere to NHS England Policy and Guidance for procurement of Management Consultancy Services and Agency Staff.
- 8.5 All procurement processes must have the relevant governance process sign off before commencement and the contract award must be authorised in accordance with this Policy and the ICB's Scheme of Reservation and Delegation.
- 8.6 Where practical and with agreed exceptions, expenditure for the ICB's own operation and management needs should be procured via a purchase order
- 8.7 Under urgent circumstances or where a supplier does not accept purchase orders or submit an invoice the ICBs Purchasing Card may be used. Evidence of approval from the relevant ICB's budget manager must be provided prior to completion of the card transaction. Receipts for all card transactions must be retained, and all card activity must be reported to the ICBs Audit Committee. Card ownership, transaction limits and monthly limits should be reviewed on an annual basis.

## 9. Competition Waivers – Goods and Non-Healthcare Services

- 9.1 Competition waivers may be applied to the purchase of goods, the direct award of contract for a new non-healthcare service and the extension of an existing non-healthcare contract where there is no provision for extension.
- 9.2 The waiving of competitive tendering procedures should not be used to deliberately avoid competition or for administrative convenience or to award further work to a provider originally appointed through a competitive procedure where this would breach the procurement regulations.
- 9.3 Where an ICB officer wishes to apply for an exemption, they shall do so in accordance with the ICBs Standing Financial Instructions or Prime Financial Policies and follow the Competition Waiver Action Procedure.
- 9.4 Approval of request for Competition Waiver shall be in accordance with the ICBs Scheme of Reservation and Delegation.
- 9.5 All decisions arising from an approved Competition Waiver will be reported to the ICBs Audit and Risk Committee. Waivers can be requested in the following circumstances:
  - Very exceptional circumstances where the Chief Executive decides that formal tendering procedures would not be practicable, and the circumstances are detailed in an appropriate ICBs Committee record.

- Specialist expertise/product is required and is available from only one source.
- The task is essential to complete the project and arises as a consequence of a recently completed assignment and engaging a different provider for the new task would be inappropriate.
- There is a clear benefit to be gained from maintaining continuity with an earlier project. However, in such cases the benefits of such continuity must outweigh any potential financial advantage to be gained by competitive tendering.
- The provision of legal advice and services providing that any legal firm or partnership commissioned by the ICBs is regulated by the Law Society for England and Wales for the conduct of their business (or by the Bar Council for England and Wales in relation to the obtaining of Counsel's opinion) and are generally recognised as having sufficient expertise in the area of work for which they are commissioned.
- A consortium arrangement is in place and a lead organisation has been appointed to carry out tendering activity on behalf of the consortium members.
- The timescale genuinely precludes competitive tendering. It is important to note that failure to plan the work properly would not be regarded as a justification for a single tender.

9.6 The ICBs will require assurance about potential providers and is required to undertake a due diligence process proportionate to the nature and value of the contract. Where this applies to a direct award or material contract variation, financial and quality assurance checks of suppliers and providers will be expected to be undertaken before entering into a contract.

## 10. Healthcare Services – Provider Selection Regime (PSR)

10.1 The procurement routes for healthcare services are governed by the Health Care Services (Provider Selection Regime) Regulations 2023.

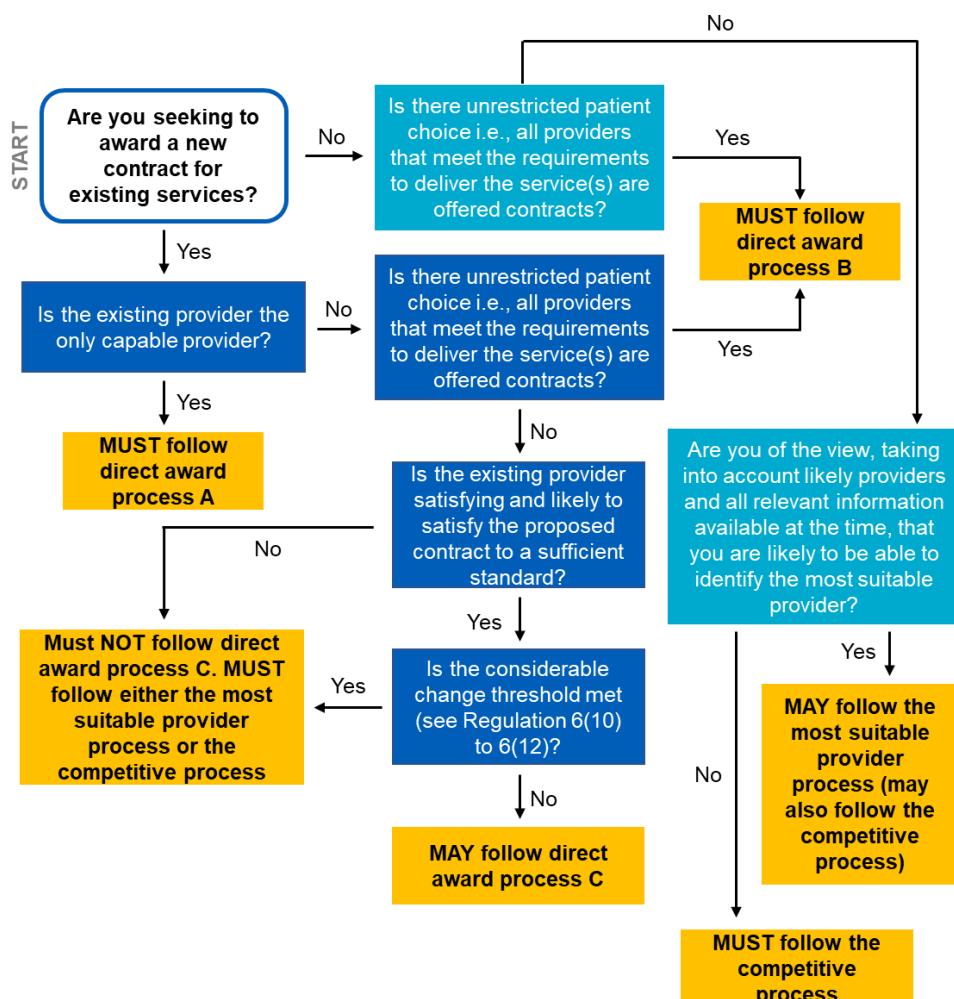
10.2 PSR applies to health care services as defined in section 150(1) of the Health and Social Care Act 2012

10.3 The ICBs can follow one of the following provider selection processes to award contracts for health care services:

- Direct Award Process A:
  - No realistic alternative to the existing provider.
- Direct Award Process B:

- People have a choice of providers, and the number of providers is not restricted by the relevant authority.
- Direct Award Process C:
  - The existing provider is satisfying the existing contract and will likely satisfy the proposed new contract, and the contract is not changing considerably.
- Most Suitable Provider Process:
  - Allows the relevant authority to make a judgement on which provider is most suitable based on consideration of the key criteria. Award without competitive tender.
- Competitive Process:
  - Where the relevant authority cannot use any of the other processes or wishes to run a competitive exercise.

10.4 The following flow chart should be followed to identify the correct provider selection option:



If flow chart is unable to view, please contact our Communications Team for a different format by emailing [nnicb-nn.comms@nhs.net](mailto:nnicb-nn.comms@nhs.net)

- 10.5 When using Direct Award Process C or the Most Suitable Provider Option the ICBs will require assurance about potential providers and are required to undertake a due diligence process proportionate to the nature and value of the contract.
- 10.6 Five key criteria must be considered when making decisions about provider selection under Direct Award Process C, The Most Suitable Provider Process and The Competitive Process. The five criteria are:
  - Quality and Innovation
  - Value
  - Integration, collaboration and service sustainability
  - Improving access, reducing health inequalities and facilitating choice
  - Social valueThe relative importance of the key criteria is not predetermined by the Regulations and there is no prescribed hierarchy of weighting for each criterion, The ICBs must apply all criteria to provide selection decisions and base the relative importance based on what the ICBs are seeking to achieve from the service and contracting arrangements.
- 10.7 Where a contract comprises a mixture of health care services and non-health care and goods the main subject matter should be determined by value of the health care element and whether the non-healthcare services or goods could be reasonably supplied under another contract. PSR shall only apply when both these requirements are satisfied.
- 10.8 Modifications to contracts are permitted in certain circumstances are permitted without the need to consider any of the decision-making circumstances. Modifications are permitted if provided for in the original contract, relate to the change in identity of the provider or are as a result of external factors beyond the control of the ICBs. Modifications are not permitted without consideration of the decision-making circumstances if the changes make the contract materially different in character or the changes are over £500,000 and represent over 25% of the original contract value.
- 10.9 The ICBs are required to evidence that it has properly exercised the responsibilities and flexibilities permitted by PSR, to ensure that there is proper scrutiny and accountability of decision made in relation to health care services. Relevant Transparency Notices must be published depending on which provider selection option is selected. All transparency notices must be published using the UK e-notification services – the Find a Tender Service. The ICBs must keep clear records detailing the decision-making process and

rationale. The ICBs must follow the PSR standstill period for published transparency notices prior to any contract award.

10.10 PSR allows the opportunity for providers to make a representation on provider selection decisions made by the ICBs. It also provides opportunity for a provider participating in a competitive procurement process to make a representation relating to the procurement process. Representations are only considered from an impacted provider if the representation meets all conditions of the PSR. The ICBs must have in place a process to receive and respond to representations. ICB officers involved in responding to representation must not have had any involvement in the original provider selection decision. Representations that are not resolved at ICB level can be escalated to the NHS England National PSR Panel. The ICB's process for managing representations must support the process for providing information to the national panel. Details of all representations received and outcome must be published in a ICBs annual statement.

10.11 Each representation will be assessed against the required conditions. The Representation Panel will meet to review the evidence and information used to make the original decision considering the representations made. Consider whether the representation as merit and report findings back to the original decision maker.

10.12 A contract award can be made in urgent circumstances without the need to consider all decision-making options. Urgent circumstances include unforeseen emergency, urgent quality or safety concerns that pose risks to patients or service users where it would not be feasible to undertake a PSR process. Where decisions are made under urgent circumstances the ICBs must complete a full PSR process once the urgent circumstance has passed. Any contract entered into under an urgent circumstance should be limited to twelve months duration.

10.13 The ICBs should develop and maintain sufficiently detailed knowledge of relevant providers to ensure compliance with PSR.

10.14 Selecting the most appropriate PSR decision making process is part of the ICBs governance process as described below:

| <b>PSR process and associated contract award</b> | <b>Annual value</b> | <b>Delegated to</b>        | <b>Additional information</b>                                 |
|--|---------------------|----------------------------|---|
| Direct Award A                                   | All values          | Commissioning Review Group | Retrospectively reported to Strategic Commissioning Committee |

| <b>PSR process and associated contract award</b>      | <b>Annual value</b>                                    | <b>Delegated to</b>                 | <b>Additional information</b>  |
|---|--|-------------------------------------|--|
| Direct Award B  | Nil value (value and volume subject to patient choice) | Commissioning Review Group          | In line with Patient Choice and Provider Accreditation Process, and retrospectively reported to Strategic Commissioning Committee                              |
| Direct Award C<br><b>or</b><br>Most Suitable Provider | All Values   | Joint Commissioning Executive Group | Decisions that are considered to set precedent, or are novel, contentious or repercussive in nature can be escalated to the Strategic Commissioning Committee. |
| Competitive – approval of process                     | All values   | Commissioning Review Group          | Retrospectively reported to Strategic Commissioning Committee  |
| Competitive – approval of contract award              | All values   | Joint Commissioning Executive Group |  |

## 11. Form of Contracts

- 11.1 All ICB officers need to understand the terms and conditions that apply to a particular contract prior to award.
- 11.2 Contracts for Supply and Services and Purchase of Goods: All commitments (with exception of framework agreements) must be on NHS standard terms and conditions for the purchase of goods/services, or any other standard format defined by Crown Commercial Services, as applicable. Any deviation must be pre-approved by the ICB Procurement Lead
- 11.3 Contracts for Healthcare Services: The NHS Standard Contract (full or short form) is mandated by NHS England for use by commissioners for all contracts for healthcare services other than primary care. In this context, ICB officers must ensure that:

- In all instances the use of the NHS Standard Contract in any procurement or market intervention should be in accordance with the NHS Standard Contract Technical Guidance relevant in the year of use.
- Consideration is given to the use of the NHS England shorter form version of the Standard Contract, for use in defined circumstances.

11.4 Primary Care Contracts: The ICB officers shall ensure they use standard contracts for primary care services including:

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

11.5 In all instances, the ICB officers involved in procurement or market intervention must develop the contract in accordance with any technical guidance relevant to the contract. The ICBs must have robust contract management processes in place for all contracts.

11.6 The ICBs must keep, and publish on public facing website, a complete list of all contracts for both non-healthcare and healthcare contracts.

11.7 System collaboration, formal provider collaboratives and development of primary care networks and integrated neighbourhood teams provide opportunity for novel and potentially complex contracting models and supply chains. Contracting models considered novel and complex must be subject to proportionate due diligence, risk assessment, comply with relevant NHS policy and guidance and be approved by the Commissioning Executive Group

## 12. Sustainable Procurement and Social Value

12.1 The NHS is a major employer and economic force across the ICBs region. The ICBs recognises the impact of its purchasing and procurement decisions on the regional economy and the positive contribution it can make to economic and social regeneration. The ICBs are committed to the development of innovative local and regional solutions and will deliver a range of activities as part of its market development plans to support this commitment.

12.2 Wherever it is possible and does not contradict or contravene the ICBs legal obligations, the ICBs will work to develop and support a sustainable local health economy.

- 12.3 Wherever it is possible and does not contradict or contravene Provider Selection Regime regulations the ICBs will work with VCSE sector in service design and delivery.
- 12.4 The NHS has committed to a carbon reduction plan and to reach net zero by 2040. The ICBs will support this plan in accordance with NHS England guidance when selecting providers and completing due diligence assessments. The ICBs should make procurement and provider selection decisions in accordance with the Green Plan to reduce carbon footprints, reduce consumption and switch to sustainable alternatives.

### 13. Collaborative Procurement

- 13.1 Where there is clinical, quality, financial or process benefits to be obtained, the ICBs should consider the option of joint commissioning with other health or local authority commissioners.
- 13.2 Where procurement is the subject of joint commissioning between several commissioners, or with local authority partners, decision-making must be consistent with the contents of this policy.
- 13.3 When a procurement process is the subject of joint commissioning with the Local Authority, Local Authorities are subject to the same legislative frameworks (Procurement Act 2023) but may not be required to comply with NHS specific guidance and regulations; this will be considered and any issues arising from any differences will be clearly articulated in any joint procurement decision.
- 13.4 The ICBs should consider opportunities for collaborative procurement with system partners.

### 14. Use of Information Technology

- 14.1 Wherever possible, appropriate information technology systems i.e., E-procurement and E-evaluation methods will be used, which will provide a robust audit trail. E-Tendering and E-evaluation solutions provide a secure and efficient means for managing tendering activity particularly for large complex procurements. They offer efficiencies to both the ICBs and providers by reducing time and costs in issuing and completing tenders, and particularly to the ICBs in respect of evaluating responses to tenders.

### 15. Equality, Quality and Health Inequality Impact Assessment

- 15.1 All public bodies have statutory duties under the Equality Act 2010. The ICBs aim to design and implement services, policies and measures that meet the diverse needs of its service users, population and workforce, ensuring that

none are placed at a disadvantage over others. When any change to services is to take place, a full Equality, Quality and Health Inequality Impact Assessment (EQIA) must be carried out prior to the service change decision being made (see link for further details - EQIAs - Support, guidance, and information (sharepoint.com)).

- 15.2 All service development proposals relating to commissioning investment/disinvestment decisions will include EQIAs.

## 16. Stakeholder Engagement

- 16.1 The ICBs recognise that effective engagement with stakeholders is an essential requirement for all NHS organisations and will offer benefits to the generation of outcome-based service specifications. The ICBs will engage with stakeholders at appropriate times during the commissioning and procurement process. Stakeholder engagement with new and existing providers, members of the public, clinicians and other service users will occur at key points in the service review and procurement process. Any potential conflict of interest issues that arise during the engagement process need to be managed in accordance with the ICB's Conflict of Interest policy.
- 16.2 Where stakeholder involvement is required, consideration will be given as to what is fair and proportionate in relation to the circumstances of the procurement. For the benefits of this policy and in line with the ICB's guidance, the terms 'involve' and 'involvement' are used interchangeably with 'engagement', 'participation', 'consultation' and 'patient and public voice'. It is recognised that there are many different ways to involve patients, and different approaches will be assessed as appropriate depending on the nature of the procurement activity

## 17. Conflicts of Interest

- 17.1 Managing conflicts of interest is needed to protect the integrity of the wider NHS commissioning system and to protect the ICBs from any perceptions of wrongdoing. General arrangements for managing conflicts of interests are set out in the ICBs Constitution and Standards of Business Conduct Policy.
- 17.2 A conflict of interest arises where an individual's ability to exercise judgement or act in one role is or could be impaired or otherwise influenced by that individual's involvement in another role. For the purposes of the procurement regulations, a conflict will arise where an individual's ability to exercise judgement or act in their role in the commissioning of services is impaired or otherwise influenced by their interests (or potential interests) in the provision of those services.

17.3 Where any person has an interest in a procurement decision, that person/those persons will be excluded from the decision-making process (but not necessarily from the discussion about the proposed decision).

17.4 Where it is not practicable to manage a conflict by simply excluding the individual concerned from participating in relevant decisions or activities, the ICBs will need to consider alternative ways of managing the conflict such as, for example, involving third parties on the Board of the ICB who are not conflicted or inviting third parties to review decisions to provide additional scrutiny.

17.5 The ICBs will, through its Conflicts of Interests Register, maintain a record of how they manage any conflict that arises between the interests in commissioning the services and the interests involved in providing them. This Register will need to include:

- Details of the individual who was conflicted and their role/position within the ICBs.
- The nature of their interest in the provision of services.
- When the individual's interest in the provision of the services being commissioned was declared and how.
- Details of the steps taken to manage the conflict.
- The individual's involvement in the procurement process.

## 18. Freedom of Information

18.1 Section 1 of the Freedom of Information (FOI) Act 2000 gives a general right of access from 1 January 2005 to recorded information held by the ICBs, subject to certain conditions and exemptions. This information may be held in both manual and electronic form in accordance with the Data Protection Act 1998 and may be disclosed to third parties in accordance with the Act.

18.2 When preparing to enter into contracts, the ICBs must carefully consider their obligations under FOI and ensure any bidders/contractors are aware these will contain terms relating to the disclosure of information by them. The ICBs may be asked to accept confidentiality clauses, for example to the effect that information relating to the terms of the contract, its value and performance will not be disclosed. FOI recognises that there will be circumstances in which the preservation of confidentiality between public authority and contractor is appropriate, and must be maintained, in the public interest. However, it is important that the ICBs makes the contractor aware of the limits placed by FOI on the enforceability of such confidentiality clauses relating to the disclosure of information.

## 19. Policy Non-Compliance

- 19.1 The ICB officers must comply with this policy and the associated ICBs policy and procedures at all times. Failure to comply may result in disciplinary action in accordance with the ICBs Disciplinary Policy.
- 19.2 In the event of non-compliance, full details of the non-compliance, any justification for non-compliance and the circumstances around the non-compliance must be reported to the ICBs Audit and Risk Committee's for action or ratification.
- 19.3 The ICB officers are encouraged to be proactive in relation to the policy compliance and to raise compliance issues in early stages of the procurement process to prevent policy and legal non-compliance.
- 19.4 The ICB officers must comply at all times with the Standards of Business Conduct Policy, the ICBs Fraud, Bribery and Corruption Policy and any other corporate procedures and governance policies.

## 20. Equality and Diversity Statement

- 20.1 The ICBs pay due regard to the requirements of the Public Sector Equality Duty (PSED) of the Equality Act 2010 in policy development and implementation, as commissioners and providers of services, as well as employers.
- 20.2 The ICBs are committed to ensuring that the way services are provided to the public and the experiences of staff does not discriminate against any individuals or groups based on their age, disability, gender identity (trans, non-binary) marriage or civil partnership status, pregnancy or maternity, race, religion or belief, gender or sexual orientation.
- 20.3 The ICBs are committed to ensuring that activities also consider the disadvantages that some people in the diverse population experience when accessing health services. Such disadvantaged groups include people experiencing economic and social deprivation, carers, refugees and asylum seekers, people who are homeless, workers in stigmatised occupations, people who are geographically isolated, Gypsies, Roma and Travelers.
- 20.4 To help ensure that these commitments are embedded in day-to-day working practices, an Equality Impact Assessment has been completed, and is included within this policy.

## 21. Communication, Monitoring and Review

- 21.1 The ICBs will establish effective arrangements for communicating the requirements of this policy. This will include all new starters to the organisation being briefed on the requirements of this policy.

- 21.2 The implementation of this policy, and the effectiveness of the arrangements detailed within it, will be monitored by the ICBs Strategic Commissioning Committee as well as the Audit and Risk Committee.
- 21.3 This policy will be reviewed by the ICBs policy author every three years, or unless legislative changes occur within that time, and recommendations to amend will be submitted to the Strategic Commissioning Committee for approval.
- 21.4 Any individual who has queries regarding the content of this policy or has difficulty understanding how this policy relates to their role, should contact the ICB Procurement Lead

## 22. Confidentiality

- 22.1 Confidential information related to procurement and provider selection will be handled in accordance with the ICB's Information Governance policies and relevant data protection legislation.
- 22.2 All staff have a responsibility to maintain the confidentiality of sensitive information. This responsibility is underpinned by the UK General Data Protection Regulation (UK GDPR), the Data Protection Act 2018, and the Code of Conduct of the organisation
- 22.3 Where procurement and commercial information is identified as part of a procurement process, officers involved may be subject to signing a confidentiality and conflict document prior to participation in the procurement project

## 23. Staff training

- 23.1 The ICBs will establish formal training and updates for all staff. Training will be provided to all staff who undertake a commissioning or contracting role.
- 23.2 As employers, we are committed to promoting equality of opportunity in recruitment, training, and career progression, and to valuing and increasing diversity within our workforce. Training provision must reflect this commitment and be accessible and inclusive.

## 24. Interaction with other Policies

- 24.1 This policy and any procedures derived from it should be read alongside and in conjunction with the following:

- The ICB's Constitution, which includes Standing Orders, Standing Financial Instructions, Schemes of Reservation and Delegation and Prime Financial Policies.
- Raising Concerns (Whistleblowing) Policy.
- Freedom of Information (FOI) and Environmental Information Regulations (EIR) Policy.
- Risk Management Policy.
- Standards of Business Conduct Policy.
- Fraud, Bribery and Corruption Policy.

## 25. References

25.1 The following legislation and guidance have been taken into consideration in the development of this procedural document:

25.2 [Procurement Act 2023](#)

25.3 The Health Care Services (Provider Selection Regime) Regulations 2023

## Appendix A: Equality Impact Assessment

|                               |   |
|-------------------------------|---|
| <b>Name of Policy</b>         | Procurement and Provider Selection Policy |
| <b>Date of Completion</b>     | 20 November 2025                          |
| <b>EIA Responsible Person</b> | ICB Procurement Leads                     |

| For the policy, please answer the following questions against each of the protected characteristics, human rights and health groups: | What are <b>the actual, expected or potential positive impacts</b> of the policy, process, strategy or service change? | What are the <b>actual, expected or potential negative impacts</b> of the policy, process, strategy or service change? | What <b>actions have been taken</b> to address the actual or potential <b>positive and negative impacts</b> of the policy, process, strategy or service change? |
|--|--|--|---|
| <b>Age</b>   | There are no actual or expected positive impacts on the characteristic of Age.   | There are no actual or expected negative impacts on the characteristic of Age.   | None.   |
| <b>Disability<sup>1</sup></b><br>(including: mental, physical, learning, intellectual and neurodivergent)                            | There are no actual or expected positive impacts on the characteristic of Disability.                                  | There are no actual or expected negative impacts on the characteristic of Disability.                                  | None.   |
| <b>Gender<sup>2</sup></b> (Including: trans, non-binary and gender reassignment)   | There are no actual or expected positive impacts on the characteristic of Gender.                                      | There are no actual or expected negative impacts on the characteristic of Gender.                                      | None.   |
| <b>Marriage and Civil Partnership</b>  | There are no actual or expected positive impacts on the characteristic of Marriage and Civil Partnership.              | There are no actual or expected negative impacts on the characteristic of Marriage and Civil Partnership.              | None.   |

| For the policy, please answer the following questions against each of the protected characteristics, human rights and health groups: | What are the <b>actual, expected or potential positive impacts</b> of the policy, process, strategy or service change? | What are the <b>actual, expected or potential negative impacts</b> of the policy, process, strategy or service change? | What <b>actions have been taken</b> to address the actual or potential <b>positive and negative impacts</b> of the policy, process, strategy or service change? |
|--|--|--|---|
| <b>Pregnancy and Maternity</b>   | There are no actual or expected positive impacts on the characteristic of Pregnancy and Maternity Status.              | There are no actual or expected negative impacts on the characteristic of Pregnancy and Maternity Status.              | None.   |
| <b>Race<sup>3</sup></b>  | There are no actual or expected positive impacts on the characteristic of Race.  | There are no actual or expected negative impacts on the characteristic of Race.  | None.   |
| <b>Religion and Belief<sup>4</sup></b>   | There are no actual or expected positive impacts on the characteristic of Religion or Belief.                          | There are no actual or expected negative impacts on the characteristic of Religion or Belief.                          | None.   |
| <b>Sex<sup>5</sup></b>   | There are no actual or expected positive impacts on the characteristic of Sex.   | There are no actual or expected negative impacts on the characteristic of Sex.   | None.   |
| <b>Sexual Orientation<sup>6</sup></b>  | There are no actual or expected positive impacts on the characteristic of Sexual Orientation.                          | There are no actual or expected negative impacts on the characteristic of Sexual Orientation.                          | None.   |
| <b>Human Rights<sup>7</sup></b>  | There are no actual or expected positive impacts on the characteristic of Human Rights.                                | There are no actual or expected negative impacts on the characteristic of Human Rights.                                | None.   |

| For the policy, please answer the following questions against each of the protected characteristics, human rights and health groups:  | What are the <b>actual, expected or potential positive impacts</b> of the policy, process, strategy or service change? | What are the <b>actual, expected or potential negative impacts</b> of the policy, process, strategy or service change? | What <b>actions have been taken</b> to address the actual or potential <b>positive and negative impacts</b> of the policy, process, strategy or service change? |
|---|--|--|---|
| <b>Community Cohesion and Social Inclusion<sup>8</sup></b>  | There are no actual or expected positive impacts on the characteristic of Community Cohesion and Social Inclusion.     | There are no actual or expected negative impacts on the characteristic of Community Cohesion and Social Inclusion.     | None.   |
| <b>Safeguarding<sup>9</sup></b>   | There are no actual or expected positive impacts on the characteristic of Safeguarding.                                | There are no actual or expected negative impacts on the characteristic of Safeguarding.                                | None.   |
| <b>Socioeconomic and other 'at risk' groups<sup>10</sup></b><br>(Including carers, homeless, Looked After Children, living in poverty, asylum seekers, rural communities, victims of abuse, ex-offenders) | There are no actual or expected positive impacts on the characteristic of other groups at risk.                        | There are no actual or expected positive impacts on the characteristic of other groups at risk.                        | None.   |

**<sup>1</sup>Disability** refers to anyone who has: "...a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on your ability to do normal daily activities..." (Equality Act 2010 definition). This includes, but is not limited to: mental health conditions, learning disabilities, intellectual disabilities, neurodivergent conditions (such as dyslexia, dyspraxia and dyscalculia), autism, many physical conditions (including HIV, AIDS and cancer), and communication difficulties (including d/Deaf and blind people).

**<sup>2</sup>Gender**, in terms of a Protected Characteristic within the Equality Act 2010, refers to: "A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex."

<sup>3</sup>**Race**, in terms of a Protected Characteristic within the Equality Act 2010, refers to: A person's colour, nationality, or ethnic or national origins. This also includes people whose first spoken language is not English, and/or those who have a limited understanding of written and spoken English due to English not being their first language.

<sup>4</sup>**Religion and Belief**, in terms of a Protected Characteristic within the Equality Act 2010, refers to: Religion means any religion and a reference to religion includes a reference to a lack of religion. Belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief.

<sup>5</sup>**Sex**, in terms of a Protected Characteristic within the Equality Act 2010, refers to: A reference to a person who has a particular protected characteristic and is a reference to a man or to a woman.

<sup>6</sup>**Sexual Orientation**, in terms of a Protected Characteristic within the Equality Act 2010, refers to: Sexual orientation means a person's sexual orientation towards persons of the same sex, persons of the opposite sex or persons of either sex.

<sup>7</sup>**The Human Rights Act 1998** sets out the fundamental areas that everyone and every organisation must adhere to. In relation to health and care, the most commonly applicable of the Articles within the Human Rights Act 1998 include: Article 2 Right to Life, Article 5 Right to Liberty and Security, Article 8 Right to Respect of Private and Family Life, and Article 9 Freedom of Thought, Conscience and Religion.

<sup>8</sup>**Community Cohesion** is having a shared sense of belonging for all groups in society. It relies on criteria such as: the presence of a shared vision, inclusion of those with diverse backgrounds, equal opportunity, and supportive relationships between individuals. **Social Inclusion** is defined as the process of improving the terms of participation in society, particularly for people who are disadvantaged, through enhancing opportunities, access to resources, voice and respect for rights (United Nations definition). For the EQIA process, we should note any positive or negative impacts on certain groups being excluded or not included within a community or societal area. For example, people who are homeless, those from different socioeconomic groups, people of colour or those from certain age groups.

<sup>9</sup>**Safeguarding** means: "...protecting a citizen's health, wellbeing and human rights; enabling them to live free from harm, abuse and neglect. It is an integral part of providing high-quality health care. Safeguarding children, young people and adults is a collective responsibility" (NHS England definition). Those most in need of protection are children, looked after children, and adults at risk (such as those receiving care, those under a DoLS or LPS Order, and those with a mental, intellectual or physical disability). In addition to the ten types of abuse set out in the Health and Care Act 2022, this section of the EQIA should also consider PREVENT, radicalisation and counterterrorism.

<sup>10</sup>**Other Groups** refers to anyone else that could be positively or negatively impacted by the policy, process, strategy or service change. This could include, but is not limited to: carers, refugees and asylum seekers, people who are homeless, gypsy, Roma and traveller communities, people living with an addiction (e.g., alcohol, drugs or gambling), people experiencing social or economic deprivation, and people in stigmatised occupations (e.g., sex workers).

## Appendix B: Definitions and Glossary of Terms

Definitions of key terms referenced in this policy are described in the table below:

| Term   | Definition   |
|--|--|
| <b>Capital Expenditure</b>                                     | Funds an organisation spends to acquire, upgrade, or maintain long-term assets like buildings, equipment, or technology, with the goal of generating future benefits.  |
| <b>Collaborative Procurement</b>                               | A strategy where multiple organizations work together to purchase goods or services to gain cost savings through combined purchasing power, improve quality by sharing knowledge, and increase efficiency.   |
| <b>Competitive Procurement</b>                                 | A process of purchasing goods, services, or works by inviting multiple suppliers to submit bids in a fair and impartial competition.   |
| <b>Competition Waiver</b>                                      | A formal, legal document or clause that grants an entity permission to bypass the standard competitive bidding process when purchasing a product or service. This allows the purchaser to select a supplier based on factors other than the lowest price, such as unique expertise, compatibility with existing systems, or urgency in emergency situations. |
| <b>Contract Award</b>  | The formal process of officially notifying a selected supplier that they have won a bid to provide goods or services, following a selection process.   |
| <b>Contract Variation or modification</b>                      | Modifications to contracts are permitted in certain circumstances are permitted without the need to consider any of the decision-making circumstances.   |
| <b>Contracts for Supply and Services and Purchase of Goods</b> | A formal agreement that can cover the provision of both goods and services.  |
| <b>Commissioning Support Unit</b>                              | An organization that provides specialized support, such as data analysis, procurement, and business services, to help NHS organizations like Integrated Care Boards (ICBs) plan, purchase, and monitor health services   |
| <b>Direct Award</b>  | When a public contract is awarded to a supplier without a competitive tendering process.   |

| <b>Term</b>                             | <b>Definition</b>   |
|---|---|
| <b>Five key criteria</b>                | The five key criteria of Quality and Innovation, Value, Integration, collaboration and service sustainability, improving access, reducing health inequalities and facilitating choice and Social value must be considered when making decisions about provider selection under Direct Award Process C, The Most Suitable Provider Process and The Competitive Process.                  |
| <b>Framework Agreement</b>              | An "umbrella" contract that sets the terms for future orders of goods, works, or services with one or more suppliers over a defined period. It allows a buyer to award individual contracts (call-offs) without conducting a full procurement exercise each time, by having already pre-assessed the suppliers and agreed upon standard conditions like price, quality, and timescales. |
| <b>Honorary Contract</b>                | An unpaid, non-employment agreement for an individual to perform work for an organisation, such as a hospital or university, where they are still employed by a separate, substantive employer  |
| <b>Integrated Care Board (ICB)</b>      | The ICB is the statutory NHS organisation within the ICS which holds responsibility for NHS functions and budgets.  |
| <b>Integrated Care System (ICS)</b>     | The ICS is a partnership that brings together providers and commissioners of NHS services across a geographical area with local authorities and other local partners to collectively plan health and care services to meet the needs of the population.   |
| <b>Market</b>                           | The arena, physical or virtual, where a buying organization can source the materials, resources, and services necessary for its operations from potential suppliers.  |
| <b>Memoranda of Understanding (MOU)</b> | A formal document outlining an agreement between two or more parties, but it is not a legally binding contract  |
| <b>Most Suitable Provider</b>           | A direct award mechanism used in the UK's NHS <a href="#">Provider Selection Regime (PSR)</a> , allowing a healthcare authority to contract with a provider without a competitive process   |
| <b>NHS Standard Contract</b>            | The NHS Standard Contract (full or short form) is mandated by NHS England for use by commissioners for all contracts for healthcare services other than primary care.   |
| <b>Non-Healthcare</b>                   | Activities or roles that are not directly related to the diagnosis, treatment, or care of a patient's health.   |

| <b>Term</b>                                 | <b>Definition</b>  |
|---|--|
| <b>Primary Care Contracts</b>               | A legally binding agreements between a healthcare provider, like a GP practice, and a commissioner, such as NHS England, that define the provision of primary care services to the public  |
| <b>Procurement</b>                          | The strategic process of sourcing and acquiring goods and services for a business or organisation.   |
| <b>Procurement Law</b>                      | Legally regulated processes like competitive tendering to purchase from external sources.  |
| <b>Procurement Act 2023</b>                 | The procurement of goods, non-healthcare services and works are subject to the Procurement Act 2023 which came into force on 24 February 2025. The Act consolidates previous procurement rules to create a single public procurement regime. This will simplify the system, open up public procurement to new entrants and embed transparency. |
| <b>Provider Selection Regime (PSR)</b>      | A set of rules that came into effect in England on January 1, 2024, for organizations like NHS England, integrated care boards, and local authorities to follow when procuring (acquiring) certain healthcare services.  |
| <b>Provider Representation</b>              | A formal, written challenge made by an aggrieved provider to a commissioning body (relevant authority) who believes that a contract award decision has not been made in compliance with the PSR regulations.   |
| <b>Purchase Order</b>                       | A commercial document issued by a buyer to a supplier that details an intent to purchase specific goods or services, including quantities, prices, and delivery terms  |
| <b>Purchasing Card</b>                      | A purchasing card is a type of corporate charge card issued by a bank to employees for making low-value, high-frequency business purchases without the need for a traditional purchase order.  |
| <b>Seven Principles of Public Life</b>      | These seven principles are: Selflessness; Integrity; Objectivity; Accountability; Openness; Honesty; Leadership (also known as the Nolan Principles).  |
| <b>Revenue Expenditure</b>                  | Money an organisation spends on the day-to-day operational costs required to keep the business running and generate revenue.   |
| <b>Scheme of Reservation and Delegation</b> | A document that clearly defines which decisions a governing body, such as an NHS Board or Trust, will make itself (reserved decisions) and which it will delegate to committees, staff, or other bodies.   |

| <b>Term</b>                            | <b>Definition</b>  |
|--|--|
| <b>Social Value</b>                    | The positive impact an organization has on society, beyond its financial bottom line, and can be achieved through economic, social, and environmental benefits.  |
| <b>Standing Financial Instructions</b> | A set of rules and procedures that define an organization's financial responsibilities, policies, and governance to ensure that all financial transactions are carried out legally, efficiently, and effectively |
| <b>Sustainable Procurement</b>         | A process where organisations meet their needs for goods, services, and works in a way that considers environmental, social, and economic factors beyond just the lowest cost.                                   |
| <b>Temporary Contract</b>              | An employment agreement for a specific, limited period, often with a clear end date or based on the completion of a project  |
| <b>Transparency Notice</b>             | A public announcement, often required by law, that provides details about a decision, most commonly a government's or authority's intention to directly award a contract without a competitive tender process.   |
| <b>Urgent Circumstances</b>            | Unforeseen emergency, urgent quality or safety concerns that pose risks to patients or service users   |