



Procurement Policy

Version: 7.4

Committee Approved by: Finance Committee

Date Approved: 28th October 2021

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Responsible Directorate: Finance, Strategy and Commissioning

Date issued: 5th November 2021

Review date: 28th October 2022

Review and Amendment Log / Version Control Sheet

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Date Approved:	28/10/2021
Committee:	Finance Committee
Version:	7.4
Review Date:	28/10/2022

Version History

Version no.	Date	Author	Description	Circulation
4.1 – 7.1	09/12/2014 – 27/04/2018	David Warsop, Deputy Head of Procurement YHCS Lorraine Chapman, CCG Head of Contracting and Acute Commissioning and Performance, WCCG	Required annual review of the Policy.	Staff Intranet and the CCG website
7.2	07/06/2019	Simon Rowe, Head of Contracting	Required annual review of the Policy.	Staff Intranet and the CCG website Procurement team (GH CCG)
7.3	18/01/2021	Simon Rowe, Head of Contracting	Full review of the Policy.	
7.4	05/11/2021	Simon Rowe, Head of Contracting	Edited to include the changes agreed by the Finance Committee.	

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1 Introduction

- 1.1 This procurement policy informs how procurement decisions will be undertaken by the NHS Wakefield Clinical Commissioning Group (“the CCG”).

Procurement forms part of the commissioning cycle. For the CCG it concerns the actions that the CCG undertakes, prior to contract award, in order to select goods and services that represent good economic value, improvement and best outcomes for patients. It encompasses everything from low value orders, through to complex healthcare service solutions.

For ease of reference the CCG defines two categories for the procurement of a good/service:

1. Goods and services procured by the CCG to enable it to define what the needs of its patient population are, and how these can best be met.
2. The goods and services procured to provide healthcare to its patient population.

- 1.2 Procurement is an act that is defined by the principles of transparency, proportionality, non-discrimination and equality of approach.

- 1.3 Public sector procurement is regulated by UK legislation and there are a range of procurement approaches available depending on the nature of what is being procured, the associated financial value and the number of organisations who could provide the good/service.

- 1.4 The NHS Long-Term Plan describes a movement towards integrated care, delivered through providers working through collaboration across health and social care systems. The implementation of this Plan will require the CCG to be able to secure goods/services by providers working in partnership with one another.

- 1.5 The CCG’s approach to procurement is to operate within legal and policy frameworks and to actively use the procurement approach (in accordance with the principles set-out in 1.2) that can secure a specific aim. The CCG can do this through:

- Increasing general market capacity;
- Using competitive tension to facilitate improvements in choice, quality, efficiency, access and responsiveness;
- Stimulating innovation, partnership working and improvement.

- 1.6 The CCG is cognisant of the potential for future legislative and policy change that may direct its approach to procurement.

2 Associated Policies and Procedures

- 2.1 This policy and any procedures derived from it should be read in accordance with the following policies, procedures and guidance:

- The CCG’s Constitution;
- The CCG’s Standing Orders and Prime Financial Policies;
- The CCG’s Conflict of Interest Policy;

- The CCG's Operating Scheme of Delegation.

2.2 Other legislation and guidance affecting procurement includes, but not limited, to:

- EU Public Sector Procurement Directives, including 2014/24/EU;
- The Public Contracts Regulations (2015);
- The Health and Social Care Act (2012);
- The National Health Service (Procurement, Patient Choice and Competition) (No 2) Regulations (2013);
- Monitor's Substantive guidance on the Procurement, Patient Choice and Competition Regulations (2014).

3 Purpose

3.1 The aims of this Policy are:

- To outline the statutory procurement requirements that the CCG will operate within when securing goods/services;
- To describe the transparent and proportional process by which the CCG will determine how goods/services are procured, in accordance with statutory procurement requirements;
- To detail how the CCG will demonstrate its compliance with the principles of good procurement practice.

4 Scope of the Policy

4.1 This policy covers all healthcare services as well as procurements for the goods and services the CCG requires to support its functions.

4.2 This Policy must be followed by all employees of the CCG and staff on temporary or honorary contracts, representatives acting on behalf of the CCG including staff from member practices, and any external organisations acting on behalf of the CCG.

5 Duties / Accountabilities and Responsibilities

5.1 Lead Managers

5.1.1 The Chief Officer is the person with overall responsibility for the Procurement Policy for the CCG. Responsibility for procurement is delegated to the Chief Financial Officer. Accountability remains with the Chief Officer.

5.2.2 The Finance Committee has responsibility for approving this Policy.

5.2.3 Overall day to day responsibility for procurement rests with the CCG's Head of Contracting, who is responsible to the Associate Director – Finance, Business Intelligence Contracting and Acute Commissioning, and accountable to the Chief Financial Officer.

5.2 Procurement support

5.2.1 Procurement support for the 2021/22 financial year is provided by the Kirklees Clinical Commissioning Group.

5.2.2 In the case of collaborative projects by another CCG, the Local Authority or any other commissioning partner, the CCG will have systems in place to assure itself that processes are robust and that they enable the CCG to meet its duties in relation to procurement.

5.3 Authority

5.3.1 The CCG will remain directly responsible, (even within delegated or joint commissioning arrangements), for approving:

- The procurement route for a good/service, in accordance with statutory procurement requirements;
- The specification for a good/service; and evaluation criteria;
- The design of all procurements; and,
- The final decisions on the selection of the provider.

5.3.2 The CCG's Head of Contracting shall have the authority to approve the use of the procurement support detailed in 5.2. This shall be agreeing and signing off a completed Statement of Works (SoW).

5.3.3 The required SoW will detail the resources required from the procurement support team, and over what time-period.

5.3.4 It shall be the responsibility of the CCG's individual managerial leads, when seeking to procure a good/service, to have completed the SoW, and to have this agreed with the CCG's Head of Contracting, before procurement commences and the procurement support is utilised.

6. Guiding Principles

6.1 When undertaking procurement the CCG shall seek to:

- Improve the quality of provision;
- Improve the efficiency of provision; whilst,
- Acting in transparent and proportionate ways; and by,
- Treating providers equally and in a non-discriminatory manner.

6.2 The CCG is required and committed to procuring services from providers that:

- Are the most capable of delivering the specification;
- Provide the best value for money in doing so.

7. Conflicts of interest

- 7.1 Managing potential conflicts of interest appropriately is necessary to protect the integrity of the wider commissioning system, CCGs and GP practices.
- 7.2 General arrangements for managing conflicts of interest are set out in the NHS Wakefield CCG Constitution, and more specifically in the CCG's Conflicts of Interest Policy. The CCG will abide by the NHS England's Managing Conflicts of Interest Guidance for CCGs whenever applicable.
- 7.3 Where any potential conflict of interest may occur e.g. a GP practice has a material interest in a procurement decision, that practice representative will be excluded from the decision-making process (but not discussion about the proposed decision).
- 7.4 The Register of Procurement Decisions is a regular report to the Audit Committee. This provides an update on the procurement decisions undertaken by the CCG, and details the contracts awarded. The report includes authorisation/ governance for each procurement process and a record of the conflicts of interest declared during the procurement.

8. Procurement planning

- 8.1 Procurement decisions may be for an entirely new good/service for the CCG, or for an existing good/service that is already provided under contract to the CCG. The CCG's procurement plan shall capture both, detailing the priority, timescale, risk and resource requirement for each.
- 8.2 The procurement plan shall inform when the CCG requires procurement support, as detailed in 5.2.

9. The Statutory Procurement Requirements

- 9.1 The CCG's procurement decisions are listed on its Register of Procurement Decisions, which is overseen by the Audit Committee. The CCG's Register of Procurement Decisions is published on the CCG's website, and is updated bi-annually. This includes the procurement decisions that result in a new award of contract, and those that vary an existing contract.
- 9.2 The CCG holds a statutory responsibility, as per the Public Contracts Regulations (2015), to declare any procurement decision taken that has a lifetime value over £25,000.
- 9.3 The CCG holds specific statutory responsibilities, as per UK law, for the procurement decisions it takes, both for lifetime values less than £25,000, and for those that are greater than it.
- 9.4 For procurement decisions that are less than £25,000 the CCG shall follow a single or multiple quotation process, as detailed in the CCG's Prime Financial Policies/Scheme of Delegation.
- 9.5 For procurement decisions that are greater than £25,000 the CCG shall undertake a process of procurement, or have the appropriate waiver agreed and signed by the Chief Officer and a CCG Board Member. The CCG has the option, unless the applicable financial threshold in UK law for a good/service has been met, to follow either a quotation or a tender process. The CCG's Prime Financial Policies/Scheme of Delegation delineate when a quotation process is the primary consideration for

procurement, from when it is a tender process. The Policies and Scheme of Delegation also define what type of waiver can be sought.

- 9.6 For each of the above paragraphs (9.1 through to 9.5) the CCG shall adhere to the necessary requirements of advertisement and declaration under UK law, including any directives made from European law, which continue to pertain following the UK departure from the EU.
- 9.7 The CCG shall require a waiver if the enactment of a procurement decision would result in a direct award of a contract to a provider. An agreed and signed waiver is required before the direct award of contract is made. The direct award of contract shall include all circumstances whereby the CCG is seeking to purchase a good/service from a Framework without there being a preceding 'mini-competition'.
- 9.8 The CCG shall also require a waiver if the enactment of a procurement decision would result in an existing contract either being varied by more than 10% of the original value, or by a value greater than the applicable financial threshold in UK law for a good/service. An agreed and signed waiver would be required before the contract variation is enacted, and is only applicable if the nature of the contract remains unchanged.
- 9.9 In certain circumstances the CCG may elect to provide a grant payable to third sector organisations. There should, however, be no preferential treatment for third sector organisations. Use of grants can be considered where:
- Funding is provided for development or strategic purposes;
 - The provider market is not well developed;
 - Innovative or experimental services;
 - Where the funding is non-recurrent;
 - Where funding is non-contestable (i.e. only one provider).

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

- 9.10 Separate to the detail within 9.1 through to 9.8 the CCG is able to enter, through the provisions originally made in the NHS Act 2006, to support partnership and joint commissioning across health and social care. These provisions pertain to Section 75 and 256 of the Act.

Section 75 powers may be used where partnership arrangements are likely to lead to improvements in the delivery of the relevant NHS and Local Authority functions. Although the exercise of functions can be delegated, each partner ultimately remains liable for the discharge of its own statutory functions.

Section 256 agreements allow NHS commissioners to make payments to Local Authorities towards any Local Authority expenditure which in the opinion of WCCG would have an effect on the health of its population, or which would have an impact on, or be affected by, NHS commissioned services. They are payments to a Local Authority to support specific services, projects, capital costs, or other local authority activities which have a benefit for the NHS. These agreements, however, do not involve the transfer of any statutory health functions to the Local Authority.

Section 256 Agreements are not subject to formal procurement processes, as the CCG would not be directly commissioning or contracting for goods or services in such instances. They must, however, comply with all relevant Directions published by the Secretary of State.

- 9.11 The CCG holds specific statutory responsibilities concerning the National Health Service (Procurement, Patient Choice and Competition) (No 2) Regulations (2013). These concern the right that the CCG's patient population has – for specific healthcare services – to choose the provider of such care, with the CCG's obligation to hold an accredited list of providers of these services from which individual patient choice can be made. These responsibilities shall be followed by the CCG for the mandated types of healthcare service, and the CCG will consider the appropriateness of establishing an accredited list of providers for the non-mandated types of healthcare service, should this be deemed to be an optimal way of securing patient need, without convening regulations set out in UK law.

10. Selecting the procurement method

- 10.1 The CCG shall, as a basis for selecting the method of procurement for a good/service, delineate between:
- Whether a good/service is existing, i.e. one or more providers is currently under contract with the CCG for it, and it will not be significantly changed; and,
 - When there is a new good/service, i.e. where there is no current contract between the CCG and a provider, or an existing good/service that shall be significantly changed.
- 10.2 Where there is a single provider of an existing good/service to the CCG, with a fixed-term contract to the CCG, and no significant change to the good/service is required then the existing provider could be retained by the CCG, so long as:
- The good/service remains fit for purpose;
 - Continues to deliver against the required specification;
 - Offers best value for money;
 - Continues to fit with the strategic direction of the CCG; and,
 - It is appropriate for the CCG to do so without breaking any regulations within the legislative frameworks.
- 10.3 Where there are multiple providers of an existing good/service to the CCG, with respective fixed-term contracts to the CCG, and no significant change to the good/service is required then the CCG will continue to operate with a range of providers, whether through a framework or accredited list (as per 9.11). The practicability of this will take into account whether:
- The good/service remains fit for purpose;
 - The quality of delivery can be assured against the required specification;
 - Best value for money can be demonstrated;
 - There is continuation of fit with the strategic direction of the CCG;

- Level of market interest and contestability;
- The framework or accredited list model is appropriate to the service concerned; and,
- It is appropriate for the CCG to do so without breaking any regulations in UK Law.

10.4 The CCG's approach to secure new or significantly changed, existing goods/services, will in overall terms, be guided by:

- Determining whether the service can be accommodated through existing contracts with providers through future variations to those contracts, without contravening procurement rules and guidance, and on the basis that quality, patient safety and value for money can be demonstrated;
- Determining whether the service can be accommodated through partnership working across health and social care, without contravening procurement rules and guidance, and on the basis that quality, patient safety and value for money can be demonstrated;
- Considering of the use of new or existing frameworks as a vehicle for delivering outcomes in an efficient way; and,
- Whether there are demonstrable grounds to identify a specific provider or group of providers without competition. These may concern:
 - Where a service is designated as list-based where practicably GP practices are the only capable providers of a service, or where the service is of minimal value (in accordance with the Scheme of Delegation), the CCG will consider procuring on a non-competitive basis from GP practices;
 - Where collaboration provides the best opportunity for service delivery for patients and demonstrable value for money;
 - For technical reasons, or for reasons connected with the protection of exclusive rights, the contract may be awarded to only one provider i.e. there is only one provider that can meet the CCG's requirements;
 - For reasons of extreme urgency, outside the control of the CCG, where it is not possible to undertake a competitive procedure.

10.5 In some circumstances the need to request quotations or competitive tenders may be waived. The decision to do so must be made in advance of awarding the contract and a waiver request form completed and authorised, having followed the CCG's Operational Scheme of Delegation accordingly and in good time.

11. Reporting

11.1 The CCG shall ensure its internal systems are in adherence with statutory reporting requirements. This shall be inclusive of Regulations 83 and 84 of the Public Contracts Regulations 2015.

11.2 All concluded contracts where the contract value exceeds £1 million (supplies or services) or £10 million (works) will be retained at least for the duration of the

contract, and access granted to these contracts if requested subject to EU or national rules on access to documents and data protection;

- 11.3 A report will be collated on every contract, framework agreement or dynamic purchasing system to which the 2015 Regulations apply in their entirety. This report will be held on file by the CCG, and will be provided when requested in whole or in part by the Cabinet Office.

12. Financial and quality assurance checks

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

- Financial viability;
- Economic standing;
- Corporate social responsibility;
- Clinical capacity and capability;
- Clinical governance;
- Quality/Accreditation (including information governance).

13. Contract Form

- 13.1 The CCG will ensure that the NHS Standard Contract will be used for all contracts for NHS funded health and social care services commissioned by the CCG. In exceptional circumstances, such as where a joint contracting arrangement is led by the Local Authority, the CCG may agree to be party to a different form of contract.
- 13.2 The CCG will ensure that a standard Grant Agreement document will be used to record the provision of grants to third parties which will contain the provisions upon which the grant is made.
- 13.3 The Department of Health and Social Care publishes NHS Terms and Conditions for the Supply of Goods and the Provision of Services. These are specifically for the use of NHS bodies procuring goods and services from commercial organisations. In line with national guidance the CCG will use the contract versions of these Terms and Conditions where applicable.

14. Public Services (Social Value) Act 2012

- 14.1 This Act requires commissioners at the pre-procurement stage to consider how a procurement may improve social, environmental, and economic well-being of the relevant area and how commissioners might secure any such improvement and to consider the need to consult.
- 14.2 Although the Act only applies to certain public services contracts and framework agreements to which the Public Contract Regulations apply, the CCG will, as a matter of good practice, assess how the goods, works or services being procured might improve economic, social and environmental well-being. The considered application of the provisions of this Act provides the CCG with the means to broaden evaluation criteria to include various impacts on the local economy. The CCG will

ensure that evaluation criteria incorporate social values within procurement processes.

- 14.3 The CCG will consider how the use of available local resources within Wakefield and District could help it to incorporate social values within procurement processes. This may include, but not be limited to, the potential for bidders to partner with local agencies, through – for example - the use of pre-existing procurement frameworks.

15. Sustainable Procurement

- 15.1 The NHS is a major employer and economic force both in Wakefield, West Yorkshire and within the wider NHS North region. The CCG 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.
- 15.2 The CCG is committed to the development of innovative local and regional solutions, and will deliver a range of activities to support this commitment.
- 15.3 Wherever it is possible, and does not contradict or contravene the CCG's procurement principles or the provisions allowable under the Public Services (Social Value) Act 2012, the CCG will work to develop and support a sustainable local health economy.
- 15.4 The CCG is committed to consider as appropriate to the service being procured ethical, environmental and social factors as part of the evaluation process to determine and demonstrate value for money.
- 15.5 The CCG will take all reasonable steps and that which is allowable by law to ensure that contractors and providers are:
- Good employers who comply with all relevant employment legislation, including the Public Interest Disclosure Act 1998;
 - Maintain acceptable standards of health and safety and comply fully with all legal obligations
 - Meet all tax and National Insurance obligations
 - Meet all equal opportunities legislation
 - Are reputable in their standards of business conduct
 - Respect the environment

16. Use of Information Technology

- 16.1 Wherever possible, appropriate information technology (i.e. e-procurement and e-evaluation systems) will be used in the tendering process. These are intended to assist in streamlining procurement processes whilst at the same time providing a robust audit trail. e-procurement and e-evaluation solutions provide a secure and efficient means for managing tendering activity, particularly for large complex procurements. They offer efficiencies to both commissioners and providers by reducing time and costs in issuing, completing and evaluating tenders.

17. Patient Engagement

- 17.1 To represent the patient's perspective the CCG will seek to include patient representatives throughout its processes for making procurement decisions, where it is appropriate to do so.

18. Decommissioning services

- 18.1 The need to decommission contracts can arise through:
- Termination of the contract due to performance and/ or contract breach. This can be mitigated by the CCG through appropriate contract monitoring and management and by effectively engaging the provider. The NHS Standard Contract supports the use of a remedial action plan to resolve any problems;
 - The provider exits the market;
 - The contract expires; and/or
 - Services are no longer required.
- 18.2 Where services are decommissioned, the CCG will ensure where necessary that exit plans are developed and alternative provision secured, where appropriate, to maintain safe and appropriate patient care.

19. Dissemination

The policy will be disseminated electronically via the CCG's intranet Skyline, making it available to all CCG staff. In addition the Procurement Policy will be published on the CCG website to inform all prospective providers of services and other Stakeholders of the policy that will be followed and the relevant procurement routes.

20. Training

Commissioners will need training in the contents and principles of the policy. This training will be co-ordinated by the CCG.

21. Monitoring Compliance with this Policy

This Policy will be reviewed on an annual basis.

22. References

Equality Act 2012

Directive 2014/24/EU on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts. February 2014.

The Public Contracts Regulations 2015. February 2016.

The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020

National Health Service (Procurement, Patient Choice and Competition) Regulations 2013.

Substantive Guidance on the Procurement, Patient Choice and Competition Regulations - Monitor December 2013

Briefing note: Substantive Guidance on the Procurement, Patient Choice and Competition Regulations - Monitor December 2013

Enforcement guidance on the Procurement, Patient Choice and Competition Regulations - Monitor December 2013

Hypothetical Case Scenarios: Procurement, Patient Choice and Competition Regulations - Monitor December 2013

Managing conflicts of interest: revised statutory guidance for CCGs 2017. Available at: <https://www.england.nhs.uk/commissioning/pc-co-comms/coi/>

23. Appendices

List of Light-Touch regime services

Equality Impact Assessment Toolkit

Appendix A: List of Light Touch regime services

Acupuncture and chiropractor services	Medical hospital services
Acupuncture services	Medical imaging services
Administrative healthcare services	Medical practice and related services
Administrative social services	Medical practice services
Administrative, recreational, cultural and religious services	Medical specialist services
Advisory services provided by nurses	Miscellaneous health services
Agency staff services for households	Nephrology or nervous system specialist services
Ambulance services	Obstetrical hospital services
Archive destruction services	Ophthalmologist services
Archive services	Ophthalmologist, dermatology and orthopaedic services
Archiving services	Optician services
Bacteriological analysis services	Orthodontic services
Blood analysis services	Orthodontic surgery services
Cardiology services	Orthopaedic services
Cardiology services or pulmonary specialist services	Orthotic services
Cataloguing services	Outpatient care services
Chiropractor services	Oxygen therapy services
Circumcision services	Paediatric or urologist services
Civic betterment and community facility support services	Paediatric services
Clerical staff services for households	Paramedical services
Closed circuit television services	Pathology services
Community action programme	Personal development training services
Community health services	Pharmacy services
Company health services	Physiotherapy services
Computer courses	Provision of language courses
Computer training services	Provision of services to the community
Computer user familiarisation and training services	Psychiatric hospital services
Counselling services	Psychiatrist or psychologist services
Dance-instruction services	Pulmonary specialist services

Daycare services	Recreational, cultural and sporting services
Daycare services for handicapped children and young people	Recreational-area services
Dental practice and related services	Rehabilitation hospital services
Dental practice services	Rehabilitation services
Dermatology services	Residential health facilities services
Dialysis home medical treatment services	Residential nursing care services
Domestic services Administrative social, educational, healthcare and cultural services	Safety education services
Education and training services	Safety training services
e-learning services	Seminar organisation services
ENT or audiologist services	Services furnished by social membership organisations
Equal opportunities consultancy services	Services provided by blood banks
Event services	Services provided by medical laboratories
Exhibition, fair and congress organisation services	Services provided by medical personnel
Family planning services	Services provided by midwives
First aid training services	Services provided by nurses
Gastroenterologist and geriatric services	Services provided by sperm banks
Gastroenterologist services	Services provided by transplant organ banks
General practitioner services	Services related to preparation of training manuals
Geriatric services	Social services
Guidance and counselling services	Social work and related services
Guidance services	Social work services
Gynaecological hospital services	Social work services with accommodation
Gynaecology or obstetric services	Social work services without accommodation
Health and first aid training services	Special education services
Health and social work services	Specialist training services
Health services	Staff training services
Health training services	Supply services of domestic help personnel
Home delivery of incontinence products	Supply services of medical personnel
Home for the psychologically disturbed services	Supply services of nursing personnel

Home help services	Surgical hospital services
Home medical treatment services	Surgical specialist services
Homedelivery of provisions	Technical training services
Homeopathic services	Totalisator operating services
Horse riding school services	Training and simulation in security equipment
Hospital and related services	Training facilities
Hospital bedding services	Training programme services
Hospital dialysis services	Training seminars
Hospital services	Training services
Hospital support services	Tutorial services
Hygiene services	Urologist services
In vitro fertilisation services	Vocational rehabilitation services
Management training services	Vocational training services
Manpower services for households	Welfare services for children and young people
Medical analysis services	Welfare services for the elderly
Medical education services	Welfare services for the handicapped



Equality Impact Assessment

Title of policy	Procurement Policy	
Names and roles of people completing the assessment	Simon Rowe, Head of Contracting	
Date assessment started/completed	02/12/14 (As per previous versions of this Policy)	EIA reviewed every year since, and remains valid

1. Outline	
Give a brief summary of the policy	<p>This policy aims to:</p> <p>(a) set out the approach for facilitating open and fair, robust and enforceable contracts that provide value for money and deliver required quality standards and outcomes, with effective performance measures and contractual levers.</p> <p>(b) describe the transparent and proportional process by which the CCG will determine whether health and social services are to be commissioned.</p> <p>(c) enable early determination of whether, and how, services are to be opened to the market, to facilitate open and fair discussion with existing and potential providers and thereby to facilitate good working relationships.</p> <p>(d) set out how the CCG will meet statutory procurement requirements.</p> <p>(e) enable the CCG to demonstrate compliance with the principles of good procurement practice.</p>
What outcomes do you want to achieve	Compliance with legislation.

2. Analysis of impact			
This is the core of the assessment, using the information above detail the actual or likely impact on protected groups, with consideration of the general duty to; eliminate unlawful discrimination; advance equality of opportunity; foster good relations			
	Are there any likely impacts? Are any groups going to be affected differently? Please describe.	Are these negative or positive?	What action will be taken to address any negative impacts or enhance positive ones?
Age	No		
Carers	No		
Disability	No		
Sex	No		
Race	No		
Religion or belief	No		
Sexual orientation	No		
Gender reassignment	No		
Pregnancy and maternity	No		
Marriage and civil partnership	No		
Other relevant group	No		
If any negative/positive impacts were identified are they valid, legal and/or justifiable? Please detail.		Not applicable	

4. Monitoring, Review and Publication			
How will you review/monitor the impact and effectiveness of your actions	Review throughout the procurement decisions taken by the CCG		
Lead Officer		Review date:	

5. Sign off			
Lead Officer			
Director		Date approved:	

Once complete please forward to the CCG's Equality lead