

Procurement Policy for Healthcare and Goods & Services

August 2021

Procurement Policy Stockport CCG

Version 1.1

Author: Andrew Nuttall

Policy Title:	Procurement Policy for Healthcare and Goods & Services		
Executive Summary:	This Procurement Policy outlines the key principles and considerations that will inform decision making in NHS Stockport Clinical Commissioning Group (“the CCG”). It addresses all areas of CCG spend, including contracts for healthcare services and also for the procurement of goods and non-healthcare services but is not intended to be comprehensively prescriptive and recognises the necessity for situational discretion when appropriate.		
Supersedes:	Procurement policy Version 1.0 . 31 October 2018		
Description of Amendment(s):	Reformatted and updated in line with changes to UK legislation,		
This policy will impact on:			
<ul style="list-style-type: none"> ✓ All employees and appointees of the CCGs (including all individuals working within the CCG in a temporary capacity, agency staff, seconded staff, students and trainees, and any self-employed consultants or other individuals working for the CCG under contract for services). ✓ Any other individual directly involved with the business or decision-making of the CCG 			
Summary of Impact Assessments:			
<p>Equality & Diversity: The policy is a set of instructions detailing the key principles and considerations that will inform procurement decision making process therefore does not materially affect employees. In applying this policy, NHS Stockport CCG will have due regard to any potential impact</p> <p>In applying this policy, NHS Stockport CCG will have due regard to any potential impact there may be on Quality; Finance; Information Governance; or other function and has taken that into consideration before the policy was adopted.</p>			
Policy Area:	Finance and Contracts	Document Reference:	SCCG/Fin/003
Version Number:	1.1	Effective Date:	01.08.2021
Executive Sponsor:	Liz Mclean	Review Date:	01.08.2024
Author:	Andrew Nuttall	Impact Assessment Date:	05.07.2021
APPROVAL RECORD			
	Committees / Group	Date	
Consultation:	CFO, Director of Integrated Commissioning ,Performance and Delivery.	05.07.2021	
Approved and Ratified:	Quality & Governance Committee	28.7.2021	

CONTENTS

Procurement Policy for Healthcare and Goods & Services	1
1. Context and Purpose.....	4
2. Scope	4
3. Regulatory & Policy Framework	5
4. Responsibilities.....	6
5. Key principles & considerations.....	7
6. Decisions, capability and resourcing	9
7. Terms and conditions of purchase.....	10
8. Processes to award a contract	10
9. Implementation	14
10. Training and Guidance	14
11. Impact Statements.....	14
12. References and Related Documents.....	15
13. Monitoring and Review	15
14. Appendices.....	16

1. Context and Purpose

1.1 This Procurement Policy outlines the key principles and considerations that will inform decision making in NHS Stockport Clinical Commissioning Group (“the CCG”). It addresses all areas of CCG spend, including contracts for healthcare services and also for the procurement of goods and non-healthcare services but is not intended to be comprehensively prescriptive and recognises the necessity for situational discretion when appropriate.

It:

- Sets out a clear purpose and scope for the policy;
- References the relevant regulatory frameworks;
- Outlines key principles and considerations to be taken into account;
- Confirms responsibilities and how capability will be assured;
- Ensures use of robust and consistent contractual terms and conditions; and
- Outlines the basis of decision making and the processes associated with the awarding contracts.

1.2 Consideration will need to be given to application of this Procurement Policy when the CCG is seeking to establish contracts across wider contracting authority organisations, including other CCGs and local authorities. Recognition will be given to their respective procurement policies and agreement will be sought to ensure a mutually acceptable approach on a case by case basis, ensuring that potential conflicts with this Procurement policy are considered by the Senior Management/Leadership Team and/or local authority as the case may be.

1.3 This policy takes into account current competition and procurement rules and will be updated in line with any changes to UK legislation, including legislative proposals for a Health and Care Bill.

2. Scope

2.1 This policy applies to those persons within the scope identified below when they are acting on behalf of the CCG.

- All CCG employees, including all full and part time staff; any staff on sessional or short-term contracts; any students and trainees (including apprentices) agency staff and seconded staff;
- Any self-employed consultants or other individuals working for the CCG under a contract for services;
- Members of the Governing Body to include all members of the CCG’s committees, sub-committees and sub-groups, including co-opted members; appointed deputies; and any members of committees or groups from other organisations; and
- All Members of the CCG (i.e. each practice). This includes GP partners and any individual directly involved with the business or decision-making of the CCG.

2.2 The scope of this policy covers the expenditure of the CCG which includes the procurement of all goods and services, as well as the procurement of healthcare services.

2.3 This policy recognises and seeks to support the key objectives of the CCG including to commission a sustainable, affordable, and high quality NHS. When procuring health care services, CCGs are required to act with a view to:

- meeting the needs of the people who use the services;
- improving the quality of the services; and
- improving efficiency in the provision of the services.

2.4 The Procurement Policy will be relevant to any situation where:

- a new contract needs to be established; or
- an existing contract reaches the end of its lawful duration; or
- an existing contract needs to be reviewed for the provision of any goods or services, including healthcare services being established for the benefit of NHS patients.

2.5 For the policy to be effective and for procurement to make a strategic impact with the organisation, the scope and content of the policy must be applied to all non-pay expenditure procured within the CCG. This policy document will govern and inform the procurement decisions of the CCG and provide assurance as to the most appropriate route to market for all types of goods and services.

2.6 The CCG requires this policy to be followed by:

- all employees and appointees of the CCGs (including all individuals working within the CCG in a temporary capacity, agency staff, seconded staff, students and trainees, and any self-employed consultants or other individuals working for the CCG under contract for services).
- any other individual directly involved with the business or decision-making of the CCG.

2.7 There is a legislative framework within which public sector procurement operates. The CCG has a duty to meet these legislative responsibilities whilst ensuring the health needs of its population is being met. This is supported by public sector procurement regulations, NHS specific regulations and guidance plus other regulations.

3. Regulatory & Policy Framework

3.1 When considering awarding contracts for goods and services the CCG will have regard to any UK Government Procurement Policy Notes issued, providing guidance on best practice for public sector procurement.

3.2 Specific regard is given to the following (as may be amended):

- **Public Contracts Regulations (PCR) 2015** – which prescribes how public bodies need to act when deciding how to award public contracts;
- **Public Procurement (Amendment etc.) (EU Exit) Regulations 2020** - which has given effect to amendments to the PCR 2015 in relation to healthcare contracts following exit from the EU;
- **National Health Service (Procurement, Patient Choice and Competition) (No.2) Regulations 2013**, including NHSE/I substantive guidance on the same – setting out the responsibilities of NHS commissioning bodies and their obligations when awarding contracts for healthcare services;

- **Health & Social Care Act 2012;**
- **Public Services (Social Value Act) 2012** – requiring that consideration be given as to how improvements might be made in regard to economic, social and environmental well-being of the local area;
- **Managing Conflicts of Interest.** Revised statutory guidance for CCGs 2017 ;
- **Transfer of Undertakings and Protection of Employment Regulations (TUPE) 2006;**
- **Equality Act 2010** – Section 149 sets out the Public Sector Equality Duty; and
- **Bribery Act 2010**
- **Freedom of Information Act 2000**

Links to the above regulations can be found in section 12.

3.3 Regard will also be given to applicable guidance as may be published from time to time by the Cabinet Office; Department of Health and Social Care; NHS England/Improvement or their successor bodies.

3.4 This policy operates alongside and should be read in accordance with the CCG's:

- Constitution;
- Annual Commissioning / Operating Plan;
- Governance Handbook which includes the Detailed Financial Policies and Scheme of Reservation and Delegation;
- Policy on the Management of Conflicts of Interest;
- Consultation Policy; and
- Freedom of Information Policy.

4. Responsibilities

4.1. The CCG Governing Body is responsible for setting out the approach for facilitating open and fair, robust and enforceable contracts through the policy. It shall endeavour to obtain best value for money by use of all systems in place through this procurement policy, the CCG Detailed Financial Policies and the latest guidance produced by the Department of Health, NHS England and NHS Improvement.

4.2. The Audit Committee is responsible for scrutinising all waivers of competitive tendering. It is a formal committee of the CCG Governing Body.

4.3. The Chief Finance Officer is the CCG's Procurement Lead with responsibility for implementing and ensuring that the principles of the policy and good procurement practice are embedded. This includes responsibility for monitoring changes in procurement legislation, and involvement in the sign-off of procurement exemptions prior to scrutiny by the Audit Committee.

4.4. All employees and appointees of the CCGs (including all individuals working within the CCG in a temporary capacity, agency staff, seconded staff, students and trainees, and any self-employed consultants or other individuals working for the CCG under contract for services) are required to follow this policy as well as any other individual directly involved with the business or decision-making of the CCG.

5. Key principles & considerations

The following key principles and considerations will support and guide the CCG when considering how to achieve its statutory obligations and in delivering its commissioning plans when making decisions as to how public funds will be invested through contracts for the procurement of goods and services, including health care services to be accessed by NHS patients.

- 5.1 Procurement of healthcare services must be conducted in accordance with the **Public Contracts Regulations 2015 (PCR 2015) Light Touch Regime (LTR)**, which applied to Healthcare Services from 18 April 2016 and the **National Health Service (Procurement, Patient Choice and Competition) (No 2) Regulations 2013 (PPCC 2013)**. These regulations impose requirements on CCGs to ensure equal treatment of providers and good practice when procuring healthcare services, to protect patients' rights to make choices, and to prevent anti-competitive behaviour. It should be noted that, where there is any potential conflict between the two sets of Regulations, the requirements of the Public Contract Regulations 2015 will take precedence. Due regard must be given to the amendments to the PCR 2015 contained within the **Public Procurement (Amendment etc.) (EU Exit) Regulations 2020**
- 5.2 Procurement of non-healthcare goods and services must be conducted in accordance with the **Public Contracts Regulations 2015**.
- 5.3 Procurement of healthcare services and non-healthcare goods and services must be conducted in accordance with the CCGs' Standing Financial Instructions (SFIs).
- 5.4 **Quality and value for money:** The CCG will use an assessment process to identify the most capable provider(s) to support delivery of the statutory obligations and commissioning intentions of the CCG). Decisions regarding contract award will be informed by assessments of value for money, this being an appropriate balance between quality and price.
- 5.5 **Principles:** As a public body and a Contracting Authority, as defined in statute, it is recognised that decisions regarding the awarding of contracts and how processes should be designed to award contracts are expected to comply with principles that have been derived from the World Trade Organisation (WTO) Government Procurement Agreement (GPA). These underpin current UK national procurement regulations, public procurement policy, and guidance and regulations, including:
 - *Transparency* – including in regard to decision making and contract opportunities;
 - *Equality of treatment and non-discrimination* – including ensuring that no providers or types of providers are treated more or less favourably; and
 - *Proportionality* – ensuring that assessments, requirements and decisions are reasonable given the relevant factors, circumstances, total value and risks associated with the relevant contract.

The CCG will comply with any arrangements that supersede these.

- 5.6 **Competition:** The role of competition will be carefully considered and, where appropriate, assessed to understand how it may best support the delivery of the

statutory obligations and the commissioning intentions of the CCG.

Recognition is given to the underpinning assumptions behind UK procurement regulations (and any regulations that supersede these) of the benefit of competition to drive best value for money, innovation and improved patient experience.

Recognition is also given to the statutory obligations of the CCG to decide to the extent to which, and how competition might be used to meet the commissioning intentions of the CCG.

Where the CCG makes a decision regarding awarding a contract which presents a risk of appearing to be anti-competitive, the reasons for such a decision will be recorded by the CCG.

Whilst the CCG may use competition to select the most appropriate and best value provider(s) to be awarded a contract, recognition is also given to the role that patient choice can play in allowing providers to compete to offer for example, the most accessible services, or to deliver the best patient experience.

- 5.7 **Patient choice:** When reviewing how services should be configured and contracts awarded for the provision of NHS services, a key consideration will be the choices that can be offered to patients.
- 5.8 **Integration:** Consideration will be given by the CCG to identifying and creating opportunities for the integration of services where such integration can deliver improved benefit to patients and/or the NHS. It is recognised that integration may take the form of providers of different services collaborating to offer joined up health and social care services for service users or may involve services being provided by a single or lead provider.
- 5.9 **Specifying requirements:** When seeking to award any contract for goods or services, a clear definition of requirements will be specified to inform the decision making. Where appropriate, the development of service specifications will seek to focus on the outcomes to be delivered by the service, enabling providers of services increased ability to develop and offer innovative solutions to deliver increased benefit to patients and the NHS.
- 5.10 **Patient and public engagement:** Where appropriate or required by statute, proportionate consultation and/or engagement with patients and the public will be undertaken to inform the review, development, and commissioning of NHS services.
- 5.11 **Market engagement:** Recognition is given to the benefits of timely engagement with both existing and potential providers to inform the review and development of requirements for future contracts, particularly for healthcare services.
- 5.12 **Collaborative working:** Opportunities will be explored to identify the potential benefits of collaborative approaches with other commissioning bodies; both NHS and local government, where common purchasing and commissioning requirements exist with the objectives to achieve shared efficiencies and improved leverage with the health and social care market.
- 5.13 **Authorised decision making:** Decision making for each stage of a process to award a contract will comply at all times with the Scheme of Reservation and

Delegation and the Detailed Financial Policies of the CCG.

5.14 **Conflicts of Interest:** The CCG recognises its statutory obligations to identify and manage any potential or actual conflicts of interests including from co-commissioners in regard to any decision making regarding the awarding of contracts. The CCG will, at all times, ensure compliance with both regulatory and statutory guidance in this regard, including the assurance of full probity and transparency of decision making.

6. Decisions, capability and resourcing

6.1 **Decision making and accountability:** The CCG will ensure that all purchasing and procurement decisions, including contract awards, comply at all times with its Constitution and, specifically, the Scheme of Reservation and Delegation and the Detailed Financial Policies. Whilst external agencies and commissioning support functions will be used to provide procurement services (including the provision of advice, guidance, processing of purchase requisitions, raising of purchase orders and undertaking competitive tendering), as well as contract management support, the CCG will, at all times, remain directly responsible.

6.2 The CCG will ensure that records are maintained about decisions made in regard to the awarding of contracts which comply with the requirements of:

- Regulation 84 - Reporting and Documentation Requirements - of the Public Contracts Regulations 2015; and
- Regulation 9(1) - Record of Contracts Awarded, of the NHS (Procurement, Patient Choice and Competition) (No.2) Regulations 2013.

Further detail can be found in Appendix A.

6.3 **Planning:** All Contracts will be reviewed in line with the relevant rules and regulations. The CCG will maintain a contracts database that supports regular review and identification of the status of each contract, including timelines for expiry which will be used by the CCG to inform timely service review and likely procurement planning (including market engagement).

6.4 A relevant healthcare procurement plan will be produced and updated as required that will identify prioritised procurement requirements in line with the CCGs' Detailed Financial Policies and the regulatory financial thresholds (Appendix B) which will take account of existing contracts, new service developments arising from the CCGs commissioning intentions, as well as local and national priorities.

6.5 **Qualified advice and guidance:** Recognising the often complex and continually developing regulatory regime that impacts on decisions to award contracts, appropriately qualified and experienced advice and guidance will be sought to inform decision making regarding the awarding of contracts and associated processes. Arrangements will exist for decision makers to have access to appropriately experienced procurement professionals and where appropriate, specialist procurement legal services.

6.6 **Use of information technology:** Procurement processes will, where possible, be conducted electronically using appropriate systems that deliver benefit to the CCG

in terms of speed of communication with providers, robust audit trails and security of commercial confidentiality. Recognition is given to procurement regulations which include obligations to provide procurement information to potential bidders electronically.

7. Terms and conditions of purchase

- 7.1 **Regulatory compliance of providers:** As appropriate and lawful, the CCG will ensure that contractual terms and conditions, and procurement processes are designed and used to ensure that providers recognise, commit to and evidence their ability with regard to all relevant regulatory requirements.
- 7.2 **Purchase Orders:** Official Purchase Orders will be raised in compliance with the CCG's Detailed Financial Policies. Purchase Orders forwarded to suppliers of goods and non-healthcare services will ensure clear reference to the nationally developed NHS terms and conditions of goods and services.
- 7.3 **Written Contracts:** All contracts will be in writing and incorporate nationally developed and mandated terms and conditions as relevant to the type of service.
- 7.4 **Framework Agreements:** Where contracts are entered into under an existing Framework Agreement, the 'call-off' contract template prescribed by the Framework including the terms and conditions of the Framework will be used as the commercial basis of agreement between the parties.
- 7.5 **Grants:** Where the CCG agrees the award of a grant, the terms of the grant will be agreed with the third party recipient and recorded using a Grant Agreement having reference to such model agreements published by NHS England.

8. Processes to award a contract

8.1 Choosing a process to award contracts

8.1.1 Recognition is given to the variety of processes that may be available to the CCG to award a contract for the provision of goods and services and the importance of ensuring that decisions on this are appropriate at the time and are robust. Appropriately qualified and experienced advice and guidance will be sought to inform an understanding of the options available, including any potential risks and how these might best be mitigated.

8.1.2 As appropriate, consideration will be given to the following approaches and issues:

- **Variation/Modification** – Consideration will be given to whether it is possible to vary or modify an existing contract, whether this will be to vary the scope of service and/or the overall contract value. Recognition is given to regulatory limitations as to when and to what extent an existing contract may be lawfully modified (varied) without triggering the need to re-procure a new contract. A change would be considered “material” where:
 - 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; or
 - the contract would have been awarded to a different provider if the change had originally been included in the original service specification; or
 - the change involves genuinely new services not originally within the scope of the specification; or
 - there is a significant change in the value of the contract.
- **Use of Frameworks** – It will be appropriate to ‘call off’ under its terms where a framework agreement is established, or an existing framework is to be re-opened to new applicant providers, including the Any Qualified Provider (AQP) for healthcare services. The need for a ‘mini-competition’ may be necessary under the terms of the framework agreement.
- **Competitive Tendering (Light Touch Regime)** – will be considered for both the awarding of single contract or multiple contracts (including where a service requirement may be split into smaller ‘lots’). Under the Light Touch Regime it is open for the CCG to determine its own procedure, provided that it is transparent and treats bidders equally. In addition, any time limits imposed within the process are required to be both ‘reasonable’ and ‘proportionate’. To ensure that these principles are complied with it is often easier and safer to design a procedure that mirrors existing ‘Full Regime’ procedures such as the Open or Restricted process.
- **Negotiation / direct award without competition** – the CCG will consider whether it is appropriate and compliant to directly award a contract without any competitive process, involving a directly negotiated solution with a single provider. To do so the CCG must be satisfied that services required are capable of being provided by only that Provider (or that the CCG can clearly and robustly demonstrate that the provider identified is the most capable) and that the award also complies with Regulation 32 of the Public Contract Regulations 2015.

For total contract value above the Threshold, the possibility of a direct award with no competition is covered under Regulation 32 of the Public Contract Regulations 2015. This states it is only possible under the following circumstances:

- Where no tenders or no suitable tenders were received from providers in response to an Open or Restricted procedure procurement process; or
- Competition is absent for technical reasons (i.e. only one provider can meet the specification, and this has been evidenced and justified appropriately); or
- For reasons of extreme urgency brought about by events unforeseeable by the CCG, the time limits for procurement cannot be met and this has been justified appropriately – poor planning is not an appropriate or acceptable justification.
- For a total contract value below the Threshold the CCG must instead comply with the stipulations of the Procurement, Patient Choice & Competition (2) Regulations 2013.

CCG financial procedures - In all cases, reference will be made to the CCG’s Scheme of Delegation and Detailed Financial Policies to determine the financial

value thresholds as to: when competitive proposals are expected to be sought for low value contracts and when a formal procurement process is required.

Regulatory financial thresholds - Where regulatory thresholds indicate the need for a formal competitive procurement process, the CCG will consider which of the procedures prescribed by the regulations will be appropriate and proportionate

8.2 Deciding which process is appropriate – health care services

8.2.1 The CCG recognises its specific responsibilities and obligations when commissioning health care services for the local population, as well as the important flexibilities available to NHS commissioners when designing procurement processes for healthcare service contracts, whilst ensuring compliance with UK regulations.

8.2.2 Given the need to achieve their commissioning objectives, the CCG will select the most appropriate and proportionate process to award contracts that also maintain a focus to ensure best use of available commissioning, procurement, and contract management resources.

8.2.3 The CCG recognises the regulatory requirements to make arrangements for potential providers to express their interest to provide services through advertisements on the appropriate websites (from 1 January 2021 this is through Contracts Finder).

8.3 Evaluation approach & contract award criteria

8.3.1 **Any Qualified Provider (AQP) Frameworks:** Processes to appoint providers to an AQP Framework will be designed to validate applicant providers' ability to meet the CCGs' requirements (as detailed in the service specification) and accept the terms and conditions of the framework and the prices as may be set by the CCG.

8.3.2 **Value for money:** Where a competitive process is to be used to award a contract, the CCG will ensure that the evaluation methodology is able to identify the provider offering the best value for money, also referred to as the 'most economically advantageous tender' (MEAT).

'Value for money' will be specifically defined within each procurement process to ensure that there is the right balance between quality and price and that the evaluation process will be transparent to all potential bidders.

8.3.3 **Proportionality:** When designing an evaluation methodology, the CCG will consider the total value of the contract and the level of potential risk associated with the service so that the approach to the procurement can be planned to be proportionate.

8.3.4 **Procurement evaluation stages:** Depending on the value, risk and complexity of the service being procured, the CCG will give consideration to the incorporation of, but not limited to, the following procurement stages and elements:

- **Qualification of bidders:** Where a formal procurement process is to be used to award a contract, the CCG will ensure that potential bidders are appropriately qualified, capable and experienced.
- **Written bid response:** Either in the form of a bid response questionnaire or inviting the bidder to submit a written proposal, ensuring that the questions are appropriately focused on the specified requirements of the CCG.
- **Conformance:** In respect of compliance with any advertised conditions for participation, methods and time limits for contacting/responding to the CCG and the award process to be applied.
- **Bid price:** Which may be a competitive price within thresholds determined by the CCG, or confirmation of a tariff or service price proposed by the CCG. The CCG will ensure that bidders provide sufficient detail to justify bid prices being tendered to enable proportionate due diligence and scrutiny on the part of the CCG.
- **Employment protection:** The CCG will have regard to relevant employment protection legislation and ensure that where relevant, there is an assurance that bidders understand, assess and take full account of their responsibilities in this regard.
- **Bidder presentation and interview:** Including the role of setting scenarios for bidders to respond to.
- **Site visits:** Consideration will be given as to how site visits to a bidder's premises may be used as either a scored element of the procurement evaluation, or forming part of the CCGs' due diligence before finalising any contract award decision.
- **Dialogue and negotiation:** Where considered beneficial to the CCG and following expert procurement advice, the CCG may include some form of dialogue or negotiation stages with bidders as part of a formal procurement process.

8.3.5 **Contract award criteria:** The CCG will ensure that the criteria to be used to award a contract are carefully considered and relevant to each contract and its critical success factors, ensuring an absolute relevance to the CCGs' requirements, including how these are expressed through the developed service specification.

8.3.6 **Evaluation panel:** Where appropriate the CCG will resource and appoint work-stream and subject matter experts to participate within a panel to evaluate bids received during a competitive procurement process. Where appropriate to the procurement of healthcare services, the role of patient representatives will be considered. At all times, the CCG will have regard to the CCGs' Policy on the Management of Conflict of Interests.

8.3.7 **Moderation of evaluation panel scoring:** Where an evaluation panel has been established to evaluate bids, the CCG will ensure inclusion of a moderation phase to agree consensus evaluation scoring on behalf of the CCG which will inform the evaluation panel's identification and recommendation of preferred bidder(s) to be awarded a contract(s).

8.4 Due diligence

8.4.1 The CCG will ensure that proportionate due diligence is undertaken during and following procurement process to provide necessary assurance on the preferred

bidder's ability to deliver what they have offered to the CCG.

8.5 Contract award decision

8.5.1 The CCG will ensure that contract award decisions are communicated to successful and unsuccessful bidders as soon as possible and will ensure:

- The provision of detailed written feedback to show the reasons for the decision;
- That the relative merits and advantages of the winning bid are identified; and
- Bidders are able to learn from any potential weaknesses in their submitted procurement response to improve the quality of future procurement responses to the CCG.

8.5.2 The CCG will ensure that details of contracts awarded are published in the public domain.

8.6 Mobilisation

8.6.1 To ensure that there is a seamless transition of service provision between incumbent and newly appointed service providers, the CCG will ensure that the awarding of a new contract will ensure a focus on how mobilisation will be planned, resourced and overseen.

8.7 Contract signature

8.7.1 Contracts will be signed with providers at the earliest opportunity following satisfactory necessary due diligence and following completion of a standstill period of at least 10 calendar days following notification to bidders of the contract award decision, where appropriate to the nature of the service, its value and regulatory requirements.

9. Implementation

This policy will be available to all staff, via the CCG staff intranet. All managers are responsible for ensuring that relevant staff within the CCG have read and understood this document and are competent to carry out their duties in accordance with the procedures described.

10. Training and Guidance

The CCG will ensure that decision makers, including procurement evaluation panel members, have access to appropriate levels of training in regard to procurement matters commensurate with their responsibilities which will include general awareness of regulatory obligations and how and when to seek further support, advice and guidance.

11. Impact Statements

Equality & Diversity

In applying this policy, NHS Stockport CCG will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following

characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

Quality, Finance, Information Governance

In applying this policy, NHS Stockport CCG will have due regard to any potential impact there may be on Quality; Finance; Information Governance; or other function and has taken that into consideration before the policy was adopted.

12. References and Related Documents

The following provides a list of reference sources as well as the Regulations and Acts of Parliament referred to within Section 2 of this policy that will be taken into account when the CCG considers awarding contracts.

Public Contracts Regulations 2015

<http://www.legislation.gov.uk/ukxi/2015/102/contents/made>

Public Procurement (Amendment etc.) (EU Exit) Regulations 2020

<https://www.legislation.gov.uk/ukdsi/2020/9780348212952>

NHS (Procurement, Patient Choice and Competition) (No.2) Regulations 2013

<http://www.legislation.gov.uk/ukxi/2013/257/contents/made>

Monitor's substantive guidance on the NHS (Procurement, Patient Choice and Competition) (No.2) Regulations 2013

<https://www.gov.uk/government/publications/procurement-patient-choice-and-competition-regulations-guidance>

Health & Social Care Act 2012

<http://www.legislation.gov.uk/ukpga/2012/7/contents/enacted>

Public Services (Social Value Act) 2012

<http://www.legislation.gov.uk/ukpga/2012/3/enacted>

Managing Conflicts of Interest: Revised statutory guidance for CCGs 2017

<https://www.england.nhs.uk/commissioning/pc-co-comms/coi/>

Transfer of Undertakings and Protection of Employment Regulations (TUPE) 2006

<http://www.legislation.gov.uk/ukxi/2006/246/regulation/4/made>

Equality Act 2010

<http://www.legislation.gov.uk/ukpga/2010/15/contents>

Bribery Act 2010

<http://www.legislation.gov.uk/ukpga/2010/23/contents>

Freedom of Information Act 2000

<https://www.legislation.gov.uk/ukpga/2000/36/contents>

13. Monitoring and Review

Monitoring of compliance with this policy will take place through an annual review of the record of Contract Award Decisions against the policy

This policy will be reviewed at least every three years.

14. Appendices

Appendix A – Regulatory requirements to maintain records regarding Contract Award Decisions

This Policy recognises the regulatory obligations to maintain certain records in connection with the processes associated with the awarding of contracts. These are more fully set out below:

Regulation 84 Documentation

Regulation 84 of the Public Contracts Regulations 2015 sets out specific requirements for contracting authorities.

For every contract or framework agreement (or dynamic purchasing system), falling in scope of the PCR 2015, the CCG must draw up a written report to include:

- Name and address of CCG;
- Subject matter;
- Value of contract or framework agreement (or dynamic purchasing system);
- Names of selected bidders and reasons for their selection;
- Names of rejected bidders and reasons for their rejection;
- Reasons for any tenders being rejected for their price being abnormally low;
- Name of successful bidder and the reasons for tender being successful;
- Names of any main sub-contractors and the share of the contract intended that they will deliver;
- Where either a Competitive Procedure with Negotiation or a Competitive Dialogue Procedure used, the circumstances justifying the use of such procedures;
- Where a Negotiated Procedure without prior notice being issued is used, the circumstances justifying the use of this procedure;
- Where applicable, the reasons the CCG has decided not to award a contract, or framework agreement or dynamic purchasing system;
- Where applicable, the reasons why electronic communications were not used for the submission of tenders;
- Details of conflicts of interests detected and subsequent measures taken to manage the conflicts.

A Post-Procurement Outcomes Report, normally called the “Contract Award Recommendation Report” or CARR, recommending an award of a contract decision should be designed to meet the above requirements. This report is not required for contracts which call off from an existing framework agreement unless a report is required by the relevant board to enable them to ratify a recommendation of award.

Where a Contract Award Notice is issued in accordance with PCR 2015, to the extent it already contains all information required above, this can be referred to in the alternative. Upon request from the Cabinet Office a copy of this Report must be supplied to them. The CCG shall ensure documented progress of all procurement procedures.

The CCG shall keep sufficient documentation to justify decisions taken in all stages of procurement procedures including:

- Communications with interested providers and bidders;
- Preparation of the procurement documents;
- Where relevant, dialogue or negotiation with any bidder;
- Selection and award of the contract.

Documentation required by Regulation 84 shall be kept for at least 3 years from the date of the award of the contract.

NHS 2013 Regulations Documentation

Additionally, Regulation 9(1) of the NHS (Procurement, Patient Choice and Competition) (No.2) Regulations 2013 sets out requirements for CCGs to:

Maintain and publish on the website maintained by the Board under regulation 4(1), a record of each contract awarded for the provision of health care services for the purposes of the NHS which shall include:

- Name and registered address of the provider;
- Description of the health care services to be provided;
- Contract value or payments to be paid;
- Contract start and end dates;
- Description of the process adopted for selecting the provider.

Appendix B – Current PCR thresholds

Type	Threshold	Effective Date	Review Date
Supplies & Services	€221,000/£189,330	1 January 2020	31 st August 2021
Light Touch Regime (inc. Health)	€750,000/£663,540	1 January 2020	31 st August 2021

Note – under the EU procurement regime, thresholds were reviewed and refreshed on a biennial basis. The new thresholds were historically published shortly before they come into effect. The limits which came into effect from 1st January 2020 are shown here.

From 31st August 2021, the UK will set its own public procurement thresholds and these will no longer be linked to the exchange rate with the Euro (€) as is currently the case.