

Procurement Policy

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Approving Committee	Audit Committee
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Version History

V.	Date	Status and/ or amendments (most recent first)
1.8	8.3.17	Minor wording updates for references to legislation
1.7	17.2.17	Updated for Equality and Diversity references
1.6	3/10/16	Update for new Conflict of Interest guidance
1.5	16/9/16	Minor updating from Counter Fraud
1.3	14/4/16	Approved by Audit Committee

Equality statement

Surrey Downs Clinical Commissioning Group (“Surrey Downs CCG”) aims 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. It takes into account the Human Rights Act 1998 and promotes equal opportunities for all. This document has been assessed to ensure that no-one receives less favourable treatment on grounds of their gender, sexual orientation, marital status, race, religion, age, ethnic origin, nationality, or disability. Members of staff, volunteers or members of the public may request assistance with this policy if they have particular needs. If the person requesting has language difficulties and difficulty in understanding this policy, the use of an interpreter will be considered.

Surrey Downs CCG embraces the six staff pledges in the NHS Constitution. This policy is consistent with these pledges.

Equality analysis

This policy has been subject to an Equality Analysis, the outcome of which is recorded below.

		Yes, No or N/A	Comments
1.	Does the document/guidance affect one group less or more favourably than another on the basis of:		
	Age Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds).	No	
	Disability A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.	No	

	<p>Gender reassignment</p> <p>The process of transitioning from one gender to another.</p>	No	
	<p>Marriage and civil partnership</p> <p>In England and Wales marriage is no longer restricted to a union between a man and a woman but now includes a marriage between a same-sex couple.</p> <p>Same-sex couples can also have their relationships legally recognised as 'civil partnerships'. Civil partners must not be treated less favourably than married couples (except where permitted by the Equality Act).</p>	No	
	<p>Pregnancy and maternity</p> <p>Pregnancy is the condition of being pregnant or expecting a baby.</p> <p>Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.</p>	No	
	<p>Race</p> <p>Refers to the protected characteristic of Race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins</p>	No	

	Religion and belief Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition	No	
	Sexual orientation Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes	No	
2.	Is there any evidence that some groups are affected differently?	No	
3.	If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable?	N/A	
4.	Is the impact of the document/guidance likely to be negative?	No	
5.	If so, can the impact be avoided?	N/A	
6.	What alternative is there to achieving the document/guidance without the impact?	N/A	
7.	Can we reduce the impact by taking different action?	N/A	

For advice in respect of answering the above questions, please contact the Corporate Office, Surrey Downs CCG. If you have identified a potential discriminatory impact of this procedural document, please contact as above.

Names and Organisation of Individuals who carried out the Assessment	Date of the Assessment
Justin Dix, Governing Body Secretary	May 2016
Clare Johns, Lead Commissioning Technician, Pharmaceutical Commissioning (Hosted Service)	

Contents

1. Introduction

1.1. It is Surrey Downs CCG's policy to comply with all areas of procurement law. This forms part of our wider commitment to promote good governance and proper stewardship of public resources which is reflected in the Surrey Downs CCG Constitution.

2. References

2.1. This policy is not intended to repeat the law; this is extensive and continually evolving. It is worth noting, however, that the following legislation is of particular relevance to Surrey Downs CCG's procurement decisions.

2.1.1. Public Contract Regulations 2015 ("PCR 2015") which implements the relevant EU procurement directives into UK law. PCR 2015 regulates procurement for both clinical and non-clinical activity.

2.1.2. NHS Procurement, Patient Choice and Competition Regulations (No. 2) 2013 ("PPCC Regs") which provides a framework for the commissioning of clinical services on a principles basis. It requires commissioners to procure health services to:-

- Meet the needs of the people who use the services
- Improve the quality and efficiency in the provision of the services including through the services being provided in an integrated way
- Ensure best value for money

2.2. These principles are aligned to Surrey Downs CCG's values which are described in its Constitution. It is Surrey Downs CCG's policy to fully adopt these principles as part of its approach to procurement.

2.3. The CCG is committed to the principles of Equality and Diversity as set out in its strategies and policies for this area and its legal duties under the Equality Act 2010 and Human Rights Act 1998, and will undertake (and expects potential suppliers to commit) to meeting these principles in its approach to procurement.

3. Definitions

3.1. **Procurement** is the process by which purchasing of supplies, services and

works takes place.

- 3.2. **A Product Initiation Document (PID)** is the document that captures and records basic information needed to correctly define and plan the project and is approved before the project goes ahead to subsequent stages.

- 3.3. For other relevant definitions see: Compliance with Procurement Rules and Principles (Section 7)
- 3.4. In the broader context the CCG seeks to use the definitions used in the UK public sector, and particularly the NHS. Further information on these can be found at

<https://www.gov.uk/government/collections/nhs-procurement>

4. Purpose and Scope

- 4.1. This policy applies to all Surrey Downs CCG procurement, including clinical and non-clinical purchasing activity.

5. Duties

- 5.1. Overall responsibility for procurement rests with the Executive Management Team. However, managers and senior members of Surrey Downs CCG are responsible for recognising when a commissioning decision may require procurement and for seeking support and advice in a timely manner.
- 5.2. Advice in this area is currently available from South of England Procurement Services and Surrey Downs CCG's Legal department. All those involved in commissioning are encouraged to seek advice at an early stage of any commissioning activity.
- 5.3. It is a formal requirement in the process of Surrey Downs CCG's approach to project management that all Project Initiation Documents (PIDs) be reviewed by the Legal department. This will give an early indication of the need to consider compliant procurement options.

6. Target Audience

- 6.1. This policy must be followed by all Surrey Downs CCG employees, temporary and agency staff and those who are contractually authorised to act on behalf of Surrey Downs CCG including its advisers and NHS Commissioning Support Unit employees and contractors.

7. Compliance with Procurement Rules and Principles

- 7.1. Inherent within these pieces of legislation and procurement law generally, is the need to adhere to the following principles:-

- 7.1.1. **Transparency:** Surrey Downs CCG will behave transparently in its procurement decisions and process. This will include the publication of its commissioning intentions and advertising proposed contracts in line with value thresholds set by legislation. Note that the threshold for healthcare services set by PCR 2015 is £589,148¹, above which contracts will be subject to the Light Touch Regime. As part of this, Surrey Downs CCG will also ensure that all conflicts of interest are dealt with appropriately in accordance with its own Conflicts of Interest Policy, NHS Guidance and the PCR 2015.
- 7.1.2. **Proportionality:** Surrey Downs CCG shall ensure that its procurement approach and processes are proportionate to the value, complexity and risk of the services being procured. It will ensure its qualification and evaluation criteria are not disproportionately demanding.
- 7.1.3. **Non-discrimination:** Surrey Downs CCG shall ensure that its proposed contracts and service redesign do not discriminate for or against any particular provider. It shall ensure a non-discriminatory approach to procurement and its processes including timescales and qualification and evaluation criteria. Participants shall be informed of the rules which shall be applied to all.
- 7.1.4. **Equality of Treatment:** Surrey Downs CCG shall ensure that no sector of the provider market is favoured above any other. Financial and quality assurance checks should apply to all types of provider equally. There will be no preferential treatment given to any provider on account of its legal entity, ownership, or any other characteristic.
- 7.1.5. All personnel involved in procurement activities must be aware of the 'Bribery Act 2010' and the CCGs 'Fraud, Bribery and Corruption Policy', Conflict of Interest, and 'Standards of Business Conduct Policy' and must ensure that all dealings with other organisations and their staff do not bring them in breach of the Act, or these policies. Any suspected abuse of CCG policies and procedures will be reported to, and investigated by, the Local Counter Fraud Specialist and may result in a disciplinary and/or criminal investigation being commenced.

8. Approach to Market

- 8.1. The PPCC Regulations and the corresponding Monitor Guidance recognise that "it is for commissioners to decide which services to procure and how best to secure them in the interest of patients".

¹ Published by the Crown Commercial Service on 9th December 2015. This threshold is valid until 31st December 2017.

8.2. In addition to the principles set out above, the decision of whether to tender for services and how that tender will be processed will, therefore, take into account thresholds and other regulations set by PCR 2015, whether the service can be delivered through an existing contract, whether there is more than one viable provider, the market structure and the extent to which Surrey Downs CCG requires providers to be innovative and contribute to service development.

9. External Commissioning Support Services (CSSs)

9.1. External commissioning support services play an important role in helping the CCG decide the most appropriate procurement route, undertake procurements and manage contracts in ways that manage conflicts of interest and preserve the integrity of decision-making. When using a CSS, the CCG will seek assurance that the CSS' business processes are robust and enable the CCG to meet its duties in relation to procurement (including those relating to the management of conflicts of interest). This requires the CSS to declare any conflicts of interest it may have in relation to the work commissioned by the CCG.

9.2. The CCG cannot delegate commissioning decisions to an external provider of commissioning support. Although CSSs play a key role in helping to develop specifications, preparing tender documentation, inviting expressions of interest and inviting tenders, the CCG itself:

- Determines and signs off the specification and evaluation criteria;
- Decides and signs off decisions on which providers to invite to tender; and
- Makes final decisions on the selection of the provider.

10. Register of procurement decisions

10.1. The CCG maintains a register of procurement decisions taken, either for the procurement of a new service or any material variation of a current contract. This includes:

- The details of the decision;
- Who was involved in making the decision (including the name of the CCG clinical lead, the CCG contract manager, the name of the decision making committee and the name of any other individuals with decision-making responsibility);
- A summary of any conflicts of interest in relation to the decision and how this was managed by the CCG (whilst maintaining bidder confidentiality); and
- The award decision taken.

10.2. The register of procurement decisions must be updated whenever a procurement decision is taken. The register template is included at Annex B. The Procurement, Patient Choice and Competition Regulations 9(1) place a

requirement on commissioners to maintain and publish on their website a record of each contract it awards. The register of procurement decisions is publicly available:

- Ensuring that the register is available in a prominent place on the CCG's website; and
- Making the register available upon request for inspection at the CCG's headquarters

11. Declarations of interests for bidders / contractors

- 11.1. As part of the procurement process, the CCG asks bidders to declare any conflicts of interest. This allows the CCG to ensure that it complies with the principles of equal treatment and transparency. When a bidder declares a conflict, the CCG will decide how best to deal with it to ensure that no bidder is treated differently to any other. Please see Annex C for a declaration of interests for bidders/ contractors template.
- 11.2. It is not appropriate to publish bidders conflicts on a register, as it may compromise the anonymity of bidders during the procurement process. However, the CCG will retain an internal audit trail of how the conflict or perceived conflict was handled. These records are retained for a period of at least three years from the date of award of the contract.

12. Monitoring Compliance

- 12.1. The policy will be reviewed regularly by the Executive Management Team and formally approved by the Finance and Performance Committee. Any significant failure to comply with the policy will be dealt with within the scope of the CCG's incident reporting procedures.

13. Associated Documentation

- 13.1. This policy should be read in conjunction with the following CCG Policies:
- CG02 Risk Management Strategy
 - CG06 Incident Reporting
 - CG14 Quality and Equality Impact Assessment
 - FBC01 Fraud Bribery and Corruption Policy
 - FBC03 Standards of Business Conduct
 - FBC04 Conflict of Interest

- IG01 Information Governance Framework

Annex A: Procurement checklist

Service:	
Question	Comment/ Evidence
1. 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 does it comply with the CCG’s commissioning obligations?	
2. How have you involved the public in the decision to commission this service?	
3. What range of health professionals have been involved in designing the proposed service?	
4. What range of potential providers have been involved in considering the proposals?	
5. 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)?	
6. What are the proposals for monitoring the quality of the service?	
7. What systems will there be to monitor and publish data on referral patterns?	
8. Have all conflicts and potential conflicts of interests been appropriately declared and entered in registers?	

<p>9. In respect of every conflict or potential conflict, you must record how you have managed that conflict or potential conflict. Has the management of all conflicts been recorded with a brief explanation of how they have been managed?</p>	
<p>10. Why have you chosen this procurement route e.g., single action tender?²</p>	
<p>11. What additional external involvement will there be in scrutinising the proposed decisions?</p>	
<p>12. How will the CCG make its final commissioning decision in ways that preserve the integrity of the decision-making process and award of any contract?</p>	
<p>Additional question when qualifying a provider on a list or framework or pre selection for tender (including but not limited to any qualified provider) or direct award (for services where national tariffs do not apply)</p>	
<p>13. How have you determined a fair price for the service?</p>	
<p>Additional questions when qualifying a provider on a list or framework or pre selection for tender (including but not limited to any qualified provider) where GP practices are likely to be qualified providers</p>	
<p>14. How will you ensure that patients are aware of the full range of qualified providers from whom they can choose?</p>	
<p>Additional questions for proposed direct awards to GP providers</p>	
<p>15. What steps have been taken to demonstrate that the services to which the contract relates are capable of being provided by only one provider?</p>	
<p>16. In what ways does the proposed service go above and beyond what GP practices should be expected to provide under the GP contract?</p>	
<p>17. 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?</p>	

²Taking into account all relevant regulations (e.g. the NHS (Procurement, patient choice and competition) (No 2) Regulations 2013 and guidance (e.g. that of NHS Improvement).

Annex B: Procurement decisions and contracts awarded

Ref No	Contract / Service title	Procurement description	Existing contract or new procurement (if existing include details)	Procurement type – CCG procurement, collaborative procurement with partners	CCG clinical lead (Name)	CCG contract manger (Name)	Decision making process and name of decision making committee	Summary of conflicts of interest noted	Actions to mitigate conflicts of interest	Justification for actions to mitigate conflicts of interest	Contract awarded (supplier name & registered address)	Contract value (£) (Total) and value to CCG	Comments to note

To the best of my knowledge and belief, the above information is complete and correct. I undertake to update as necessary the information.

Signed:

On behalf of:

Date:

Please return to **<insert name/contact details for team or individual in CCG nominated for procurement management and administrative processes>**



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Annex C: Declaration of conflict of interests for bidders/contractors

Name of Organisation:	
Details of interests held:	
Type of Interest	Details
Provision of services or other work for the CCG or NHS England	
Provision of services or other work for any other potential bidder in respect of this project or procurement process	
Any other connection with the CCG or NHS England, whether personal or professional, which the public could perceive may impair or otherwise influence the CCG's or any of its members' or employees' judgements, decisions or actions	

Name of Relevant Person	[complete for all Relevant Persons]	
Details of interests held:		
Type of Interest	Details	Personal interest or that of a family member, close friend or other acquaintance?
Provision of services or other work for the CCG or NHS England		
Provision of services or other work for any other potential bidder in respect of this project or procurement process		
Any other connection with the CCG or NHS England, whether personal or professional, which the public could perceive may impair or otherwise influence the CCG's or any of its members' or employees' judgements, decisions or actions		

To the best of my knowledge and belief, the above information is complete and correct. I undertake to update as necessary the information.

Signed:

On behalf of:

Date: