

Procurement Strategy

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APPROVALS

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DOCUMENT STATUS

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RELATED DOCUMENTS

These documents will provide additional information:

REFERENCE NUMBER	DOCUMENT TITLE	VERSION
GB/AC/063/V3	Conflicts of Interest Policy	Version 3

RELEVANT LEGISLATION

LEGISLATION
Public Contracts Regulations 2015
Public Contracts Regulations 2015 Light Touch Regime
The Public Contracts (Amendment) Regulations 2009 (also known as the Remedies Directive).
The Public Services (Social Value Act) 2012.
The National Health Service (Procurement, Patient Choice and Competition) (No 2) Regulations 2013.

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1.0 INTRODUCTION AND OVERVIEW

- 1.1 This strategy document is intended to inform the procurement decisions of the CCG and to provide assurance as to the most appropriate route to market for all types of goods and services. This strategy has been written taking into account current competition and procurement rules and will be updated in line with any changes to UK and EU legislation.
- 1.2 For the strategy to be effective, and for procurement to make a strategic impact within the organisation, the scope and content of the strategy must be applied to all non-pay expenditure procured within the CCG.
- 1.3 The main aims of this strategy are to make real and positive contributions to the strategic direction of the organisation in the following areas:
- Supporting the savings agenda across the NHS
 - Streamlining procurement processes
 - Making a direct contribution to improved patient care and treatment outcomes
 - Managing change brought about by organisational reconfiguration
 - Enabling the organisation to be more commercially focussed
 - Supporting collaborative procurement
 - Enabling the organisation to support government initiatives in public procurement
 - Effective use of resources
- 1.4 The CCG's Chief Finance & Operating Officer has overall responsibility for the implementation of the strategy and as outlined in the Constitution the Governing Body has responsibility for ensuring all relevant clinicians (not just members of the Group) and potential providers, together with local members of the public, are engaged in the decision-making processes used to procure services and service redesign and procurement processes are conducted in an open, transparent, non-discriminatory and fair way

2.0 GENERAL PROCUREMENT PRINCIPLES

- 2.1 The following principles should govern the administration of procurement within the CCG:-
- 2.1.1 Procurement of healthcare services should be conducted in accordance with The National Health Service (Procurement, Patient Choice and Competition) (No 2) Regulations 2013, including any subsequent guidance, and in accordance with the Public Contracts Regulations 2015 Light Touch Regime.
- 2.1.2 Procurement of non-healthcare services (i.e. goods and other services) should be conducted in accordance with the Public Contracts Regulations 2015.
- 2.1.3 Proportionality - Procurements should be carried out as cost effectively as possible. The level of resources applied should be proportionate to the value and complexity of the services to be procured.
- 2.1.4 Transparency - Procurements should be transparent. CCGs must be able to account publicly for expenditure and actions by advertising procurement opportunities, publishing evaluation and scoring criteria in procurement documents, publishing details of contract awards on Contracts Finder and OJEU, and maintaining an auditable documentation trail of key decisions.
- 2.1.5 Non-Discrimination - The specification and bidding process must not discriminate against or in favour of any particular provider or group of providers. Objective evaluation criteria must be applied to all bids.

- 2.1.6 Equality of Treatment - All potential providers must be treated the same throughout a procurement process. This means that the same information must be provided to all potential providers at the same time; and rules of engagement and evaluation criteria must be specified in advance of provider involvement and be applied in the same way to each potential provider.
- 2.1.7 Addressing Health Inequalities – one of the key priorities of Dudley CCG is closing the gap between health inequalities for the Dudley population. All procurements should have a regard for achieving this goal.
- 2.1.8 All procurements should have a regard for ‘social value’ or the collective benefit to the community in which the procured service will operate.

3.0 SCOPE AND CONTEXT OF THE STRATEGY

- 3.1 This strategy incorporates the total non-pay expenditure of the CCG which includes the procurement of all goods and services, as well as the procurement of healthcare services.
- 3.2 There is a legislative framework within which public sector procurement operates and the CCG has a duty to meet these legislative responsibilities whilst ensuring the health needs of its population are being met. This is supported by Public Sector procurement regulations and NHS specific regulations and guidance, which includes, but is not limited to (and is subject to change):
- The National Health Service (Procurement, Patient Choice and Competition) (No 2) Regulations 2013.
 - The Public Contract Regulations 2015
 - The Public Contracts (Amendment) Regulations 2009 (also known as the Remedies Directive).
 - The Public Services (Social Value Act) 2012.

4.0 DUDLEY CCG PRIORITIES

- 4.1 The CCG became a statutory body on 1st April 2013.
- 4.2 The Metropolitan Borough of Dudley is made up of the 5 localities of: Brierley Hill, Stourbridge, Dudley North, Halesowen and Sedgley. Around 305,000 people live in the Borough and the population is very diverse.
- 4.3 There are areas of high deprivation and cultural diversity in the North of the Borough. Whilst areas like Stourbridge are home to some of the most affluent communities in the country.
- 4.4 We recognise that people’s health is linked to their social circumstances, with generally the poorest people having the worst health. Because of the diverse areas in Dudley, the people in the more affluent areas can expect to live 9 years longer than those in the less affluent.
- 4.5 As a CCG we are committed to closing this gap and making sure that health inequalities are reduced and we work with partners to achieve this.
- 4.6 The CCG has carried out a wide consultation with constituent practices, partners, patient groups and the public on what is important to them.

4.7 Consultation involved face to face interaction through a number of events including a stakeholder conference entitled 'Nothing About You, Without You. Thinking Differently'. This work has resulted in the establishment of three strategic commissioning aims for the CCG, and 10 commissioning priorities as follows:

4.8 **CCG Strategic Commissioning Aims**

- To address health inequalities in Dudley
- To ensure that local services deliver the best possible outcomes for the whole population
- To improve the quality and safety of local services.

4.9 **Overarching Priorities**

- urgent care
- planned care
- preventative
- reablement

4.10 **Commissioning Priorities**

- Multi- Specialty Community Provider Procurement
- Objective: Effective and Efficient Care
 - Clinicians have more time to spend with those who need it most
 - Pathways of care (both urgent and planned) are as efficient as possible
- Healthy Life Expectancy
 - Premature mortality is reduced
 - Inequalities in Health between all population groups are reduced
 - Health and wellbeing services are at the heart of healthcare delivery
- Mutual approach to achieving best possible outcomes
 - Patients can quantify the real value of the services that they receive
 - Individuals achieve greater autonomy from healthcare
 - All service providers network better around the needs of patients
- High Quality Care for all
 - Services are safe and unwarranted variations are minimal
 - Patients are treated with care and dignity and not over-treated

4.11 The CCG commissions all services in a way which promotes continuous improvement in quality and efficiency. In addition to service priorities the CCG will also have a range of other 'priorities' which are focussed on the CCG running its business effectively and efficiently.

4.12 Please refer to Dudley CCG Strategic Plan 2014-2019 which can be found at <http://www.dudleyccg.nhs.uk/wp-content/uploads/2013/03/Dudley-CCG-Strategic-Plan-Oct-2014.pdf>

5.0 **HEALTHCARE SERVICES PROCUREMENT**

5.1 Procurements for healthcare services must be conducted in compliance with the Public Contract Regulations 2015 Light Touch Regime (LTR).

5.2 The Public Contract Regulations 2015 Light Touch Regime main requirements are as follows:

- **OJEU Advertising:** it is mandatory to advertise contracts for health services in OJEU if their value exceeds the current EU threshold of €750,000 (£589,148) via the publication of a Contract Notice or Prior Information Notice.
 - The publication of a **Contract Award Notice** following each individual procurement, or if preferred, group such notices on a quarterly basis.
 - **Compliance with Treaty principles** of transparency and equal treatment.
 - **Conduct the procurement in conformance with the information provided in the OJEU advert** (Contract Notice or Prior Information Notice) regarding any conditions for participation, time limits for contacting/responding to the Contracting Authority, and the award procedure to be applied.
 - **Time limits imposed by Contracting Authorities on suppliers, such as for responding to adverts and tenders, must be reasonable and proportionate.** There are no stipulated minimum time periods in the LTR rules, so Contracting Authorities should use their discretion and judgement on a case by case basis.
- 5.3 In addition to the Public Contract Regulations 2015, the National Health Service Procurement, Patient Choice and Competition Regulations 2013 also apply. These Regulations impose requirements on CCGs to ensure good practice when procuring health care services, to protect patients' rights to make choices and to prevent anti-competitive behaviour. The Regulations provide scope for complaints to, and enforcement by Monitor, as an alternative to challenging decisions in the courts.
- 5.4 It is important to note however that the CCG is required to comply with the requirements of the Public Contract Regulations 2015 (see above) for all contracts with a total value of £589k or more. In addition to this, and also in relation to healthcare service contracts below this value, the NHS Procurement, Patient Choice and Competition regulations 2013 apply.
- 5.5 The Procurement, Patient Choice and Competition regulations formalise previous requirements set out in the Principles and Rules of Co-operation and Competition 2010. These Regulations apply alongside the Public Contracts Regulations 2015.
- 5.6 The National Health Service (Procurement, Patient Choice and Competition) (no 2) Regulations 2013.
- 5.7 The key points of the legislation are as follows (for the full regulations, refer to <http://www.legislation.gov.uk/ukxi/2013/500/contents/made>):-

Procurement: Objective

5.7.1 When procuring health care services a CCG must act with a view to:-

- a) securing the needs of the people who use the services,
- b) improving the quality of the services, and
- c) improving efficiency in the provision of the services.

Which can include through the services being provided in an integrated way.

Procurement: General Requirements

5.7.2 When procuring health care services, a CCG must:-

- a) act in a transparent and proportionate way, and
- b) treat providers equally and in a non-discriminatory way, including by not treating a provider more favourably than any other provider, in particular on the basis of ownership.

5.7.3 The CCG must procure the services from one or more providers that:-

- a) are most capable of delivering the procurement objective (5.1.1), and
- b) provide best value for money in doing so

5.7.4 In acting with a view to improving quality and efficiency in the provision of the services the CCG must consider appropriate means of making such improvements, including through:-

- a) the services being provided in a more integrated way,
- b) enabling providers to compete to provide the services, and
- c) allowing patients a choice of provider of the services.

Advertisements and Expressions of Interest

5.7.5 Where the contract value (excluding VAT) is above the LTR threshold of £589k then a contract notice must be published in OJEU and an appropriate procurement process undertaken.

5.7.6 For procurements undertaken for contracts below the LTR threshold then NHS England has mandated Contracts Finder as the website used for the advertising of opportunities for providers of healthcare. Where advertising an intention to seek offers, the CCG must publish a contract notice on this website which must include the criteria against which bids will be evaluated.

Award of a Contract Without Competition

5.7.7 The CCG may award a new contract for healthcare services without advertising an intention to seek offers (contract notice) in very exceptional circumstances only and where the service is capable of only being provided by a single provider only.

Conflicts of Interest

5.7.8 The CCG must not award a contract where conflicts, or potential conflicts, between the interests involved in commissioning such services and the interests involved in providing them affect, or appear to affect, the integrity of the award of that contract.

5.7.9 In relation to each contract that it has entered into, the CCG must maintain a record of how it managed any conflict that arose between the interests in commissioning the services and the interests involved in providing them.

5.7.10 Please refer to the separate section of this document concerning Conflicts of Interest.

Powers of Monitor to Investigate

5.7.11 Monitor may investigate a complaint received by it that the CCG has failed to comply with a requirement imposed by the regulations.

5.7.12 Monitor may on its own initiative investigate whether a relevant body has failed to comply with the Anti-Competitive Behaviour requirements of the regulations.

5.7.13 NHS England and Monitor will work on a “choice and competition framework” which will include more detail about how commissioners should work. This strategy will be updated to take into account any subsequent advice and guidance.

Procurement Options

Contract Variation

- 5.8 Where there is a contract already in place, the CCG may be able to use the contract to secure incremental change to service provision, but only where change was envisaged in the contract, the variation is less than the LTR EU Threshold of £589k and where this change does not materially alter the nature of the contract as originally procured.
- 5.9 This would be likely to be considered the case where:
- a) other providers would have been interested in bidding for the contract if the change had originally been part of the specification when the service was originally procured;
 - b) the contract would have been awarded to a different provider if the change had originally been included in the original service specification;
 - c) the change involves genuinely new services not originally within the scope of the specification; or,
 - d) there is a significant change in the value of the contract.

Competitive Procurement Process

- 5.10 The Public Contract Regulations Light Touch regime gives CCGs the flexibility to use any process or procedure they choose to run the procurement, as long as it respects the principles of equal treatment and transparency. There is no requirement to use the standard EU procurement procedures (open, restricted and so on) that are available for other (non-LTR) contracts. Authorities can use those procedures if helpful, or tailor those procedures according to their own needs, or design their own procedures altogether.
- 5.11 The LTR rules are flexible on the types of award criteria that may be used, but make clear that certain considerations can be taken into account, including (this is not an exhaustive list):
- the need to ensure quality, continuity, accessibility, affordability availability and comprehensiveness of the services;
 - the specific needs of different categories of users, including disadvantaged and vulnerable groups;
 - the involvement and empowerment of users; and
 - innovation.

No Competition

- 5.12 Where it is determined that the services are capable of being provided only by one provider or there is an urgent clinical need, it may be appropriate to proceed with a single tender action, where a contract is awarded to a single provider – or a limited group of providers – without competition. (Refer to 5.1.4). Please note, where the total contract value is above £589k (excluding VAT) this option is available in only very exceptional circumstances.

Procurement from Primary Care Providers

- 5.13 The CCG's primary care strategy defines the operating model by which the CCG intends to commission services. This is largely based around the locality structure. The CCG will work with NHS England to define an appropriate procurement model for services to be delivered on such a basis where appropriate.
- 5.14 In May 2014, NHS England offered CCG's the opportunity to take on increased responsibility, including delegated budgets and functions for the commissioning of Primary Care. Dudley CCG opted to take on this increased responsibility thereby opening up the ability to commission care for the Dudley population in a more tailored and coherent way. However, this increased responsibility brings with it a greater risk of conflicts of interest. A guidance document has been produced; "Managing Conflicts of Interest: Statutory Guidance for CCGs" which was published in June 2016 by NHS England (see also section 7 'Conflicts of Interest'.
- 5.15 Any Procurement will need to be considered alongside the Public Contract Regulations² and, where appropriate, EU procurement rules. Monitor's *Substantive guidance on the Procurement, Patient Choice and Competition Regulations* advises that the requirements within these create a framework for decision making that will assist commissioners to comply with a range of other relevant legislative requirements.
- 5.16 The Procurement, Patient Choice and Competition Regulations place requirements on commissioners to ensure that they adhere to good practice in relation to procurement, do not engage in anti-competitive behaviour that is against the interest of patients, and protect the right of patients to make choices about their healthcare.
- 5.17 The regulations set out that commissioners must:
- manage conflicts and potential conflicts of interests when awarding a contract by prohibiting the award of a contract where the integrity of the award has been, or appears to have been, affected by a conflict; and
 - keep appropriate records of how they have managed any conflicts in individual cases

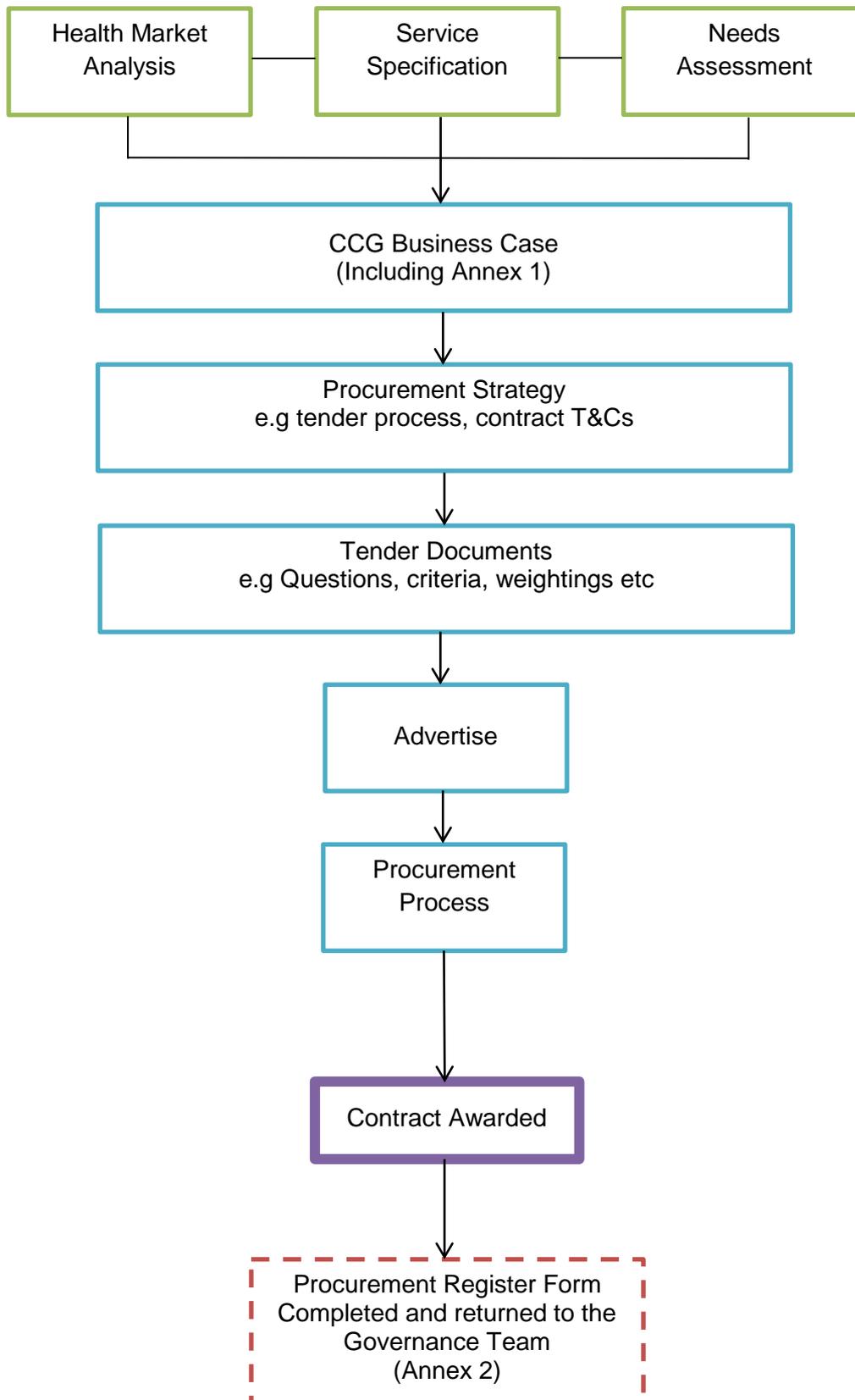
Consultation

- 5.18 The CCG will actively consult with member practices, localities and the public where appropriate for the proposed service change. This will be done in line with commissioning strategy and EU procurement rules.

Timeframe (Healthcare Procurement)

- 5.19 The length of time procurement for a healthcare service will take will vary according to the requirements of the specific procurement. As an indication, an average procurement will take 5-6 months from placing the advert on Contracts Finder to awarding the contract. This does not include pre-procurement activities such as market research or any mobilisation period before service commencement. A procurement could be less or more than this depending on complexity or time allowed for bidder responses and evaluation etc.

Summary of the Procurement Process



6.0 GOODS AND NON-HEALTHCARE SERVICES PROCUREMENT

- 6.1 Goods and Services procurement must be carried out in accordance with legislation (Public Contract Regulations 2015) and in accordance with the CCG's Standing Financial Instructions (SFIs).
- 6.2 The table below summarises the CCG's SFIs, and corresponding procurement options based on expected value of the procurement:-

Table 1

Total Contract Value	Type of Procurement	Procurement Options**
£0 to £10,000 (see 6.1)	Transactional	NHS Supply Chain via requisition Other approved supplier via requisition
£10,001 to £50,000 (see 6.2)	Competitive Quotes (Using quotes from suppliers in which the best one is chosen on price and product).	Use available framework (e.g. Government Procurement Service, NHS Supply Chain) If no framework exists, obtain 3 quotations.
£50,001 to £164,176 (see 6.3)	Formal quotation / mini-tender (A formal statement of promise by potential suppliers at specified prices for goods and services within a specified period)	Use available framework (e.g. Government Procurement Service, NHS Supply Chain) If no framework exists, conduct formal quotation/mini-tender process.
>£164,176* (see 6.4)	Full competitive tender	Seek specialist procurement advice

*OJEU threshold as of 1/1/2016 (likely to be valid until 31st December 2017)

- 6.3 When goods and services are required, the CSU Procurement Team will act on requests to order upon receiving an approved requisition. The responsibility to raise a requisition lies with the individual and/or department who require the goods or services. The CCG SFIs must be taken into account when the requisitioner is planning to raise a requisition.

For expenditure up to £10,000

- 6.3.1 The procurement should be carried out by informal price testing and a requisition being raised by the person who requires the goods or services, and should follow normal CCG requisitioning and authorisation processes.

For expenditure between £10,001 and £50,000

- 6.3.2 The procurement should be carried out by the requisitioner obtaining 3 quotations and raising a requisition following normal CCG requisitioning and authorisation processes. The quotations should be attached to the requisition.

For expenditure between £50,001 and £164,176

- 6.3.3 A formal quotation/mini-tender process (see definition of formal quotation in table 1) must take place. A requisition will be required which must be raised following the normal CCG requisitioning and authorisation processes.

For expenditure above £164,176

6.3.4 A full OJEU compliant competitive process must take place. A requisition will be required which must be raised following the normal CCG requisitioning and authorisation processes.

Tender Waivers

6.4 If a competitive process to award a contract above the value of £10,000, but below the OJEU threshold, is not undertaken then a tender waiver form must be completed in accordance with CCG procedures. Any “no tender” decision that the CCG makes needs to be clearly documented to ensure that the CCG is adhering to the organisation’s SFIs and procurement law. All ‘no tender’ decisions must be documented and should represent the decision of the organisation rather than an individual. Where a need to tender is being waived, then an approved tender waiver document must be submitted by the requisitioner with the requisition. Authorisation of expenditure must be compliant with the CCG’s standing financial instructions on all occasions.

Requisitioners

6.5 The CCG must ensure that all departments that are likely to need to procure goods and services, have nominated representatives who are able to raise requisitions, with appropriate approval levels for different requirement costs. The CCG will also need to notify any changes to requisitioner.

Framework Agreements

6.6 Where possible, goods and services will be obtained by utilising an existing framework agreement.

6.7 A framework is an agreement with suppliers to establish terms governing contracts that may be awarded during the life of the agreement. In other words, it is a general term for agreements that set out terms and conditions for making specific purchases (call-offs).

6.8 A framework covers the provision of a generic group of goods, works or services (or a combination), for example:

- Goods – office furniture
- Services – consultancy

6.9 Frameworks can take a number of forms, including a framework with one supplier for a specific category or a framework with a number of suppliers from which an authority can choose to purchase items or between which can choose to conduct further competition.

6.10 The framework agreement itself may be a contract, but only if the agreement places an obligation to purchase. In this case, it is treated like any other contract, and the EU procurement rules apply.

6.11 However a framework agreement is more likely to not be a contract itself, but merely an agreement about the terms and conditions that would apply to any order placed during its life. In this case, a contract is made only when the order is placed and each order is a separate contract.

6.12 These agreements can be established on a regional or national basis under EU Procurement Rules. Numerous framework agreements are available through the Government Procurement Service and NHS Supply Chain. Purchases should be made using a framework where possible, and in accordance with access instructions.

- 6.13 The CCG has also developed a local framework for the use of consultancy staff in line with EU procurement and NHS England rules.

Local Contracts

- 6.14 Goods and Services Procurement via budget holders and requisitioners will deliver local procurements processes for specific goods and services which are not available through an existing regional or national agreement or catalogue.

Timeframes (Goods and Services)

- 6.15 Purchases requiring competitive quotes typically take 2 weeks, those requiring formal competitive quotes or mini-tender take typically 4-6 weeks and those, which are the subject of EU procurement rules, a minimum of 4-6 months. It is the responsibility of the requisitioner to take these timescales into account when planning a purchase.

7.0 CONFLICTS OF INTEREST

- 7.1 The NHS Act, the Health and Social Care Act (“the HSCA”) and associated regulations set out the statutory rules with which commissioners are required to comply when procuring and contracting for the provision of clinical services. They need to be considered alongside the Public Contract Regulations² and, where appropriate, EU procurement rules. Monitor’s *Substantive guidance on the Procurement, Patient Choice and Competition Regulations* advises that the requirements within these create a framework for decision making that will assist commissioners to comply with a range of other relevant legislative requirements.

- 7.2 The regulations state that a CCG must not award a contract where conflicts, or potential conflicts, exist between the interests involved in commissioning such services and the interests involved in providing them affect, or appear to affect, the integrity of the award of that contract.

- 7.3 In relation to each contract that it has entered into, the CCG must maintain a record of how it managed any conflict that arose between the interests in commissioning the services and the interests involved in providing them.

- 7.4 Therefore, as part of any procurement process, all participants will have to sign a Conflict of Interest Declaration before any involvement. Any conflicts or potential conflicts must be managed before the individual who has declared such conflict or potential conflict can be involved in the procurement.

- 7.5 Examples of conflicts of interest include:

- Having a financial interest (e.g. holding shares or options) in a Potential Bidder or any entity involved in any bidding consortium including where such entity is a provider of primary care services or any employee or officer thereof (Bidder Party);
- Having a financial or any other personal interest in the outcome of the Evaluation Process;
- Being employed by or providing services to any Bidder Party;
- Receiving any kind of monetary or non-monetary payment or incentive (including hospitality) from any Bidder Party or its representatives;
- Canvassing, or negotiating with, any person with a view to entering into any of the arrangements outlined above;

- Having a close family member who falls into any of the categories outlined above; and
 - Having any other close relationship (current or historical) with any Bidder Party.
- 7.6 The above is a non-exhaustive list of examples, and will be the participant's responsibility to ensure that any and all conflicts or potential conflicts – whether or not of the type listed above – are disclosed in the declaration prior to participation in the procurement process.
- 7.7 Any disclosure will be assessed by the CCG on a case-by-case basis. Individuals will be excluded from the procurement process where the identified conflict is in the CCG's opinion material and cannot be mitigated or be reasonably dealt with in another way.
- 7.6 The most obvious area in which conflicts could arise is where a CCG commissions (or continues to commission by contract extension) healthcare services, including GP services, in which a member of the CCG has a financial or other interest. This may most often arise in the context of co-commissioning of primary care, particularly with regard to delegated or joint arrangements, but may also arise in respect of any commissioning issue where GPs are current or possible providers. The CCG will use the procurement template in **Annex 1** when drawing up commissioning plans for services where this potentially is the case.
- 7.7 The CCG will make evidence of its deliberations on conflicts publicly available. The template evidences this and supports CCGs in fulfilling their duty in relation to public involvement. It provides appropriate assurance:
- that the CCG is seeking and encouraging scrutiny of its decision-making process;
 - to Health and Wellbeing Board, local Healthwatch and to local communities that the proposed service meets local needs and priorities; it will enable them to raise questions if they have concerns about the approach being taken;
 - to the Audit Committee and, where necessary, external auditors, that a robust process has been followed in deciding to commission the service, in selecting the appropriate procurement route, and in addressing potential conflicts; and
 - to NHS England in their role as assurers of the co-commissioning arrangements.
- 7.8 Please refer to the CCG Conflict of Interest Policy for further information on the above. The policy can be found on the CCGs website – www.dudleyccg.nhs.uk

8.0 GOVERNANCE

- 8.1 The CCG Audit & Governance Committee will be responsible for ensuring this strategy is adhered to and that all forms and templates are completed in relation to any procurement.
- 8.2 All business cases for service change will be required to demonstrate compliance with this policy prior to approval.
- 8.3 Non-compliance with this policy will be reported to the Audit & Governance Committee and Governing Body where appropriate.

9.0 OTHER CONSIDERATIONS

9.1 Collaboration

There are areas of contracts and procurement in which collaboration is likely to bring benefits, whether it is the sharing of operational resources, or commitment to specific joint

projects and/or contracts. Economies of scale can be achieved in both operational activity and through leveraging collective spend.

Collaborative procurement opportunities should be considered where benefits can be identified, including joint tendering opportunities where complementary service specifications exist.

9.2 The Public Services (Social Value) Act 2012

The Social Value Act 2012 came into effect on 31st January 2013. The Act requires commissioners and procurers to consider how what is to be procured may improve social, environmental and economic well being of the relevant area i.e. the area in which the commissioner operates or the area that it is procuring on behalf of. Commissioners also have an obligation to consider whether they should consult on the issue.

The Act requires consideration of matters which are relevant to the services procured and then only if it is proportionate to take those matters into account.

Therefore at the service conception, design, specification development stage, the CCG will ensure that it has been considered. Inclusions in a specification as a result of consideration will be taken into account during the evaluation process of the relevant procurement.

The CCG should keep a formal record to show consideration has been made.

9.3 Sustainable Procurement

The CCG is committed to the principles of sustainable development and demonstrating leadership in sustainable development to support central Government and Department of Health commitments in this area of policy, and the improvement of the nation's health and wellbeing.

Sustainable procurement is defined as a process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits not only to the organisation, but also to society and the economy, whilst minimising damage to the environment.

Sustainable procurement should consider the environmental, social and economic consequences of:

- Non-renewable material use,
- Manufacture and production methods,
- Logistics,
- Service delivery,
- Use / operation / maintenance / reuse / recycling and disposal options.

Each supplier's capability to address these consequences should be considered throughout the supply chain and effective procurement processes can support and encourage environmental and socially responsible procurement activity.

9.4 Small and Medium Sized Enterprise (SME), and Third Sector Support

The CCG will aim to support and encourage SME, Third Sector and voluntary organisations in bidding for contracts.

The CCG will aim to support Government initiatives seeking the involvement of SME's and the Third Sector in public service delivery without acting in contravention of public sector procurement legislation and guidance.

The NHS is keen to encourage innovative approaches that could be offered by new providers – including independent sector, voluntary and third sector providers. The CCG is committed to the development of such providers.

9.5 Transparency

In 2010 the Government set out the need for greater transparency across its operations to enable the public to hold public bodies and politicians to account. This includes commitments relating to public expenditure intended to help achieve better value for money.

As part of the transparency agenda, the government made the following commitments with regard to procurement and contracting:

- All new central government tender documents for contracts over £10,000 to be published on a single website from September 2010, with this information to be made available to the public free of charge.
- All new central government contracts to be published in full from January 2011.

9.6 OJEU Thresholds

The current OJEU procurement thresholds are as follows:-

Type	Threshold	Effective Date
Non Light Touch Regime Goods and Services	£164,176	From January 2016
Light Touch Services	£589,148	From 18 th April 2016.

9.7 Definitions

Supplies Contracts are essentially those for the supply, (and installation where appropriate), or hire of products. These are subject to the full requirements of the regulations if the value is above the prescribed threshold

A service (Non Light Touch) - A contract for a Non Light Touch service is subject to the full requirements of the regulations if the value is above the prescribed threshold. These are services such as Computer and related services; Accounting, auditing and book-keeping services, and Management consultancy services which are required to be advertised across the EU

Services (Light Touch) - These services are subject to the light touch regime of the Public Contract Regulations 2015. The services include those listed at Schedule 3 of the Public Contract Regulations 2015 and include Clinical Health Services. The following requirements will apply to applicable contracts with a **total value** above the light touch threshold:

- OJEU Advertising: The publication of a contract notice (CN) or prior information notice (PIN). Except where the grounds for using the negotiated procedure without a call for competition could have been used, for example where there is only one provider capable of supplying the services required.

- The publication of a contract award notice (CAN) following each individual procurement, or if preferred, group such notices on a quarterly basis.
- Compliance with Treaty principles of transparency and equal treatment.
- Conduct the procurement in conformance with the information provided in the OJEU advert (CN or PIN) regarding: any conditions for participation; time limits for contacting/responding to the authority; and the award procedure to be applied.
- Time limits imposed by authorities on suppliers, such as for responding to adverts and tenders, must be reasonable and proportionate. There are no stipulated minimum time periods in the LTR rules, so contracting authorities should use their discretion and judgement on a case by case basis.

ANNEX 1



Clinical Commissioning Group

Procurement Decision & Contracts Awarded – Checklist

<u>Questions</u>	<u>Comments/Evidence</u>
<u>Questions for all three procurements routes</u>	
How does the proposal deliver good or improved outcomes and value for money – what are the estimated costs and the estimated benefits? How does it reflect the CCG’s proposed commissioning priorities?	
How have you involved the public in the decision to commission this service?	
What ranges of health professional have been involved in designing the proposed service?	
What range of potential providers have been involved in considering the proposals?	
How have you involved your Health and Wellbeing Board? How does the proposal support the priorities in the relevant joint health and wellbeing strategy?	
What are the proposals for monitoring the quality of the service?	
What systems will there be to monitor and publish data on referrals patterns?	
Have all conflicts and potential conflicts of interest been appropriately declared and entered on registers, which are publicly available?	
Why have you chosen this procurement route?	

What additional external involvement will there be in scrutinising the proposed decision?	
How will the CCG make its final commissioning decision in ways that preserve the integrity of the decision-making process?	

Additional questions for AQP or single tender for service where national tariffs do not apply)

How have you determined a fair price for the service?	
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Additional questions for AQP only (where GP practices are likely to be qualified providers)

How will you ensure that patients are aware of the full range of qualified providers from whom they can choose?	
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Additional questions for single tenders from GP providers

What steps have been taken to demonstrate that there are no other providers that could deliver this service?	
In what way does the proposed service go beyond what GP practices should be expected to provide under the GP contract?	
What assurances will there be that a GP practice is providing high-quality services under the GP contract it has the opportunity to provide any new service?	

ANNEX 2



Clinical Commissioning Group

Procurement Decision & Contracts Awarded – Register Form

Service Title:		Ref:	
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Procurement Description	
Existing Contract / New Procurement (If existing include details)	
Procurement type – CCG Procurement, collaborative procurement with partners	
CCG Clinical Lead	
CCG Contract Manager	
Decision making process and name of decision making committee	
Summary of conflicts of interest	
Justification for actions to mitigate conflicts of interest	
Contract awarded (supplier name & registered address)	
Contract value (£) (Total) and value to CCG	
Comments to note	

To the best of my knowledge and belief, the above information is complete and correct. I undertake to update as necessary the information.

Signed:		Title:	
Print Name		Date:	

Please return to **Emma Smith, Governance Support Manager, Dudley CCG**