



**Integrated
Care System**
Shropshire, Telford and Wrekin



**Shropshire, Telford
and Wrekin**

Procurement & Provider Selection Policy

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1.1	Added paragraphs 12.4 & 12.5 regarding Carbon reduction and the Public Services (Social Value) Act 2012	In line with Procurement guidelines	Hayley Smith	
1.2	Updated 8.7 regarding the ICB Purchasing Card	In line with ICB guidance	Angus Hughes	

Contents	Page
1 Introduction	4
2 Scope	5
3 Policy Statement	6
4 Application of this Policy	7
5 Roles and Responsibilities	8
6 Investment and Disinvestment Process	9
7 Procurement Approach	9
8 Procurement Decision Process – Goods and Non-Healthcare Services	10
9 Competition Waivers – Goods and Non-Healthcare Services	12
10 Healthcare Services – Provider Selection Regime (PSR)	13
11 Forms of Contracts	17
12 Sustainable Procurement	18
13 Collaborative Procurement	19
14 Use of Information Technology	19
15 Equality and Quality Impact Assessment	20
16 Stakeholder Engagement	20
17 Conflicts of Interest	20
18 Freedom of Information	21
19 Policy Non-Compliance	22
20 Equality and Diversity Statement	22
21 Communication, Monitoring and Review (including Staff Training)	23
22 Interaction with other Policies	23

1. Introduction

- 1.1. This policy applies to the NHS Shropshire, Telford and Wrekin 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.



Ambition



Compassion



Optimism



Focus



- 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

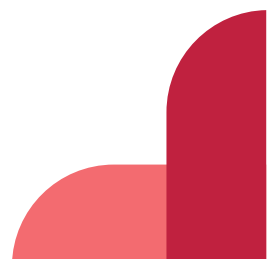
opportunities, transparency in making decisions, and the declaration and appropriate management of conflicts of interest.

- **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.

Roles and Responsibilities

Roles	Responsibilities
Strategic Commissioning Committee	<p>The Strategic Commissioning Committee is 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.</p> <p>The Strategic Commissioning Committee is responsible for formally approving the procurement process for each procurement.</p>
Chief Executive Officer	The Chief Executive Officer has overall accountability for the ICB's provider selection and procurement processes.
Chief Finance Officer	The Chief Finance Officer has overall responsibility for the ICB's provider selection, procurement decisions and procurement processes.



Roles	Responsibilities
Procurement Support	<p>The ICB currently buy in Procurement Support from NHS Midlands and Lancashire CSU. It is required by the ICBs that all procurement projects include the full and active participation of the Procurement Manager, from the start of the process to the end.</p> <p>The Procurement Manager will be responsible for leading the Procurement process and will work with the Contract and Commissioning Lead to ensure that the procurement is robust and in accordance with best practice.</p>
Procurement Oversight Group	<p>The role of the Oversight Group is to provide strategic oversight for the entire procurement portfolio and provide assurance and constructive challenge to procurement projects.</p> <p>The POG also monitors all contracts and engages with the appropriate ICB colleagues to provide early warning where contracts are approaching their end, with a view to ensuring that all services are properly evaluated and corporate decisions on the future arrangements for the services are made in good time. In so doing this will allow procurements to run in a timely way and remove the need to extend contracts due to a lapse of time.</p> <p>Oversight of all procurement activities includes oversight of pilot programmes which will lead to a requirement for a procurement process when the pilot is deemed viable for full-service delivery implementation.</p> <p>It is not the role of STWPOG to run the actual procurements. That function sits with the relevant project team.</p> <p>Each year, the ICB will, via POG ensure that a Procurement Plan will be maintained that will list all current and future procurements. The Procurement Plan will be reviewed on a quarterly basis at the Commissioning Working Group considering local and national priorities, the ICB's commissioning intentions and nationally mandated procurements. In addition, it will consider the impact of completed and on-going procurements, the overall number and type of tenders being planned, ensuring that major tenders do not occur at the same.</p>
Commissioning Working Group	<p>The Commissioning Working Group will be responsible for reviewing and approving business cases, value for money and service specifications.</p>
Audit Committee	<p>The Audit Committee is responsible for ensuring compliance with competition waiver processes for goods and non-healthcare services.</p>

Roles	Responsibilities
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 Procurement Support Team in NHS Midlands and Lancashire CSU.

5. Procurement Approach

- 5.1 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.
- 5.2 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.
- 5.3 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.
- 5.4 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.
- 5.5 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.

6. Procurement & Decision Process – Goods and Non-Healthcare Services

- 6.1 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.
- 6.2 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
<£25,000	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 Procurement Team as required.
<£50,000	Director responsibility Two Written Quotes are required Advice to be sought from the Procurement Team as required
<£75,000	Director responsibility

	Three Written Quotes are required Advice to be sought from the Procurement Team as required
£75,001 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 Procurement Team.
Equal to or above the Public Contract Regulation Threshold applicable at the time. <i>(As of 1 January 2024, Supplies/Services Value = £214,904 (inc VAT) Works =£5,372,609 (inc VAT))</i>	Compliance with the Public Contract Regulations 2015. Advice to be sought from the Procurement Team as required

- 6.3 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.
- 6.4 The ICB must adhere to NHS England Policy and Guidance for procurement of Management Consultancy Services and Agency Staff.
- 6.5 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.
- 6.6 The ICB should raise purchase orders for goods and services in accordance with NHS England’s future proposals for ‘no PO no payment’
- 6.7 Under urgent circumstances the purchase cards can be used for small, low value transactions as there are transaction limits and monthly card credit limits.

7. Competition Waivers – Goods and Non-Healthcare Services

- 7.1 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.
- 7.2 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.

- 7.3 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.
- 7.4 Approval of request for Competition Waiver shall be in accordance with the ICB's Scheme of Reservation and Delegation.
- 7.5 All decisions arising from an approved Competition Waiver will be reported to the ICB's Audit Committee. Waivers can be requested in the following circumstances:
- Very exceptional circumstances where the Chief Executive Officer 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.
- .7.6 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.

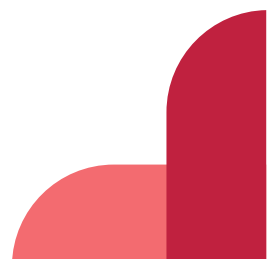
8. Healthcare Services – Provider Selection Regime (PSR)

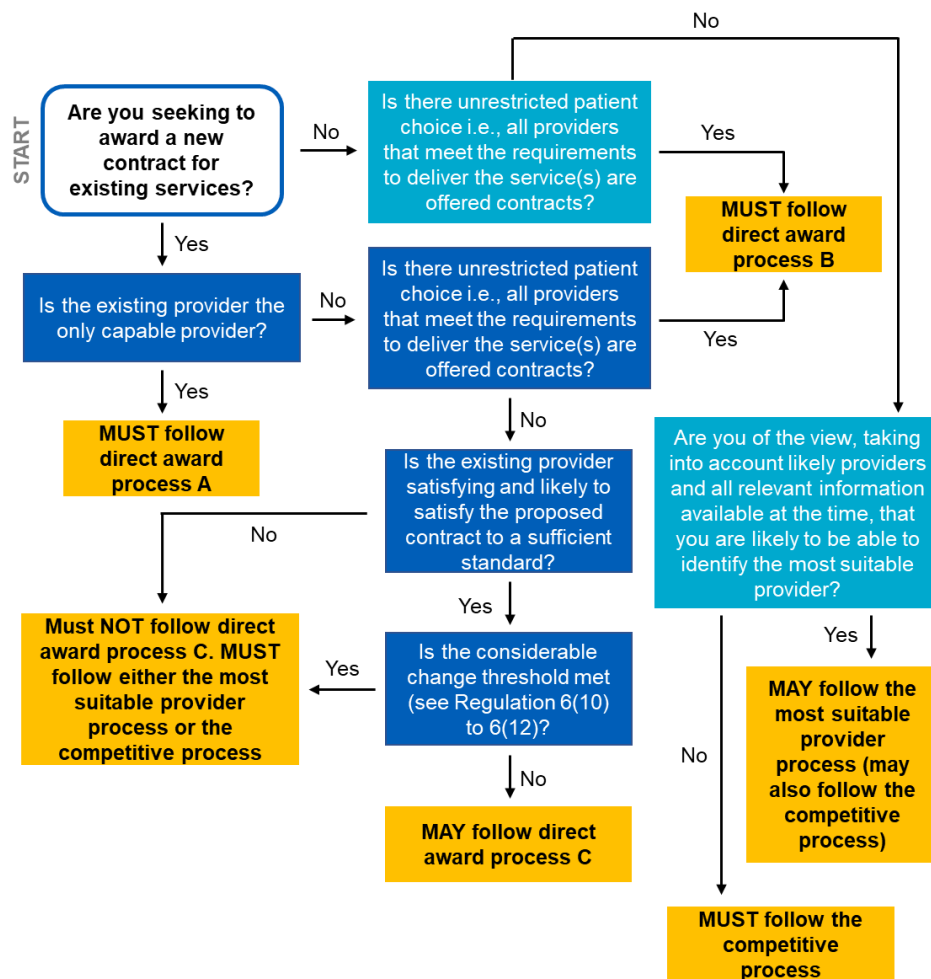
- 8.1 The procurement routes for healthcare services are governed by the Health Care Services (Provider Selection Regime) Regulations 2023.
- 8.2 PSR applies to health care services as defined in section 150(1) of the Health and Social Care Act 2012
- 8.3 The ICB can follow one of the following provider selection processes to award contracts for health care services:

- Direct Award Process A
- Direct Award Process B
- Direct Award Process C
- Most Suitable Provider Process
- Competitive Process

Direct Award Processes			The Most Suitable Provider Process	The Competitive Process
A	B	C		
No realistic alternative to the existing provider.	People have a choice of providers, and the number of providers is not restricted by the relevant authority.	The existing provider is satisfying the existing contract and will likely satisfy the proposed new contract, and the contract is not changing considerably.	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.	Where the relevant authority cannot use any of the other processes or wishes to run a competitive exercise.

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





- 8.5 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.
- 8.6 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.

- 8.7 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.

- 8.8 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.
- 8.9 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.
- 8.10 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.
- 8.11 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.
- 8.12 The ICB should develop and maintain sufficiently detailed knowledge of relevant providers to ensure compliance with PSR.

8.13 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	Commissioning Working Group	Reported to Strategic Commissioning Committee
Direct Award B	Nil value (value and volume subject to patient choice)	Commissioning Working Group	In line with provider accreditation process, and reported to Strategic Commissioning Committee
Direct Award C <u>or</u> Most Suitable Provider	Up to £100,000	Commissioning Working Group	Reported to Strategic Commissioning Committee
	Up to £500,00	Strategic Commissioning Committee	Decisions that are considered to set precedent, or are novel, contentious or repercussive in nature can be escalated to the Board.
	£500,001 and above, or where proposals below this value are considered to set precedent, or are novel, contentious or repercussive in nature	Strategic Commissioning Committee	Decisions that are considered to set precedent, or are novel, contentious or repercussive in nature can be escalated to the Board.

PSR process and associated contract award	Annual value	Delegated to	Additional information
Competitive – approval of <u>process</u>	All values	Strategic Commissioning Committee	
Competitive – approval of <u>contract award</u>	Up to £100,000	Strategic Commissioning Committee	
	Up to £500,00	Strategic Commissioning Committee	Decisions that are considered to set precedent, or are novel, contentious or repercussive in nature can be escalated to the Board.
	£500,001 and above	Strategic Commissioning Committee	Decisions that are considered to set precedent, or are novel, contentious or repercussive in nature can be escalated to the Board.

9. Forms of Contracts

- 9.1 All ICB officers need to understand the terms and conditions that apply to a particular contract prior to award.
- 9.2 **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.
- 9.3 **Contracts for Healthcare Services:** The NHS Standard Contract (full or short form) is mandated by NHS England for use by commissioners for all contracts for

healthcare services other than primary care. In this context, ICB officers must ensure that:

- In all instances the use of the NHS Standard Contract in any procurement or market intervention should be in accordance with the NHS Standard Contract Technical Guidance relevant in the year of use.
 - Consideration is given to the use of the NHS England shorter form version of the Standard Contract, for use in defined circumstances.
- 9.4 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.
- 9.5 The ICB must keep, and publish on public facing website, a complete list of all contracts for both non-healthcare and healthcare contracts.
- 9.6 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.

10. Sustainable Procurement & Social Value

- 10.1 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.
- 10.2 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.
- 10.3 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.
- 10.4 From April 2024 a tired approach to Carbon Reduction Plans (CRP) shall apply:
- A full CRP will be required for procurements of high value (£5m per annum exc. VAT and above) and new frameworks, irrespective of the value of the

contract, where relevant and proportionate to the framework.

- A Net Zero Commitment will be required for procurements of lower value (below £5m per annum exc. VAT and above £10k exc. VAT)

10.5 The Public Services (Social Value) Act 2012 (the “Social Value Act”) applies to ICBs when it carries out its procurement activities. Since 1st April 2022 there is a legal requirement to assign a minimum weighting of 10% to Social Value tender evaluation criteria.

11. Collaborative Procurement

11.1 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.

11.2 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.

11.3 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.

11.4 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.

11.5 The ICB should consider opportunities for collaborative procurement with ICS partners.

12. Use of Information Technology

12.1 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.

13. Equality and Quality Impact Assessment

- 13.1 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 and Quality Impact Assessment (EQIA) must be carried out prior to the change within the service.
- 13.2 All service development proposals relating to commissioning investment/disinvestment decisions will include EQIAs.

14. Stakeholder Engagement

- 14.1 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.
- 14.2 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.

15. Conflicts of Interest

- 15.1 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.
- 15.2 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.

- 15.3 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).
- 15.4 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.
- 15.5 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.

16. Freedom of Information

- 16.1 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.
- 16.2 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.

17. Policy Non-Compliance

- 17.1 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.
- 17.2 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.
- 17.3 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.
- 17.4 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.

18. Equality and Diversity Statement

- 18.1 NHS Shropshire, Telford and Wrekin 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.
- 18.2 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.
- 18.3 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.
- 18.4 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.
- 18.5 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.

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

- 19.1 The ICB will establish effective arrangements for communicating the requirements of this policy. .
- 19.2 The ICB will establish training and updates for all staff.
- 19.3 The implementation of this policy, and the effectiveness of the arrangements detailed within it, will be monitored by the ICB's Strategic Commissioning Committee as well as the Audit Committee.
- 19.4 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 Commissioning Committee

20. Interaction with other Policies

- 20.1 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 Delegation and Prime.
 - Raising Concerns (Whistleblowing) Policy.
 - Freedom of Information (FOI) and Environmental Information Regulations (EIR) Policy.
 - Risk Management Policy.
 - Fraud, Bribery and Corruption

