Nottingham and
Nottinghamshire
Integrated Care Board

Procurement and Provider Selection Policy

January 2024 – January 2027

<table>
<tr><th colspan="5">CONTROL RECORD</th></tr>
<tr><td>Reference Number
COM-001</td><td>Version
2.0</td><td>Status
Final</td><td colspan="2">Author
Associate Director of Procurement and Commercial Development
Sponsor
Director of Integration
Team
Procurement and Commercial Development</td></tr>
<tr><td>Title</td><td colspan="4">Procurement and Provider Selection Policy</td></tr>
<tr><td>Amendments</td><td colspan="4">Updated January 2024 to include NHS Provider Selection Regime.</td></tr>
<tr><td>Purpose</td><td colspan="4">To ensure ICB 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.</td></tr>
<tr><td>Superseded Documents</td><td colspan="4">Procurement Policy v1.1</td></tr>
<tr><td>Audience</td><td colspan="4">All employees of the Nottingham and Nottinghamshire ICB (including those working within the organisation in a temporary capacity).</td></tr>
<tr><td>Consulted with</td><td colspan="4">Strategic Planning and Integration Committee</td></tr>
<tr><td>Equality Impact Assessment</td><td colspan="4">Complete (see Appendix A)</td></tr>
<tr><td>Approving Body</td><td colspan="2">Strategic Planning and Integration Committee</td><td>Date approved</td><td>January 2024</td></tr>
<tr><td>Date of Issue</td><td colspan="4">March 2024</td></tr>
<tr><td>Review Date</td><td colspan="4">January 2027</td></tr>
<tr><td colspan="5">This is a controlled document and whilst this policy may be printed, the electronic version available on the ICB's document management system is the only true copy. As a controlled document, this document should not be saved onto local or network drives.</td></tr>
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1. Introduction

1.1. This policy applies to the NHS Nottingham and Nottinghamshire Integrated Care Board, hereafter referred to as ‘the ICB’.

1.2. The ICB has a responsibility to ensure that it has 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 population and the procurement of goods and services for the operation of the ICB.

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 ICB has 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 creation of the ICB and the development of the Integrated Care System allow for a more collaborative and partnership approach to commissioning of healthcare services. To support this more collaborative, new legislation and Statutory Guidance in the form of The Health Care Services (Provider Selection Regime) Regulations 2023(PSR) came into force on the 1 January 2024. PSR relates to the procurement of healthcare services only and requires compliance with a set of regulations and processes for selecting providers.

1.7. The procurement of goods, non-healthcare services and works are subject to the Public Contract Regulations 2015 (PCR2015)

1.8. There are limits on the resources available, and the ICB has to be able to demonstrate it is 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. The ICB will ensure that it manages the procurement of its own management and operational needs to facilitate the delivery of effective health services to the local population for which it is responsible.

1.10. When undertaking procurement activities, the ICB is required to comply with legal requirements, ICB’s established governance structure and professional and ethical standards in order to achieve efficient and productive procurement and commissioning processes.

1.11. This Procurement 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.

1.12. 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.

1.13. This Procurement 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.

1.14. This Procurement Policy describes:

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

1.15. This Procurement Policy aims to:

- Make real and positive contributions to the strategic direction of the ICB.
- Support the delivery of the NHS Long Term Plan.
- Support the efficiency agenda.
- Support the development of integrated care systems.
- Streamline procurement processes.
- Make a direct contribution to improved patient care.
- Support collaborative commissioning.
- Support joint commissioning.
- Support the effective use of resources.

1.16. A number of guidance documents and templates will be developed to compliment this policy.

2. Scope

2.1 This policy applies to all staff who procure goods, services or works on behalf of the ICB, including staff on temporary or honorary contracts, appointed representatives acting on behalf of the ICB and any external organisations (e.g., Commissioning Support Unit).

2.2 All expenditure by the ICB 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

2.3 Arrangements under which the ICB 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 Standing Financial Instructions, Scheme of Reservation & Delegation and this policy.

3. Policy Statement

3.1 The purpose of this policy is to provide clear and effective guidance to all the ICB's 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 ICB.
- Provides procurement procedures, templates and tools to support the ICB's officers involved in healthcare provider selection and procurement of goods and non-healthcare services.

3.2 The policy within this arena is particularly complex as it sits within a wider framework of healthcare policy and legislation. The ICB's 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 ICB's 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.

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

This includes adherence to:

- Public Contracts Regulations 2015 (PCR 2015).
- 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'.

4. Application of this Policy

4.1 This policy sets out in all instances the actions of any of the ICB's officers involved in and/or considering entering into a contract or committing the ICB to any expenditure: they must do so in accordance with this policy and any of the ICB's applicable policies.

4.2 This policy sets out:

- How the ICB will meet statutory procurement and provider selection requirements,
- The ICB's approach for facilitating open and fair, robust and enforceable contracts that provide value for money and that deliver required quality standards and outcomes, with effective performance measures and contractual levers.
- How to determine the most appropriate procurement route to procure goods and services to meet the ICB's operational and management needs: taking account of its own internal financial policies and procurement regulations.
- The transparent and proportionate process by which the ICB will comply with the PSR requirements.
- How to enable the ICB to demonstrate compliance with the general principles of good procurement practice.

4.3 Those general principles are:

- Transparency: Making procurement and commissioning intent clear to the marketplace, including the use of sufficient and appropriate advertising of opportunities, transparency in making decisions, and the declaration and appropriate management of conflicts of interest.
- Proportionality: Making procurement processes proportionate to the value, complexity and risk of the services contracted, and critically not excluding potential providers through overly bureaucratic or burdensome procedures.
- Non-discrimination: Having specifications that do not favour one or more providers. Ensuring consistency of procurement and provider selection rules, transparency on timescale and criteria for shortlist and award.

- Equality of Treatment: Ensuring that all providers and sectors 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 transparent and fair.

4.4 Users of this policy should refer to the procedures and templates relating to this policy which provide further guidance and clarification on the application of this policy in practice.

5. Roles and Responsibilities

Roles	Responsibilities
Integrated Care Board	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.
Chief Executive	The Chief Executive has overall accountability for the ICB's provider selection and procurement processes.
Director of Integration	The Director of Integration has overall responsibility for the ICB's provider selection, procurement decisions and procurement processes.
Strategic Planning and Integration Committee	The Strategic Planning and Integration 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.
Audit and Risk Committee	The Audit and Risk Committee is responsible for ensuring compliance with competition waiver processes for goods and non-healthcare services. The Audit and Risk Committee is responsible for compliance with management of PSR Provider Representations.
Finance & Performance Committee	The Finance & Performance Committee is responsible for ensuring goods and non-healthcare services procurement decisions are supported by relevant business cases
Service Change Review Group	The Service Change Review Group is responsible for reviewing investment and disinvestment proposals, including provider selection options, prior to submission for formal approval

Roles	Responsibilities
Procurement & Provider Selection Lead	This policy is owned by the Associate Director of Procurement and Commercial Development, who is responsible for: • Ensuring that the principles of good procurement practice are embedded within the ICB. • Ensuring compliance with PCR2015 and PSR2023 • Monitoring legislation and incorporating any significant policy or procedural developments, or as required by statutory or mandatory requirements. • Reviewing and updating the policy as a minimum on an annual basis following an approved change control process;
ICB Staff	All of the ICB's 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 Associate Director of Procurement and Commercial Development.

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 ICB's Scheme of Reservation and Delegation and Standing Orders.

6.2 All requests for disinvestments must be supported by a disinvestment proposal as described in the ICB's Decision Making Framework and authorisation of the recommendation is subject to the approval route in accordance with the ICB's Scheme of Reservation and Delegation.

7. Procurement Approach

7.1 For the ICB's own operation and management needs and to assure the delivery of goods and services, the ICB 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 ICB 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 ICB's 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 ICB complies with its legal obligations. The ICB 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 ICB is 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 ICB 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.
- 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 ICB 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.
- Allowing patients, a choice of provider of 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 ICB will ensure full compliance with the following procurement thresholds:

Contract Value (over the full term of the contract)	Goods/Non-Healthcare Services/Works
<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. Advice to be sought from the Associate Director of Procurement and Commercial Development as required.
£50,001 and above, but below the Public Contract Regulation 2015 Threshold (see below)	Formal tendering process. Use of existing contract or framework must be considered, and advice sought from the Associate Director of Procurement and Commercial Development as required.
Equal to or above the Public Contract Regulation Threshold applicable at the time. *(As of 1 January 2024, Supplies/Services* *Value = £214,904 (inc VAT)* *Works =£5,372,609 (inc VAT))*	Compliance with the Public Contract Regulations 2015. Advice to be sought from the Associate Director of Procurement and Commercial Development.

8.3 Wherever possible the ICB should procure supplies and services through NHS and Public Sector Contracts and Framework Agreements. Such contracts provide the ICB with a compliant procurement route through direct award or through mini competition provided under the framework conditions.

8.4 The ICB 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 the ICB's Scheme of Reservation and Delegation.

8.6 The ICB should raise purchase orders for goods and services in accordance with NHS England's future proposals for 'no PO no payment'.

8.7 Under urgent circumstances or where a supplier does not accept purchase orders or submit an invoice the ICB Purchasing Card can be used. Evidence of approval from the relevant ICB 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 ICB Audit & Risk Committee. Card 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 ICB's 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 ICB's Scheme of Reservation and Delegation.

9.5 All decisions arising from an approved Competition Waiver will be reported to the ICB's 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 ICB 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 ICB 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 ICB 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)

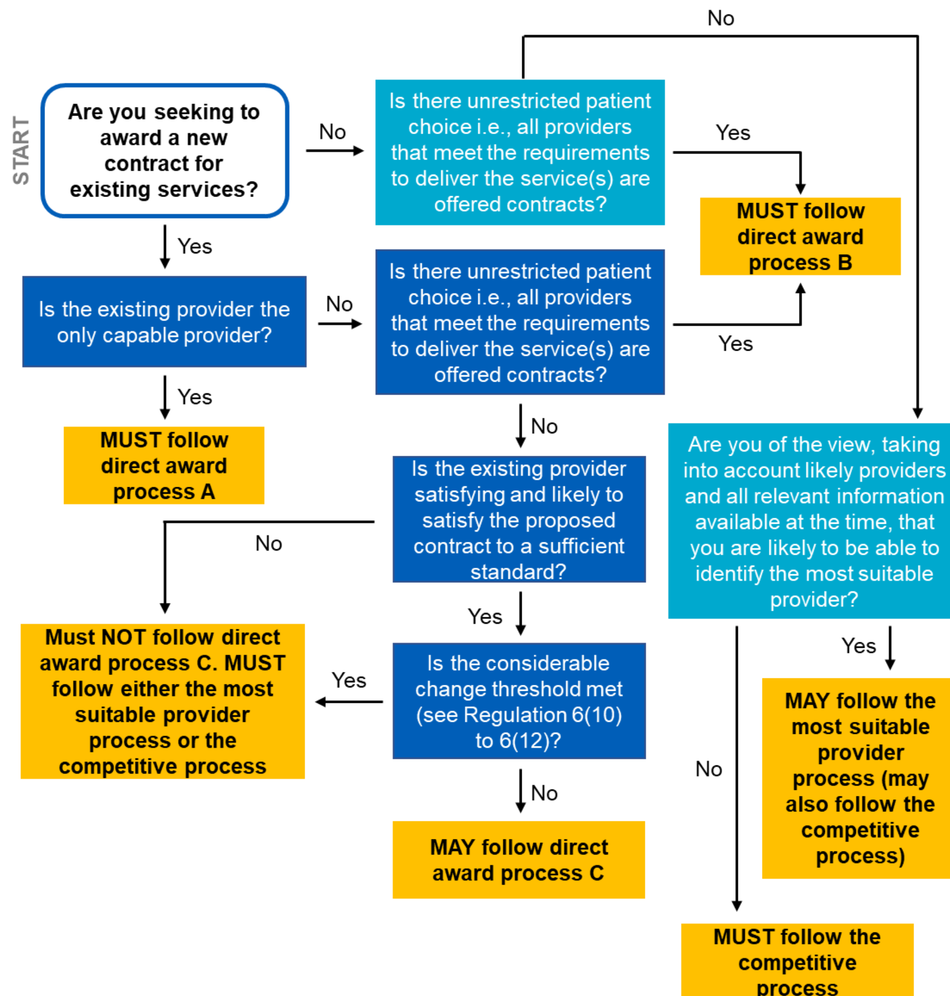
10.1 The procurement routes for healthcare services are governed by the Health Care Services (Provider Selection Regime) Regulations 2023**.**

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 ICB 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

10.5 When using Direct Award Process C or the Most Suitable Provider Option the ICB will require assurance about potential providers and is 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 value

The relative importance of the key criteria is not predetermined by the Regulations and there is no prescribed hierarchy of weighting for each criterion, The ICB must apply all criteria to provide selection decisions and base the relative importance based on what the ICB is 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 ICB. 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 ICB is 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 ICB must keep clear records detailing the decision-making process and rationale. The ICB 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 ICB. 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 ICB must have 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 process for managing representations must support the process for providing information to the national panel. Details of all representations received an outcome must be published in a ICB annual statement.

10.11 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 ICB 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.

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

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

PSR process and associated contract award	**Annual value**	**Delegated to**	**Additional information**
Direct Award A	All values	Service Change Review Group	Retrospectively reported to Strategic Planning and Integration Committee
Direct Award B	Nil value (value and volume subject to patient choice)	Service Change Review Group	In line with provider accreditation process, and retrospectively reported to Strategic Planning and Integration Committee
Direct Award C **or** Most Suitable Provider	Up to £100,000	Executive Director	Retrospectively reported to Strategic Planning and Integration Committee
	Up to £500,00	Chief Executive	Retrospectively reported to Strategic Planning and Integration Committee
	£500,001 and above, or where proposals below this value are considered to set precedent, or are novel, contentious or repercussive in nature	Strategic Planning and Integration Committee	Decisions that are considered to set precedent, or are novel, contentious or repercussive in nature can be escalated to the Board.
Competitive – approval of process	All values	Service Change Review Group	Retrospectively reported to Strategic Planning and Integration Committee

PSR process and associated contract award	Annual value	Delegated to	Additional information
Competitive – approval of contract award	Up to £100,000	Executive Director	Retrospectively reported to Strategic Planning and Integration Committee
	Up to £500,00	Chief Executive	Retrospectively reported to Strategic Planning and Integration Committee
	£500,001 and above	Strategic Planning and Integration Committee	Decisions that are considered to set precedent, or are novel, contentious or repercussive in nature can be escalated to the Board.

10.14 All provider selection requests must be subject to a service development proposal and considered by the Service Change Review Group in accordance with the ICB Decision Making Framework.

11. Forms 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 Associate Director of Procurement and Commercial Development.

11.3 Contracts for Healthcare Services: The NHS Standard Contract (full or short from) 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 ICB must have robust contract management processes in place for all contracts.

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

11.7 ICS system collaboration, formal provider collaboratives and development of primary care networks and place-based solutions provide opportunity for novel and potentially complex contracting models and supply chains. Contracting models considered novel and complex must consider the NHS England Integrated Support and Assurance Process (ISAP) or other locally agreed process to ensure all risks are identified and managed appropriately.

12. Sustainable Procurement and Social Value

12.1 The NHS is a major employer and economic force across the ICB's region. The ICB 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 ICB is 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 ICB’s legal obligations, the ICB will work to develop and support a sustainable local health economy.

12.3 The NHS has committed to a carbon reduction plan and to reach net zero by 2040. The ICB will support this plan in accordance with NHS England guidance when selecting providers and completing due diligence assessments. The ICB should make procurement and provider selection decisions in accordance with the ICS 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 ICB 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 (Public Contract Regulations), 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 ICB should consider the range of collaborative procurement support services available from Commissioning Support Units where they offer potential financial, and process benefits to the ICB.

13.5 The ICB should consider opportunities for collaborative procurement with Nottingham & Nottinghamshire ICS 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 ICB and providers by reducing time and costs in issuing and completing tenders, and particularly to the ICB 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 ICB aims 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 ICB recognises 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 ICB 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 ICB from any perceptions of wrongdoing. General arrangements for managing conflicts of interests are set out in the ICB's 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 ICB 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 ICB 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 ICB.
- 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 ICB, 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 ICB 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 ICB 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 ICB 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 ICB's policy and procedures at all times. Failure to comply may result in disciplinary action in accordance with the ICB's 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 ICB's 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 ICB's Fraud, Bribery and Corruption Policy and any other corporate procedures and governance policies.

20. Equality and Diversity Statement

20.1 NHS Nottingham and Nottinghamshire ICB pays due regard to the requirements of the Public Sector Equality Duty (PSED) of the Equality Act 2010 in policy development and implementation as a commissioner and provider of services, as well as an employer.

20.2 The ICB is committed to ensuring that the way we provide services to the public and the experiences of our staff does not discriminate against any individuals or groups on the basis of 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 We are committed to ensuring that our activities also consider the disadvantages that some people in our 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 travellers.

20.4 As an employer, we are committed to promoting equality of opportunity in recruitment, training and career progression and to valuing and increasing diversity within our workforce.

20.5 To help ensure that these commitments are embedded in our day-to-day working practices, an Equality Impact Assessment has been completed for, and is attached to, this policy.

21. Communication, Monitoring and Review (including Staff Training)

21.1 The ICB 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 ICB will establish formal training and updates for all staff. Mandatory training will be provided to all staff who undertake a commissioning or contracting role.

21.3 The implementation of this policy, and the effectiveness of the arrangements detailed within it, will be monitored by the ICB's Strategic Planning and Integration Committee as well as the Audit and Risk Committee.

21.4 This policy will be reviewed by the ICB's policy author every three years, or unless legislative changes occur within that time, and recommendations to amend will be submitted to the Strategic Planning and Integration Committee for approval.

22. Interaction with other Policies

22.1 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.

Appendix A: Equality Impact Assessment

Overall Impact on: Equality, Inclusion and Human Rights [Select one option]	Positive ☐ Neutral ☒ Negative ☐ Undetermined ☐

Name of Policy, Process, Strategy or Service Change	Procurement and Provider Selection Policy	**Date of Completion**	January 2024
EIA Responsible Person Include name, job role and contact details.	Neil Moore, Associate Director of Procurement and Commercial Development Email: neil.moore6@nhs.net		
EIA Group Include the name and position of all members of the EIA Group.	None		
Wider Consultation Undertaken State who, outside of the project team, has been consulted around the EIA.	None		
Summary of Evidence Provide an overview of any evidence (both internal and external) that you utilised to formulate the EIA. E.g., other policies, Acts, patient feedback, etc.	Equality Act 2010 (incl. the PSED) Human Rights Act 1998 Mental Health Act 1983 Gender Recognition Act 2004 Mental Capacity Act 2005 (incl. DOLS 2010) Down Syndrome Act 2022 Children's Act 1989 and 2004 (where applicable)		

For the policy, process, strategy or service change, and its implementation, please answer the following questions against each of the Protected Characteristics, Human Rights and health groups:	What are the actual, expected or potential positive impacts of the policy, process, strategy or service change?	What are the actual, expected or potential negative impacts of the policy, process, strategy or service change?	What actions have been taken to address the actual or potential positive and negative impacts of the policy, process, strategy or service change?	What, if any, additional actions should be considered to ensure the policy, process, strategy or service change is as inclusive as possible? Include the name and contact details of the person responsible for the actions.	Impact Score
Age	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.	None.	**3**
Disability[1] (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.	Mechanisms are in place via the Communications and Engagement Team to receive the policy in a range of languages, large print, Braille, audio, electronic and other accessible formats.	**3**
Gender[2] (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.	None.	**3**
Marriage and Civil Partnership	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.	None.	**3**

Pregnancy and Maternity Status	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.	None.	**3**
Race[3]	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.	None.	**3**
Religion and Belief[4]	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.	None.	**3**
Sex[5]	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.	None.	**3**
Sexual Orientation[6]	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.	None.	**3**

Human Rights[7]	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.	None.	**3**
Community Cohesion and Social Inclusion[8]	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.	None.	**3**
Safeguarding[9] (Including: adults, children, Looked After Children and adults at risk or who lack capacity)	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.	None.	**3**
Other Groups at Risk[10] of Stigmatisation, Discrimination or Disadvantage	There are no actual or expected positive impacts on the characteristic of Other Groups at Risk.	There are no actual or expected negative impacts on the characteristic of Other Groups at Risk.	None.	None.	**3**

Additional Narrative
Provide additional evidence and narrative about the positive, negative, and neutral impacts of the proposal on the equality, inclusion and human rights elements detailed above.
 	
You should consider:
• Three elements of Quality (safety, experience and effectiveness)
• Intersectionality
• Impact of COVID-19
• Access to Services
  ○ Physical
  ○ Written communication.
  ○ Verbal communication
• Digital Poverty
• Safeguarding
• Dignity and Respect
• Person-centred Care
	Here you should add additional detail or explanation around the positive, negative, and neutral impact of the proposals on the above protected characteristic and health inclusion groups. To address this, you should consider the barriers to accessing or using the service, including the mitigations to respond to these.
	
	This policy provides guidance, accountability and clarity on how an organisation operates and therefore offers a neutral score across all the above-mentioned protected characteristics.
	
	It will support consistent and transparent decision-making for all members of the ICB's workforce.
	
	How the policy is implemented will greatly affect the impact on the nine protected characteristics and other groups at risk of discrimination. In addition, it is noted that the current financial climate within health and care organisations can lead to financial-driven decisions, sometimes at the expense of the most inclusive or equitable approach.
	
	Due to these additional risks around applicable of the policy and financial restraints, the Additional Narrative has been scored Undetermined. The impact of the Policy will be reviewed periodically and, where necessary, updates and changes made.
		1

Positive Impact	**Neutral Impact**	**Negative Impact**	**Undetermined Impact**	**Equality Impact Score Total**	**40**
56 to 50	**49 to 36**	**35 to 22**	**21 to 14**		

Positive	**Neutral**	**Negative**	**Undetermined**
4	**3**	**2**	**1**

1. 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).

2. 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."

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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).