

**Policy Number**  
**OP15**

**Title of Policy**  
**North Midlands and Black Country Procurement**  
**Group Policy**

# Group Policy Document

  
**The Royal Wolverhampton**  
NHS Trust  
Policy OP15

  
**University Hospital  
Of North Midlands**  
NHS Trust  
Policy SP01

  
**Walsall Healthcare**  
NHS Trust  
Policy OP15

  
**North Staffs Combined  
Healthcare NHS Trust**  
NHS Trust  
Policy SP01

  
**Black Country Healthcare**  
NHS Foundation Trust  
Policy POL 343-BCHFT

# Procurement

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<b>Policy Author:</b>	<b>Group Director of Procurement</b>
<b>Executive Lead:</b>	<b>Group Chief Finance Officer</b>

### NMBC Version Control Schedule

Version	Issue Date	Comments
1	October 2004	
2	November 2006	
3	February 2011	
4	October 2012	Reviewed in line with review schedule. Re- formatted to reflect policy G01 V6 October 2012
5	May 2015	Reviewed - Policy Alignment - Royal Stoke/County - Inclusion of requirement to advertise expenditure £25k and above in accordance with amendments to EU Legislation published February 2015
6	March 2019	Reviewed in line with review schedule.
7	March 2020	Reviewed in line with ISPD
8	December 2021	Addition of Walsall Healthcare Trust (WHT) and Black Country Pathology Services (BCPS) Procurement Remit.
9	June 2024	Change of Name (ISPD to NMBC) & Change in SFI's at RWT Addition of Black Country Healthcare NHS Trust (BCH)
10	June 2025	Change of term (OJEU to FIND A TENDER SERVICE) Change of name (NSCHC to NSCHT) Change of Name (Director to Group Director of Procurement) Removal of EU laws as reference Change of name from NHSEI to NHSE Change of wording to Equality and diversity in Procurement (Point 7) Local Trust Policy numbers added for policy documents Addition of specific Procurement Act 2023 (PA 23) Guidance

### Statement on Trust Policies

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## 1. INTRODUCTION

The University Hospitals of North Midlands NHS Trust (UHNM), The Royal Wolverhampton NHS Trust (RWT), Walsall Healthcare NHS Trust (WHT), Black Country Healthcare NHS Trust (BCHFT) and North Staffordshire Combined Healthcare NHS Trust (NSCHT) are public bodies and therefore publicly accountable.

UHNM historically provided a full Supplies and Procurement 'Shared' service to NSCHT where all Supplies and Procurement staff providing services for both Trusts were employed by UHNM. The UHNM Supplies and Procurement Department also inherited the ex Mid Staffordshire Foundation NHS Trust (MSFT) Supplies and Procurement staff during 2015 when the Trust was taken over by UHNM. On the 1<sup>st</sup> July 2019 UHNM and RWT agreed to create a single larger Pan-Integrated Care System (ICS) procurement entity known as the North Midlands and Black Country Procurement Group (NMBC) that is hosted by UHNM.

The integrated model was further complimented on the 1<sup>st</sup> December 2021 when Walsall Healthcare NHS Trust (WHT) and the RWT hosted Black Country Pathology Service (BCPS) Procurement team were also introduced into the integrated NMBC model following the conclusion of a formal management of change (MoC). On 1<sup>st</sup> January 2024 the Black Country Healthcare NHS Foundation Trust (BCHFT) also followed the process which saw all Supplies and Procurement staff TUPE transfer into UHNM. This therefore increased the total number of organisations represented as part of the integrated model to six (incl. the BCHFT) with approximately 140 staff employed covering an annual Trust income of £3.09 billion and an approximate annual spend of £1.107 billion. Our collaborative partners cover an annual income of £2.139 billion and an approximate annual spend of £520 million. The NMBC now spans a Pan ICS footprint which covers both the Staffordshire, Shropshire, Stoke-on-Trent and Black Country ICS regions.

The policy therefore covers all Trusts / organisations that form part of the integrated model and is required to ensure that the procurement activity within the Trusts are carried out in accordance with the principles of achieving best value for money for all its' non pay expenditure.

In accordance with each Trusts Standards of Business Conduct for NHS staff and the Trusts Anti-Bribery Policy's as a public sector body the Trusts must both be impartial and honest in the conduct of business.

This policy sets out the broad parameters within which the Trusts will manage all Supplies and Procurement related activity in support of the overall strategic objectives of each Trust and as importantly considers Procurement at the local, regional and national level in line with the latest regional Integrated care system (ICS) and Procurement Transformation Operating Model (PTOM) national transformation agenda. This agenda is underpinned by the Central Commercial Function Strategy which is being delivered by the Central Commercial Function (CCF), a team of NHS commercial experts delivering seven key services to support procurement excellence across the healthcare system. These services – which include commercial best practice, workforce development, governance, data, strategy, sustainability, and supplier management – are designed to strengthen commercial capability and ensure consistency, value, and compliance across NHS trusts and integrated care boards. The CCF plays a pivotal role in delivering the NHS Long Term Plan, advancing the Carter Review's efficiency goals, and contributing to the net zero NHS ambition by 2045. It supports the adoption of accredited framework agreements, promotes the use of national digital tools such as Atamis and the Spend Comparison Service, and enables better supplier relationships to secure a more resilient and sustainable supply chain. The strategy also includes pathways for talent development, continuous improvement through NHS Commercial Standards, and enhanced commercial intelligence to drive better value and innovation throughout the NHS procurement landscape.

The policy is a requirement of the Controls Assurance standard "Management of Purchasing and Supply" and the HSC 1999/143 Review of NHS Procurement and more recently the NHS Procurement and Commercial Standards (V3 – updated July 2016).

An "Equality Impact Assessment" has been undertaken on this document and no actual or potential

discriminatory impact has been identified.

## **2. VALUE FOR MONEY**

The NMBC, on behalf of all Trusts represented, aim to achieve best value for money for all areas of non-pay expenditure whilst continuing to maintain minimal risk and to provide high quality services to patients.

All purchases are not solely judged on obtaining goods and services for the lowest possible price, but on value for money. This includes the quality and other relevant attributes of the resulting service or product. It is a judgment based on the best combination of the cost of a product / service, spread over its whole lifetime and the products ability to meet, or indeed exceed user requirements.

Good procurement practice is critical to this, and procurement decisions must be made with due consideration of:

- Total acquisition costs
- Risk Management (Supply Chain Resilience and Business Continuity). NMBC will conduct “supply chain risk assessments” for all critical suppliers, which will identify potential disruptions and will trigger the generation of appropriate mitigation strategies. All contracts classified as “critical services” must require suppliers to provide: a Business Continuity Plan (BCP) detailing operational resilience measures, a “Supply Chain Transparency Report” identifying dependencies on subcontractors and a “contingency strategy” in case of financial or operational failure. Contracts exceeding £5 million must include financial stability assessments before award.
- Clinical Effectiveness
- Total Supply Chain Costs / Routes
- Product Standardisation
- Competition
- Stock Holdings
- Environmental Impact (including carbon related objectives)
- Trust Policies and Strategies / Procedures
- Sustainability
- Corporate Social Responsibility
- Capital v Lease Consideration
- Collaboration
- Fairness
- Diversity / Inclusion
- Equity
- UK Procurement Legislation / applicable Government Policies
- National NHS Procurement Strategy and Policies

## **3. POLICY STATEMENT**

To satisfy the recommendations outlined within Lord Carter’s ‘Unwanted Variations’ review (2015), NHSE national PTOM developments and the imminent ICS back-office consolidation requirements, University Hospitals of North Midlands NHS Trust (UHNH) and The Royal Wolverhampton NHS Trust (RWT) commenced an North Midlands and Black Country Procurement Group (NMBC) on the 1<sup>st</sup> July 2019. As outlined in Section 1 of this policy this development complimented the existing Supplies and Procurement ‘Shared Service’ model that UHNH already operated which included North Staffordshire Combined Healthcare NHS Trust (NSCHT) and the old Mid Staffordshire Foundation NHS Trust. As of the 1<sup>st</sup> December 2021, the NMBC integrated model was further complimented with the inclusion of Walsall Healthcare NHS Trust (WHT) and the RWT hosted Black Country Pathology Services (BCPS) and the further inclusion of Black Country Healthcare (BCHFT).

It is the objective of the NMBC Procurement policy to ensure all non-pay expenditure is subject to best procurement practice to ensure optimum value for money is achieved, commercial risk is mitigated, appropriate due process is followed, and overall best quality of products and services are received at all organisations represented. This refreshed Policy has been developed to accommodate the new national NHS Procurement strategic objectives and the recent continued regional transformation that has seen the integration of the UHNM, RWT, NSCHT, BCPS, MSFT, WHT and BCHFT Supplies and Procurement Teams.

This will be achieved through the application of effective control mechanisms which will ensure all Trust's business is conducted and managed (internally and externally) in a way that will deliver greater efficiency in the use of its resources and ensures probity.

Purchasing shall always be undertaken with the over-riding objectives of:

- Securing maximum Value for Money
- Complying with all relevant legislation and avoidance of risk

In pursuing these objectives, the Trust also requires that procedures and processes are in place to ensure that:

- Appropriate and compliant bidding and tender processes are performed.
- Suppliers appropriately selected and authorised for use.
- Suppliers are monitored for financial and non-financial performance.
- Goods and services are purchased only with proper authorisation.
- Goods and services received are correctly recorded.

Payments are only made for goods and services received and authorised

#### **4. SCOPE**

This policy shall apply to all Divisions / Directorates within the Trusts at The Royal Stoke Hospital, County Hospital, New Cross Hospital, West Park Hospital, Cannock Chase Hospital, Walsall Manor Hospital and all applicable 'Partner Trust' locations that the NMBC supports.

All procurement of any item of non-pay expenditure will be in accordance with this policy.

#### **5. THE ROLE OF PROCUREMENT**

This policy embraces all aspects of achieving savings, managing risk, and enforcing governance related protocols from Supplies and Procurement related activity across all areas of responsibility, and therefore incorporates the following activities: -

- Stakeholder participation and agreement to initiatives (annual work plan formulation).
- Focus on high-risk contract areas.
- Gathering of market / supplier details.
- Aggregation of demand (If applicable).
- Evaluation of all contracts periodically to ensure they still offer the Trust Value for Money.
- The selection of products and suppliers including formal quotations and tendering procedures in line with standing financial instructions and Legislation.
- Find a Tender Service or equivalent notice creation – to be generated on our new Central Digital Platform – ATAMIS.
- Document preparation (Selection Questionnaires (SQ), Tenders).
- Regular meetings to discuss progress on all initiatives with relevant Division.
- Supplier enquiries / correspondence.
- Procurement related document distribution.
- Evaluation of tenders in accordance with Standing Financial Instructions (SFIs) and UK Legislation; alongside representatives from user departments where it is a complex initiative.

- Award / notify suppliers in accordance with extant legislative and policy guidelines.
- The receipt and distribution of stock on Materials Management arrangement.
- Maintaining optimal internal supply chain systems (including stock optimisation etc.).
- Active participation in major projects.
- Management of the Trusts collaborative procurement partners including, but not limited to HealthTrust Europe (HTE), Crown Commercial Service (CCS) and NHS Supply Chain.
- Provision of systems support and development (e.g. e-Procurement, e-Catalogue and e-Requisitioning).
- Enforcing governance related protocols (i.e. single tender waivers, breach reporting, authorisation levels, types of procurements used and validation of suppliers etc.).
- Participation in the Trusts capital planning process.
- Participation in the Trusts sustainability agenda.
- Participating in the Trusts Equality, Diversity, and Inclusion agenda.
- Ensuring the Trust is compliant to the NHSE / Department of Health and Social Care's latest national procurement standards, strategies, and policies etc.

Procurement of goods and services for all Trusts represented will be carried out by NMBC staff based at The Royal Stoke, County, West Park, Cannock Chase, and Walsall Manor Hospital sites. The Group Director/Group Deputy Director/Deputy Directors of Procurement have the responsibility of ensuring, as with all other procurements that the process is carried out with the appropriate probity and transparency, always ensuring adherence to all relevant Trust Governance and UK Law.

## **6. EDUCATION/TRAINING AND PLAN OF IMPLEMENTATION**

The NMBC is committed to the development of the team such that every individual has the opportunity to achieve their full potential.

The process of development is ultimately the responsibility of the Group Director of Procurement. The delivery of the main aspects of the programme, which may include some or all the following elements, is delegated as appropriate throughout the senior management team.

- Purchasing competencies – describes the specific skills required for success and are used for development planning and recruitment.
- Roles & Organisation – deals with the overall organisational design, the definition of roles, category rotation.
- Capability Development – deals with business and leadership training and development, coaching, mentoring, and training needs and training needs analysis.
- Development Process – is the process through which the above aspects are managed. The process includes assessment of all staff, individual objective setting, minimum six-monthly performance reviews, monthly 1-2-1 meetings and annual performance appraisals.
- Strategic Team Development and Communication – to ensure robust Trust wide communication and the development of the Procurement Leadership Team.

## **7. EQUALITY AND DIVERSITY IN PROCUREMENT**

In accordance with the legal obligations placed on NHS providers by the Equality Act 2010 we aim to demonstrate our commitment to diversity, equality, human rights and social inclusion through our procurement policy and practice. We will build equality and diversity principles, as set out in the public sector duty of the Act, into all stages of procurement.

We will demonstrate our commitment by ensuring that:

- Equality and Diversity must be considered within all stages of the tendering process.
- All contracts are awarded and delivered in a way which is non-discriminatory, and promotes equality of opportunity for staff, service users, the general public and businesses.



- Procurement demonstrate equity for all potential contractors, regardless of size or ethnicity of ownership.
- Terms and Conditions of Contracts will include clauses with regard to Equality and Diversity, and the Trust will work with its suppliers so that they are aware of and understand our requirements and have the appropriate policies and practices within their organisations.

## **8. MONITORING AND REVIEW**

Reporting of procurement not undertaken in accordance with this policy will be reported quarterly by the Group Director of Procurement to the Trusts relevant Audit and Finance & Performance Committees.

The policy will be reviewed every 3 years to ensure it meets the needs of the Trust.

## **9. REFERENCES**

Strategic Framework – NHS Commercial – 18 Dec 23.  
HSC 1999/143 Review of NHS Procurement  
HSG (93)5 Standards of Business Conduct for NHS Staff  
NHS Controls Assurance Standard “Management of Purchasing and Supply” NHS Procurement & Commercial Standards. Department of Health: July 2016  
Operational productivity and performance in English NHS acute hospitals: unwanted variations. Lord Carter of Coles: February 2016

## **10. Associated local Trust Policies**

GP01 Corporate Governance – Principles of Public Life  
GP02 Anti-Fraud and Anti-Bribery Policy  
OP97 Confidentiality Code of Conduct for Staff  
GI02 Financial Management  
OP10 Risk Management and Patient Safety Reporting Policy

## Part A - Document Control

<b>Part A - Document Control Policy number and Policy version:</b>  OP15 V2.0	<b>Policy Title</b>  North Midlands and Black Country Procurement Group Procurement Policy	<b>Status:</b>  Final		<b>Author:</b> Director of Procurement  <b>Chief Officer Sponsor:</b> Chief Finance Officer	
	Version / Amendment History	Version	Date	Author	Reason
		V 1.0	Feb. 2022	Director of Procurement	Original policy
		V1.1	July 2024	Director of Procurement	Change of Name (ISPD to NMBC) & Change in SFI's at RWT Addition of Black Country Healthcare NHS Trust (BCH)
	V2.0	June 2025	Director of Procurement	Change of term (OJEU to FTS) Change of name (NSCHC to NSCHT) Change of Name (Director to Group Director of Procurement) Removal of EU laws as reference Change of name from NHSEI to NHSE Change of wording to Equality and diversity in Procurement (Point 7) Local Trust Policy numbers added for policy documents Addition of specific Procurement Act 2023 (PA 23) Guidance	
<b>Intended Recipients:</b> All Trust staff and members of the NMBC.					
<b>Consultation Group / Role Titles and Date:</b> DMT ED TS					
<b>Name and date of Trust level group where reviewed</b>		Divisional Management Teams. Executive Director, Trust Secretary, Policy Review Group, Chairs for approving Committees. Trust Policy Group Virtual Approval – June 2025 – V2			
<b>Name and date of final approval committee</b>		Trust Policy Group - June 2025			
<b>Date of Policy issue</b>		June 2025			
<b>Review Date and Frequency</b> (standard review frequency is 3 yearly unless otherwise indicated – see section 3.8.1 of Attachment 1)		June 2028			
<b>Training and Dissemination:</b> After approval by the trust board the policy will be emailed to the current NMBC Staff, and it will be part of the onboarding process for new staff					
<b>To be read in conjunction with:</b> OP73 Undertaking an Equality impact OP84 Corporate Record Management Policy, Trust Records Management Strategy					

<b>Initial Equality Impact Assessment (all policies):</b> <b>Completed Yes / No Full Equality</b> <b>Impact assessment (as required):</b> <b>Completed Yes / No / NA</b> If you require this document in an alternative format e.g., larger print please contact Policy Administrator8904	
<b>Monitoring arrangements and Committee</b>	<a href="#">OP73 Undertaking an Equality impact</a> <a href="#">OP84</a> <a href="#">Corporate Record Management Policy, Trust</a> <a href="#">Records Management Strategy</a>
<b>Document summary/key issues covered.</b> Policy for Procurement service provided by North Midlands and Black Country Procurement Group Procurement Policy (NMBC)	
<b>Key words for intranet searching purposes</b>	OP15 Procurement

## **APPENDIX A**

### **KEY PRINCIPLES**

#### **1. GENERAL GUIDANCE**

All Trusts operate within a statutory framework by adopting Standing Orders and Standing Financial Instructions. In addition, a Scheme of Delegation, a Budgetary Control Policy and other additional Guidance and procedures exist which cover all aspects of Financial Management and Control.

These policies and procedures are designed to ensure that all the Trust's business transactions are conducted in accordance with English Law and Government Policy – in order to achieve probity, accuracy, economy, efficiency, and effectiveness.

#### **2. UK DIRECTIVES:**

In addition to its own Standing Orders and Standing Financial Instructions, the Trusts have a Statutory duty to comply with United Kingdom (UK) Directives on Public Procurement and it must therefore advertise contracts in FTS for goods and services where the total contract value (not just the annual value) meets or exceeds the threshold values as determined by the UK Directives.

The Procurement Act 2023 (PA 23) introduces reforms aimed at increasing transparency, efficiency, and value for money in public sector procurement. NMBC have incorporated these regulations to our standard operating procedures to ensure that all procurement activities conducted on behalf of our end users are legally sound and aligned with extant best practice.

Key Changes Introduced by PA 23

##### **New Contract Thresholds:**

- Goods & Services: £139,688
- Works: £5,372,609
- Light Touch Regime: £663,540

##### **Enhanced Competition & Transparency:**

- All tenders must be advertised on the FTS portal.
- Mandatory publication of contract awards and key performance indicators (KPIs).

##### **Increased Monitoring & Accountability:**

- Regular supplier performance evaluations.
- Stricter reporting requirements on contract variations and modifications.

These contract thresholds are detailed within the relevant Trusts Standing Financial Instructions and within the NMBC Purchasing Manual, which are applicable to all areas of Trust procurement.

Failure to comply with the UK Directive could result in: -

- a) High Court claims for damages from companies not invited to participate, or where they feel unfairly treated during procurement.
- b) Infringement proceedings in the European Court of Justice.

- c) The contracting authority may be forced to commence procurement process again (i.e. where a non-compliant contract is set aside).
- d) The awarded contract may be set aside, i.e. deemed as null and void by a court of law.
- e) Reputational Damage and significant legal costs.

### **3. IMPLEMENTATION**

Once the policy has been fully ratified by the Trust Boards / Procurement Board it will be cascaded throughout the organisation via Divisional Management Teams.

### **4. KEY EVENTS**

Whatever causes a procurement to be initiated the process to be followed within the Trusts will typically involve the following stages: -

- a) Identifying the need and developing an outline specification for inclusion in the business case.
- b) Obtaining financial approval/authority to proceed.
- c) Identifying prospective suppliers/contractors/consultants.
- d) Finalising the specification and preparing the rest of the Invitation to Tender documents.
- e) Issuing the relevant notices in accordance with the relevant value threshold, procurement route and procedure.
- f) Issuing Invitations to Tender (ITT's) and handling enquiries.
- g) Evaluating tenders
- h) Awarding and managing/monitoring the on-going contract.

The NMBC will establish a timetable and programme of events (known as an annual work plan) for each Trust and will also agree the level of assistance that they can provide to achieve a successful outcome. For example, decisions will need to be taken on: -

- a) Whether there is a requirement to seek approval to proceed (Cabinet Office) for our high value contracts.
- b) Whether to use an existing contract/agreement, e.g., as arranged nationally by Crown Commercial Services, NHS Supply Chain (including the Category Towers), regionally by a Collaborative Procurement Hub (e.g. HealthTrust Europe) or locally by the NMBC.
- c) The need to consider sustainable development issues and Trust or broader public sector sustainability policies.
- d) The type and form of contract.
- e) Sourcing potential suppliers.
- f) Duration of the contract and opportunity to review/extend.
- g) Payment schedules.
- h) How to minimise any risks with the chosen strategy, including supplier appraisal and evaluation / clarification of suppliers' bids.
- i) Which Trusts under the remit of the NMBC will be included in any particular procurement exercise.
- j) Which contracts will require Cabinet office Senior Responsible Officer (SRO) approval prior to award of contract.
- k) National reporting of contract awards
- l) Recording and maintaining contract details into Atamis

## **5. AUTHORITY TO COMMIT BUSINESS / UNDERTAKE PROCUREMENT**

### **5.1 DELEGATED AUTHORITY TO COMMIT BUSINESS**

Unless expressly confirmed in writing by the relevant authorised officer at each Trust, only officers within the NMBC have the authority delegated by the Chief Executive Officer to commit business to suppliers / contractors within their own remit, i.e. no other employees or agents of the Trusts are authorised to do so.

With regards to UHNM, RWT, WHT and BCHFT this delegated authority is also extended to the Estates and Facilities division and the Pharmacy department. The only exception agreed for these Trusts is in relation to the use of Purchasing Cards which, as a minimum, must be authorised by the Chief Finance Officer.

UHNM also have an additional delegated authority which is extended to the Private finance initiative (PFI) (although only for emergency orders and spend relating to Measure term contracts).

### **5.2 DELEGATED ORDERING**

As indicated in section 5.1 where certain departments within the Trusts have been authorised by the Chief Finance Officer and Group Director of Procurement to undertake delegated ordering i.e. the placing of orders with companies this must only apply against pre-determined contracts negotiated by the NMBC, relevant Collaborative Procurement partner, NHS Supply Chain or Crown Commercial Services etc. where in effect the procurement process has already been finalised.

This delegation of ordering facility is for the supply of routine, regularly ordered requirements to various departments and will involve the department in the raising of the purchase orders via the purchase to pay system.

Delegated Ordering must always be undertaken in accordance with the local Standing Financial Instructions and Procurement Policy which is issued to all participating departments.

### **5.3 ONGOING REVIEW**

The list of departments who have been granted delegated authority to commit business or undertake procurement (e.g. delegated ordering) is to be reviewed on a periodic basis to ensure that the optimum procurement control exists.

## **6. DELEGATION OF COMMITMENT AUTHORITY**

All Trusts must procure in line with the associated 'Trusts Authorised Signatory List' and authority levels as outlined in the Trusts Standing Orders / Standing Financial Instruction's.

For all supplier contracts the authorisation limits are as outlined in the NMBC Purchasing Manual.

The value of a contract is defined as the actual or estimated spend over the whole contract term. For example, the contract value of a 3-year contract with an estimated annual spend of £1 million is £3 million. In the event of an evergreen or rolling contract the value of the contract is defined by the commitment (i.e. the legal commitment including any termination period).

Expenditure requests that require the relevant Trust Board sign off, must be signed / authorised by the relevant Trust Board and the relevant approval must be officially recorded in an approved set of Trust Board minutes.

The total amount of any expenditure request may not be sub-divided (disaggregated) to avoid the need to seek higher authorisation.

Contracts in excess of £1m, or where standard terms have been varied, are reviewed by the relevant Trusts Legal representatives when considered appropriate to do so. These contracts are also approved at the Trusts Finance and Performance, or equivalent, Committee.

Under English Law, a contract may exist as long as four key elements exist (offer, acceptance, consideration, and intention to enter legal relations). This may come about from a verbal conversation or the placement of an order with a supplier – the lack of physical contract should not be taken to mean that a binding commitment /contract has not been made. A written communication from a supplier, the content of which is not agreed, must *immediately be rejected in writing and a copy kept* as the content could be considered as legally binding and override NHS Standard Terms and Conditions.

## **7. RESPONSIBILITY**

### **7.1 GROUP DIRECTOR OF PROCUREMENT**

Provide a professional procurement overview to all Trusts represented and ensure adherence to this policy at a strategic level.

Where there is clear evidence that the Trust is in breach of procurement related governance / legislation, the Group Director of Procurement has an obligation under this policy to report such breaches to the Audit Committee chair.

With regards to ensuring that there is an appropriate level of competition on all Trust procurements the Group Director of Procurement also has the responsibility of reporting instances where due procurement process has not been followed to the Chair of Audit Committee. Although it must be noted that reasonable consideration must be given to instances where, for example, single tender action is appropriate with consideration to overall value for money versus operational need/risk to the organisation. For the avoidance of doubt please note that any expenditure / contract value over the minimum FTS threshold (as outlined in section 21) cannot be single tender waived under UK Legislation.

### **7.2 DIVISIONS**

Divisional Management Teams within the relevant Trusts are to ensure they are conversant with: -

- Trust's Standing Orders.
- Trust's Standing Financial Instructions.
- Trust's Scheme of Delegation and Authorised Signatory List.
- Trust's Standards of Business Conduct.
- Trust's Service Level Agreement with Collaborative Procurement Partners where applicable.
- Trust's P2P system.
- Contract KPIs for High-Value Contracts.
- Atamis Procurement Platform (Salesforce system).
  - Contract Change Notices.
  - Publication of contract Details.
  - Contract Termination Notices.
  - Transparency Obligations.
  - Supplier Exclusion Grounds.

Divisional Management Teams to ensure this policy is disseminated widely throughout their division ensuring budget holders are conversant with the financial authorisation limits outlined in the relevant finance documentation highlighted above and to be clear as to their own level of authorisation.

Divisional staff involved in the decision making associated with the procurement of goods and services have a duty of care to ensure value for money is obtained for the Trust and to work with the NMBC accordingly to achieve this outcome.

Divisional staff to be aware that failure to comply with the Trust's Standing Orders or Standing Financial Instructions (SFIs) could result in disciplinary action.

### **7.3 DELEGATED AUTHORITY**

All Departments with delegated authority have a responsibility; -

- Ensure that robust procurement procedures exist, to enable compliance with this policy, and that these procedures are always adhered to. These procurement procedures will also be consistent with all relevant Trust policies and procedures.
- Monitor any procurements that do not adhere to this policy and report such to the Director of Procurement.
- Ensure input from clinical / technical experts is sought as part of the procurement process where required. Experts to include, but not limited to, Clinical Technology, Infection Control, Estates, Clinical Users and Tissue Viability Nurse Specialists etc.
- Work with Divisions to achieve value for money in all procurement related activity.

### **7.4 FINANCE & PERFORMANCE COMMITTEE (OR EQUIVALENT) AND AUDIT COMMITTEE**

To ensure that as part of their role overseeing the NMBC Strategy, that this policy is adhered to and that ultimately Value for Money (VFM) is optimised, and commercial risk is minimised accordingly.

Adherence will be monitored through periodic reports presented to the trust by the Group Director of Procurement demonstrating the management of all levels of non-pay expenditure and the respective compliance with this policy.

## **8. LEGISLATIVE REQUIREMENTS**

All procurement activity undertaken on behalf of the Trust's must comply with the requirements of all relevant and applicable legislation. This includes, but is not limited to, general duties imposed on the Trusts as a public authority.

Specific legislation impacting Trust procurement and purchasing procedures includes (but is not limited to):

- Late Payment of Debts Act 1998
- Procurement Act 2023
- Consumer rights Act 2015
- Equality Act 2010
- Equality and Human Rights Commission
- Transfer of Undertakings 2016 (TUPE)
- Waste Electrical and Electronic Equipment (WEEE) Directive
- RoHS EEE (Restriction of the use of certain Hazardous Substances in electrical Equipment)
- Environmental Protection Act 1995
- Construction Industry Scheme Legislation (CIS) 2005
- Climate Change Act 2008

Adherence to Trust Purchasing Policy and Purchasing Processes (Procedures and Guidance) including the use of the latest NHS Standard Terms and Conditions of Contract (Purchase) is intended to ensure compliance with applicable legislation.

## **9. COLLABORATIVE PROCUREMENT**

The NMBC will select and work with Collaborative Procurement partners, e.g. NHS Supply Chain, Crown Commercial Services, national Collaborative Procurement Organisations, and other ICS Collaborative Procurement Providers, in order to maximise the efficiencies from aggregated expenditure including joint



contracting and product standardisation. It will establish the basis of relationship in the form of Service Level Agreements (SLA's) / Memorandum of Understanding's (MoU's) which will contain roles and responsibilities for the Collaborative Partner and for the NMBC as well as monitoring and review arrangements. Any Trusts that join the integrated model will be obliged to join the existing legal binding Partnership Agreement.

In the event that the NMBC choose to work with a Collaborative Procurement Partner from the private sector then it would be recommended that a contract, rather than an SLA / MoU agreement, is utilised to manage the relationship between the two parties.

Regardless if an SLA, MoU, Partnership Agreement, or a contract is chosen to facilitate the relationship with a collaborative partner a full legal review must be executed before any documentation is signed. It is important that the terms of engagement with a collaborative partner are clearly outlined and agreed before the relevant Trust or the NMBC receives a service from the provider, otherwise receiving a service without challenge from the NMBC to proposed unacceptable terms, may result in the terms becoming binding under custom and practice related law.

## **10. KNOWLEDGE MANAGEMENT**

Information regarding the external market is key to ensuring the NMBC procures goods and services at the best possible overall cost. All Trust personnel are encouraged to share any useful information.

If the information received is specific to a supplier or category, then such information should be shared with the appropriate Procurement lead. The NMBC Procurement lead category allocation is contained in the 'NMBC Purchasing Manual' and held on the NMBC webpage contained on the specific local Trust's Intranet. If the information is of a more generic nature, then the information should be passed to the Group Director / Group Deputy Director of Procurement.

The following are examples of, but are not limited to, what constitutes useful information:

- Concerns over a specific suppliers' business performance.
- Information on potential or actual supplier acquisition or disposal.
- Key personnel changes at a supplier.
- Information of best practice at another trust.
- Significant product pricing movement.

The Trust shall not, unless in exceptional circumstances, commit to any third-party supplier-related confidentiality agreements, which restricts the sharing of information with other NHS organisations.

## **11. INTELLECTUAL & COMMERCIAL INFORMATION**

Maintaining and enhancing the intellectual and commercial property of all Trusts is a prime responsibility for the NMBC. The NMBC must ensure that all work and services carried out on or on behalf of the Trusts remains the intellectual property of the relevant Trust represented. If Intellectual Property Rights are likely to develop a written contract is required assigning the rights to the relevant Trust and the appropriate legal templates must be used. All exceptions to this must be formally agreed with the relevant Trust Legal Department.

It is vital that any confidential information passed to the NMBC remains so. This is paramount in ensuring the NMBC retain the confidence of the supply markets. Equally, it is incumbent upon the Procurement lead to ensure that suppliers have signed a standard Confidentiality Agreement or a supplier's standard form approved by the Trust Legal advisor prior to receipt of any confidential Trust information. Whenever a confidentiality letter is required the relevant Trust Legal Department must be contacted to ensure the appropriate agreement is entered.

The NMBC does not ordinarily enter into confidentiality agreements covering supplier's prices, and in the absence of such an agreement, the NMBC has no legal obligation to treat price information as confidential. However, this information is not to be shared with any other supplier.

The Trusts also have an obligation to publish, monthly, all third-party invoices where expenditure exceeds £25,000 on the relevant Trust website.

All Trusts shall also ensure that Information Governance (IG) related statutory requirements are satisfied. This includes, for example, ensuring that all contracts that involves personal identifiable data (PID) has been assessed by the relevant IG lead, including contracts with third party sub-contractors.

## **12. CORPORATE SOCIAL RESPONSIBILITY (CSR) AND SUSTAINABLE PROCUREMENT**

Delivering health services involves the procurement of a large amount of goods, services, and infrastructure. This presents a significant opportunity to influence health and care providers, as well as suppliers of goods and services to develop more environmentally, financially, and socially responsible practices. NMBC Employees are required to comply with all Trusts represented policies on Health and Safety, sustainability, and ethical trading. Procurement personnel must not contract with suppliers that disregard health & safety legislation, damage the environment or pirate intellectual property. All Trusts represented consider the environmental, social, and economic consequences of their purchasing decisions, for example in material use, manufacture and production methods, recycling options and disposal.

Reducing carbon emissions and improving labour standards are very important areas for the health and social care sector. All Trusts have an ethical duty to protect and promote health and wellbeing and contract with suppliers of goods and services that operate in a socially responsible way with good environmental practices and employment practices. The Trusts will use Ethical Procurement for Health (EPH) to support this. Products used will have sustainable specifications using Government Buying standards and Green Public Procurement criteria. The Trusts aim to use their buying power to generate social benefits and consider economic, social, and environmental wellbeing when negotiating public service contracts as enshrined in the Public Services (Social Value) Act 2012.

Sustainable procurement is a process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole life basis. This means generating.

benefits not only to the organisation, but also to society and the economy, whilst minimising damage to the environment.

The purchasing of goods and contracted services will fall in line with (as a minimum) the current legal requirements or the relevant specific local Trust policy documents. For example, at the host Trust (UHNM) the following will apply; -

- UHNM Sustainable Development Management Plan 2020 (SDMP)
- Sustainable Development Action Plan (SDAP) (updated annually)
- UHNM Health and Safety Policy V9 (Trust Policy number HS01)

The UHNM sustainable procurement commitments are detailed in the trust SDMP, and all Trusts represented will contribute to a 34% reduction in carbon emissions by 2025 in line with the NHS, Public Health and social care system and UK Climate Change Act Target against the 2013/14 baseline in line with the NHS Sustainable Development Unit Carbon Reduction Strategy 2010.

The Trusts are working through the Procurement Framework Procuring for Carbon Reduction (P4CR) to help demonstrate a more sustainable procurement approach.

The Trusts are committed to:

- Following the NHS Net Zero Supplier Roadmap.

This self-assessment mechanism allows each Trust to measure and monitor progress on sustainable procurement over time. All Trusts are aiming for year-on-year improvements to achieve and work through the actions in the Net Zero Supplier Roadmap to deliver the net zero goals as detailed in the Health and

Care Act 2022.

- Purchase more goods from sustainable sources, with a focus on those from local, ethical, and Fair-Trade Suppliers.
- For all new contracts above £5 Million per annum, the NHS requires that suppliers publish a Carbon Reduction Plan
- Further work with suppliers to encourage them to hold an Environmental Management Standard (e.g., ISO 14001) and to disclose their carbon emissions.
- Build on UK Governmental Procurement Policy (PPN 06/20 & PPN 06/21)

### **13. ETHICS**

All Trust employees involved in any way in the purchasing process shall act ethically and should have regard to:

#### **13.1 CONFLICT OF INTEREST**

An employee is in a conflict-of-interest situation when he/she has an interest or a potential interest of any kind in a contract, agreement, or financial relationship in which either of the Trusts has an interest or potential interest. In relationships with suppliers, a conflict can be created by non-monetary interests such as gift a Tender Service and business courtesies, so the giving and receiving of gifts/courtesies are subject to the guidelines below.

Employees are expected to be free of interests or relationships that are actually or potentially detrimental to the Trusts. They shall not engage or participate in any commercial transaction involving the Trusts in which they have an undisclosed interest. In addition to being in violation of the employee's duty of loyalty to the NMBC, improper relationships with Supplier's are at odds with the NHS's goal of treating fairly and impartially all persons and entities engaged in business dealings with all Trusts represented.

Employees must ensure that declarations are shared with the relevant Governance team of the Trust that they are working at as well as UHNM.

#### **13.2 GENERAL REQUIREMENTS AND RESPONSIBILITIES**

Any employee who has assumed, or is about to assume, a financial or other outside business relationship that might involve a conflict of interest immediately must inform his/her supervisor in writing of the circumstances involved. This information is to be forwarded to and reviewed by senior management and copied to the Group Director of Procurement for a decision on whether a conflict of interest is present and, if so, what course of action is to be taken.

#### **13.3 INDUCEMENTS**

Employees of the Trusts must not accept inducements in any form from suppliers of goods and services. Inducements include special offers where the inference is that free items may be made available on a personal as opposed to business use basis. The Group Director of Procurement must be informed in writing immediately when an inducement is offered. Bona fide business offers will be publicised via the NMBC Intranet site.

#### **13.4 STANDARDS OF BUSINESS CONDUCT**

All employees of the NMBC Trust must adhere to the Standards of Business Conduct as outlined in the local Trust policy number at all times. These are as follows:

UHNM Standards of Business conduct (G16)

RWT & BCPS Corporate Governance (GP01)

WHT Standing Orders, Reservations and Delegations of Powers and Standing Financial Instructions Policy(G102)

### **13.5 ANTI-FRAUD, BRIBERY AND RAISING CONCERNS AT WORK (WHISTLEBLOWING)**

All employees of the NMBC must adhere to the Anti-Bribery & Anti-Fraud, Raising Concerns at Work, and Freedom to speak up (Whistleblowing) guidance as outlined in the local Trust Policies. The Trusts have a zero-tolerance approach to bribery and fraud. The Trusts have a zero tolerance approach to bribery and fraud.

An employee conspires with an outside supplier to defraud the employer in a variety of ways; usually the employee receives some type of kick back, remuneration, bribe, gift a Tender Service, or other benefits in exchange their assistance. You can report fraud via the Local Counter Fraud Specialist. Or via the NHS Counter Fraud Authority website <https://cfa.nhs.uk/reportfraud> or by calling the freephone number 0800 028 4060

## **14. RELATIONSHIP MANAGEMENT**

### **14.1 RELATIONS WITH OTHER DEPARTMENTS**

The value of Procurement to the Trusts depends on the service it offers on procuring products, services, and information necessary for the functioning of other departments. A high degree of coordination and communication between departments is paramount.

NMBC staff should obtain the advice of other departments on problems relating to their respective areas of interest and specialism so that decisions reflect the most authoritative opinion available.

Request for price and availability of specific items relative to possible future requirements should be made through the NMBC in writing. It should be specified that the intent is to accumulate data and not to commit to a purchase.

Although supplier contact is primarily a NMBC responsibility, it is recognised that various departments may seek technical information that may affect the selection of materials or equipment. As soon as it is determined this information may impact a potential purchase, NMBC must be advised so appropriate and compliant procurement procedures applied.

Upon request, the NMBC will arrange for visits of qualified technical personnel from suppliers or potential suppliers. Similarly, whenever the NMBC feels that such representatives calling on the NMBC have something of value to offer, they will arrange meetings with the appropriate Trust personnel. If appropriate, a representative of the NMBC will be present at these meetings.

When convenient, further contacts, requests for samples, etc., arising from such meetings are to be handled through the NMBC. Written reports of meetings should be circulated to the NMBC and other interested parties.

The effectiveness and efficiency of the NMBC depends greatly on the amount of advance notice of requirements. Therefore, the NMBC team must receive adequate notification of potential purchases to provide for sufficient performance of the necessary procurement functions. All departments must advise the NMBC of any requirements likely to arise from any new development as soon as this information is available.

### **14.2 RELATIONS WITH SUPPLIERS**

Sound business relations with suppliers are essential to maintain a dependable, competent source of supply for the uninterrupted flow of quality goods and services.

The NMBC is the Trusts primary source of contact and channel of communication with all suppliers.

Honesty, integrity, confidence, and tact should be employed by NMBC staff to establish and maintain respect and understanding with suppliers. These relationships will enable NMBC staff to enhance the reputation of the Trusts in the course of their duties, building goodwill that will serve all Trusts represented well in all of its activities.

### **14.3 INTERVIEWS / MEETINGS**

It is a major obligation of NMBC staff to be courteous, honest, and fair in its dealings with suppliers' representatives, for such treatment is expected by the Trusts for their representatives. Courtesy shall include a prompt reception to business callers and a reasonable regard for their time. Sales representatives shall be afforded a fair and equal opportunity to present legitimate and pertinent information concerning materials, equipment, methods, or techniques that the supplier company markets and that may have potential or immediate application in all Trust operations.

Supplier representatives will be seen only by appointment, as unscheduled sales calls are of little or no benefit to either party. The time of NMBC, Trust personnel and our suppliers is valuable and it is important that we safeguard it to maximise our collective output for the benefit of our patients.

Other Trust personnel shall be given every opportunity to discuss with suppliers' new developments, materials, methods, or ideas that may result in cost reduction or improved clinical outcomes. The NMBC shall assist suppliers' representatives in developing and maintaining proper relations with other Trust representatives and are to be informed of the results of consultations with suppliers when the NMBC is not present.

Contacts with suppliers are not limited to the NMBC. However, the NMBC shall be kept up to date on all communications either through supplier or employee reports. This will allow the relevant Trust's communications with suppliers to be consistent, and the NMBC will be advised of programs and matters that may result in eventual purchases.

### **14.4 SUPPLIER VISITS**

The NMBC shall, if required and approved by functional management, undertake visits to suppliers' facilities. Such visits serve to cement good relations; enable buyers to know their sources of supply, including the calibre of service, quality, progressiveness, and manufacturing methods; and broaden their knowledge of the commodities they purchase.

Across our acute Trusts—The Royal Wolverhampton NHS Trust, University Hospitals of North Midlands NHS Trust, and Walsall Healthcare NHS Trust—we utilise the Medical Industry Accredited (MIA) Credentialing System.

This system allows us to monitor commercial visitors to our sites, particularly those who may assist with clinical duties while on-site. It provides department staff with access to an appointment diary for scheduled visits and ensures supplier representatives meet the necessary training and competency requirements to engage with hospital staff safely. Additionally, the system verifies criminal background checks and vaccination records for these individuals.

All commercial supplier representatives must register their visit via the MIA platform ([www.miaweb.co.uk](http://www.miaweb.co.uk)) with at least 24-48 hours' notice where possible. They must also hold a valid MIA ID card and wear it visibly while on-site to differentiate themselves from NHS employees.

MIA membership is categorised into three levels, corresponding to the areas of the hospital an individual may visit. Each level has specific training and credentialing requirements. Visitors entering Theatre Departments, Cardiac Catheterisation Labs, Intensive Care Units, or any other area where invasive clinical procedures take place must be registered at Gold MIA level.

The MIA System is used within 75 different Trusts in England, 6 Local Health Boards in Scotland and Wales, and 5 Private Healthcare Organisations.

For more information or to begin your MIA registration, please contact MIA directly at [help@miaweb.co.uk](mailto:help@miaweb.co.uk).

## 15. TENDERING

### 15.1 UK Procurement Directives

In addition to its own Standing Orders and Standing Financial Instructions, the Trusts have a Statutory duty to comply with United Kingdom (UK) directives on Public Procurement and it must therefore advertise contracts in FTS for goods and services where the total contract value (not just the annual value) meets or exceeds the threshold values as determined by the UK legislation. The FTS is the publication in which all contracts from the public sector which are valued above a certain financial threshold according to UK legislation must be published.

The NMBC is committed to conducting procurement activities that are transparent, competitive, and compliant with current legislation. The Procurement Act 2023 (PA 23) introduces significant reforms aimed at streamlining procurement processes, enhancing flexibility, and promoting value for money.

The following procurement procedures are mandated under PA 23:

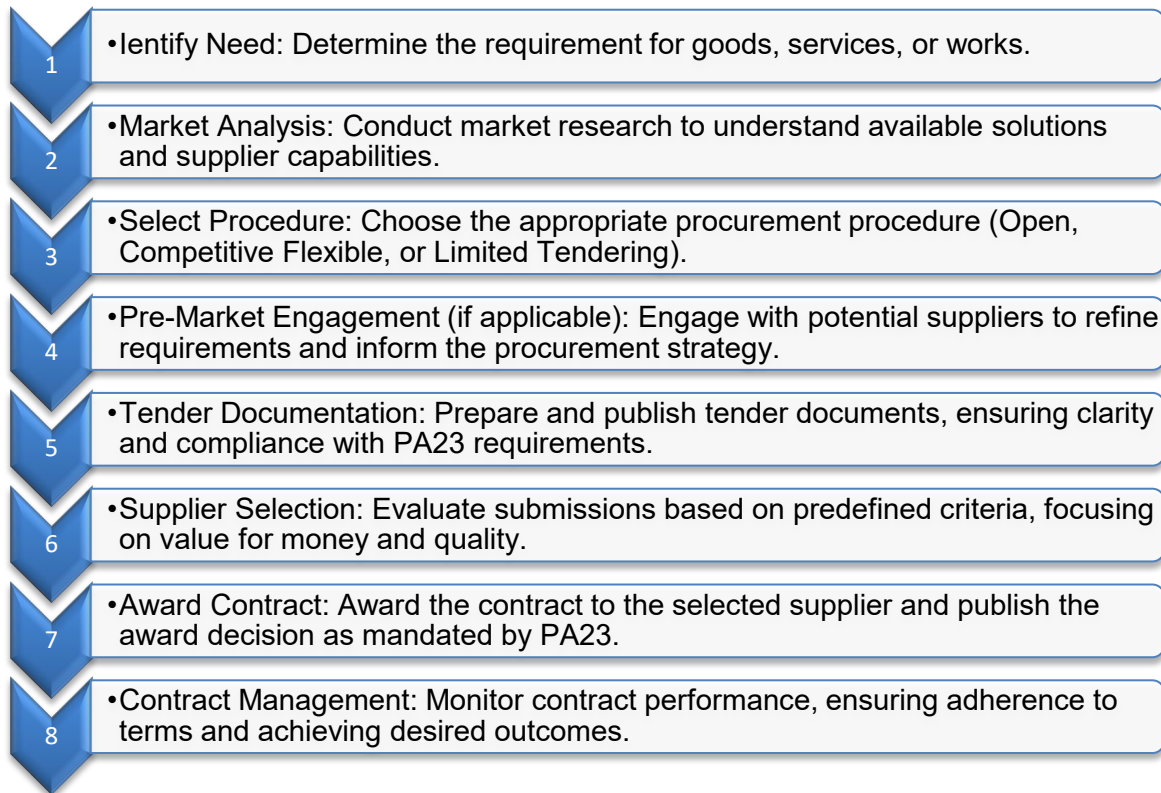
- **Open Procedure:** A single-stage process where any interested supplier may submit a tender.
- **Competitive Flexible Procedure:** A new, adaptable procedure allowing contracting authorities to design procurement processes tailored to specific needs, fostering innovation and efficiency.
- **Limited Tendering Procedure:** Applicable in specific circumstances, permitting direct award without competition, such as in cases of extreme urgency or absence of competition.

The choice of procurement procedure depends on various factors, including contract complexity, market conditions, and strategic objectives. The Competitive Flexible Procedure is particularly advantageous for complex projects requiring dialogue with suppliers to achieve optimal outcomes.

**Example:** For a project involving the implementation of a novel healthcare technology, NMBC may employ the Competitive Flexible Procedure to engage in detailed discussions with potential suppliers, ensuring the solution meets specific clinical and operational requirements.

## Procedural Flow

The following procedural flow illustrates the updated procurement process under PA23:



Example: In procuring a new patient record system, NMBC would follow these steps, utilising the Competitive Flexible Procedure to allow for iterative engagement with suppliers, ensuring the final solution is tailored to the organization's specific needs.

In summary the key changes Introduced by PA 23 are as follows:

- Increased Flexibility: PA23 replaces previous rigid procedures with more adaptable options, allowing NMBC to tailor procurement processes to better suit project needs.
- Enhanced Transparency: There is a greater emphasis on transparency, requiring comprehensive documentation and publication of procurement decisions to ensure accountability.
- Simplified Processes: The act consolidates and simplifies procurement procedures, reducing administrative burdens and facilitating more efficient procurement activities.

## 15.2 SPECIFYING THE REQUIREMENT

The scope of work, or specification, should be clear and concise with enough information to enable tenderers to decide what goods/services to offer and at what cost. Also, the specification should be unbiased so that all tenderers have an equal opportunity to offer the goods/services they regard as capable of meeting, yet be flexible enough to allow innovative solutions.

The specification needs to be drafted by the end user as they will be the ultimate beneficiaries of the tender exercise, however, the NMBC will help establish whether the content is unambiguous and credible.

### **15.3 EVALUATION CRITERIA**

PA 23 emphasises awarding contracts based on the Most Advantageous Tender (MAT), allowing contracting authorities to consider a broader range of factors beyond just economic aspects. This approach enables the inclusion of criteria such as social value, environmental impact, and innovation.

The scope of work needs to cover the various evaluation criteria against which all the bids will be evaluated, in order to ensure that the criteria are wholly relevant. It is a requirement under the UK Directives to advise tenderers on what they will be evaluated against.

The criteria should typically consist of technical, quality, and commercial aspects of the requirement. Once the criteria have been agreed and published it cannot be changed. The criterion is the mechanism for selection and contract award and therefore is also the basis of debriefing unsuccessful suppliers. All sub-criteria must be published.

All tenderers must be checked for financial stability through Dun and Bradstreet scoring; where the report concludes a tenderer to be “higher than average risk” they will be disqualified from the process. The NMBC can also obtain independent financial reports when required.

### **15.4 ELECTRONIC TENDERING PORTAL**

This includes the exchange of all relevant documentation in an electronic format.

The e-tendering solution used by the NMBC is provided by Atamis. The benefits to the Trusts include:

- Reduction in the tender cycle time.
- Improved audit trails increasing the integrity and transparency of the tendering process.
- Pre-qualification and evaluation of suppliers which enables the rejection of those suppliers who fail to meet tender specifications.
- Faster response to questions and points of clarification during the tender period.
- Reduction in labour intensive tasks of receipt, recording and distribution of tender submissions.
- Reduction of the paper trail on tendering exercises, reducing costs to both the Trusts and suppliers.
- Improved quality of tender specifications and supplier responses.
- Provision of quality management information.

### **15.5 PRE-ENGAGEMENT NOTICES & BRIEFING MEETINGS**

The Procurement Act 2023 (PA 23) introduces updated provisions for pre-engagement notices, differing from the earlier Public Contracts Regulations 2015 (PCR 2015).

Pre-Engagement Notices under PA 23:

#### **Preliminary Market Engagement Notices (PMEs):**

- Purpose: To inform potential suppliers about upcoming procurement activities and to gather insights to shape the procurement strategy.
- Publication: PMEs are published prior to issuing a tender or transparency notice, facilitating early engagement with the market.
- Content: Details about the nature and scope of the intended procurement, seeking feedback to refine requirements.

#### **Planned Procurement Notices (PPNs):**

- Purpose: To announce forthcoming procurement opportunities, allowing suppliers to prepare in advance.
- Publication: PPNs are optional and can be issued at the pre-procurement stage to signal upcoming tenders.



- Content: Information about the expected procurement, including timelines and key requirements.

### **Differences from PCR 2015:**

#### **Prior Information Notices (PINs):**

- Under PCR 2015, PINs served a dual role: announcing upcoming procurements and facilitating market engagement.
- PA 23 replaces PINs with distinct notices—PMEs and PPNs—each serving specific functions, thereby enhancing clarity in pre-procurement communications.

These changes under PA 23 aim to improve transparency and supplier engagement in the procurement process by clearly delineating the purposes of different pre-engagement notices.

Briefing meetings advise prospective tenderers about the work required and give them the opportunity to ask questions or seek clarification of elements of the specification. Such briefings avoid having to respond to individual enquiries or visits, especially as any responses to individual queries must be copied to all tenderers to ensure a fair and transparent process.

Minutes of the briefing meeting should be copied to all tenderers regardless of whether they have attended the meeting or not. The decision not to attend a briefing meeting should not be held against a prospective tenderer. All questions and answers are to be provided via the NMBC for Audit purposes, and in the event of a later legal issue.

## **15.6 SITE VISITS**

If a contract is to be operated on a Trusts premises (e.g., cleaning, security, portering, major capital equipping projects, etc) it may be necessary for prospective tenderers to be shown around the site prior to them bidding for the work. Care should be taken not to allow commercially confidential information concerning the operating procedures of any current contractor to be divulged during such visits.

Similarly, as an aid to final evaluation before a tender award, it may be necessary for members of the Project Team to visit the prospective tenderers premises, (or a reference site where they currently operate a similar service) especially if the contract is complex or high risk. The visits should be undertaken by at least two members of the project team using an agreed Checklist of areas to view and report on. Any conclusions regarding the decision-making process drawn from these visits must be recorded in writing.

## **15.7 TENDER EVALUATIONS**

A tender evaluation may involve commercial and clinical/specialist skills. The Trusts will benefit from effectively structured tender analysis from both the selection of the most suitable supplier and from the transparency that the process brings.

On the outset of a procurement exercise an evaluation team must be identified. Evaluation teams should comprise of at least three persons and generally no more than six. When choosing team members' consideration should be given to any clinical/specialist expertise held, such as may be vital for IT/design proposals or for the analysis of complex data and technical/clinical information.

The NMBC would generally be involved in the commercial analysis of a tender, in terms of analysing prices and costs, bid clarification and post tender clarifications the clinical/specialists of the evaluation team would be involved in the technical/clinical analysis of a tender.

Using the agreed methodology and disclosed scoring criteria, the technical evaluations must be undertaken independently by each team member. To avoid one bid becoming the standard it is recommended that evaluators are each asked to commence their assessment with a different bid. The evaluator must record their evaluations, such as with the use of a weighted scoring mechanism, making comments to support their scoring and noting if any bid is not compliant with the tender specification.

Once the independent technical assessments have been completed the evaluation team should hold a moderation meeting in order to reconcile any wide variations in scoring and to determine the preferred supplier(s). They may either take forward all tenderers achieving a pre-determined score, or, perhaps, the most highly ranked three or four. Only affordable suppliers with a realistic chance of being awarded the contract should be invited for the next stage as identified in the Invitation to tender (ITT)

A technical/clinical evaluation may involve equipment/product trials. Before the commencement of any trial a supplier must be checked for Indemnity cover, have a Pre-Acquisition Questionnaire (PAQ), if applicable, approved by Medical Engineers and Decontamination Form approval from Infection Control. Evaluation criteria and methodology must be agreed with the NMBC prior to any trials. An evaluation form with the agreed evaluation criteria should be used by the evaluation team. During the trial, evaluation forms must be completed by those identified to participate in the trial and a weighted scoring mechanism used to assess the supplier. A written summary should also be completed for each supplier evaluation stating clinical and technical preferences and the reasons why. If UK regulations have not been applied because the value of the procurement exercise does not exceed the threshold, the outcome of the tender evaluation (and trials) means the Trusts may produce a shortlist of those suppliers that can meet the Trust's requirements. The information will also be required to provide debriefs with the unsuccessful suppliers at the end of the process.

The more thorough the clinical and technical evaluation, the easier it is to make an informed decision, taking account of all the clinical, technical, and commercial criteria.

## **15.8 ENSURING VALUE FOR MONEY**

PA 23 mandates that contracting authorities evaluate tenders to ensure they deliver value for money, considering not only cost but also quality and broader benefits. This comprehensive approach aims to achieve optimal outcomes from public contracts.

At the NMBC Procurement Group, it has long been policy to seek the best overall value for money (VFM), recognising that this cannot be assessed by price alone. Therefore, wherever feasible, all other pertinent aspects of a supplier's offer should be evaluated before considering prices.

In line with the obligation to ensure accountability for public expenditure, all represented Trusts are required to document the rationale behind procurement decisions. This includes, for example, explanations for not selecting the lowest-priced option. To do this we have the following processes in place:

- University Hospitals of North Midlands (UHNM) and The Royal Wolverhampton NHS Trust (RWT): The electronic Request for Executive Approval Form (eREAF) must be completed for all expenditures exceeding £20,000, in accordance with the Trusts' Standing Financial Instructions (SFIs).
- Walsall Healthcare NHS Trust (WHT) and Black Country Healthcare NHS Foundation Trust (BCHFT): The 'Approval for Purchases' form must be completed for all expenditures over £10,000 total contract value, also in line with local Trust SFIs.

These forms require a detailed justification for selecting the proposed supplier when they are not the lowest bidder but are deemed the most suitable, considering factors such as price, quality, functionality, standardisation, and other relevant reasons underpinning the decision.

It is a clear objective of all Trusts represented by the NMBC to develop electronic expenditure approval capabilities (e.g., the UHNM and RWT eREAF system) and to eliminate all paper-based systems.

Signatories to these approvals will be defined locally within the appropriate scheme of delegation. This may include, for example, the Budget Holder, Divisional Business Advisor, relevant Associate Director/Director, Senior Procurement Lead, Director of Procurement, Chief Finance Officer, and Chief Executive Officer, depending on the overall contract value. Regardless of the overall contract value, the

Director of Procurement (or a delegated officer in their absence) is required to authorise all expenditure requests over £20,000, as stipulated in the Trusts' SFIs.

## 15.9 POST TENDER CLARIFICATION

Sometimes, following tender evaluation and suppliers' presentations it is not advisable to accept a supplier's tender without qualification. Equally, it may be advantageous, through post tender negotiations, to find out whether any improvements in suppliers' offers are available. Such negotiations must be carried out by the NMBC to ensure that other tenderers are not disadvantaged, competition is not distorted, or that the Trust in the tendering process is not adversely affected.

PA 23 provides clearer guidelines on post-tender clarifications, emphasising transparency and fairness. It allows for discussions with suppliers to clarify aspects of their tenders, ensuring mutual understanding **without altering the fundamental aspects of the bids**.

Whilst the UK Government views post tender negotiations as a legitimate exercise, it is rarely considered appropriate for tenders let under the UK Directives. However, this exception does not prevent **clarification** of tenders which is strongly encouraged. The supplier(s) who as a consequence of this clarification could feel disadvantaged and make a challenge, therefore careful handling is paramount, which is why it is advisable that the NMBC undertake this stage of the process.

## 15.10 TENDER ADJUDICATION REPORT

PA 23 introduces more structured adjudication processes, ensuring that evaluations are conducted transparently and consistently. It requires clear documentation of decisions and rationales, enhancing accountability.

Once the preferred supplier has been decided upon the evaluation team must compile the Tender Adjudication Report, which will include details of the tender and evaluation process, as well as the final recommendation.

## 15.11 AWARDING THE CONTRACT

PA 23 streamlines the contract award process, reducing administrative burdens and promoting efficiency. It introduces provisions for direct awards in specific circumstances, such as extreme urgency or absence of competition, while maintaining transparency through the publication of award decisions.

The contract should now be formally recognised by issuing the agreement. The agreement details the basis of the contract award in broad terms stating, where applicable and appropriate to the contract, pricing, description of the service or goods, contract duration, etc.

Standard NHS Terms and Conditions of Contract for goods and services or NHS Sub-contracting Terms and Conditions for good and services must always be used, unless in exceptional circumstances where an authorised person on behalf of the Trust has agreed to utilise the supplier terms and conditions of contract. In the latter instance a full legal/commercial review of the suppliers' terms must be executed before the contract is signed / authorised by the relevant Trust.

## 15.12 ADVISING AND DEBRIEFING UNSUCCESSFUL TENDERERS

The NMBC will issue tender stand still letters to all unsuccessful tenderers. Suppliers will be offered a debrief if requested, which can be given over the phone or by a face-to-face meeting (depending on supplier preference). Unsuccessful letters to suppliers should contain as much relevant detail and feedback as possible to negate the requirement for a verbal debrief from unsuccessful suppliers.

Supplier debriefing is good procurement practice and should be provided whenever it is requested. For those suppliers who have tendered following an FTS procedure they have a legal right to a debriefing, if requested. Normally this is within fifteen days of being requested by a supplier.

Debriefings have a number of advantages:

- They assist suppliers in offering improved value for money on future procurements.
- They allow the Trusts to explain policies on achieving best value for money.
- They improve the Trusts image as a professional procurement organisation.

Debriefings are to give indications to suppliers, they are not there to give detailed responses, and commercial in confidence data such as price/discounts are not disclosed, although a range may be offered. As debriefings can be quite sensitive, we must be guarded in the type of information we are able to disclose. Although the reasons given above are the usual ones for requesting a debrief, suppliers who feel aggrieved at not securing the contract could use a debriefing as a method of gathering data to launch an appeal to the Trust against the decision. For these reasons it is advisable that the NMBC lead these debriefs.

## **16. TRUST PROCUREMENT TENDER GUIDELINES**

PA 23 introduces updated financial thresholds and procurement procedures that public sector organisations, including NHS Trusts, must adhere to. Each Trust represented will determine the level of procurement intervention (level of market engagement/tender activity) required dependent on the total contract value. This will be clearly detailed in the relevant Trusts Standing Financial Instructions where, for the avoidance of doubt, the expenditure is based on predicted spend for the whole life cost of the contract, not values per annum.

As an example, the UHNM, RWT, BCPS and NSCHT procurement tender guidelines are contained in the following:-

<b>Under:</b>  <b>UHNM/RWT/BCPS UP TO £20,000</b>  <b>NSCHT UP TO £5,000</b>	<b>Between.</b>  <b>UHNM/RWT/BCPS £20,001 TO £50,000</b>  <b>NSCHT £5,001 TO £20,000</b>	<b>Between.</b>  <b>UHNM/RWT/BCPS From £50,001 to the current threshold</b>  <b>NSCHT From £50,000 to the current threshold</b>	<b>All value above the current threshold (excluding VAT)</b>
Informal quotation process required; best value <u>must</u> always be sought,	A formal quotation process is required to be undertaken,	A competitive tender process is required to be undertaken,	An FTS competitive process is required to be undertaken
<p>If expenditure is ongoing and requirement is for 12 months, or more than a competitive process needs to be followed and a contract put in place accordingly.</p> <p>Consumables that are linked to contract through the web basket have already been subjected to a competitive tender process; these items should be ordered directly by the user department</p>	<p>1) For expenditure between £20,000 and £24,999 formal written quotes must be obtained.</p> <p>2) For expenditure between £25,000 and £50,000 formal written quotes must be obtained, and the requirement must be advertised through "Contracts Finder" or equivalent in line with PA 23.</p>	<p>1) Formal competitive tenders must be obtained, and the requirement must be advertised through "contracts finder" or equivalent.</p> <p>2) A Specification detailing all aspects of the service is to be detailed and provided for the NMBC.</p> <p>3) Once the Procurement lead has agreed the validity of the specification and Award Criteria, the documentation will then be advertised.</p> <p>4) Upon receipt of the proposals, the NMBC lead in conjunction with the user Department will analyse and present the analysis for comment and approval.</p> <p>5) Award agreed and appropriate Authorisation gained.</p> <p>6) Award made and implementation plan agreed.</p> <p>7) Please allow circa 3 months for this process</p>	<p>1) A tender process is required to be undertaken. There is no minimum or maximum of suppliers to be invited as this is determined by the volume of Expressions of interest received.</p> <p>2) A Specification detailing all aspects of the service is to be detailed and provided for the NMBC.</p> <p>3) An advert is to be placed in FTSadvertising the contractual requirements nationally.</p> <p>4) The NMBC lead will advise on what tender procedure would best suit this requirement.</p> <p>5) Upon receipt of the proposals, the NMBC lead in conjunction with the user Department will analyse and present the analysis for comment and approval.</p> <p>6) Award agreed and appropriate Authorisation gained.</p> <p>7) Award made and implementation plan agreed.</p> <p>8) Please allow circa 6 months for this process</p>

In addition, WHT & BCHFT procurement tender guidelines are contained in the following:-

<b>Under:</b>  <b>WHT/BCHFT £10,000</b>	<b>Between.</b>  <b>WHT/BCHFT £10,000 - £50,000</b>	<b>Between.</b>  <b>WHT/BCHFT £50,000 to the current threshold</b>	<b>WHT/BCHFT All value above the current threshold (excluding VAT)</b>
Informal quotation process required; best value <b>must</b> always be sought,	A formal quotation process is required to be undertaken,	A competitive tender process is required to be undertaken,	An FIND A TENDER SERVICE competitive process is required to be undertaken
<p>If expenditure is ongoing and requirement is for 12 months, or more than a competitive process needs to be followed and a contract put in place accordingly.</p> <p>Consumables that are linked to contract through the web basket have already been subjected to a competitive tender process; these items should be ordered directly by the user department</p>	<p>1) For expenditure between £10,000 and £49,999 formal written quotes must be obtained.</p> <p>2) For expenditure between £25,000 and £50,000 formal written quotes must be obtained, and the requirement must be advertised through "Contracts Finder" or equivalent in line with PA 23.</p>	<p>1) Formal competitive tenders must be obtained, and the requirement must be advertised through "contracts finder" or equivalent.</p> <p>2) A Specification detailing all aspects of the service is to be detailed and provided for the NMBC.</p> <p>3) Once the Procurement lead has agreed the validity of the specification and Award Criteria, the documentation will then be advertised.</p> <p>4) Upon receipt of the proposals, the NMBC lead in conjunction with the user Department will analyse and present the analysis for comment and approval.</p> <p>5) Award agreed and appropriate Authorisation gained.</p> <p>6) Award made and implementation plan agreed.</p>	<p>1) A tender process is required to be undertaken. There is no minimum or maximum of suppliers to be invited as this is determined by the volume of Expressions of interest received.</p> <p>2) A Specification detailing all aspects of the service is to be detailed and provided for the NMBC.</p> <p>3) An advert is to be placed in FTS advertising the contractual requirements to the whole of Europe allowing companies to Express their interest.</p> <p>4) The NMBC lead will advise on what tender procedure would best suit this requirement.</p> <p>5) Upon receipt of the proposals, the NMBC lead in conjunction with the user Department will analyse and present the analysis for comment and approval.</p> <p>6) Award agreed and appropriate Authorisation gained.</p> <p>7) Award made and implementation plan agreed.</p> <p>8) Please allow at least 6 months for this process</p>

## **17. SUSTAINABLE PROCUREMENT**

All Trusts represented recognise their responsibility to carry out its procurement activities in an environmentally and socially responsible manner.

In accordance with the relevant Trusts Environmental Policy, Procurement Strategy and statutory obligation under the Climate Change Act 2008 the Trusts will incorporate environmental and social considerations into its product and service selection process.

All Trusts represented recognise that they have responsibility to encourage suppliers and contractors to minimise negative environmental and social effects associated with the products and services they provide.

In addition, all Trusts represented will also strive to ensure that local and smaller suppliers are not discriminated against in the procurement process and specifications.

### **Specifically, the NMBC will aim to:**

- Encourage all Trust personnel to review their consumption of goods and services in order to reduce usage where possible and develop business cases based on sustainable principles.
- Give consideration to products and services that can be manufactured, used, and disposed of in an environmentally and socially responsible way.
- Ensure that sustainability criteria are included in specifications to suppliers.
- Ensure that sustainability criteria are used in the evaluation criteria of contracts.
- Consider whole life costs when assessing product suitability and in the award of contracts.
- Enhance Trust awareness of relevant environmental and social effects of purchases through appropriate training exercises.
- Provide guidance and relevant product information to Trust staff members to allow them to select sustainable products and services.
- Work with existing and potential suppliers to investigate and introduce environmentally friendly processes and products.
- Ensure that suppliers' environmental credentials are considered in the process criteria and scoring process.
- Ensure non-discrimination against local and smaller suppliers.

### **To allow the NMBC to meet our aims we will:**

- Develop clear objectives and tools, with all our stakeholders, to minimise the environmental and social effects associated with the products and services we purchase.
- Identify the mechanisms used to incorporate environmental and social factors into the procurement process.
- Develop a process to measure progress.
- Specify the role that the NMBC will play in the identification and selection of sustainable products and services.
- Identify and implement changes to the procurement process to ensure non-discrimination against local and smaller suppliers.

## **18. PAYMENT**

All Trusts represented are committed to paying suppliers to the terms agreed.

All Trusts standard payment terms are that all invoices will be paid within thirty (30) days of receipt of an invoice. All exceptions to this must be approved by the Group Director of Procurement and the relevant Chief Finance Officer/Director of Finance.

Payment performance is measured monthly by Finance. The relevant Chief Finance Officer/Director of Finance and Group Director of Procurement are responsible for ensuring payment performance is in line with agreed terms and ensuring any cash improvement targets are achieved.

## **19. OTHER PROCUREMENT SITUATIONS**

### **19.1 DISPOSALS**

Disposal of any obsolete / redundant assets by all Trusts represented must be in line with the local trust disposal policy.

Disposal of any obsolete / redundant / waste materials by all Trusts must:

- Be dealt with in line with the relevant Trust policy.
- Maximise any residual value of the material.
- Be compliant with any relevant legislation.
- Be disposed of with due regard to the minimisation of any related cost (e.g., landfill tax).
- Reported to the relevant Finance Department so that the Asset Register can be accurately maintained.

### **19.2 BUY VS LEASE OR MANAGED EQUIPMENT SERVICE (MES)**

All procurement activities and sourcing opportunities should prioritise outright purchase by default. This applies to any equipment, tooling, or related assets associated with material acquisitions.

Should there be an opportunity to evaluate alternatives such as leasing or implementing a Managed Equipment Service (MES), it is imperative to refer the matter to the relevant Trust's Chief Finance Officer/Director of Finance and the Group Director of Procurement for comprehensive analysis. The Trust's designated Lease Advisor will collaborate with the Northern Midlands and Black Country (NMBC) Procurement Group and the client department to assess the potential benefits and implications of such alternatives.

In conducting this assessment, it is essential to consider the implications of International Financial Reporting Standard 16 (IFRS 16), which has been adopted by the UK public sector from 1 April 2022. IFRS 16 requires that lessees recognise most leases on the balance sheet as right-of-use assets with corresponding lease liabilities, thereby impacting financial statements and key performance indicators. This accounting standard aims to increase transparency and comparability by ensuring that all lease commitments are accounted for consistently. Therefore, understanding how IFRS 16 affects the financial position of the Trust is crucial when evaluating leasing options or MES agreements.

If, following this thorough analysis, it is determined that leasing or implementing an MES could enhance value for the Trust, the relevant Finance Team will provide support to ensure adherence to the correct procedures and compliance with accounting standards, including IFRS 16.

### **19.3 SAMPLES AND TRIALS**

Samples can be obtained from approved suppliers for small scale work. If materials cannot be supplied from an approved supplier, a recommendation should be sought from the NMBC lead of which suppliers may be approached for the required samples.

It is not any Trusts practice to pay for small scale samples, where the value of such is not material. Suppliers do, however, have the right to basic feedback on whether the sample has been successful in our application or not.

For larger quantities of materials required for a trial, it is the Trusts practice to pay for samples. In this case, the trial materials will be subject to the standard NHS Terms & Conditions.



## **19.4 STORING GOODS ON A SUPPLIERS / THIRD PARTY PREMISES**

Consigned goods are items held in NMBC facilities but owned by the supplier until they are used. This arrangement reduces financial risk and ensures availability of essential products.

### **Benefits of Consigned Goods**

- Financial Risk Reduction: No upfront payment until goods are consumed.
- Improved Stock Management: Helps avoid overstocking and waste.
- Enhanced Supplier Accountability: Suppliers remain responsible for stock levels and replenishment.

### **Process for Managing Consigned Goods**

1. Contractual Agreement: A formal agreement must be in place detailing supplier responsibilities, stock levels, and billing procedures.
2. Stock Reconciliation & Audits: Monthly stock audits conducted to ensure accuracy and compliance.
3. Risk Assessment & Compliance: Suppliers must provide indemnity coverage for damaged or expired goods.
4. Termination & Exit Strategies: Clear provisions for contract termination and stock retrieval in case of supplier changes.

If any Trust wishes to store goods or products on suppliers, or any other third party, premises then the agreement outlined in Appendix B (page 32) must be completed.

The decision whether to store the goods off site should be based on an individual case by case basis with due consideration given to the associated risk and benefit of doing so. All off-site storage agreements should be endorsed by the relevant Trust Chief Finance Officer / Director of Finance.

## **20. MANAGEMENT OF RISK ASSOCIATED WITH CONTRACTS**

Risk is defined as the chance of an event which may have adverse results. Understanding and managing risk is critical to minimising its impact. The NMBC are responsible for evaluating contractual risks and ensuring that effective mitigation plans are in place. Risks should be identified and ranked in terms of probability and impact.

The Trusts will ensure that all procurement of clinical and non-clinical services and products are covered by contracts (the detail and complexity of which are appropriate to the scale of expenditure and degree of risk faced).

Such contracts will reflect NHS terms and conditions and at a minimum will clearly state.

- Specification of services (clear outputs) or products (clear functionality).
- Roles and responsibilities of both parties for provision and receipt of services and products.
- Process for contract review (for all contracts over £500,000 value or where nature of service contract is such that contract monitoring and review is critical).
- Key performance indicators (KPIs) for all contracts over £2M as per Procurement Act 2023 (PA23).

Monitoring of the above will be via Group Director of Procurement review of contract documentation at points during procurement process to ensure compliance prior to signing contract documents. Monitoring of contract reviews will be via quarterly department audit check on contracts > £500k in value and NMBC staff will be required to provide documentary evidence from contract files of review process.

For clinical and non-clinical services and products provided by the Trusts to third parties please refer to the relevant Trusts Policy on Services and Goods Provided to Third Parties, for example, UHNM Trust Policy Number F10.

## 21. PROBLEM RESOLUTION & ESCALATION PROCESS

The NMBC should aim to encourage the maintenance of good standards and practices with internal Trust stakeholders, and the following provisions set out how supplier quality and service shortfalls are to be handled.

These provisions are not intended to be used for relatively minor issues, which are normally dealt with on an on-going less formal basis and are aimed at unresolved or significant quality or service issues with a supplier.

The NMBC will expect the Supplier to make available its Operational management for more informal discussion and resolution of minor issues.

The Supplier shall co-operate fully with the NMBC in the operation of these provisions and shall permit the NMBC to give (directly or indirectly) all advice and assistance to the staff of the Supplier as required to resolve any concerns or issues and shall make available its staff for such purposes.

Any timescales set out below may be reduced by the NMBC on a case-by-case basis where the Group Director of Procurement considers that shorter timescales are justified in the circumstances.

Where the NMBC or the Division has any concerns or issues regarding a change in the agreed Supplier's performance of the operational and service standards and specifications whether in individual cases or persistent failures, then it shall be entitled to escalate the problem.

Level	Trust Level	Supplier Level
1	Buyer or Contracts Manager and / Or Client Lead	Operational Management (minor issues) or Account Manager (persistent / serious issues)
2	Senior Procurement Manager (Band 7 staff) and / or Client Lead	Account Manager and/or Senior Management
3	Group Director / Group Deputy Director of Procurement	Directors / Owners

### Level 1

Any Quality Issue will initially be raised and addressed through the Level 1 staff members as follows: -

#### Raising of Quality Issue

The nominated client department lead or NMBC member will formally raise the Quality Issue with the Supplier giving details of the concerns and short-comings, and initial requirements for resolution.

#### Initial Response

The Supplier shall within no more than 10 Working Days give its preliminary response and proposals for improvement and resolution, in writing where requested.

#### Meeting to Discuss

The Supplier shall make available suitable members of its level 1 staff to meet with the nominated Trust lead within no more 10 working days of receipt of Supplier's response for the purposes of discussing the Quality Issue and the Supplier's preliminary response and agreeing an action plan to be followed by the Supplier to resolve the Quality Issue.

#### Action Plan

The Trusts nominated lead shall be entitled to require the Supplier to create a reasonable action plan for

resolution of the Quality Issue, which shall include if required by the Division the following: -

- (i) **Consultancy:** The Supplier permitting the Trusts to provide consultancy advice to the Supplier to assist in resolving the Quality Issues, and the Trusts stationing representatives at the Supplier's premises to monitor and provide guidance on the resolution of the Quality Issues.
- (ii) **Measuring and Review:** A measuring and review period to monitor and gather further data on the Quality Issue, with regular reporting to the Trusts nominated lead during such period.
- (iii) **Investigation:** Specific investigations by the Supplier and / or the Trusts, including on-site investigations.
- (iv) **Resolution Actions:** The development and agreement with the Trusts nominated lead of specific proposals and steps to be taken to resolve the Quality Issue, or if already obvious, a statement of those specific proposals and steps, and a commitment to implement such proposals and steps.
- (v) **Timescales:** A timescale for implementing the action plan and resolving the Quality Issues, which shall be reasonable in the circumstances, but of no more than 1 month.
- (vi) **Review:** A review and reporting procedure for measuring progress against the action plan.

## **Level 2**

If the Supplier does not agree to a reasonable action plan in the opinion of the Trusts nominated lead or the Supplier fails to perform any agreed action plan diligently and promptly or to achieve resolution of any Quality Issues through any agreed action plan, the NMBC may escalate the concern to Level 2, with any agreed action plan continuing in the meantime. In such case: -

### **Initial Response**

The Supplier's level 2 staff shall within 10 working days give a written explanation for the reasons for such non-agreement or failure.

### **Meeting to Discuss**

The Supplier shall make available suitable members of its level 2 staff to meet with the nominated Trusts lead within 10 working days of receipt of the explanation for the purposes of discussing why the Quality Issue is continuing and the Supplier's preliminary response and agreeing a revision to action plan.

### **Revised Action Plan**

Irrespective of whether any meeting takes place, the NMBC shall at this level be entitled to specify to the Supplier its requirements for changes to any action plan and resolution of the Quality Issues, including requirements for the Supplier to devote more resources to resolution of the Quality Issues and specific requirements as to when and how the Supplier should resolve the Quality Issues.

### **Implementation**

The Supplier implements any such revised action plan and complies with such requirements promptly.

### **Immediate Escalation**

If the Supplier fails to co-operate or make staff available, the NMBC shall be entitled to immediately escalate the Quality Issue to level 3.

## **Level 3**

If the Supplier is failing to perform any action plan to the satisfaction of the NMBC or Division or any Quality Issues are continuing then the Trusts may escalate the Quality Issues to Level 3, in which case resolution of the Quality Issues by the Supplier shall become of the essence of this Agreement.

### **Initial Response**

The Supplier's level 3 representative shall within 5 working days give a written explanation for the reasons for such continuing failure to satisfactorily resolve the Quality Issues.

### **Meeting to Discuss**

The Supplier shall make available suitable members of its level 3 staff to meet with the nominated Trust lead within 5 Working Days of receipt of the explanation for the purposes of discussing how the Quality Issues are going to be resolved and agreeing a final action plan.

### **Final Action Plan**

The NMBC and relevant Trust shall at this level be entitled to require for final and specific steps to be taken within a timescale to be specified by the NMBC and Division at its sole discretion to resolve the Quality Issue, and shall be entitled to attach the following consequences to such steps and timescales:

-

#### **(i) Suspension**

Suspension of the Supplier from all or part of normal work, for any period of time specified by the NMBC, during which time the Supplier shall continue to work on the action plan.

#### **(ii) Termination of the Agreement**

Termination of the Agreement and dismissal of the Supplier from the contract as a whole or any specific area of work.

## **22. MONITORING SUPPLIER PERFORMANCE**

The divisional lead within the local trust is responsible for ensuring that all suppliers meet their obligations as outlined in the relevant specification, SLA, or contract documentation.

Upon escalation by the relevant divisional lead, the Procurement lead within the NMBC (e.g Buyer, Contract Manager, Strategic Procurement Manager and Senior Strategic Procurement Manager etc) will provide support and work with the supplier to ensure contract obligations are met.

In the first instance for minor non-compliance the local operational team is responsible for recording and resolving the issue. Any consistent or major non-compliance must be flagged to the NMBC for further discussions with the supplier.

## **23. EMPLOYEE WELFARE, CODE OF CONDUCT AND TRAVEL & ENTERTAINMENT**

All Trusts represented have a responsibility to their employees and the NHS Policy on Employee Welfare and Human Rights sets the minimum standards that apply.

The NMBC policy is that supplier gift a Tender Service and entertainment must not be accepted and the Trust policy on 'Standards of Business Conduct' should be always adhered to. If, in exceptional circumstances, a gift or entertainment is accepted it must be signed off by the individual's line manager and a record kept by the line manager.

NMBC personnel must always conduct business in a professional and courteous manner. Whenever meeting with external parties' business dress must be worn. All meetings must be attended on time and with the appropriate level of preparation. If, for exceptional reasons, any meeting has to be cancelled suitable notice of its cancellation should be given.

Travel and Entertainment protocols, as outlined in the relevant Trusts 'Employee Travel Expenses & Subsistence Policy' should also be referenced and adhered too.

## 24. RECORD RETENTION

All Trusts represented have a requirement to ensure certain documents are retained for a designated time. The responsibility for collection, maintenance, revision management and disposal of documents is defined below. Also defined is the individual required to approve any release of purchasing documents.

	Retention Period	Approval prior to release/use	Collection, maintenance, disposal of documents	Ensuring the current revision status of the documents is
<b>Category Strategy</b>				
Purchasing Category Strategy document	6 Years	Director	Procurement Lead	Procurement Lead
<b>Tendering &amp; Contracting Process</b>			Procurement Lead	Procurement Lead
Records for pre-qualification process and results	6 Years	Director	Procurement Lead	Procurement Lead
Records of the selection to tender/quote	6 Years	Director	Procurement Lead	Procurement Lead
Records for results of tenders and quotes	6 Years	Director	Procurement Lead	Procurement Lead
Tender evaluation documents	6 Years	Director	Procurement Lead	Procurement Lead
Evaluation records of the tenderers	6 Years	Director	Procurement Lead	Procurement Lead
Records of all post tender negotiation & their outcome	6 Years	Director	Procurement Lead	Procurement Lead
Contract award criteria	6 Years	Director	Procurement Lead	Procurement Lead
Unmarked original of the final contract or order	6 Years	Director	Procurement Lead	Procurement Lead
Post contract agreed variations	6 Years	Director	Procurement Lead	Procurement Lead
All warranties and guarantees			Procurement Lead	Procurement Lead

<b>Supplier Management</b>			Procurement Lead	Procurement Lead
All disputes and their resolution	6 Years	Director/Deputy	Procurement Lead	Procurement Lead
Staged acceptances and payments	6 Years	Director/Deputy	Procurement Lead	Procurement Lead
Supplier/contractor failure to supply satisfactorily	6 Years	Director/Deputy	Procurement Lead	Procurement Lead
<b>General (other than those included in the above)</b>		Director/Deputy	Procurement Lead	Procurement Lead
Doc. required under Data Protection Legislation	6 Years	Director/Deputy	Director/Deputy or Procurement Lead	Director/Deputy or Procurement Lead
All records required by statutory and regulatory bodies	6 Years	Director/Deputy	Director/Deputy or Procurement Lead	Director/Deputy or Procurement Lead
Purchasing policies & procedures documents	6 Years	Director	Director/Deputy	Director/Deputy

The Procurement Lead will be responsible for ensuring:

- Any changes are recorded.
- The revision status of documents is identified (and once a document is no longer the latest version this is identified on both documents).
- Documents are legible and readily identifiable.

- All relevant versions are readily available to use.
- Review and update as necessary the re-approval of documents.
- Documents are disposed of in line with guidance given by the Trusts Legal representatives.

All original contracts (confidentiality agreements, managed equipment services agreements, letter agreements, signed T&Cs etc.) must be filed and retained by the NMBC. The utilisation of electronic filing/archiving should also be utilised where possible.

## **25. SAVINGS METHODOLOGY**

### **25.1 Traditional Savings**

The standard savings methodology adopted by the Trusts to determine 'Traditional' procurement savings, those savings that represent the true bottom-line impact delivered by the NMBC over a 12-month period, will be as follows; -

#### **Cost Reduction**

Unit Price Old – Unit Price New = Unit Price Reduction

Unit Price Reduction X Forecast Annual Consumption = Forecast Annual Cost Reduction Savings

*Example: -*

£100 - £90 = £10

£10 x 100 Units = £1,000 Forecast Annual Cost Reduction Saving

#### **Cost Avoidance**

An example of a new higher proposed unit price could be where a supplier requests a price increase where inflationary pressure cannot be absorbed. Cost Avoidance savings can only be claimed where NMBC related intervention has influenced the level of pricing *below* the formal price increase level,

received in writing, from the supplier.

Example: Following negotiation between procurement and a supplier, a reduction to the list price has been secured. This can then be recorded as a Cost Avoidance.

Proposed New Higher Unit Price (e.g., including inflation) – Agreed New Lower Unit Price = Unit Price Cost Avoided

Unit Price Cost Avoided X Forecast Annual Consumption = Forecast Annual Cost Avoidance Savings

*Example: -*

Current Unit Price = £100

Proposed New Higher Unit Price = £110 Agreed New Lower Unit Price = £105  
£110 - £105 = £5 (Unit Price Cost Avoided)

£5 x 100 Units = £500 Forecast Annual Cost Avoidance Saving

## General – Phasing of Procurement Savings

Savings are to be recorded for a 12-month period from the date of implementation.

Where savings carry over into the next Financial Year (i.e., the balance of the 12-month period passes the 1st April each year), the savings balance of the 12-month savings shall be 'carried over' into the next Financial Year (please see Illustration 1 below).

Example as follows (please also see example A in Illustration 1); -

Total Annual Savings (12 Month Saving) = £120,000 (or £10,000 per month) Savings Implementation Date: 1st October 2019.

Current Financial Year: 2019-20. Next Financial Year: 2020-21

In Year Savings (2019-20); -

Six months savings (from the 1st October 2019 – 31st March 2020).  $6 \times £10,000 = £60,000$

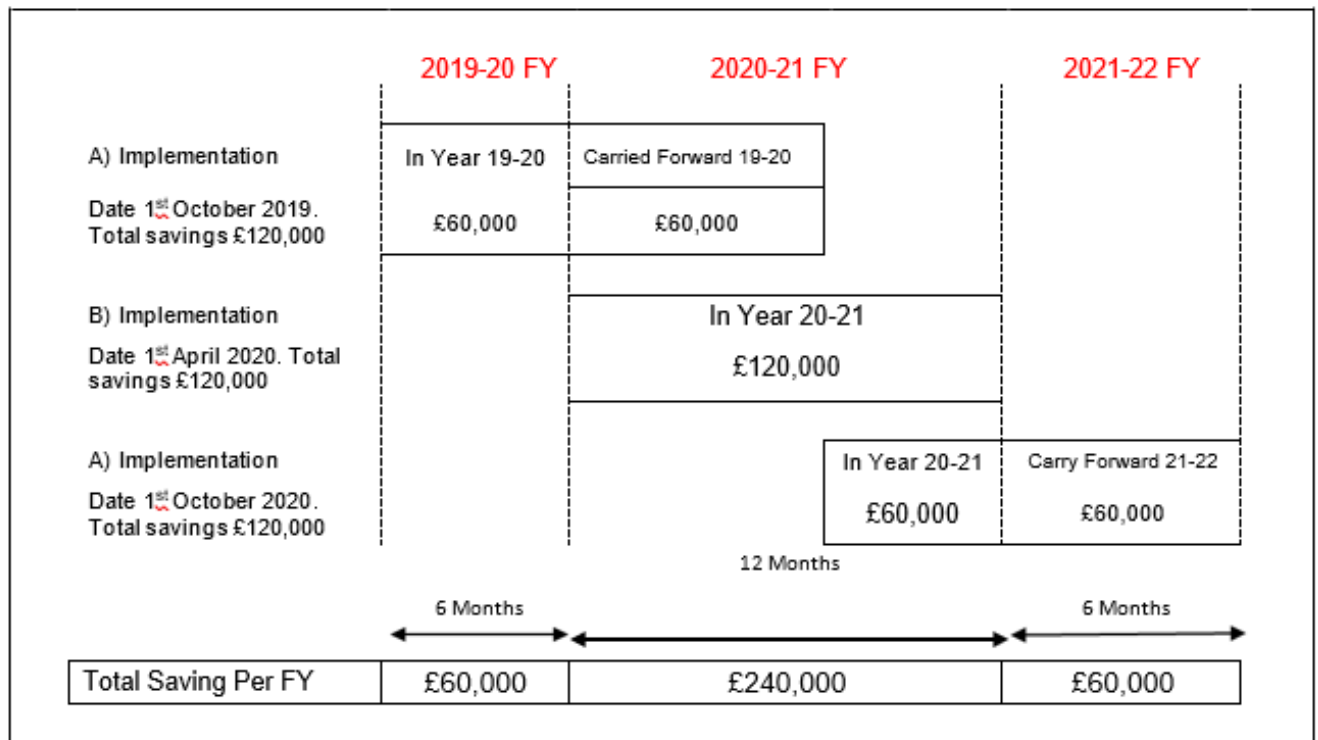
Total savings counted in 2019-20 Financial Year = £60,000.

Carry Over into 2020-21 (Full Year Effect); -

Six months savings (from the 1st April 2020 to the 30th September 2020).  $6 \times £10,000 = £60,000$

Total savings counted against 2020-21 Financial Year = £60,000.

*Illustration 1 – Phasing of Procurement Savings*



## 1.1 Agreed CIP Savings Principles including Negated Inflation (NI)

Procurement saving that are to be transacted and recorded as CIP related savings (including Negated Inflation related savings) will utilise the following agreed principles; -

Accounting Treatment	NMBC
Transacting CIP	All procurement savings identified are transacted providing there is a budget available. If no available budget, the saving will be transacted from a similar expense head that has budget available
Negated Inflation	Each trust sets up a reserve each year for negated inflation in order for the trust to demonstrate savings made in year each year. If the NMBC agrees to negate inflation on the same contract in the following year, it is taken as CIP the following year against reserve.
Cost Avoidance	Cost Avoidance is not treated as CIP



## APPENDIX B

### STORAGE OF GOODS ON A SUPPLIERS/THIRD PARTY SITE

REF: Relevant Trust Purchase Order [Enter order number]

As agreed, and as explicitly referred to in the above purchase order, [enter description of goods] is to be held in storage at the premises of the supplier, [Enter supplier name], until [Enter date].

The conditions of the storage at the supplier's premises are detailed below.

- Title to the equipment will pass to the Trust upon payment of the price of the equipment.
- The supplier and the Trust agree that the equipment will be stored on the premises of the supplier at no cost to the Trust (i.e., at [Enter supplier name and address])
- The supplier agrees that risk in the goods will remain with the supplier, (that is the supplier will be liable for any loss, or damage to the goods) while they are stored on the supplier's premises and accordingly will insure the equipment against any loss or damage whilst on the supplier's premises, and thereafter note the Trust's interest on the policy document, making such policy document available for inspection for the Trust upon reasonable request of the Trust.
- The equipment will be marked as the property of the Trust and kept separate from the supplier's and other third parties' equipment or goods, so that in the event of any opening of insolvency proceedings against the supplier, the equipment can be easily identified, and the supplier also agrees that the Trust in such event will have the right to enter the supplier's premises without trespass, to repossess the equipment at any time.
- The supplier agrees that the warranties given by the supplier for the equipment will not commence and take effect until the equipment is installed on the Trust's premises.

Could you please confirm your agreement by signing both copies of this document and returning one signed copy to the Director of Procurement of the North Midlands and Black Country Procurement Group (NMBC).

Signed for and on behalf of **[Relevant NHS Trust name]**

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\_\_\_\_\_  
Printed name: \_\_\_\_\_

Designation: \_\_\_\_\_

Date of signature: ...../...../.....

Signed for and on behalf of **[Enter supplier name]**

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\_\_\_\_\_  
Printed name: \_\_\_\_\_

Designation: \_\_\_\_\_

Date of signature: ...../...../.....