



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



**Shropshire, Telford
and Wrekin**

Provider Selection Regime – Representation Policy

**The Healthcare Services Provider Selection Regime (PSR)
Regulations 2023**

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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. 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 aggrieved by a PSR process to make a representation relating to the PSR process.

2. Scope

- 2.1 This policy applies to all staff who make arrangements for the delivery of healthcare services 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).

3. Application of this Policy

- 3.1 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 In line with prevailing procurement regulations.

4. Roles and Responsibilities

- 4.1 The ICB must have in place a process that will receive and respond to representations. This is stw.stw.cmt@nhs.net and this will be advertised in the Intent to award notice placed on the Find a Tender Service (FTS) website for the service being arranged under PSR.

Roles	Responsibilities	Membership
PSR Representation Panel	The ICB must have in place a process to receive and respond to representations. ICB officers involved in responding to representation must not have had any involvement	Executive Lead to sponsor the findings Contracting Team Member – not involved with the original procurement. Procurement Lead - Not involved with the original procurement. (It is



Ambition



Compassion



Optimism



Focus

Roles	Responsibilities	Membership
	in the original provider selection decision.	<p>important to involve procurement lead responsible for the process to give procurement context of decision making. This can be via interview from the independent ICB panel).</p> <p>Finance Lead - Not involved with the original procurement.</p> <p>Quality Lead - Not involved with the original procurement.</p> <p>Commissioning / Project Lead – Not involved in the original procurement</p>

5. Representation Approach

5.1 Considering representations:

Providers may make a representation to the relevant authority within the first eight working days following the start of the standstill period (i.e. eight working days starting with the first working day following the day after the intention to award notice has been published). Providers cannot submit a representation after that period, even if the standstill period has been extended in response to a representation from another provider.

The purpose of making a representation is to seek a review of the decision made, to determine whether a ICB has applied the regime correctly and made an appropriate provider selection decision.

Relevant authorities are only obliged to respond to representations that meet all the following conditions:

- the representation comes from a provider that might otherwise have been a provider of the services to which the contract relates
- the provider is aggrieved by the decision of the relevant authority
- the provider believes that the relevant authority has failed to apply the regime correctly and is able to set out reasonable grounds to support its belief
- the representation is submitted in writing (which includes electronically) to the relevant authority within eight working days of the start of the standstill period (and ending on midnight on the eighth working day).

When awarding a contract based on a framework agreement, e.g. following a mini-competition, only providers that were party to the framework agreement and i) took part in the mini-competition but were unsuccessful, or ii) were excluded from the mini-competition, may make a representation to the relevant authority.

5.2 Outcome of representation:

Where the relevant authority finds that a representation has merit (e.g., it identifies that the process has not been followed correctly or brings to light information that has a bearing on the decision reached), it must further consider whether this impacts on the intention to award a contract to the selected provider. It must then decide whether to:

- enter into a contract or conclude the framework agreement as intended
- go back to an earlier step in the selection process, either to the start of the process or to where a flaw was identified, rectify this, and repeat that step and subsequent steps.
- abandon the provider selection process.

The relevant authority must communicate the decision described above promptly and in writing, to:

- the provider that made the representation
- the provider to which the relevant authority intended at the beginning of the standstill period to award the contract, or all providers with which the relevant authority intended at the beginning of the standstill period to conclude the framework agreement.

The standstill period can only end once the relevant authority has reviewed its decision, shared its conclusion (in writing) with the relevant providers, and concluded that it is ready to award the contract, or that it's going to return to an earlier step in the process, or abandon the process.

The relevant authority must allow at least five working days following the day on which they sent their response to the provider, before the standstill period comes to an end. This time allows the provider to consider the response of the relevant authority, seek further clarifications, and to consider whether to request a further review by the Independent Patient Choice and Procurement Panel. This time also allows the relevant authority to reconsider their decision and make any subsequent decisions if necessary. The relevant authority must communicate any such further decision in writing to the provider (as outlined above).

If an Independent Patient Choice and Procurement Panel review is requested and accepted, then the standstill period would usually continue until after the Independent Patient Choice and Procurement Panel has given its advice and relevant authority has made its further decision in light of that advice.



Flowchart for PSR standstill period and representation process

Flowchart

