


<b>MEETING DATE:</b>	12 December 2013	 <b>North Lincolnshire Clinical Commissioning Group</b>  <b>REPORT TO THE CLINICAL COMMISSIONING GROUP GOVERNING BODY</b>
<b>AGENDA ITEM NUMBER:</b>	Item 7.1	
<b>AUTHOR:</b>	Gary Metcalfe	
<b>JOB TITLE:</b> <b>DEPARTMENT:</b>	Procurement Lead North Yorkshire and Humber Commissioning Support Unit	

## PROCUREMENT POLICY

<b>PURPOSE/ACTION REQUIRED:</b>	For Discussion and Approval
<b>CONSULTATION AND/OR INVOLVEMENT PROCESS:</b>	CCG Audit Group
<b>FREEDOM OF INFORMATION:</b>	<i>This document is releasable under FOI at this time</i>  Public

<b>1. PURPOSE OF THE REPORT:</b>					
The purpose of the report is to set out the governance arrangements surrounding procurement procedures applicable to the CCG.					
<b>2. STRATEGIC OBJECTIVES SUPPORTED BY THIS REPORT:</b>					
Continue to improve the quality of services	<input checked="" type="checkbox"/>				
Reduce unwarranted variations in services	<input type="checkbox"/>				
Deliver the best outcomes for every patient	<input type="checkbox"/>				
Improve patient experience	<input type="checkbox"/>				
Reduce the inequalities gap in North Lincolnshire	<input type="checkbox"/>				
<b>3. IMPACT ON RISK ASSURANCE FRAMEWORK:</b>					
<table border="1" style="display: inline-table;"> <tr> <td style="width: 20%;">Yes</td> <td style="width: 20%;"></td> <td style="width: 20%;">No</td> <td style="width: 20%;"></td> </tr> </table>		Yes		No	
Yes		No			
Keeps the CCG safe and resilient regarding procurement transactions and procedures.					
<b>4. IMPACT ON THE ENVIRONMENT – SUSTAINABILITY:</b>					
<table border="1" style="display: inline-table;"> <tr> <td style="width: 20%;">Yes</td> <td style="width: 20%; text-align: center;">x</td> <td style="width: 20%;">No</td> <td style="width: 20%;"></td> </tr> </table>		Yes	x	No	
Yes	x	No			
The policy sets out the CCG's approach to sustainable procurement.					

**5. LEGAL IMPLICATIONS:**

Yes		No	X
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**6. RESOURCE IMPLICATIONS:**

Yes		No	X
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**7. EQUALITY IMPACT ASSESSMENT:**

Yes	x	No	
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Equality Impact Assessment screening undertaken.

**8. PROPOSED PUBLIC & PATIENT INVOLVEMENT AND COMMUNICATIONS:**

Yes		No	X
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**9. RECOMMENDATIONS:**

The Governing Body is asked to:

Approve the Procurement Strategy

## **PROCUREMENT POLICY**

**October 2013**

**Authorship:** Gary Metcalfe – Procurement Manager

**Committee Approved:**

**Approved date:**

**Review Date:**

**Equality Impact Assessment**

**Completed - Screening**

**Sustainability Impact Assessment:**

**Completed**

**Target Audience:**

**Policy Reference No:**

**Version Number:** 1

**The on-line version is the only version that is maintained. Any printed copies should, therefore, be viewed as 'uncontrolled' and as such may not necessarily contain the latest updates and amendments.**

## POLICY AMENDMENTS

Amendments to the Policy will be issued from time to time. A new amendment history will be issued with each change.

<b>New Version Number</b>	<b>Issued by</b>	<b>Nature of Amendment</b>	<b>Approved by &amp; Date</b>	<b>Date on Intranet</b>

DRAFT

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## 1. Overview

- 1.1 Procurement is the process by which services, goods, products and infrastructure are acquired from external organizations and providers. The procurement process starts with the identification of need and continues through to the end of the agreed contract or end of the useful life of the acquired asset.
- 1.2 Procurement can cover a range of purchasing methods:
  - Spot, low cost purchasing
  - Quotations
  - Full-scale Tenders
  - Any Qualified Provider
  - Framework Agreements
  - Public Private Partnerships
- 1.3 Procurement plays a key role in delivering high quality, value for money, customer/patient centered services. This document outlines North Lincolnshire Clinical Commissioning Group's procurement policy, including general purchasing and tender process, legal obligations, environmental issues, and gives details of European Union tendering timetables
- 1.4 This Procurement Policy is an integral part of the commissioning cycle and fully observes established Prime Financial Policies and as a result should not be read in isolation.
- 1.5 This Procurement Policy will be refreshed as further NHS Procurement Policy Guidance is issued. This Policy will also be refreshed to take account of the scheduled 2014 EU Procurement Rule changes.

## 2. Policy Statement

- 2.1 North Lincolnshire CCG is committed to the provision and maintenance of high quality care and services for its local community. This policy is designed to provide guidance and instructions on the procurement of all goods and services provided to North Lincolnshire CCG.
- 2.2 To support the policy a series of practice guides will be established to provide detailed guidance on the procurement process.

## 3. Key Procurement Principles

- 3.1 The key principles of good procurement, as laid down by the Department of Health, are shown below and will act as a touchstone for developing procurement practice.
  - **Transparency** – including the use of sufficient and appropriate advertising of tenders, transparency in making decisions to tender or not to tender, and the declaration and separation 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** – ensuring consistency of procurement 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. Key Drivers and Considerations

4.1 In developing this procurement policy it is clear that procurement best practice should be applied to all functional areas, specifically for Healthcare procurement the following business areas / drivers are important.

- **Service Quality, Safety and Effectiveness**

Providers must be able to demonstrate, via the completion of a detailed questionnaire regarding the services to be procured that the services to be provided are delivering the required outcomes and are of the highest possible quality, are safe and effective. North Lincolnshire CCG requires providers to demonstrate compliance with best practice, (including all clinical guidelines and advice), that they have clear clinical leadership, a planned clinical audit programme in place and to provide clinical data showing the safety and effectiveness of their services. North Lincolnshire CCG will not commission services from providers that cannot demonstrate compliance with established quality assurance frameworks.

- **Choice**

Whenever possible, and appropriate, patients and services should be offered a choice of provider. North Lincolnshire CCG will work with key stakeholders to ascertain those services that will be delivered by a single provider, and those which will offer choice in the local area and will be explicit about the reasons for this. This process will need to comply fully with UK and EU competition requirements and will incorporate appropriate stakeholder consultation.

- **Potential for Service De-stabilisation**

North Lincolnshire CCG recognises that certain services must properly be reviewed in their totality. The impact of changes in a service on other services provided by the organisation must be considered. Examples of these include emergency services. This does not preclude competition per se; however North Lincolnshire CCG will need to consider the extent to which the loss of certain services from a provider may jeopardise the overall provision of services. Equally, North Lincolnshire CCG will ensure that important areas such as training,

local employment opportunities and sound policies and procedures are incorporated into all specifications.

- **Plurality and Innovation**

North Lincolnshire CCG is keen to encourage the innovative approaches that could be offered by new providers – including independent sector, voluntary and third sector providers. North Lincolnshire CCG is committed to the development of local providers that understand the needs of local communities. It will be important to ensure that North Lincolnshire CCG's approach to healthcare procurement is open and transparent and that it does not act as a barrier to new providers.

- **Service Development – Trials and Pilots**

In its drive to facilitate plurality and innovation North Lincolnshire CCG may need to conduct trials and pilots of new services or specifications to derive lessons and or refine outcome specifications. With this in mind, North Lincolnshire CCG will be required to establish clearly that the project is a pilot via the definition and/or delivery of:

- Specific goal
- Clearly defined timelines
- Volume limits
- Date definition and requirement including tracking shift in activity to assess lessons learnt
- Clear contract including obligations to advise patients of the potential conflict, allowing for alternatives and giving the patient options to go elsewhere
- Robust process of evaluation
- Rights of termination if determined that pilot is unsafe or failing in terms of outcome

- **Networks and Links**

North Lincolnshire CCG recognises the importance of strong and effective clinical and service networks and on the value placed by many patients, carers and others on having a long-standing relationship with a clinician or service. It will be vital to ensure that North Lincolnshire CCG's approach does not undermine these networks and links.

- **Equity and Equality**

North Lincolnshire CCG will need to ensure that its approach does not widen health and service inequality gaps and that its approach serves to improve both health and access to services and to address inequalities gaps.

- **Partnerships with Commissioners**

It will be vital to ensure that where possible North Lincolnshire CCG's approach complements and supports the approach adopted by Partnering Organisations.



- **Partnerships with Providers**

North Lincolnshire CCG recognises the importance of maintaining positive and ongoing relationships with providers so that services are sustained and improved continuously. Subject to its overriding legal obligations to advertise and/or tender services, North Lincolnshire CCG will, as part of its assessment process, seek providers, whether NHS or Non-NHS, that are committed to the health and well being of the local population.

- **Value for Money**

Providers will need to demonstrate that services offer the best possible value for money for the investment made.

- **Significance**

North Lincolnshire CCG recognises that healthcare procurement processes will require significant time, attention and resources to organise and manage. Decisions will need to be taken as to whether and when competitive processes are adopted. Key to these decisions will be the significance and materiality of the service in question (whether current or new), the opportunities that competition will bring and the risks of adopting such an approach. Such opportunities and risks will include the requirements of patients, risks to service quality, service continuity and general impact.

- **Legal**

As a public body North Lincolnshire CCG's commissioning decisions must fully comply with EU and UK Regulations.

## **5. Prime Financial Policies/Procurement Approval**

5.1 The CCG Prime Financial Policies have established specific procurement requirements, which must be observed during all procurement activities.

5.2 A number of key procurement gateways must obtain North Lincolnshire CCG Governing Body approval prior to commencement. These include:

- Decisions on which services to competitively advertise, or not to advertise
- Approval of individual procurement project strategy including the procurement approach to be adopted
- Approval of competitive procurement evaluation reports and the award of preferred supplier status

5.3 North Lincolnshire CCG must maintain a record of all of the health care contracts it awards. This information will be published on a website which will be maintained by the NHS England. The following information will be required for each contract:

- the name of the provider and the address of its registered office or principal place of business
- a description of the health care services to be provided

- the total amount to be paid or, where the total amount is not known, the amounts payable to the provider under the contract
- the dates between which the contract provides for the services to be provided, and
- A description of the process adopted for selecting the provider

## 6. Key Accountabilities

- Lead CCG Officer: Overall responsibility for Procurement lies with the Director of Commissioning
- Procurement Support: Procurement and Delivery Support will be provided by North Yorkshire and Humber Commissioning Support Unit

## 7. Key Responsibilities

7.1 North Lincolnshire CCG will be responsible for:

- Approving the commencement of Procurement Activities
- Approving the preferred Procurement process
- Approving final service specifications, evaluation criteria and advertisements
- Approving the final list of providers invited to tender
- Approving the final award decision

## 8. Conflicts of Interest

8.1 In order to ensure a fair and competitive procurement process, North Lincolnshire CCG requires that all actual or potential Conflicts of Interest are identified and resolved appropriately. In terms of procurement, two key areas of potential concern exist:

- Tendering Processes and Bidder Behaviour

Potential bidders should notify North Lincolnshire CCG of any actual or potential Conflicts of Interest in their responses. If the potential provider becomes aware of an actual or potential Conflict of Interest following submission it should immediately notify North Lincolnshire CCG.

North Lincolnshire CCG reserves the right to exclude at any time any potential provider from the process should any actual or potential Conflicts of Interest be identified.

Each potential provider must neither disclose to, nor discuss with, any other potential provider, any aspect of the procurement.

Each potential provider must not canvass or solicit or offer any gift or consideration whatsoever as an inducement or reward to any officer or

employee of, or person acting as an adviser to North Lincolnshire CCG in connection with the selection of Providers. Conflicts of Interest, Collusion and Canvassing issues apply equally to North Lincolnshire CCG employees or others engaged by North Lincolnshire CCG in the procurement and decision making processes. At the commencement of all procurement projects, officers scheduled to participate in the procurement will be required to disclose any actual or potential Conflicts of Interest.

- Potential North Lincolnshire CCG and GP Practice Conflicts of Interest

A potential area for conflicts of interest exists where North Lincolnshire CCG commissions services that could be potentially provided by local GP Practices.

North Lincolnshire CCG Business Conduct Policy sets out the overall approach to dealing with potential conflicts of interest and should be fully observed. [Business Conduct Policy](#)

In terms of procurement a potential conflict of interest could exist where:

- An individual is currently employed by a bidder organisation or one of its subsidiaries
- An individual is currently employed by a bidder organisation or one of its subsidiaries
- A close family member or partner or close friend is currently employed by a bidder organisation or one of its subsidiaries
- An individual is currently a director or owner or controller of a bidder organisation, or have shares in a bidder organisation or their family, partner, or close relative has such shares in a bidder organisation
- An individual has been dismissed by a bidder organisation or have been subject to a disciplinary process by a bidder organisation
- An individual/organisation will derive financial benefit from the award of contract resulting from the tender process

Specifically for procurement, where a GP, practice officer and/or GP practice has a potential material interest in a procurement process or decision, the following steps should be observed:

- The lead procurement officer should be notified as soon as it becomes apparent that a potential conflict of interest exists. This information will be included on the procurement process conflict of interest template

- The GP, practice officer and/or GP practice where the conflict of interest rests, will be excluded from the formal procurement process and decision making process
- The Procurement Lead will ensure that all interested and bidding parties are treated equitably and fairly

Further practical guidance and specific case scenarios will be issued to all officers/staff involved in the procurement process.

## 9. Significant Procurement thresholds (CCG)

9.1 North Lincolnshire CCG observes the following procurement thresholds:

Up to £5000	Where the procurement of goods & services over the life of a contract is reasonably estimated to cost less than £5,000 - competitive quotes are not mandatory, but still remain good practice if cost effective to obtain.
£5001 to £50000	Where the procurement of goods & services is reasonably estimated to cost £ 5,000 or more, but less than £50,000 - the procurement decision must be based on obtaining and evaluating 3 competitive quotes.
£50001 to European Procurement Threshold	Where a contract value is reasonably expected to equal or exceed £50,000, a formal tender exercise needs to be undertaken in conjunction with procurement specialists, as appropriate.
Above European Procurement Thresholds	Where a contract value is reasonably expected to exceed European Commission thresholds, contracts must be let in accordance with the relevant EU directive (see section 10).

9.2 A number of national and regional agencies have established framework contracts which can be accessed by the CCG. As these frameworks have already been subject to a formal tendering exercise they can be accessed as an alternative to undertaking a formal quotation or tendering exercise. See section 12.

9.3 The Prime Financial Policies establish clear regulations and an approval process for the waiving of internal procurement thresholds, these must be observed. UK and European Competition requirements cannot be waived under any circumstance.

## 10. OJEU Procurement Thresholds

10.1 Certain types of public procurement for goods and services above a certain value (Threshold) are obliged to be advertised across the European Union to provide fair opportunities for companies in member states to bid. The adverts appear in the Official Journal of the European Union and are referred to as OJEU notices. Threshold values are reviewed annually. Details of current OJEU Thresholds can be obtained from the following website:

<http://www.ojeu.eu/Thresholds.aspx>

10.2 The table below lists the OJEU Procurement Thresholds which apply from the 1<sup>st</sup> January 2012 until the 31<sup>st</sup> December 2013 (thresholds are net of VAT).

**PUBLIC CONTRACTS REGULATIONS 2006 - FROM 1 JANUARY 2012**

	SUPPLIES	SERVICES	WORKS
Entities listed in Schedule 1	£113,057 (€130,000)	£113,057 (€130,000)	£4,348,350 (€5,000,000)
Other public sector contracting authorities	£173,934 (€200,000)	£173,934 (€200,000)	£4,348,350 (€5,000,000)
Indicative Notices	£652,253 (€750,000)	£652,253 (€750,000)	£4,348,350 (€5,000,000)
Small lots	£69,574 (€80,000)	£69,574 (€80,000)	£869,670 (€1,000,000)

**11. Non-Health Care Procurement**

11.1 All non-health care procurements will follow UK and European Competition Regulations and observe Prime Financial Policies.

**12. National/Regional Framework Contracts**

12.1 A number of national and regional agencies have developed framework contracts which can be accessed by NHS organisations. These framework agreements have been appropriately tendered for by the relevant agencies which include:

- Government Procurement Service
- NHS England
- Regional NHS Procurement Agencies
- Regional Local Authority Procurement Agencies
- North Lincolnshire Council

12.2 The following considerations should be made before utilising a framework contract:

- The overall value of the contract

- The availability of a robust service specification and is it applicable to the terms of the framework agreement
- Is the framework available to CCG's
- Is a management fee chargeable for accessing the framework agreement
- Do the terms of the framework require a mini competition to be undertaken
- Do the agreed financial and service terms represent value for money

### **13. Tender Waivers**

13.1 In very exceptional circumstances, Formal Tendering procedures may be waived. The circumstances where this is applicable are outlined in the CCG Prime Financial Instructions.

13.2 It should be noted that it is not possible to waive European and UK Competition Requirements.

### **14. Health and Social Care Procurement**

#### **14.1 NHS Procurement**

14.1.1 In 2012 the Department of Health has issued further guidance on NHS procurement 'NHS Procurement - Raising Our Game' sets out guidance and proposed actions for NHS organisations' to improve procurement standards. Specifically six key areas for improvements are identified:

- levers for change
- transparency and data management
- NHS standards of procurement
- leadership, clinical engagement and reducing variation
- collaboration and use of procurement partners
- suppliers, innovation and growth

14.1.2 North Lincolnshire CCG with the support of North Yorkshire and Humber CSU will ensure procurement processes adopt the key recommendations.

14.1.3 North Lincolnshire CCG in partnership with North Yorkshire and Humber CSU will also ensure that all procurement activity is fully compliant with the latest NHS Procurement Regulations. The 2013 NHS Procurement Regulations specifically place any obligations on North Lincolnshire CCG to:

- Ensure that all health care procurements aim to meet the needs of patients and services users. Improve the quality and efficiency of service delivery. Treat all providers (regardless of size and sector) equally and in a non-discriminatory manner. Be undertaken in a transparent manner
- The regulations place a requirement on North Lincolnshire CCG to consider whether health services can be provided in an integrated manner with other health and social care services

- The Regulations states that in circumstances where only one capable provider exists then no requirement would exist to advertise
- North Lincolnshire CCG must not undertake any actions which are anti-competitive unless to do so would be clearly in the interests of the people who use the service. The regulation refers to the areas of integration and co-operation to improve service quality as potential exceptions
- North Lincolnshire CCG must maintain a record of all of the health care contracts it awards. This information will be published on a website which will be maintained by the NHS England
- The Regulations clearly state that North Lincolnshire CCG must not award a contract if the integrity and robustness of the procurement and award process has been (or appears to have been) compromised by conflicts of interest

## **14.2 General Approach**

14.2.1 North Lincolnshire CCG will undertake all health and social care procurements in accordance with UK and EU Competition requirements. It will also observe Department of Health service guidance and its Principles and Rules for Cooperation and Competition.

14.2.2 North Lincolnshire CCG approach to health and social care procurement will be underpinned by the following principles:

- NHS and existing providers should be engaged at an early stage of service development
- Early and substantial engagement of existing providers is expected
- Early and substantial engagement of staff and their trade union representatives where applicable is expected
- Early and substantial public consultation will take place where appropriate
- Decisions are taken locally but within clear national guidelines
- Commissioners must demonstrate:
  - Fairness and transparency of process
  - Clear rationale for decision making
  - Needs –driven
  - Proportionality (that the commissioner acts proportionately to the size and seriousness of any problem)
- Commissioners are expected to secure best value and quality for patients and tax payers.
- Commissioners are expected to actively monitor the quality of the service and initiate a process with providers if services are not adequate.
- Robust oversight and assurance of all the above through North Lincolnshire CCG Governing Body.

### **14.3 When to Tender Services**

14.3.1 The key driver for any decision to tender or not to tender a health or social care service will be the need to commission services from the providers who are best placed to deliver the needs of patients and the local population.

14.3.2 Such decisions will fall into two types, either existing services or new services (including significantly changed services).

- Existing Services

If an existing service is covered by an in-date contract, is delivering effective value for money services which meets current service requirements, then the existing provider(s) may be retained.

Where an existing service contract has come to the end of its contract period, and this contract has been previously competitively tendered, then a new competitive process is likely to be undertaken.

Where an existing service is provided on a provider list basis and has come to the end of its contract term, North Lincolnshire CCG will consider the potential for using AQP to increase the available provider pool.

Where an existing service contract has come to the end of its contract period, and this contract has not been previously competitively tendered, then North Lincolnshire CCG will examine the service to see if it is suitable for competitive tender observing the requirements set out in the latest NHS Procurement Regulations.

- New or Significantly Changed Services

Where patient choice is a key driver, North Lincolnshire CCG will look at the potential for increasing the available provider pool through the use of AQP.

In situations where GP Practices are the only available and capable provider, then North Lincolnshire CCG will look consider a single tender waiver for purchasing the service from GP Practices. In such circumstances the conflict of interest principles must be observed.

For services where a compelling reason does not exist to award on single tender basis, competitive market exists and it is not suitable for AQP, then North Lincolnshire CCG preference will be for a competitive tender process.

### **14.4 Provider Checks**

14.4.1 During AQP or competitive tender processes, assurance checks will be carried out on potential providers. These checks will examine:



- Financial viability and standing
- Legal Standing
- Clinical capacity and capability
- Clinical and Professional Governance
- Insurance Cover
- Quality Framework

14.4.2 For potential providers not sourced through AQP or a competitive process, additional checks must also be performed on:

- Viability of the Delivery Proposal
- Value for Money of the Proposal
- Affordability of the Proposal

#### **14.5 Any Qualified Provider (AQP)**

14.5.1 Any Qualified Provider is a procurement model that CCG's can use to develop a register of providers accredited to deliver a range of specified services within a community setting. The model aims to reduce bureaucracy and barriers to entry for potential providers.

14.5.2 Under AQP, any provider that demonstrates that it meets the assurance and specific service requirements, and also agrees to the predetermined AQP price will be approved and can compete for activity within that specific market. The key to AQP is that there are no guarantees provided on payment or volume levels.

14.5.3 AQP opportunities will be advertised using Supply2Health.

14.5.4 AQP may not be appropriate in the following circumstances:

- Where the approved clinical pathway and service requirement dictates a single or limited number of providers
- Where limited activity levels exist and would not support multiple providers
- Where overall service costs will be significantly increased by adopting AQP
- Where some form competitive process is required to determine correct and appropriate pricing levels
- Where no fair and reasonable method of selecting between approved providers can be determined

#### **14.6 Competitive Tenders**

14.6.1 North Lincolnshire CCG will pursue and manage competitive tenders for health and social care through ensuring that choice, cooperation and competition are appropriately adopted. The competitive tenders undertaken by North Lincolnshire CCG will seek to fully observe the following key principles:

**Transparency** – Competitive Tenders should be fair and open and include a sufficient level of advertising. Specifically:

- North Lincolnshire CCG will endeavour to publish proposed procurement plans that will provide providers with information about commissioning intentions and future tendering opportunities
- North Lincolnshire CCG will select the most appropriate media for advertising tenders. The Supply2Health procurement portal will be the primary advert media
- North Lincolnshire CCG will only commission services from the providers who are best placed to deliver the needs of our patients and population
- North Lincolnshire CCG will procure services from suppliers that offer best value for money
- North Lincolnshire CCG will fairly manage and be transparent about potential conflicts of interest
- North Lincolnshire CCG will be transparent about its service requirements and how it will evaluate tender bids
- North Lincolnshire CCG will be transparent in disclosing the proposed award of contracts and providing debrief information to unsuccessful bidders

**Objectivity** - Key decisions must be based on documented objective data and criteria as part of the procurement process.

**Proportionality** – The competitive tendering process should be proportionate to the value and complexity of the services to be procured.

**Non-discrimination** – The competitive tendering process must not discriminate among providers, and ensure that in the delivery of services, providers do not discriminate among patients or patient groups. Specifically:

- Service specifications and evaluation criteria will be developed so as to be generic and not favour specific providers.
- North Lincolnshire CCG will ensure that evaluations processes are fair and do not discriminate against particular bidders.

**Accountability** – Officers involved in competitive tenders should strive to align their authority and legal powers with their accountability and legal duties.

**Subsidiarity** - Decisions should be made by the lowest competent authority and not unnecessarily escalated to Board.

**Consistency** - Formulation and implementation of policy must be internally coherent and consistent.

**Interdependency** - When assessing specific issues, commissioners and providers should understand and minimise the potential unintended consequences of any

actions. As part of the overall approach to the above principles systems will be adopted that assist in:

- The design of local incentives and drivers.
- Driving quality in provision.
- Procurement and Contracting including management of change, failure and disputes.
- Market development and managements.
- Enabling and improving choice.
- Patient, public and market information.

14.6.2 North Lincolnshire CCG may also actively engage with third party organisations where appropriate to engage support or guidance within the commissioning and procurement process.

#### **14.7 EU Directives and Procurement Regulations**

14.7.1 The Procurement Regulations require competition as the mechanism by which contracting authorities ensure equality of treatment, transparency and non-discrimination. This is reinforced by the latest NHS Procurement Regulations. [The National Health Service \(Procurement, Patient Choice and Competition\) Regulations 2013](#)

***14.7.2 This Policy complies with the requirements set out in the North Lincolnshire CCG current Standing Orders, Reservation and Delegation of Powers and Standing Financial Instructions.***

14.7.3 All procurements will comply with the European Union (EU) Procurement Directives (as enacted by the UK Procurement Regulations). Under the current EU Procurement Regulations Healthcare Services are treated as Part B Services. However, there is still a requirement to adhere to the principles of the Procurement Regulations. *Please note: Significant changes to EU regulations, including Part B services are currently being finalised North Lincolnshire CCG Procurement Policy will be updated when the EU regulations have been finalised.*

#### **14.8 Consultation**

14.8.1 Health service changes may be subject to patient and public consultation. Where applicable North Lincolnshire CCG will agree a consultation process at the outset of a procurement project on a case by case basis.

14.8.2 Major Service change proposals have been subject to the Service Change Assurance Process managed by SHA's. From the 1st April 2013 a revised assurance process will be undertaken by NHS England. North Lincolnshire CCG will ensure full compliance with the relevant national Service Change Assurance requirements.

#### **14.9 Ethical and Sustainable Procurement**

- 14.9.1 North Lincolnshire CCG takes social and environmental factors into consideration alongside financial factors in making decisions on the purchase of goods and the commissioning of services. Our purchasing decisions where practicable consider whole life cost and the associated risks and implications for society and the environment.
- 14.9.2 The ethical procurement principle is to ensure that all people involved in our supply chain are treated fairly and reasonably, are not discriminated against and work in a safe environment.
- 14.9.3 The sustainability/environmental procurement principle is to deliver sustainable social and environmental activities both within our organisation but also in our supply chain.
- 14.9.4 Wherever it is possible, and does not contradict or contravene the CCG's procurement principles or the provisions allowable under the Public Services (Social Value) Act 2012, the CCG will work to develop and support a sustainable local health economy.
- 14.9.5 These overarching Ethical and Sustainable Procurement principles are embodied in the CCG's Sustainable Policy Framework.

## APPENDICES - Equality Impact Analysis

<b>1. Equality Impact Analysis</b>	
<b>Policy / Project / Function:</b>	Procurement Policy NHS North Lincolnshire CCG
<b>Date of Analysis:</b>	November 2013
<b>This Equality Impact Analysis was completed by: (Name and Department)</b>	Gary Metcalfe (Head of Procurement) North Yorkshire and Humber CSU
<b>What are the aims and intended effects of this policy, project or function ?</b>	<p>This document sets out how NHS NL CCG procurement will be in proportion to risk and will be used to support clinical priorities, health and well-being outcomes and wider CCG objectives.</p> <p>To facilitate open and fair, robust and enforceable contracts that provide value for money and deliver required quality standards and outcomes, with effective performance measures and intervention protocols.</p>
<b>Please list any other policies that are related to or referred to as part of this analysis?</b>	Prime Financial Policies Sustainable Procurement Policy Business Conduct Policy
<b>Who does the policy, project or function affect ?</b>  Please Tick ✓	<p>Employees ✓</p> <p>Service Users ✓</p> <p>Members of the Public</p> <p>Other (List Below)</p>

## 2. Equality Impact Analysis: Screening

	Could this policy have a positive impact on...		Could this policy have a negative impact on...		Is there any evidence which already exists from previous (e.g. from previous engagement) to evidence this impact
	Yes	No	Yes	No	
<b>Race</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Age</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Sexual Orientation</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Disabled People</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Gender</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Transgender People</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Pregnancy and Maternity</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Marital Status</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Religion and Belief</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Reasoning</b>	<p>This policy document does not directly impact on any specific services, but sets a framework that will influence the selection of service providers once service requirements have been identified. As such, there is no impact on any protected group from the procurement policy - the impact on protected groups of individual services will be assessed as the need arises.</p> <p>A wide range of stakeholders have been consulted on this policy; any equality issues raised by them will be reviewed and acted upon as appropriate, with this EQIA amended accordingly.</p>				

**If there is no positive or negative impact on any of the Nine Protected Characteristics go to Section 7**

### 3. Equality Impact Analysis: Local Profile Data

Local Profile/Demography of the Groups affected (population figures)	
General	
Age	
Race	
Sex	
Gender reassignment	
Disability	
Sexual Orientation	
Religion, faith and belief	
Marriage and civil partnership	
Pregnancy and maternity	

### 4. Equality Impact Analysis: Equality Data Available

<p><b>Is any Equality Data available relating to the use or implementation of this policy, project or function?</b></p> <p>Equality data is internal or external information that may indicate how the activity being analysed can affect different groups of people who share the nine <i>Protected Characteristics</i> – referred to hereafter as ‘<i>Equality Groups</i>’.</p> <p>Examples of <i>Equality Data</i> include: (this list is not definitive)</p> <ol style="list-style-type: none"> <li>1. Application success rates <i>Equality Groups</i></li> <li>2. Complaints by <i>Equality Groups</i></li> <li>3. Service usage and withdrawal of services by <i>Equality Groups</i></li> <li>4. Grievances or decisions upheld and dismissed by <i>Equality Groups</i></li> <li>5. <i>Previous EIAs</i></li> </ol>	<p>Yes <input type="checkbox"/></p> <p>No <input checked="" type="checkbox"/></p> <p>Where you have answered yes, please incorporate this data when performing the <i>Equality Impact Assessment Test</i> (the next section of this document).</p>
<p><b>List any Consultation e.g. with employees, service users, Unions or members of the public that has taken place in the development or implementation of this policy, project or function</b></p>	<p>This policy document does not directly impact on any specific services, but sets a framework that will influence the selection of service providers once service requirements have been identified. As such, there is no impact on any protected group from the procurement policy - the impact on protected groups of individual services will be assessed as the need arises.</p> <p>A wide range of stakeholders have been consulted on this policy; any equality issues raised by them will reviewed and acted upon as appropriate, with this EQIA amended accordingly.</p>
<p><b>Promoting Inclusivity</b> <b>How does the project, service or function contribute towards our aims of eliminating discrimination and promoting equality and</b></p>	

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### 5. Equality Impact Analysis: Assessment Test

What impact will the implementation of this policy, project or function have on employees, service users or other people who share characteristics protected by *The Equality Act 2010* ?

Protected Characteristic:	No Impact:	Positive Impact:	Negative Impact:	Evidence of impact and if applicable, justification where a <i>Genuine Determining Reason</i> exists
<b>Gender</b> (Men and Women)	✓			
<b>Race</b> (All Racial Groups)	✓			
<b>Disability</b> (Mental and Physical)	✓			
<b>Religion or Belief</b>	✓			
<b>Sexual Orientation</b> (Heterosexual, Homosexual and Bisexual)	✓			

What impact will the implementation of this policy, project or function have on employees, service users or other people who share characteristics protected by *The Equality Act 2010* ?

Protected Characteristic:	No Impact:	Positive Impact:	Negative Impact:	Evidence of impact and if applicable, justification where a <i>Genuine Determining Reason</i> exists
<b>Pregnancy and Maternity</b>	✓			
<b>Transgender</b>	✓			
<b>Marital Status</b>	✓			
<b>Age</b>	✓			

## 6. Action Planning

As a result of performing this analysis, what actions are proposed to remove or reduce any risks of adverse outcomes identified on employees, service users or other people who share characteristics protected by *The Equality Act 2010* ?

Identified Risk:	Recommended Actions:	Responsible Lead:	Completion Date:	Review Date:
None Identified				

## 7. Equality Impact Analysis Findings

<b>Analysis Rating:</b>	<input type="checkbox"/> Red	<input type="checkbox"/> Red/Amber	<input type="checkbox"/> Amber	<input checked="" type="checkbox"/> Green
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		Actions	Wording for Policy / Project / Function
<p><b>Red</b></p> <p><b>Stop and remove the policy</b></p>	<p><b>Red:</b> As a result of performing the analysis, it is evident that a risk of discrimination exists (direct, indirect, unintentional or otherwise) to one or more of the nine groups of people who share <i>Protected Characteristics</i>. It is recommended that the use of the policy be suspended until further work or analysis is performed.</p>	<p><b>Remove the policy</b></p> <p>Complete the action plan above to identify the areas of discrimination and the work or actions which needs to be carried out to minimise the risk of discrimination.</p>	<p>No wording needed as policy is being removed</p>
<p><b>Red Amber</b></p> <p><b>Continue the policy</b></p>	<p>As a result of performing the analysis, it is evident that a risk of discrimination exists (direct, indirect, unintentional or otherwise) to one or more of the nine groups of people who share <i>Protected Characteristics</i>. However, a genuine determining reason may exist that could legitimise or justify the use of this policy and further professional advice should be taken.</p>	<p><b>The policy can be published with the EIA</b></p> <p>List the justification of the discrimination and source the evidence (i.e. clinical need as advised by NICE).</p> <p>Consider if there are any potential actions which would reduce the risk of discrimination.</p> <p>Another EIA must be completed if the policy is changed, reviewed or if further discrimination is identified at a later date.</p>	<p>As a result of performing the analysis, it is evident that a risk of discrimination exists (direct, indirect, unintentional or otherwise) to one or more of the nine groups of people who share <i>Protected Characteristics</i>. However, a genuine determining reason exists which justifies the use of this policy and further professional advice.</p> <p><b><i>[Insert what the discrimination is and the justification of the discrimination plus any actions which could help what reduce the risk]</i></b></p>

### Equality Impact Findings (continued):

		Actions	Wording for Policy / Project / Function
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<p><b>Amber</b></p> <p><b>Adjust the Policy</b></p>	<p>As a result of performing the analysis, it is evident that a risk of discrimination (as described above) exists and this risk may be removed or reduced by implementing the actions detailed within the <i>Action Planning</i> section of this document.</p>	<p><b>The policy can be published with the EIA</b></p> <p>The policy can still be published but the Action Plan must be monitored to ensure that work is being carried out to remove or reduce the discrimination.</p> <p>Any changes identified and made to the service/policy/ strategy etc. should be included in the policy.</p> <p>Another EIA must be completed if the policy is changed, reviewed or if further discrimination is identified at a later date.</p>	<p>As a result of performing the analysis, it is evident that a risk of discrimination (as described above) exists and this risk may be removed or reduced by implementing the actions detailed within the <i>Action Planning</i> section of this document.</p> <p><b><i>[Insert what the discrimination is and what work will be carried out to reduce/eliminate the risk]</i></b></p>
<p><b>Green</b></p> <p><b>No major change</b></p>	<p>As a result of performing the analysis, the policy, project or function does not appear to have any adverse effects on people who share <i>Protected Characteristics</i> and no further actions are recommended at this stage.</p>	<p><b>The policy can be published with the EIA</b></p> <p>Another EIA must be completed if the policy is changed, reviewed or if any discrimination is identified at a later date</p>	<p>As a result of performing the analysis, the policy, project or function does not appear to have any adverse effects on people who share <i>Protected Characteristics</i> and no further actions are recommended at this stage.</p>

<b>Brief Summary/Further comments</b>	
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<b>Approved By</b>		
Job Title:	Name:	Date:
Head of procurement	Gary Metcalfe	16 November 2013

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### SUSTAINABILITY IMPACT ASSESSMENT

Staff preparing a Policy / Board Report / Committee Report / Service Plan / Project are required to complete a Sustainability Impact Assessment. Sustainability is one of the Trust's key Strategies and the Trust has made a corporate commitment to address the environmental effects of activities across Trust services. The purpose of this Sustainability Impact Assessment is to record any positive or negative impacts that this activity is likely to have on each of the Trust's Sustainability Themes. For assistance with completing the Sustainability Impact Assessment, please refer to the instructions below.

<b>Policy / Report / Service Plan / Project Title:</b>				
<b>Theme (Potential impacts of the activity)</b>	<b>Positive Impact</b>	<b>Negative Impact</b>	<b>No specific impact</b>	<b>What will the impact be? If the impact is negative, how can it be mitigated? (action)</b>
Reduce Carbon Emission from buildings by 12.5% by 2010-11 then 30% by 2020			X	
New builds and refurbishments over £2million (capital costs) comply with BREEAM Healthcare requirements.			X	
Reduce the risk of pollution and avoid any breaches in legislation.	X			Stipulates compliance with key sustainable/ethical procurement legal framework, in particular the Social Value Act 2012.
Goods and services are procured more sustainability.	X			Stipulates compliance with key sustainable/ethical procurement legal framework, in particular the Social Value Act 2012.
Reduce carbon emissions from road vehicles.			X	
Reduce water consumption by 25% by 2020.			X	
Ensure legal compliance with waste legislation.			X	
Reduce the amount of waste produced by 5% by 2010 and by 25% by 2020			X	
Increase the amount of waste being recycled to 40%.			X	
Sustainability training and communications for employees.			X	
Partnership working with local groups and organisations to support sustainable development.	X			Stipulates compliance with key sustainable/ethical procurement legal framework, in particular the Social Value Act 2012.
Financial aspects of sustainable development are considered in line with policy requirements and commitments.	X			Stipulates compliance with key sustainable/ethical procurement legal framework, in particular the Social Value Act 2012.

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### Bribery Act 2010 Guidance

#### Introduction

On July 2011 the Bribery Act 2010 came into force, making it a criminal offence to give, promise, or offer a bribe and to request, agree or receive a bribe. It increased the maximum penalty for bribery to 10 years' imprisonment, with an unlimited fine. Furthermore the act introduces a 'corporate offence' of failing to prevent bribery by the organisation not having adequate preventative procedures in place. An organisation may avoid conviction if it can show that it had such procedures and protocols in place to prevent bribery.

The Ministry of Justice in its consultation and guidance set out six broad management principles whereby an organisation can demonstrate an effective defence by showing that it had effective bribery prevention measures in place.

Risk Assessment – this is about knowing and keeping up to date with the bribery risks you face in your sector and market;

Top level commitment – this concerns establishing a culture across the organisation in which bribery is unacceptable. If your business is small or medium sized this may not require much sophistication but the theme is making the message clear, unambiguous and regularly made to all staff and business partners;

Due diligence – this is about knowing who you do business with; knowing why, when and to whom you are releasing funds and seeking reciprocal anti-bribery agreements ; and being in a position to feel confident that business relationships are transparent and ethical;

Clear, Practical and Accessible Policies and Procedures – this concerns applying them to everyone you employ and business partners under your effective control and covering all relevant risks such as political and charitable contributions, gifts and hospitality, promotional expenses, and responding to demands for facilitation demands or when an allegation of bribery comes to light.

Effective implementation – this is about going beyond 'paper compliance' to embedding anti-bribery in your organisation's internal controls, recruitment and remuneration policies, operations, communications and training on practical business issues.

Monitoring and review – this relates to auditing and financial controls that are sensitive to bribery and are transparent, considering how regularly you need to review your policies and procedures, and whether external verification would help.

#### Relevance to the NHS

NHS organisations are included in the Bribery Act's definition of a "relevant commercial organisation". Any senior manager or executive who consents to or connives in any active or passive bribery offence will, together with the organisation, be liable for the corporate offence under the act.



Any individual associated with an organisation who commits acts or omissions forming part of a bribery offence may be liable for a primary bribery offence under the act or for conspiracy to commit the offence with others – including, for example, their employer.

### Risks in breaching the Bribery Act

There are a number of risks entailed in breaching the Bribery Act. These include:

- Criminal sanctions against directors, board members and other senior staff as a corporate offence – Section 7 of the Act.
- Convictions of bribery or corruption may also lead to the organisation being precluded from future public sector procurement contracts.
- Damage to the organisation's reputation and negative impact on patient/stakeholder perceptions.
- Potential diversion and/or loss of resources.

### What do NHS organisation's need to do?

There are a number of steps NHS organisations can take:

- The Board needs to understand its responsibility in respect of the act.
- Be clear that, as NHS organisations, you are covered by corporate liability for bribery on the part of their employees, contractors and agents.
- Take steps to make your employees, contractors and agents aware of the standards of behaviour that are expected of them: this may include training for employees who might be affected – for example, employees with responsibility for procurement.
- Review existing governance, procedures, decisions-making processes and financial controls, introduce them if not already in place and, where necessary, provide appropriate training for staff.
- Record the fact that these steps have been taken, as they provide the defence against corporate liability under the act.

### Areas for Action

- Once risks have been assessed the organisation must put in place procedures that are *proportionate* to bribery risks that are identified.
- The checklist below provides details of areas for actions to assist in ensuring proportionate steps to ensure prevention and defence against corporate liability under the act. The checklist is based on best practice guidance documents issued by NHS Protect in May 2011, Ministry of Justice and other anti-bribery and corruption NGOs.
- Internal Audit and Counter Fraud Teams will provide support to the organisation to help ensure that assurance can be given against the points in the following checklist during 2012/13.

## Bribery Act 2010 Guidance and Bribery Prevention Checklist

Areas for action	Expected Action	Evidence of Compliance/Assurance
1. Governance and Top Level Commitment	<p>The Chief Executive should make a statement in support of the anti-bribery initiative and this should be published on the organisation's website.</p> <p>The board of directors should take overall responsibility for the effective design, implementation and operation of the anti-bribery initiatives. The Board should ensure that senior management is aware of and accepts the initiatives and that it is embedded in the corporate culture.</p>	
2. Due Diligence	<p>This is a key element of good corporate governance and involves making an assessment of new business partners prior to engaging them in business. Due diligence procedures are in themselves a form of bribery risk assessment and also a means of mitigating that risk. It is recommended that at the outset of any business dealings, all new business partners should be made aware in writing of the organisation's anti-corruption and bribery policies and code of conduct.</p>	
3. Code of conduct	<p>The organisation should either have an anti-bribery code of conduct or a general code of conduct for staff with an anti-bribery and corruption element.</p> <p>The organisation should revise the Standards of Business Conduct Policy (or equivalent) and Declaration of Interests guidance (see point 4 below) to reflect the introduction of the Bribery Act.</p>	

Areas for action	Expected Action	Evidence of Compliance/Assurance
4. Declaration of Interests/Hospitality	The organisation should have in place a declaration of business interests/gifts and hospitality policy which clearly sets out acceptable limits and also a mechanism to monitor implementation.	
5. Employee employment procedures	Employees should go through the appropriate propriety checks e.g. CRB (Criminal Records Bureau) and/or a combination of other checks before they are employed to ascertain, as far as is reasonable, that they are likely to comply with the organisation’s anti-bribery policies.	
6. Detection procedures	The organisation should ensure Internal Audit/Counter Fraud check projects, contracts, procurement processes and any other appropriate systems where there is a risk that acts of bribery could potentially occur.	
7. Internal reporting procedures	The organisation should have internal procedures for staff to report suspicious activities including bribery.	
8. Investigation of Bribery allegations	The organisation should have procedures for staff to report suspicions of bribery to NHS Protect (previously NHS Counter Fraud and Security Management Service) and the organisation’s Local Counter Fraud Specialist for investigation/referral to the appropriate authorities.	
9. Risk assessment	MoJ (Ministry of Justice) guidance states”...organisations should adopt a risk-based approach to managing bribery risks...[and] an initial assessment of risk across the organisation is therefore a necessary first step”. The organisation should, on a regular basis, assess the risk of bribery and corruption in its business and assess whether its procedures and controls are adequate to minimise those risks.	

Areas for action	Expected Action	Evidence of Compliance/Assurance
10. Record keeping	The organisation should keep reasonably detailed records of its anti-fraud and corruption initiatives, including training given, hospitality given and received and other relevant information.	
11. Internal review	The organisation should carry out an annual internal review of the anti-bribery and corruption programme.	
12. Independent assessment and certification	Proportionate to risks identified, the organisation should commission, at least every three years, an independent assessment and certification of its anti-bribery programme.	
13. Internal and External communications	<p>The organisation should publicise the NHS Fraud and Corruption Reporting Line (FCRL) and on-line fraud reporting facility.</p> <p>The organisation should publicise the Security Management role (theft and general security issues) and reporting arrangements.</p> <p>The organisation should work with its stakeholders in the public and private sector to help reduce bribery and corruption in the health industry.</p>	
14. Awareness and training	The organisation should provide appropriate anti-bribery and corruption awareness sessions and training on a regular basis to all relevant employees.	

Areas for action	Expected Action	Evidence of Compliance/Assurance
<p>15. Monitoring:</p> <ul style="list-style-type: none"> <li>• Overall Responsibility</li> <li>• Financial/Commercial Controls</li> </ul>	<p>A senior manager should be made responsible for ensuring that the organisation has a proportionate and adequate programme of anti-fraud, corruption and bribery initiatives.</p> <p>The organisation should ensure that its financial controls minimise the risk of the organisation committing a corrupt act.</p> <p>The organisation should ensure that its commercial controls minimise the risk of the organisation committing a corrupt act. These controls would include appropriate procurement and supply chain management, and the monitoring of contract execution.</p>	

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