

Healthcare Services and Provider Selection Regime Policy

**North Central London Integrated Care Board
Healthcare Services and Provider Selection Regime Policy- Control Sheet**

No	Title	Description
1.	Summary	This policy sets out North Central London Integrated Care Board's ('NCL ICB') policy and procedures for the procurement of health care services and mixed procurements under the Health Care Services (Provider Selection Regime) Regulations 2023 ('PSR 2023').
2.	Author	Christopher Hanson, Deputy Head of Governance, Risk, and Legal Services.
3.	Accountable Director	Phill Wells, Chief Finance Officer.
4.	Applies to	All members of the Integrated Care Board and Committees of NCL ICB, employees, self-employed consultants, contractors, officers and office holders.
5.	Groups/individuals who have overseen development of this policy	London Commercial Hub ('LCH') Procurement Team; NCL ICB Governance, Risk and Legal Services team; Local Counter Fraud Specialist.
6.	Groups which were consulted and have given approval	NCL ICB's Procurement Oversight Group approved the policy on 20 November 2024
7.	Equality Impact Analysis	Policy reviewed for compliance throughout its development and on 16 July 2025.
8.	Ratifying committee and date of final approval	NCL ICB's Procurement Oversight Group approved the policy on 20 November 2024
9.	Version	Version 1
10.	Locations available	NCL ICB's website and staff intranet.
11.	Related documents	Integrated Care Board Constitution; Standing Financial Instructions; Conflict of Interest Policy; Standards of Business Conduct Policy;

		Counter Fraud, Bribery and Corruption Policy; Disciplinary Policy; Speaking Up (Whistleblowing) Policy; Clinical Procurement Policy; Sponsorship and Joint Working with The Pharmaceutical Industry Policy; Contracting and Commissioning Handbook.
12.	Disseminated to	All staff.
13.	Date of implementation	20 November 2024
14.	Date of next review	19 November 2027

Document Control

Date	Version	Action	Amendment
20 November 2024	1	Policy approved by NCL ICB Procurement Oversight Group.	This policy sets out NCL ICB's policy and procedures for the procurement of health care services and mixed procurements under PSR 2023.

Contents		Page
1	Introduction	5
2	Scope	6
3	Application of this Policy	7
4	Roles and Responsibilities	8
5	Investment and Disinvestment Process	8
6	Procurement Approach	9
7	Single Tender Waivers	10
8	Healthcare Services – Provider Selection Regime	11
9	Forms of Contracts	14
10	Sustainable Procurement and Social Value	15
11	Collaborative Procurement	15
12	Use of Information Technology	16
13	Equality, Quality and Health Inequality Impact Assessment	16
14	Stakeholder Engagement	16
15	Conflicts of Interest	17
16	Freedom of Information	17
17	Policy Non-Compliance	18
18	Equality and Diversity Statement	19
19	Communication, Monitoring and Review (including Staff Training)	19
20	Interaction with other Policies	20

1. Introduction

- 1.1. North Central London Integrated Care Board ('NCL ICB') is legally accountable for commissioning health care services for its local population. Services have to be affordable (offering value for money), sustainable and within the limits of the available resources.
- 1.2. This policy sets out NCL ICB's policy and procedures for the procurement of health care services and mixed procurements where the value of the healthcare element is higher than the non-healthcare elements under the Health Care Services (Provider Selection Regime) Regulations 2023 ('PSR 2023'). The policy is not intended to be comprehensively prescriptive and recognises the necessity for situational discretion when appropriate.
- 1.3. A mixed procurement is one that comprises a mixture of health care services and out of scope services or goods (see paragraph below) where the main subject-matter of the contract is the health care services, and the other services or goods which could not be reasonably supplied under a separate contract.
- 1.4. The policy does not apply to those procurements that fall outside of PSR 2023 which are:
 - The procurement of health care services where the procurement commenced prior to the 1 January 2024;
 - Health care goods (unless as part of a mixed procurement as defined within this Policy);
 - Non-health care goods or services; or,
 - Works.
- 1.5. For the exceptions above see NCL ICB's Clinical Procurement Policy and/or Standing Financial Instructions. The procurement of goods, non-healthcare services, and works are subject to the Public Contract Regulations 2015 ('PCR2015'). The Procurement Act 2023 is expected to come into force in February 2025 to replace the PCR2015 and until then all procurements outside of the scope of this policy will be undertaken in line with the requirements of the PCR2015.
- 1.6. All NCL ICB officers involved in decision making, procurement and provider selection activity must operate in accordance with the Seven Principles of Public Life (also known as the Nolan Principles). These seven principles are: Selflessness; Integrity; Objectivity; Accountability; Openness; Honesty; Leadership.
- 1.7. The NCL ICB will ensure that it manages the procurement of its own management and operational needs to facilitate the delivery of effective health services to the local population for which it is responsible.
- 1.8. When undertaking procurement activities, NCL ICB will comply with legal requirements, NCL ICB's established governance structure and professional and ethical standards in order to achieve efficient and productive procurement and commissioning processes.

- 1.9. This includes adherence to the following as appropriate:
- Public Contracts Regulations 2015 ('PCR2015');
 - The Health Care Services (Provider Selection Regime) Regulations 2023;
 - Concessions Contracts Regulations 2016 ('CCR 2016');
 - The NHS Act 2006 (as amended);
 - The Public Services (Social Value) Act 2012;
 - The Equality Act 2010;
 - Modern Slavery Act 2015;
 - HM Treasury 'Managing Public Money'.
- 1.10. This policy is designed to ensure:
- Compliance with laws, regulations and guidance;
 - Probity in spending public funds;
 - Professional and ethical conduct;
 - Best value for money;
 - Efficiency, effectiveness and environmental and socio-economic sustainability.
- 1.11. In the delivery of this policy, the ICB may from time to time seek specialist advice and support to interpret legislation where this is not clear.
- 1.12. This policy aims to:
- Provide guidance to all staff;
 - Make real and positive contributions to the strategic direction of NCL ICB;
 - Support the delivery of the NHS Long Term Plan;
 - Support the efficiency agenda;
 - Support the development of integrated care systems;
 - Streamline procurement processes;
 - Make a direct contribution to improved patient care;
 - Support collaborative commissioning;
 - Support joint commissioning
 - Support the effective use of resources.

2. Scope

- 2.1 The policy applies to all:
- Members of the Board, including Partner Members;
 - Members and Participants of the Board's Committees and Sub-Committees;
 - Officers of NCL ICB;
 - Clinical Directors of Place and Clinical Leads, both referred to in the Policy as 'Clinical Leads'; and,
 - NCL ICB employees, self-employed consultants, contractors, sub-contractors, secondees, those working on NCL ICB business whether paid or unpaid, volunteers and others involved/engaged in NCL ICB commissioning activity.

- 2.2 'NCL ICB employees' includes salaried employees (both full and part time,

including those on fixed term contracts), students, trainees, agency staff, seconded staff, and those with honorary contracts, prospective staff and joint appointments.

- 2.3 For the avoidance of doubt nominees from NHS providers, local authorities, and general practice providers of primary medical services must act in accordance with this Policy.

3. Application of this Policy

- 3.1. This policy sets out in all instances the actions of any of NCL ICB's officers involved in and/or considering entering into a contract or committing NCL ICB to any expenditure within scope: they must do so in accordance with this policy and any of NCL ICB's applicable policies. It is mandatory for all ICB employees to comply with the Standing Financial Instructions ('SFIs'), this policy, and procurement legislation and regulations.

- 3.2. This policy sets out:

- How NCL ICB will meet statutory procurement and provider selection regime requirements;
- NCL ICB's approach for facilitating open and fair, robust and enforceable contracts that provide value for money and that deliver required quality standards and outcomes, with effective performance measures and contractual levers;
- How to determine the most appropriate procurement route to procure goods and services to meet NCL ICB's operational and management needs: taking account of its own internal financial policies and procurement regulations;
- The transparent and proportionate process by which NCL ICB will comply with the PSR 2023 requirements; and
- How to enable NCL ICB to demonstrate compliance with the general principles of good procurement practice.

- 3.3. The general principles of good procurement practice are:

- **Transparency:** Making procurement and commissioning intent clear to the marketplace, including the use of sufficient and appropriate advertising of opportunities, transparency in making decisions, and the declaration and appropriate management of conflicts of interest;
- **Proportionality:** Making procurement processes proportionate to the value, complexity and risk of the services contracted, and critically not excluding potential providers through overly bureaucratic or burdensome procedures;
- **Non-discrimination:** Having specifications, policies or processes that do not unduly favour one or more providers. Ensuring consistency of procurement and provider selection rules, transparency on timescale and criteria for shortlist and award; and
- **Equality of Treatment:** Ensuring that all providers and sectors have equal opportunity to compete where appropriate; that financial and due diligence checks apply equally and are proportionate; and that pricing and payment regimes are transparent and fair.

- 3.4. Users of this policy should refer to the procedures and templates relating to this policy which provide further guidance and clarification on the application of this policy in practice.

4. Roles and Responsibilities

- 4.1. The general roles and responsibilities of individuals, committees and organisations related to this policy are set out in the table below:

Roles	Responsibilities
Integrated Care Board	The Integrated Care Board is responsible for setting the approach for facilitating open, transparent and fair, proportionate provider selection and procurement processes and ensuring procurement decisions and procurement processes are in accordance with this policy.
Board of Members Strategy and Development Committee Primary Care Committee Relevant NCL ICB officers	They are responsible for the development, recommissioning, de-commissioning and/or reconfiguration of healthcare services within the remit set them by the Scheme of Reservation and Delegation, Standing Financial Instructions, and Terms of Reference.
Audit Committee	The Audit Committee is responsible for the independent and objective view of NCL ICB's compliance with its statutory responsibilities.
Procurement Oversight Group	The Procurement Oversight Group is responsible for: <ul style="list-style-type: none"> ● ensuring NCL ICB is operating under the correct procurement regime; ● ensuring procurements are transparent, fair, and proportionate; ● ensure that conflicts of interest are managed appropriately throughout the commissioning cycle; ● approve service models where these have been remitted to the Committee by the Board of Members or one of its committees or sub-committees; ● provide oversight of compliance with NCL ICB's Procurement Policy; and ● approve NCL ICB's procurement policy and procedures.
ICB Staff	All of NCL ICB's officers are responsible for complying with this procurement policy and associated procedures. In instances where staff are unsure about a course of action, then they should seek advice and guidance from the London Commercial Hub ('LCH') Procurement Team or the Governance, Risk, and Legal Services Team.

5. Investment and Disinvestment Process

- 5.1. All requests for investments must be supported by a business case. The authorisation of the investment recommendation is subject to the approval route in accordance with NCL ICB's Scheme of Reservation and Delegation and SFIs.

- 5.2. All requests for disinvestments (also known as decommissioning) must be supported by a disinvestment proposal. Authorisation of the disinvestment proposal is subject to the appropriate approval route as per NCL ICB's Contracting and Commissioning Handbook and the SFIs.

6. Procurement Approach

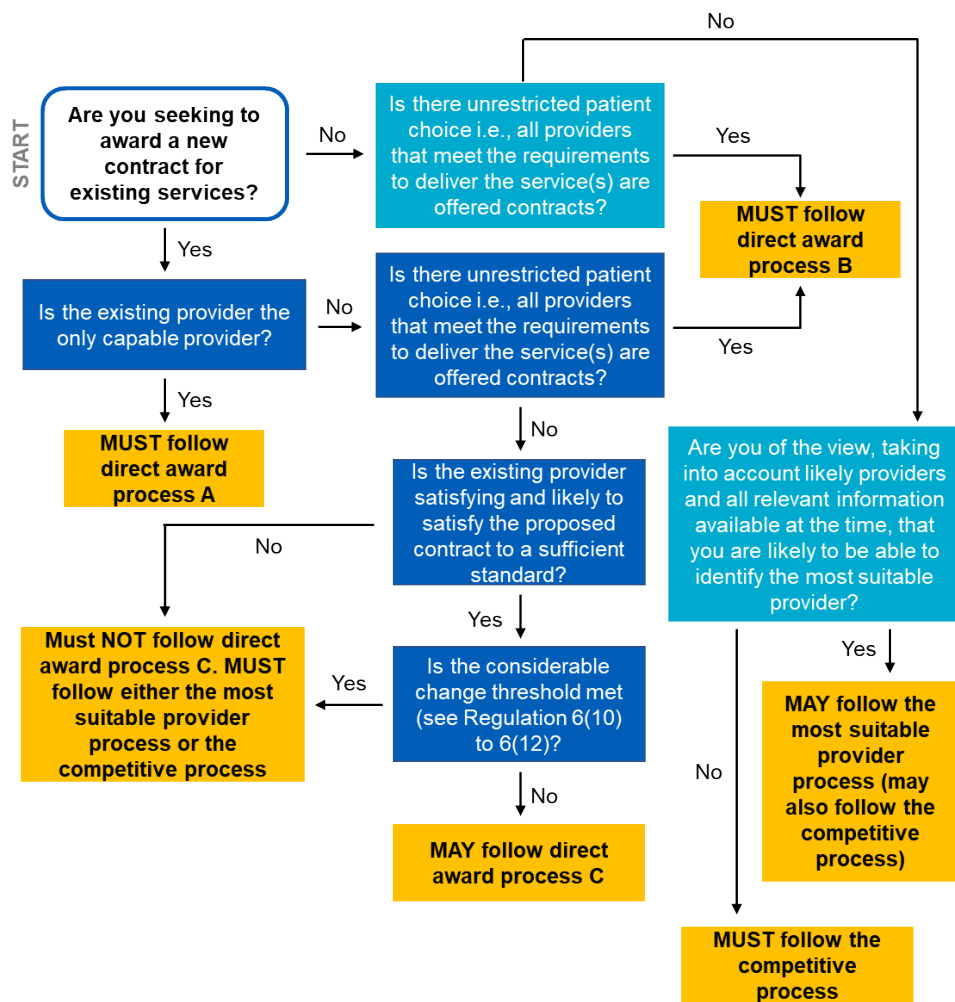
- 6.1. For NCL ICB's own operation and management needs and to assure the delivery of goods and services, NCL ICB shall adopt a procurement approach in compliance with its obligations under procurement legislation and the other applicable legislation referred to above.
- 6.2. For commissioned healthcare services, NCL ICB shall adopt a procurement approach in compliance with its obligations under provider selection legislation and the other applicable legislation referred to above.
- 6.3. NCL ICB's main objective of a provider selection process for health services is to provide patients with services that are high quality, responsive and appropriate to their need, whilst ensuring that NCL ICB complies with its legal obligations. NCL ICB will strive to ensure that its service providers and suppliers can anticipate and respond to changes in NCL ICB's need and will value the need to provide quality and value for patients. When procuring health care services, NCL ICB is required to act with a view to:
- Improving the quality of the services;
 - Improving efficiency in the provision of the services;
 - Meeting the needs of the local population;
 - Keeping within approved budgets/cost limitations;
 - Meeting probity and propriety requirements;
 - Demonstrating value added to the local community.
- 6.4. When conducting a procurement process for its own operational and management needs, NCL ICB will, whilst ensuring that it complies with its legal obligations, seek to:
- Select the method of procurement, which is most proportionate, most effective and ensures best value for the goods/service(s) in question;
 - Award contracts based on the most economically advantageous tender criteria;
 - Work with providers fairly and transparently at all times;
 - Continuously explore ways of encouraging new providers into the market.
- 6.5. NCL ICB will follow the principled-based approach set out in provider selection regulations with a view to improving the quality and efficiency in the provision of NHS healthcare services and with a view to:
- Where appropriate, providing services in an integrated way;
 - Where appropriate enabling providers to compete to provide the services;
 - Allowing patients, a choice of provider of the services;
 - Encouraging innovation and development.

7. Single Tender Waivers ('STW')

- 7.1. There are limited situations under which NCL ICB may award contracts outside of the explicit provisions of the PSR 2023. STWs must be approved in line with NCL ICB's SFIs and can only be approved where the STW meets one or more of the criteria set out below. In addition, all STWs must be evidenced and reported to the Audit Committee. The criteria for STWs are:
- Where the Chief Executive Officer and Chief Finance Officer (acting together) decide that formal tendering procedures would not be practicable or the estimated expenditure or income would not warrant formal tendering and the circumstances are detailed in the tender waiver form;
 - Where the requirement is covered by an existing contract and/or where national agreements or frameworks are in place;
 - Where a consortium arrangement is in place and a lead organisation has been appointed to carry out tendering activity on behalf of the consortium members;
 - Where specialist expertise is required and is available from only one source;
 - Where there is a clear benefit to be gained from maintaining continuity with an earlier project;
 - When the task is essential to complete the project, and arises as a consequence of a recently completed assignment and engaging different consultants for the new task would be inappropriate;
 - For the provision of legal advice and services.
- 7.2. The use of STWs and urgency exemptions will be avoided except where robust reasons can be given. The use of an STW for healthcare services and/or mixed procurements constitutes a non-compliance for the purposes of PSR 2023 and must be recorded as such. For further details, see paragraphs 7.5 and 17.1 below.
- 7.3. Advice should be sought from NCL ICB's procurement support provider and NCL ICB will make a decision on a case-by-case basis following an assessment of the advantages, disadvantages and potential procurement risk associated with the proposed approach.
- 7.4. STWs must not be used to split purchases (contract splitting) simply to circumnavigate the application of a more stringent procurement process.
- 7.5. Every STW must be processed in accordance with the following provisions;
- All STWs, irrespective of value must be reported to the Audit Committee;
 - All STWs for healthcare services or mixed procurements, irrespective of value must be reported in a published annual report of non-compliance under PSR 2023;
 - All STWs must be approved in line with the limits contained in the SFIs;
 - All STWs over the limits that Executive Directors can approve must be approved by either the Board of Members or the Finance Committee;
 - All STWs (whether approved or rejected) must be reported to the Secretariat for inclusion in the STW Register to: NCLICB.STWFormBoardsecs@nhs.net.

8. Healthcare Services – Provider Selection Regime

- 8.1. The procurement routes for healthcare services are governed by the Health Care Services (Provider Selection Regime) Regulations 2023.
- 8.2. PSR 2023 applies to health care services as defined in section 150(1) of the Health and Social Care Act 2012
- 8.3. NCL ICB can follow one of the following provider selection processes to award contracts for health care services:
 - Direct Award Process A:
 - No realistic alternative to the existing provider.
 - Direct Award Process B:
 - People have a choice of providers, and the number of providers is not restricted by the relevant authority.
 - Direct Award Process C:
 - The existing provider is satisfying the existing contract and will likely satisfy the proposed new contract, and the contract is not changing considerably.
 - Most Suitable Provider Process:
 - Allows the relevant authority to make a judgement on which provider is most suitable based on consideration of the key criteria. Award without competitive tender.
 - Competitive Process:
 - Where the relevant authority cannot use any of the other processes or wishes to run a competitive exercise.
- 8.4. The NHS England statutory guidance for the NHS Provider Selection Regime provides a flowchart to support decision making when deciding the correct provider selection route for each procurement. The flowchart is shown below:



8.5. If the lifetime contract value is £500,000 or more, or where the Board or its committees have requested oversight Procurement Oversight Group ('POG') oversight, the procurement route must be approved by POG. For procurements below this threshold the individual Director or Executive Director is responsible for sourcing the appropriate guidance on which is the most appropriate procurement route and must document how that decision was made.

8.6. In the case of a Competitive Processes, NCL ICB will undertake a bid evaluation process, using a panel of appropriately skilled ICB staff and independent third parties. The outcomes from the evaluation will be summarized in a Contract Award Report. This will include:

- the contract award recommendation;
- details of the decision-making process, including names and roles of evaluators and any key dates;
- details of bids received, as well as where bidders declined to bid and provided an explanation;
- details of how any Conflicts of Interest managed in accordance with NCL ICB's Conflict of Interest policy.

8.7. The Contract Award Report will be reviewed by POG to confirm that the evaluation has been undertaken fairly and transparently. The Contract Award Report will be

approved in accordance with the SFIs.

- 8.8. When using Direct Award Process C, the Most Suitable Provider Process or Competitive Process Options, the NCL ICB will require assurance about potential providers and will undertake a due diligence process (if not already undertaken at an earlier stage) proportionate to the nature and value of the contract after submission and evaluation of bids and before awarding a contract.
- 8.9. The exclusion criteria, the basic selection criteria and the five key criteria set out in PSR 2023 and guidance must be considered when making decisions about provider selection under Direct Award Process C, The Most Suitable Provider Process and The Competitive Process. The five criteria are:
- Quality and Innovation
 - Value
 - Integration, collaboration and service sustainability
 - Improving access, reducing health inequalities and facilitating choice
 - Social value
- 8.10. The relative importance of the key criteria is not predetermined within the PSR 2023 and guidance and there is no prescribed hierarchy of weighting for each criterion. NCL ICB must apply all criteria to provider selection decisions and set the relative importance of each of the criteria based on what NCL ICB is seeking to achieve from the service and contracting arrangements.
- 8.11. Modifications to contracts are permitted in certain circumstances without the need to consider any of the decision-making circumstances. Modifications are permitted if provided for in the original contract, relate to the change in identity of the provider or are as a result of external factors beyond the control of NCL ICB. Modifications are not permitted without consideration of the decision-making circumstances if the changes make the contract materially different in character or the changes are over £500,000 and represent over 25% of the original contract value. Should the modification take the lifetime contract value over £500,000 the procurement route must be approved by the Procurement Oversight Group
- 8.12. NCL ICB is required to evidence that it has properly exercised the responsibilities and flexibilities permitted by PSR 2023, to ensure that there is proper scrutiny and accountability of decision made in relation to health care services. Relevant Transparency Notices must be published depending on which provider selection option is selected. All transparency notices must be published using the UK e-notification services – the Find a Tender Service. NCL ICB must keep clear records detailing the decision-making process and rationale. NCL ICB must follow the PSR 2023 standstill period for published transparency notices prior to any contract award.
- 8.13. PSR 2023 allows providers to make a representation on provider selection decisions made by NCL ICB under Direct Award Process C, the Most Suitable Provider Process or Competitive Process. It also provides opportunity for a provider participating in a competitive procurement process to make a representation relating to the procurement process.

- 8.14. Representations are only considered from an impacted provider if the representation meets all conditions of the PSR 2023. NCL ICB has in place a process to receive and respond to representations and for these to be considered by a Representation Panel within the required response timeline. To ensure the independence of the Representation Panel, where possible decisions will be reviewed by ICB Officers not involved in the original decision. Where this is not possible the Representation Panel shall consist of at least one individual that was not involved in the original decision.
- 8.15. Details of all valid representations received, and the resulting outcome must be published in an annual ICB statement regarding PSR 2023 related activity in line with Guidance.
- 8.16. A contract award can be made in urgent circumstances without the need to consider all decision-making options. Urgent circumstances include unforeseen emergency, urgent quality or safety concerns that pose risks to patients or service users where it would not be feasible to undertake a PSR 2023 process. Where decisions are made under urgent circumstances NCL ICB must complete a full PSR 2023 process once the urgent circumstance has passed. Any contract entered into under an urgent circumstance should be limited to twelve months duration.

9. Forms of Contracts

- 9.1. All ICB officers need to understand the terms and conditions that apply to a particular contract prior to award.
- 9.2. Contracts for Supply and Services and Purchase of Goods: All commitments (with exception of framework agreements) must be on NHS standard terms and conditions for the purchase of goods/services, or any other standard format defined by Crown Commercial Services, as applicable. Any deviation must be pre- approved by the relevant ICB Executive Director and for any contract above £500k in total lifetime value must also be agreed by the NCL ICB POG setting out the rationale for not using the NHS Standard Contract.
- 9.3. Contracts for Healthcare Services: The NHS Standard Contract (full or short form) is mandated by NHS England for use by commissioners for all contracts for healthcare services other than primary care. In this context, ICB officers must ensure that:
- In all instances the use of the NHS Standard Contract in any procurement or market intervention should be in accordance with the NHS Standard Contract Technical Guidance relevant in the year of use.
 - Consideration is given to the use of the NHS England shorter form version of the Standard Contract, for use in defined circumstances.
- 9.4. Primary Care Contracts: NCL ICB officers shall ensure they use standard contracts for primary care services including:
- PMS (Personal Medical Services) Contract.
 - APMS (Alternative Provider Medical Services) Contract.

- GMS (General Medical Services) Contract.
- Pharmacy – LPS (Local Pharmaceutical Service) Contract.
- Dentistry – GDS (General Dental Service) Contract, PDS (Primary Dental Services) Contract.

- 9.5. In all instances, NCL ICB officers involved in procurement or market intervention must develop the contract in accordance with any technical guidance relevant to the contract. NCL ICB must have robust contract management processes in place for all contracts.
- 9.6. ICS system collaboration, formal provider collaboratives and development of primary care networks and place-based solutions provide opportunity for novel and potentially complex contracting models and supply chains. Contracting models considered novel and complex must consider the NHS England Integrated Support and Assurance Process (ISAP) or other locally agreed process to ensure all risks are identified and managed appropriately.

10. Sustainable Procurement and Social Value

- 10.1. The NHS is a major employer and economic force across NCL ICB's region. NCL ICB recognises the impact of its purchasing and procurement decisions on the regional economy and the positive contribution it can make to economic and social regeneration. NCL ICB is committed to the development of innovative local and regional solutions and will deliver a range of activities as part of its market development plans to support this commitment.
- 10.2. Wherever it is possible and does not contradict or contravene NCL ICB's legal obligations, NCL ICB will work to develop and support a sustainable local health economy. However, in all circumstances, bidders will be required to demonstrate how they are contributing to the delivery of social value and these responses will be weighted accordingly.
- 10.3. The NHS has committed to a carbon reduction plan and to reach net zero by 2040. NCL ICB will support this plan in accordance with NHS England guidance when selecting providers and completing due diligence assessments. NCL ICB should make procurement and provider selection decisions in accordance with the ICS Green Plan to reduce carbon footprints, reduce consumption and switch to sustainable alternatives.

11. Collaborative Procurement

- 11.1. Where there is clinical, quality, financial or process benefits to be obtained, NCL ICB should consider the option of joint commissioning with other health or local authority commissioners.
- 11.2. Where procurement is the subject of joint commissioning between several commissioners, or with local authority partners, decision-making must be consistent with the contents of this policy.
- 11.3. When a procurement process is the subject of joint commissioning with the Local Authority, Local Authorities are subject to the same legislative frameworks (Public

Contract Regulations) but may not be required to comply with NHS specific guidance and regulations; this will be considered and any issues arising from any differences will be clearly articulated in any joint procurement decision.

- 11.4. NCL ICB should consider the range of collaborative procurement support services available from the London Commercial Hub that the NCL ICB commissions jointly with other ICBs in London where they offer potential financial, and process benefits to NCL ICB.
- 11.5. NCL ICB should consider opportunities for collaborative procurement with North Central London ICS partners.

12. Use of Information Technology

- 12.1. In all circumstances, and to provide a robust audit trail, documentation should be used and exchanged via electronic systems i.e., E- procurement and E-evaluation. E-Tendering and E-evaluation solutions provide a secure and efficient means for managing tendering activity particularly for large complex procurements. They offer efficiencies to both NCL ICB and providers by reducing time and costs in issuing and completing tenders, and particularly to NCL ICB in respect of evaluating responses to tenders.
- 12.2. Access to the electronic systems used in the selection of providers will be granted by the Director lead for the procurement, or if they are conflicted, the relevant Executive Director. Access will only be granted to those with a legitimate need to access such systems including those submitting bids (who will be automatically granted access), those involved in the evaluation and who are non-conflicted in any way and to those with a need to review such information for the purposes of audit, internal review and governance or financial control. In all circumstances, access to procurement information by anyone with a conflict of interest in relation to the procurement should not be permitted.

13. Equality, Quality and Health Inequality Impact Assessment

- 13.1. All public bodies have statutory duties under the Equality Act 2010. NCL ICB aims to design and implement services, policies and measures that meet the diverse needs of its service users, population and workforce, ensuring that none are placed at a disadvantage over others. When any change to services is to take place, a full Equality, Quality and Health Inequality Impact Assessment ('EQIA') must be carried out prior to the service change decision being made.
- 13.2. All service development proposals relating to commissioning investment and disinvestment decisions will include EQIAs.

14. Stakeholder Engagement

- 14.1. NCL ICB recognises that effective engagement with stakeholders is an essential requirement for all NHS organisations and will offer benefits to the generation of outcome-based service specifications. NCL ICB will engage with stakeholders at appropriate times during the commissioning and procurement process. Stakeholder engagement with new and existing providers, members of the public, clinicians and

other service users will occur at key points in the service review and procurement process where relevant. Any potential conflict of interest issues that arise during the engagement process need to be managed in accordance with NCL ICB's Conflict of Interest policy.

- 14.2. Where stakeholder involvement is required, consideration will be given as to what is fair and proportionate in relation to the circumstances of the procurement. It is recognised that there are many different ways to involve patients and different approaches will be assessed as appropriate depending on the nature of the procurement activity.

15. Conflicts of Interest

- 15.1. Managing conflicts of interest is needed to protect the integrity of the wider NHS commissioning system and to protect NCL ICB from any perceptions of wrongdoing. NCL ICB's Conflicts of Interest Policy and Standards of Business Conduct Policy applies at all stages of the procurement process. All procurement processes must comply with the governance framework of NCL ICB. All NCL ICB staff are required to make an annual declaration of their conflicts of interest (or make a nil return) and will need to update this at as soon as a new conflict arises within any financial year. Any conflicts of interest will also need to be declared by any individual involved in a procurement prior to the commencement of any procurement activity.
- 15.2. A conflict of interest arises where an individual's ability to exercise judgement or act in one role is or could be impaired or otherwise influenced by that individual's involvement in another role. For the purposes of the procurement regulations, a conflict will arise where an individual's ability to exercise judgement or act in their role in the commissioning of services is impaired or otherwise influenced by their interests (or potential interests) in the provision of those services.
- 15.3. NCL ICB will, through its Conflicts of Interests Register, maintain a record of how they manage any conflict that arises between the interests in commissioning the services and the interests involved in providing them. This Register will need to include:
- Details of the individual who was conflicted and their role/position within NCL ICB.
 - The nature of their interest in the provision of services.
 - When the individual's interest in the provision of the services being commissioned was declared and how.
 - Details of the steps taken to manage the conflict.
 - The individual's involvement in the procurement process.

16. Freedom of Information

- 16.1. Section 1 of the Freedom of Information (FOI) Act 2000 gives a general right of access from 1 January 2005 to recorded information held by NCL ICB, subject to certain conditions and exemptions. This information may be held in both manual and electronic form in accordance with the Data Protection Act 1998 and may be disclosed to third parties in accordance with the Act.

- 16.2. When preparing to enter into contracts, NCL ICB must carefully consider their obligations under FOI and ensure any bidders/contractors are aware these will contain terms relating to the disclosure of information by them. NCL ICB may be asked to accept confidentiality clauses, for example to the effect that information relating to the terms of the contract, its value and performance will not be disclosed. FOI recognises that there will be circumstances in which the preservation of confidentiality between public authority and contractor is appropriate, and must be maintained, in the public interest. However, it is important that NCL ICB makes the contractor aware of the limits placed by FOI on the enforceability of such confidentiality clauses relating to the disclosure of information.

17. Policy Non-Compliance

- 17.1. Full compliance with the requirements of the policy is both an individual and a corporate responsibility and expected of all individuals in scope of the policy. NCL ICB is required to report within an annual report (published online) any non-compliance with the provisions of the PSR 2023.
- 17.2. Staff are encouraged to speak up about actual or suspected breaches. Every individual has a responsibility to do this.
- 17.3. Concerns regarding a suspected breach of, non-compliance with, the Policy should be referred to the Governance, Risk and Legal Services team in the first instance, as soon as is reasonably possible. Any suspicion of fraud relating to a breach of this policy should be reported to the Local Counter Fraud Specialists for investigation. Local Counter Fraud Specialists' contact details are set out in Schedule 1 of the Policy. NCL ICB officers are encouraged to be proactive in relation to the policy compliance and to raise compliance issues in early stages of the procurement process to prevent policy and legal non-compliance.
- 17.4. The Assistant Director of Governance, Risk and Legal Services (or a nominated deputy) will investigate and determine whether a breach has occurred and/or identify and implement a resolution. The Assistant Director of Governance, Risk and Legal Services may escalate the matter to the responsible director for further investigation. The Assistant Director of Governance, Risk and Legal Services will assess whether it is necessary to report the breach further, internally or externally.
- 17.5. Action taken in response to breaches of this policy will be in accordance with NCL ICB's disciplinary procedures and could involve organisational leads for staff support (e.g. Human Resources), fraud (e.g. Local Counter Fraud Specialists), members of the management or executive teams and NCL ICB's auditors. Breaches could require action in one or more of the following ways:
- Clarification or strengthening of existing policy, process and procedures;
 - Legal action and/or informal or formal disciplinary action taken against staff or others. This may include dismissal and termination of contract;

- Escalation to external parties. This might include referral of matters to external auditors, the NHS Counter Fraud Authority, the Police, statutory health bodies (such as NHS England, NHS Improvement or the CQC), and/or health professional regulatory bodies.

17.6. A breach of this policy, including the taking of bribes or incentives in relation to any activity in scope of this policy, may result in disciplinary action. In addition, if following an investigation any criminal offence is suspected to have been committed the matter may be referred to the police. For detail about Fraud and Bribery, see NCL ICB's Counter Fraud Bribery and Corruption Policy.

18. Equality and Diversity Statement

18.1. North Central London ICB pays due regard to the requirements of the Public Sector Equality Duty (PSED) of the Equality Act 2010 in policy development and implementation as a commissioner, employer and provider of services.

18.2. NCL ICB is committed to ensuring that the way we provide services to the public and the experiences of our staff does not discriminate against any individuals or groups on the basis of their age, disability, gender identity (trans, non-binary), marriage or civil partnership status, pregnancy or maternity, race, religion or belief, gender or sexual orientation.

18.3. We are committed to ensuring that our activities also consider the disadvantages that some people in our diverse population experience when accessing health services. Such disadvantaged groups include people experiencing economic and social deprivation, carers, refugees and asylum seekers, people who are homeless, workers in stigmatised occupations, people who are geographically isolated, gypsies, Roma and travellers.

18.4. As an employer, we are committed to promoting equality of opportunity in recruitment, training and career progression and to valuing and increasing diversity within our workforce.

18.5. To help ensure that these commitments are embedded in our day-to-day working practices, an Equality Impact Assessment has been completed for, and is attached to, this policy.

19. Communication, Monitoring and Review (including Staff Training)

19.1. NCL ICB will establish effective arrangements for communicating the requirements of this policy. This will include all new starters to the organisation being briefed on the requirements of this policy.

19.2. NCL ICB will establish formal training and updates for all staff. Mandatory training will be provided to all staff who undertake a commissioning or contracting role.

19.3. The implementation of this policy, and the effectiveness of the arrangements detailed within it, will be monitored by NCL ICB's Audit Committee.

19.4. This policy will be reviewed every three years, or unless legislative changes occur

within that time, and recommendations to amend will be submitted to the Audit Committee for approval.

20. Interaction with other Policies

20.1. This policy and any procedures derived from it should be read alongside and in conjunction with the following:

- NCL ICB's Constitution, which includes Standing Orders, SFIs, and the Scheme of Reservation and Delegation;
- Clinical Procurement Policy, and other Procurement policies within the NCL ICB;
- Conflict of Interest Policy;
- Sponsorship and Joint Working with the Pharmaceutical Industry Policy;
- Speaking up (Whistleblowing) Policy;
- Disciplinary Policy;
- Standards of Business Conduct Policy;
- Counter Fraud, Bribery and Corruption Policy;
- Contracting and Commissioning Handbook.