

NHS Bradford City CCG

Procurement Policy 2013

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1. Introduction

Procurement is central to driving quality and value. It describes a whole life-cycle process of acquisition of goods, works and services; it starts with identification of need and ends with the end of a contract or the end of useful life of an asset, including performance management. Procurement encompasses everything from repeat, low-value orders, through to complex healthcare service solutions developed through partnership arrangements.

There are a range of procurement approaches available which include working with existing providers, non-competitive and competitive tenders, multi-provider models, such as Any Qualified Provider (AQP) and frameworks.

NHS Bradford City CCG's approach to procurement is to operate within legal, national guidance and policy frameworks and actively to use procurement as one of the system management tools available to strengthen commissioning outcomes. The CCG is committed in ensuring its approach to procurement is compliant with prevailing procurement regulations and guidance, in proportion to risk and will be used to support clinical priorities, health and well-being outcomes and wider CCG objectives.

It will do this through:

- Ensuring providers work in an integrated approach where this is in the best interests of the patients.
- Increasing general market capacity in order to meet CCG demand requirements when required.
- Using procurement as a lever to facilitate improvement in choice, quality, efficiency, access and responsiveness.
- Stimulating innovation.

2. Associated Policies and Procedures

This policy and any procedures derived from it should be read in accordance with the following policies, procedures and guidance for NHS Bradford City CCG:

- NHS Bradford City CCG's Strategic Plans
- NHS Bradford City CCG's Clinical Commissioning Group Constitutions
- NHS Bradford City CCG's Code of Business Conduct
- NHS Bradford City CCG's Standing Orders
- NHS Bradford City CCG's Prime Financial Policies
- NHS Bradford City CCG's Procurement Strategy
- Bradford Health and Wellbeing Strategy
- Joint Strategic Needs Assessment for Bradford

Relevant legislation and guidance

Procurement is governed by and evolves through EU and UK legislation, policies and principles. Relevant legislation affecting procurement includes the Public Contracts Directive 2004/18/EC and the Public Contracts Regulations 2006 (as amended) (the "EU Regulations").

Other relevant legislation and guidance affecting the procurement of health care services include:

- Section 242 of the National Health Service Act, 2006 provides that commissioners of healthcare services have, in relation to health services for which they are responsible, a legal duty to consult patients and the public – directly or through representatives – on service planning, the development and consideration of services changes and decision that affect service operation.
- The National Health Service (Procurement, Patient choice and Competition) (No.2) Regulations 2013 (the “2013 Regulations”)made under Section 75 of the Health and Social Care Act which place requirement on commissioners to ensure that they adhere to good practice in relation to the procurement of health care service, do not engage in anti-competitive behaviour and protect the right of patient to make choices about their healthcare.
- Monitor has published *Substantive Guidance on the Procurement, Patient Choice and Competition Regulations, Enforcement Guidance on the Procurement, Patient Choice and Competition Regulations, and Hypothetical Case Scenarios*(consultation drafts – 20 May 2013) about how to comply with The National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013 and the general approach that Monitor proposes to take to using its enforcement powers under these regulations (the draft guidance was due to be finalised in Summer 2013).

3. Aims and Objectives

To set out the approach for facilitating open and fair, robust and enforceable contracts that provide value for money and deliver required quality standards and outcomes, with effective performance measures and contractual levers.

To describe the transparent and proportional process by which the CCG will determine whether health and social services are to be commissioned through existing contracts with providers, competitive tenders, via an AQP or framework approach or through a non-competitive process.

To enable early determination of whether, and how, services are to be opened to the market, to facilitate open and fair discussion with existing and potential providers and thereby to facilitate good working relationships.

To set out how we will meet statutory procurement requirements, primarily the National Health Service (Procurement, Patient Choice and Competition), (No 2) Regulations 2013.

To enable the CCG to demonstrate compliance with the principles of good procurement practice:

- Transparency;
- Proportionality;
- Non-discrimination;

- Equality of treatment.

4. Scope of Policy

As far as it is relevant, this Policy applies to all NHS Bradford City CCG's procurements (clinical and non-clinical). However, it is particularly relevant to procurement of goods and services that support the delivery of healthcare and certain sections relate only to procurement of health and social services.

This policy must be followed by all NHS Bradford City CCG employees and staff on temporary or honorary contracts, representatives acting on behalf of NHS Bradford City CCG, including staff from member practices and any external organisations acting on behalf of the CCG including other CCGs and the West Yorkshire Commissioning Support Unit (WSYBCSU).

5. Accountabilities & Responsibilities

5.1 Lead Manager

Overall day to day responsibility for procurement rests with the [Deputy Director of Acute Contracting & Performance](#) and the Deputy Director of Partnership Contracting, for those services where they are the contracting lead, with accountability to the Chief Financial Officer.

5.2 Procurement Support

Procurement support will be provided by the West and South Yorkshire and Bassetlaw Commissioning Support Unit (WSYBCSU). NHS Bradford City CCG will have systems in place to assure itself that the WSYBCSU business processes are robust and enable the CCG in meeting their duties in relation to procurement.

5.3 Authority

NHS Bradford City CCG will remain directly responsible for:

- Approving a procurement route;
- Signing off specification and evaluation criteria;
- Signing off decisions on which providers will be invited to tender;
- Making final decisions on the selection of the provider.

Arrangements for delegation of authority to officers are set out in the relevant Standing Financial Instructions. In the event of any discrepancy between this Procurement Policy and the SOs/SFIs, the SOs/SFIs⁵ will take precedence.

6. Guiding Principles (Regulations 2 and 3 of 2013 Regulations)

When procuring health care services, the CCG is required to act with a view to:

- Securing the needs of the people who use the services

- Improving the quality of the services
- Improving efficiency in the provision of the services.

The CCG is required and committed to:

- Act in a transparent and proportionate way
- Treat providers equally and in a non-discriminatory way, including by not treating a provider, or type of provider more favourably than any other provider, in particular on the basis of ownership.

The CCG is required and committed to procuring services from one or more providers that:

- Are most capable of delivering the needs, quality and efficiency required
- In doing so provide the best value for money.

The CCG is required and committed to act with a view to improving quality and efficiency in the provision of services; the means of doing so will include:

- The services being provided in an integrated way (including with other health care services, health related services, or social care services)
- Enabling providers to compete to provide the services
- Allowing patients a choice of provider of the services.

Potential conflicts of interest will be managed appropriately to protect the integrity of both the CCG's contract award decision making processes and the wider NHS commissioning system.

7. Public Procurement Obligations

The Public Contract Regulations 2006, which transpose Directive 2004/18/EC, place legal requirement and procedures for awarding contracts which value exceeds a certain financial threshold (unless specific exemptions/exclusions apply).

Service contracts covered by the EU Regulations are currently divided into two categories:

- Part A – to which the full regime of EU rules apply;
- Part B – where only some of the EU procurement rules apply.

'Health and Social Services' are categorised as a 'Part B' service under Schedule 3 of the EU Regulations. "Health and Social Services" refer to a range of services which are, in broad terms, services delivered by healthcare professionals (see Appendix A).

The thresholds for the application of the EU Regulations are reviewed every two years and they are currently (January 2012):

- For the supply of goods and/or Part A services: £113,057
- For the supply of Part B services: £173,934
- For works: £4,348,350

(VAT is not taken into account in the above figures). The EU Treaty principles of non-discrimination, equal treatment, transparency, mutual recognition and proportionality, apply to all procurements,

whether they are for Part A or Part B services. The CCG approach to fulfilling these requirements is described in section 14.

Health and Social Services procurements are subject to a limited application of the EU Regulations relating mainly to compliance with the requirement of Regulations 9 (on technical specifications) and the requirement to publish a contract award notice. The relevant Tendering and Contracting sections of Standing Orders and Standing Financial Instructions however apply and should be considered where the CCG elects to invite competitive and non-competitive bids for the supply of Health and Social Services.

8. Conflicts of Interest

Managing potential conflicts of interest appropriately is needed to protect the integrity of the wider NHS commissioning system and protect CCGs and GP practices from any perception of wrong doing.¹

General arrangements for managing conflicts of interest are set out in the NHS Bradford City CCG² constitution. The section describes additional safeguards the CCG will put in place when commissioning services that could potentially be provided by GP practices.

The template included at Appendix B will be completed as part of the planning process for all services that may potentially be provided by GP practices (either as a successful bidder in a competitive procurement process, as one of several qualified providers through an AQP approach, or via a non-competitive process from GP practices). The completed templates will be used to provide assurance to the CCGs' Audit and Governance Group and the Governing Body that proposed services meet local needs and priorities, that robust processes have been followed in selecting the appropriate procurement route and in addressing potential conflicts. It is intended that completed templates will be made publicly available via the respective CCG website.

Where any practice representative, on a decision-making body, has a material interest in a procurement decision, such practice representative will be excluded from the decision-making process. This includes where all practice representatives have a material interest, for example where the CCG is considering commissioning services, on a single tender basis, from all GP practices in the area. Rules relating to Quoracy in these and other circumstances are set out in the CCG's constitution.

Details of all contracts, including the value of contracts, will be published on the CCG website, shortly after contracts are signed.

9. Procurement Planning

A procurement plan will be maintained that will list all current and future procurements. The procurement plan will be reviewed on a regular basis taking into account local and national priorities, the CCG's commissioning intentions and nationally mandated requirements. In addition it will take into account the impact of completed and on-going procurements.

The plan will highlight the priority, timescale, risk and resource requirement for each potential procurement. Not every priority on the plan will result in procurement, but indicates the CCG's intention to review the service, or activity which may result in procurement.

The plan will be developed as a key element, to provide communication between the CCG, its membership and potential providers. Through transparent and open processes the CCG will actively encourage provider engagement.

10. Procurement approach for non-clinical supply and service contracts

The CCG and/or their agents, will follow EU public procurement rules and Standing Orders/Standard Financial Instructions, as appropriate.

11. Procurement approach for Healthcare and Social Service Contracts

The final version of Monitor guidance on the 2013 Regulations (due to be published Summer 2013) will replace the current draft guidance published in May 2013⁴ which replaced the previous Department of Health 'Principles and Rules for Co-operation and Competition' and 'PCT Procurement Guide for Health Services'.

The current draft guidance provides a set of rules that govern system management within the NHS. The role of Monitor will be limited to ensuring that commissioners have operated within the legal framework established by the 2013 Regulations.

The new guidance recognises that the service is no longer a system based on tight controls of the means of provision, but largely an open procedure with a defined purchaser/provider split, which commissioners need actively to manage.

NHS Bradford City CCG will conduct health and social service procurements as one part of market management and development according to priorities established in their strategic plans.

Decisions of whether to tender will be driven by the need to commission services from the providers who are best placed to deliver the needs of our patients and population.

The decision-making process will vary depending on whether or not the service is an existing one, new or significantly changed.

11.1 Existing Services

For an existing service (i.e. one that is not new or significantly changed and is contracted for using an NHS Standard Contract) that is not at the end of a fixed-term procured via competitive tender, where the service is fit for purpose, offers best value for money and continues to fit with the strategic direction of the CCG; the existing provider will normally be retained for as long as it is appropriate to do so. The process is shown diagrammatically in Appendix C.

Where the provider of an existing service was selected for a fixed period via a competitive tender exercise and the fixed period (including any options for contract extension) are due to end, a new competitive tender exercise will normally be conducted to select the future provider of the service.

Where an existing service is provided by a limited number of providers, where practicable the CCG will seek to increase the provider base, either through use of a framework, or through the use of the Any Qualified Provider (AQP) model. The practicability of implementation of the framework or AQP model, will take account of:

- Value of improving choice and contestability;
- Level of market interest and capability;
- Complexity of accreditation requirements and associated cost;
- The appropriateness of the framework or AQP model to the service concerned.

11.2 New or Significantly changed Services

The CCG approach to secure services will in overall terms be the following:

- Determine whether the service can be accommodated through existing contracts with providers through future variations to those contracts, assuming that this is possible without contravening procurement rules and guidance and that quality, patient safety and value for money can be demonstrated.
- Determine whether there may be grounds for the CCG to justify the selection of a specific provider e.g.
 - For technical reasons, or for reasons connected with the protection of exclusive rights, the contract may be awarded to only that provider, i.e. there is only one provider that can meet the CCG requirements.
 - For reasons of extreme urgency, outside the control of the CCG, where it is not possible to award a contract to another provider in the time available.
- Guidance from the DH is that where CCGs have an existing local agreement in place with local practices, they can offer an enhanced service agreement that supplements the existing local agreements, with the aim of providing additional activity/benefits. These existing local agreement(s) and added activity/benefits would be supported by an NHS Standard Contract.

Where there is an opportunity or requirement to broaden the choice of provider available to patients, then the CCG approach, where applicable and appropriate will be the AQP model. The AQP model will **not** always be appropriate, for example where:

- The number of providers needs to be constrained, e.g.
 - Where the level of activity can only support one provider;
 - Where clinical pathways dictate a restricted number of providers;
- Value for money cannot be demonstrated without formal market testing (e.g. to determine the price the CCG will offer for provision of the services);
- Innovation is required from the market and cannot be achieved collaboratively;
- There is no effective method of selecting from amongst qualified providers for delivery of specific unit of activity;
- Overall costs would be increased through multiple provider provision because of unavoidable duplication of resources.

If the AQP is not appropriate and the service is not of minimal value, the CCG expectation is that the service will normally be subject to competitive tender for a single or limited number of providers under a framework. All such cases will be subject to a review of whether a competitive tender process is appropriate on the grounds of demonstrating best value, market testing, then maintaining competitive tension and complying with the EU procurement rules and the 2013 Regulations.

Any service that is contracted through the AQP model does not need to be tendered although it will be advertised if appropriate (using Supply2Health⁴) and potential service providers will need to be qualified.

An indication of the aspects to be considered when deciding whether competitive tender is appropriate is provided in Appendix C. The proposed approach for new or significantly changed Healthcare and Social Services is shown in a flow diagram in Appendix B.

Under AQP a standard NHS contract will be awarded to all providers that meet:

- Minimum standards of clinical care (implying qualification/accreditation requirement);
- The price the CCG will pay
- Relevant regulatory standards.

The CCG will have regard at all times to the EU Treaty principles of: non-discrimination, equality of treatment, transparency, mutual recognition and proportionality, when applying the AQP procedure.

12. Approach to Market

12.1 Competitive Tendering

It is anticipated that a number of services will be subject to competitive tendering in order to demonstrate the application of the principles transparency, openness, equitability and obtaining and delivering value for money. Whilst there is no 'checklist' that will definitively determine the appropriate use of competitive tendering, Appendix C provides an indication of the aspects to be considered when deciding whether competitive tender is appropriate.

12.2 Non-Competitive Process

There is a limited range of circumstances where competition may be waived (e.g. where there is only one provider). In these circumstances the procedures set out within the CCG's prime financial policies, Standing Orders and Standing Financial Instructions must be followed.

Where it is decided not to competitively tender for new services or where services are significantly changed, the CCG's Governing Body's approval must be obtained following any recommendation to follow this approach and then reported to the Audit Committee (as described in the CCG Standard Financial Instructions⁵).

12.3 Partnership Arrangements

Where collaboration and co-ordination is considered essential, for example in developing new integrated pathways, enabling sustainability of services, ensuring smooth patient handover, co-ordination, etc., the CCG may wish to continue with existing 'partnership' arrangements.

These 'Partnership' arrangements must be formalised using the appropriate contract and must provide:

- Transparency, particularly with provision of information sharing good and bad practice;

- A contribution to service re-design;
- Timely provision of information and performance reporting;
- Evidence of improved patient experience year on year;
- Evidence of value for money.

Partnership status must not be used as a reason to avoid competition and should only be used appropriately and be regularly monitored.

This is an area of commissioning where policy remains under developed. As part of the CCG work on integration, the CCG continues to actively exploring how services can be procured in an integrated way and within the framework of choice and competition.

12.4 Spot Purchasing

There will be the need to spot purchase contracts for particular individual patient needs or for urgency of placements requirements at various times. At these times, a competitive process may be waived. It will be expected that these contracts will undergo best value reviews, to ensure the CCG is getting value from the contract. In all cases the CCG should ensure that the provider is fit for purpose to provide the particular service. It may be appropriate to tender for a framework under which spot contracts can then be called off.

12.5 Framework Agreements

The CCG is able to use other public sector organisations framework agreements if a provision has been made in the framework agreement to allow this (that is by the holder of the framework agreement, such as the Government Procurement Service). The EU rules state that framework agreements should be for no longer than four years in duration.

Where it is allowed for in the framework agreements there may be an option for running mini-competitions. Here, all providers on the framework, who can meet requirements, are invited to submit a bid. These are then evaluated and a contract awarded following the same processes as for tenders. Any contract awarded, can run beyond the framework agreement period, but the length of the contract extension must be reasonable.

12.6 Grants

In certain circumstances, the CCG may elect to provide a grant payable to third sector organisations. Use of grants can be considered where:

- Funding is provided for development or strategic purposes;
- The provider market is not well developed;
- Innovative or experimental services;
- Where funding is non-contestable (i.e. only one provider).

Grants should not be used to avoid competition where it is appropriate for a formal procurement to be undertaken.

13. Tendering Process

If a decision is taken to pursue a competitive tender process, there are a range of further issues that will be taken into account, in the design of the process to be followed. These are not considered in detail in this Policy but which include:

- Market analysis (e.g. structure, competition, capacity, interest);
- Tender routes;
- Procurement timescales;
- Affordability;
- Impact on service stability;
- Procurement resource, including responsibilities and accountabilities;
- Consultation and engagement requirements;
- Outcome-based specifications;
- Existing related contractual arrangements;
- Contract management;
- Provider development;
- Value for money.

14. Financial and Quality Assurance Checks

The CCG will require assurance about potential providers. Where this is not achieved through a formal tender process, the following financial and quality assurance checks of the provider will be expected to be undertaken before entering into a contract:

- Financial viability
- Economic standing
- Corporate social responsibility
- Clinical capacity and capability
- Clinical governance
- Quality/Accreditation.

15. Principles of Good Procurement

The key principles of good procurement are:

Transparency:	Making commissioning intent clear to the market place. This includes the use of sufficient and appropriate advertising of tenders, transparency in making decisions not to tender and the declaration and separation of conflicts of interests.
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	Specifications that do not favour one or more providers and that ensure consistency of procurement rules, transparency on timescales 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; that pricing and payment regimes are transparent and fair.

The CCG will ensure compliance with these principles in the following ways:

15.1 Transparency

There is a requirement to place adverts for services on Supply2Health³, (although this is not the only place an advert could be placed) and issue an OJEU notice where the contract value is above the application threshold (see Section 7). The following set of statements conveys how the CCG can achieve transparency:

- The CCG will maintain on its website, for public view, a record of contracts held and information about what services are to be procured and when they will be presented to the market.
- The CCG will determine as early as practicable whether and how services are to be opened to the market and will share this information with existing and potential providers.
- The CCG will use the most appropriate media in which to advertise tenders or opportunities to provide services, including using the Supply2Health procurement portal established by the Department of Health to advertise all appropriate tenders.
- The CCG will robustly manage potential conflicts of interest and ensure that these do not prejudice fair and transparent procurement processes.
- The CCG will ensure that all referring clinicians tell their patients and the commissioner about any financial or commercial interest in an organisation to which they plan to refer a patient for treatment or investigation.
- The CCG will provide feedback to all unsuccessful bidders.

15.2 Proportionality

- The CCG will ensure that procurement processes are proportionate to the value, complexity and risk of the products to be procured.
- The CCG will define and document procurement routes, including any streamlined processes for low value/local goods and services, taking into account available guidance.

15.3 Non-discrimination

- The CCG will ensure that tender documents are written in a non-discriminatory fashion, e.g. generic terms will be used rather than trade names for products
- The CCG will inform all participants of the applicable rules in advance and ensure that the rules are applied equally to all. Reasonable timescales will be determined and applied across the whole process.
- The CCG will ensure that shortlist criteria are neither discriminatory nor particularly favour one potential provider.

15.4 Equality of Treatment

- The CCG will ensure that no sector of the provider market is given any unfair advantage during a procurement process.
- The CCG will ensure that basic financial and quality assurance checks apply equally to all types of providers.
- The CCG will ensure that all pricing and payment regimes are transparent and fair
- The CCG will retain an auditable documentation trail regarding all key decisions

16. Contract Form

Wherever appropriate, the CCG will ensure that the NHS Standard Contract, or where appropriate an NHS Standard Deed of Variation, will be used for all contracts for NHS funded health and social care services commissioned by the CCG. In exceptional circumstances, such as where a joint contracting agreement is led by local authority, the CCG may agree to be party to a different form of contract.

The CCG will ensure that a standard Grant Agreement document will be used to record the provision of grants to third parties which will contain the provisions upon which the grant is made.

17. Sustainable Procurement ⁵

The NHS Carbon Reduction strategy (2010) has been developed in response to the need to take action on climate change and in consultation with the NHS and other organisations. Widespread support from NHS organisations and staff gives the NHS a mandate to implement this strategy across every aspect of the organisation in England, as described in the document 'Saving Carbon Improving Health'⁵.

NHS Bradford City CCG recognises the impact in ensuring they work in partnership with suppliers to lower the carbon impact of all aspects of procurement, make decisions based on whole life cycle costs and to minimise waste. In support of the national strategy, the CCG aims and objectives are to:

- Minimise the environmental impact and deliver community benefits through better selection and improved usage of products and services
- Foster innovation in providers to increase the availability and effectiveness of sustainable solutions that meet the patients' requirements
- Encourage providers to adopt practices that minimise environmental impact and deliver community benefits in relation to their own operations and throughout the markets in which they operate
- Work in partnership with suppliers to achieve common goals and continually improve performance over time
- Support the NHS Strategic Direction and relevant sustainability policies.

18. Public Services (Social Value) Act 2012 ⁶

This Act requires commissioners at the pre-procurement stage, to consider how what is to be procured may improve social, environmental and economic well-being of the relevant area. It involves looking beyond the price of each individual contract and looking at what the collective benefit to a community is when a public body chooses to award a contract.

Although the Act only applies to certain public services, contracts and framework agreements to which the Public Contract Regulations apply, the CCG intends, as a matter of good practice, to demonstrate how what is proposed to be procured might improve economic, social and environmental well-being, in order to maximise value for money. The considered application of the provisions of this Act will provide the CCG with the means to broaden evaluation criteria to include

impact on the local economy. The CCG may consider ensuring that any social, economic or environmental requirements are mentioned in the advertisement for any competitive procurement.

Wherever it is possible and does not contradict or contravene the CCG's procurement principles, or the provisions allowable under the Public Service (Social Value Act 2012), the CCG will work to develop and support a sustainable local health economy. Delivery of local services are an input into community social values and will be explored further with prospective providers as part of the invitation to tender.

18. Use of Information Technology

Wherever possible, appropriate information technology systems, i.e. E-Procurement and E-Evaluation methods will be used. These are intended to assist in streamlining out procurement processes whilst at the same time providing 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 purchasers and providers by reducing time and costs in issuing and completing tenders and particularly to purchasers in respect of evaluation responses to tenders.

19. Decommissioning Services

The need to decommission contracts can arise through:

- Termination of the contract due to performance against the contract not delivering the expected outcomes. This can be mitigated by appropriate contract monitoring and management and by involving the provider in this process. The contract terms will allow for remedial action to be taken to resolve any problems. Should this not resolve the issues, then the contract will contain appropriate termination provisions;
- The contract expires;
- Services are no longer required.

Where services are decommissioned, the CCG will ensure, where necessary, that contingency plans are developed to maintain patient care. Where decommissioning involves Human Resource issues, such as TUPE issues, then providers will be expected to co-operate and be involved in discussions to deal with such issues.

21. Transfer of Undertakings and Protection of Employment Regulations (TUPE)

The Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE Regulations") Implement the EC Acquired Rights Directive (as revised and consolidated in Council Directive 2001/23/EC).

The TUPE Regulations apply when there are transfers of staff from one legal entity to another as a consequence of a change in employer. This is a complex area of law which is continually evolving.

Commissioners need to be aware of these and the need to engage HR support and possible legal advice if there is likely to be a TUPE issue. Additionally, NHS Bodies must follow Government guidance contained within the 'Cabinet Office Statement of Practice 2000/72' and associated 'Code of Practice 2004' when transferring staff to the Private Sector, also known as COSOP.

It is the position of the CCG to advise potential bidders that whilst not categorically stating TUPE will apply, it is recommended that they assume that TUPE will apply when preparing their bids and ensure that adequate time is built into the procurement timelines, where it is anticipated that TUPE may apply.

When procuring services to which TUPE may apply the CCG will, where appropriate, include provisions in the contract to manage possible TUPE transfers and related staff matters when the contract terminates.

22. Equality Impact Assessment

All public bodies have statutory duties under the Equality Act 2010. The CCG's aim is to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others.

In order to support these requirements, a single equality impact assessment is used to assess all the CCG's policies/guidelines and practices. This Procurement Policy was found to be compliant with this philosophy.

23. Training Needs Analysis

All CCG staff and others working with the CCG will need to be aware of this policy and its implications. It is not intended that staff generally will develop procurement expertise, but they will need to know when and how to seek further support. The most urgent requirement is that all commission staff throughout the CCG should know enough about procurement to know to seek help when they encounter related issues; they must also be able to give clear and consistent messages to providers and potential providers about the CCG's procurement intentions in relation to individual service developments. Awareness of procurement issues is being raised through organisation development and training sessions for clinical and non-clinical members of NHS Bradford City CCG.

24. Monitoring Compliance with this Strategy / Policy

This Procurement Policy will be formally reviewed at least every three years.

In addition it will be kept under informal review in the light of emerging guidance, experience and supporting work and proposed changes to EU procurement rules. Given the changing environment, it is likely that this Procurement Policy will need to be updated within a relatively short timescale.

Effectiveness in ensuring that all procurements comply with this Policy will primarily be achieved through 'business as usual' review by the relevant Head of Service with the CCG.

25. References

1. Code of Conduct: Managing conflicts of interest where GP Practices are potential providers of CCG-Commissioned services
http://www.nhsconfed.org/Publications/Documents/Managing_conflicts_of_interest_in_CCGs.pdf
2. NHS Bradford City CCG Constitution Version 18 April 2013 <http://www.bradfordcityccg.nhs.uk/wp-content/uploads/2013/04/NHS-Bfd-City-CCG-2013-37-constitution.pdf>
3. Supply2Health is the National Commissioning Board procurement portal, used by commissioners for the advertisement of tenders and contract awards for Health and Social Service
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Appendix A. List of Part B Health and Social Services

Health and social work services.	Geriatric services.	Services provided by sperm banks
Health services.	Psychiatrist or psychologist services.	Services provided by transplant organ banks
Hospital and related services.	Home for the psychologically disturbed services.	Company health services
Hospital services.	Ophthalmologist, dermatology or orthopaedics services.	Medical analysis services
Surgical hospital services.	Ophthalmologist services.	Pharmacy services
Medical hospital services.	Dermatology services.	Medical imaging services
Gynaecological hospital services.	Orthopaedic services.	Optician services
In-vitro fertilisation services.	Paediatric or urologist services.	Acupuncture and chiropractor services
Obstetrical hospital services.	Paediatric services.	Acupuncture services
Rehabilitation hospital services.	Urologist services.	Chiropractor services
Psychiatric hospital services.	Surgical specialist services.	Veterinary services
Orthotic services.	Dental practice and related services.	Domestic animal nurseries
Oxygen-therapy services.	Dental-practice services.	Social work and related services
Pathology services.	Orthodontic services.	Social work services
Blood analysis services.	Orthodontic-surgery services.	Welfare services for the elderly
Bacteriological analysis services.	Miscellaneous health services.	Welfare services for the handicapped
Hospital dialysis services.	Services provided by medical personnel	Welfare services for children and young people
Hospital support services.	Services provided by midwives	Social work services without accommodation
Hospital-bedding services.	Services provided by nurses	Day-care services
Outpatient care services.	Home medical treatment services	Child day-care services
Medical practice and related services.	Dialysis home medical treatment services	Day-care services for handicapped children and young people
Medical practice services.	Advisory services provided by nurses	Home delivery of provisions
General-practitioner services.	Paramedical services	Guidance and counselling services
Medical specialist services.	Physiotherapy services	Guidance services

Gynaecologic or obstetric services.	Homeopathic services Hygiene services	Counselling services
Nephrology or nervous system specialist services.	Home delivery of incontinence products	Family-planning services
Cardiology services or pulmonary specialist services.	Ambulance services	Welfare services not delivered through residential institutions
Cardiology services.	Residential health facilities services	Rehabilitation services
Pulmonary specialist services.	Residential nursing care services	Vocational rehabilitation services
ENT or audiologist services.	Services provided by medical laboratories	Social services
Gastroenterologist and geriatric services.	Services provided by blood banks	Community health services
Gastroenterologist services.		

Appendix B: Template to be used when commissioning services that may potentially be provided by GP practices

NHS Bradford City Clinical Commissioning Groups

Service:	
Question	Comment/Evidence
Questions for all three procurement routes (Competitive tender, AQP, Single tender)	
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 range of health professionals 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(s)? How does the proposal support the priorities in the relevant joint health and wellbeing strategy (or strategies)?	
What are the proposals for monitoring the quality of the service?	
What systems will there be to monitor and publish data on referral patterns?	
Have all conflicts and potential conflicts of interests been appropriately declared and entered in registers which are publicly available?	

Why have you chosen this procurement route? ²	
What additional external involvement will there be in scrutinising the proposed decisions?	
How will the CCG make its final commissioning decision in ways that preserve the integrity of the decision-making process?	

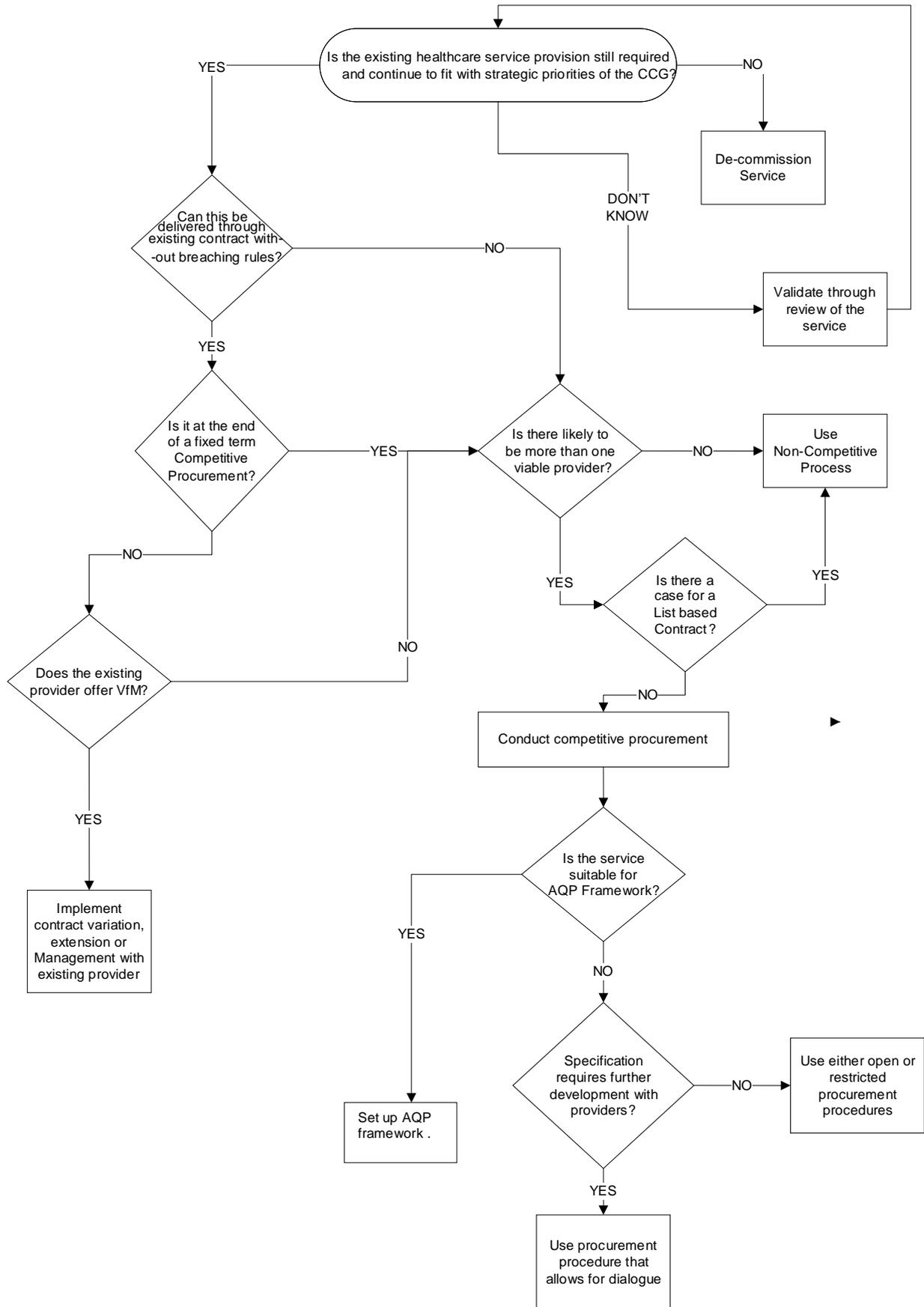
Additional question for AQP or single tender (for services where national tariffs do not apply)	
How have you determined a fair price for the service?	

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?	

Additional questions for single tenders actions:	
What steps have been taken to demonstrate that there are no other providers that could deliver this service?	
In what ways does the proposed service go above and 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 before it has the opportunity to provide any new services?	

² Taking into account S75 regulations and NHS Commissioning Board guidance that will be published in due course, Monitor guidance, and existing procurement rules.

Appendix C – Procurement Approach - 1. Approach for Existing Health and Social Services



Appendix C – Procurement Approach – 2. Approach for New or significantly changed Health and Social Services

